

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 1399 (Substitute S-1 as reported)
Sponsor: Senator Bev Hammerstrom
Committee: Judiciary

CONTENT

The bill would amend Chapter 14 of the Revised Statutes of 1846, which deals with county officers, to modify the procedure for appointment of a special prosecuting attorney when a county prosecuting attorney is disqualified due to conflict of interest or is otherwise unable to perform duties of the office. Currently, under these circumstances, the Supreme Court, the Court of Appeals, or the circuit court for that county may appoint an attorney as a special prosecuting attorney to perform the duties of the prosecuting attorney in the respective court. Also, the circuit court may appoint an attorney as a special prosecuting attorney to perform the prosecutor's duties in any other court within the county.

The bill provides, instead, that if the prosecuting attorney of a county determined himself or herself to be disqualified due to conflict of interest or were otherwise unable to attend to the duties of the office, he or she would have to file with the Attorney General a petition stating the conflict or reason for being unable to serve and requesting the appointment of a special prosecuting attorney. The Attorney General could elect to proceed in the matter or appoint a prosecuting attorney or assistant prosecuting attorney who consented to the appointment to act as a special prosecuting attorney in any matter in which the prosecuting attorney was disqualified or until the prosecuting attorney was able to serve.

The bill specifies that the cost of prosecution, other than personnel costs, in any matter handled by a special prosecuting attorney would have to be borne by the office of the prosecuting attorney who was disqualified or otherwise unable to serve.

A complaint that was authorized by a special prosecuting attorney also would have to be authorized by the Attorney General or the Attorney General's representative before the complaint was presented to a court for the issuance of an arrest warrant.

MCL 49.160

Legislative Analyst: P. Affholter

FISCAL IMPACT

Under State law, the Attorney General supervises the work of prosecuting attorneys and consults and advises prosecuting attorneys in all matters pertaining to the duties of their offices. The Department of Attorney General states that the bill would not result in additional costs to the Department. The current annual number of prosecutor disqualifications is minimal.

Date Completed: 11-16-00

Fiscal Analyst: B. Bowerman