

## **BILL ANALYSIS**

Senate Research Center

H.B. 2779  
By: Junell (Shapiro)  
Jurisprudence  
5-2-97  
Engrossed

### **DIGEST**

Currently, employees of local community supervision and corrections departments are not state employees, except for certain purposes. Specifically, employees of local community supervision and corrections departments are state employees but only for the purposes of Chapter 104, Civil Practice and Remedies Code, and Chapter 501, Labor Code. Chapter 104, Civil Practice and Remedies Code, governs state liability in tort for the conduct of public servants. Chapter 501, Labor Code, governs the provision of workers' compensation insurance coverage by state agencies for their employees.

However, there is uncertainty, if not outright confusion, regarding the duty of the state to defend local community supervision and corrections departments themselves in the event of lawsuits. Subsection (d) of Section 76.006, Government Code, provides that a local department is a "governmental unit" for purposes of Section 101.103(a), Civil Practice and Remedies Code; that section provides that a "governmental unit" whose jurisdiction is coextensive with that of the state shall be represented by the attorney general, while a "governmental unit" whose jurisdiction is less extensive than that of the state may hire its own counsel "according to the organic act under which the unit operates." The organic act in this instance is silent with respect to a local department hiring counsel. Local prosecutors, in most instances, feel that they have neither the authority nor the responsibility to defend such departments. As a consequence, the attorney general frequently has defended local departments, when specifically asked to do so. H.B. 2779 amends Chapter 76, Local Government Code, to require the attorney general to defend the local community supervision and corrections departments in the event that they are sued for injunctive, declaratory, or monetary relief in any action not covered by an indemnification policy.

### **PURPOSE**

As proposed, H.B. 2779 amends Chapter 76, Local Government Code, to require the attorney general to defend the local community supervision and corrections departments in the event that they are sued for injunctive, declaratory, or monetary relief in any action not covered by an indemnification policy.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 76.006, Government Code, to require the attorney general to defend certain lawsuits. Prohibits the attorney general from defending certain lawsuits. Requires the local community and corrections departments to provide information requested by the attorney general. Deletes existing Subsection (d). Makes a conforming change.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Emergency clause.