

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**March 14, 2011**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: SB623** by Whitmire (Relating to the disqualification of a district or county attorney who is the subject of a criminal investigation.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend Article 2.08 of the Code of Criminal Procedure to require a judge of a court in which a district or county attorney represents the State to declare the attorney disqualified on a showing that the attorney is the subject of a criminal investigation for an offense that is within the attorney's authority to prosecute. The disqualification applies only to the attorney's access to the criminal investigation and to any prosecution of a criminal charge resulting from the investigation. No significant fiscal impact on the court system is anticipated. The bill would take effect September 1, 2011.

**Local Government Impact**

The bill would amend Article 2.08 of the Code of Criminal Procedure to disqualify a district or county attorney for the purposes of Article 2.07 if the attorney is the subject of a criminal investigation that is within the attorney's authority to prosecute. Costs could be incurred if it were necessary for a district or county to contract with a non-state attorney or with another commissioners court to appoint an attorney pro tem in accordance with Article 2.07. Costs would only be incurred if a district or county attorney were under criminal investigation and the district or county were unable to appoint a local attorney of the state as attorney pro tem; costs would vary depending on applicability of the bill but are not anticipated to be significant.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** JOB, TB, KKR, ESi