

SUBJECT: Use of private legal counsel by certain hospital districts

COMMITTEE: County Affairs — favorable, with amendment

VOTE: 8 ayes — R. Allen, W. Smith, Coleman, Farabee, Laney, Naishtat, Olivo, Otto

1 nay — Casteel

SENATE VOTE: On final passage, April 28 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — None

Against — J.D. Granger, Tarrant County District Attorney's Office; Cathy Sisk, Harris County

On — Ann Diamond, Tarrant County Criminal District Attorney; Mark Mendez, Tarrant County

BACKGROUND: Health and Safety Code, sec. 281.056 requires a county attorney, district attorney, or criminal district attorney to represent a hospital district in all legal matters and requires the hospital district to pay the county for this representation. It also allows the board of a hospital district to hire private legal counsel when the board determines there is a need to do so.

DIGEST: SB 1013, as amended, would modify the language of sec. 281.056 to state that a hospital district could hire private attorneys for any matter. If the district chose not to do so in a specific instance, the county attorney, district attorney, or criminal district attorney would be required to represent the district.

The bill would require the county attorney, district attorney, or criminal district attorney to represent the hospital district in all legal matters if the district were located in:

- a county with a population of 650,000 or more that borders Mexico

(El Paso County);

- a county with a population of 3.4 million or more (Harris County);
or
- a county with a population of more than 800,000 that was not included in the boundaries of a hospital district before September 1, 2003 (Travis County).

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

SB 1013 simply would clarify existing law to affirm that a hospital district — other than one in El Paso County, Harris County, or Travis County — is entitled to representation by the county attorney, district attorney, or criminal district attorney, but may choose to hire private counsel in addition to or instead of the county attorney.

The bill would apply to Dallas County, Bexar County, and Tarrant County. The hospital districts in Dallas County and Bexar County currently use only private attorneys and the bill would clarify that this practice is acceptable. A hospital district should be free to exclude the county attorney if it so wishes — requiring a captive client to use a specific attorney in every case is in no one's best interests.

**OPPONENTS
SAY:**

Because the hospital districts in Bexar County and Dallas County do not use the county attorney, district attorney, or criminal district attorney for legal representation, Tarrant County is the only county with a hospital district affected by the bill that uses the county attorney. Several Tarrant County officials have asserted that current law expresses a preference for the hospital district to use county attorneys with the option to hire private attorneys if the need should arise. The bill would wipe out this preference, making the choice between the county attorney and private attorneys an equal choice.

It would benefit taxpayers for the county attorney to be involved in litigation involving hospital districts because the county attorney is bound to act solely in the best interest of the county and the hospital district, while a private attorney might not. In addition, the cost for a private attorney is much higher than for a county attorney.

OTHER
OPPONENTS
SAY:

This bill is unnecessary. Sec. 281.056 allows a hospital district to hire outside legal counsel if it so chooses, and the bill does little more than restate this.

NOTES:

The committee amendment would require the county attorney, district attorney, or criminal district attorney to represent hospital districts in El Paso County, Harris County, and Travis County.

The sponsor intends to offer a floor amendment that would allow a hospital district that used the county attorney in a case to hire additional private attorneys for the case and would allow a hospital district that hired private attorneys to receive additional legal services from the county attorney.