

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 6727**

**BILL NUMBER: SB 263**

**DATE PREPARED:** Feb 27, 2002

**BILL AMENDED:** Feb 26, 2002

**SUBJECT:** Senior Prosecuting Attorneys.

**FISCAL ANALYST:** Mark Goodpaster

**PHONE NUMBER:** 232-9852

**FUNDS AFFECTED:**     **GENERAL**  
                          **X DEDICATED**  
                          **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill has the following provisions:

(A) It provides that: (1) a senior prosecuting attorney may be appointed to serve as a special prosecutor; and (2) a person must have at least eight years of experience as a prosecuting attorney or chief deputy prosecuting attorney to be a senior prosecuting attorney.

(B) It prohibits a person from serving as a senior prosecuting attorney if certain disciplinary sanctions have been imposed upon the person. It removes a requirement that a person must wait five years before being eligible to serve as a senior prosecutor in the county in which the person previously served as a prosecutor or chief deputy.

(C) It provides that a senior prosecuting attorney: (1) shall be indemnified by the state for certain costs related to civil litigation against the senior prosecuting attorney; (2) shall be defended by the Attorney General in a civil suit for acts performed in the course of employment; (3) is exempt from contributions to the Prosecuting Attorney's Retirement Fund; (4) is eligible to receive pension benefits while acting as a senior prosecuting attorney; (5) may not receive compensation that exceeds the minimum compensation paid to a full-time prosecuting attorney and may not receive compensation for more than 100 days in a calendar year; and (6) may file an affidavit requesting designation in as a senior prosecuting attorney in any county in which the senior prosecuting attorney is willing to serve.

**Effective Date:** July 1, 2002.

**Explanation of State Expenditures:** (Revised) The Office of the Attorney General would pay for any defense costs of senior prosecuting attorneys out of the State Tort Claims Fund. *The potential costs associated with this addition to the bill are likely to be minimal.* Staff in the Office of the Attorney General report that less than \$5,000 was spent in cash outlays in defending prosecuting attorneys in CY 2001.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** (Revised) Any new expenditures associated with this bill would depend on local action. (Note: If information on the frequency of appointments to special prosecutors becomes available, this fiscal note will be updated.)

Staff administering the Prosecuting Attorneys Retirement Fund report that 22 retired prosecuting attorneys or deputy prosecuting attorneys would be eligible to work as senior prosecuting attorneys. Under current law, a special prosecutor may receive a per diem that does not exceed the per diem equal to the regular salary of a full-time prosecuting attorney, as well as travel and accommodation expenses.

Under this bill, the senior prosecuting attorney could receive a per diem that would be paid to the prosecuting attorney in the county and may work up to 100 calendar days. Based on a calendar year of 250 days, a senior prosecuting attorney may receive as much as \$36,000. ( $\$90,000 \text{ annual salary} / 250 \text{ days} = \$360 \text{ per day}$ )

**Explanation of Local Revenues:**

**State Agencies Affected:** Prosecuting Attorneys Council Office of the Attorney General

**Local Agencies Affected:** Prosecuting attorneys.

**Information Sources:** Tom Parker, Prosecuting Attorneys Retirement Fund; Wayne Uhl, Office of the Attorney General.