

BILL ANALYSIS

Senate Research Center
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S.B. 1285
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Special Prosecution Unit (SPU) is charged with prosecuting crimes which occur within the Texas Department of Criminal Justice (TDCJ) and the Texas Juvenile Justice Department (TJJJ) and also with initiating civil commitment proceedings against sexually violent predators that are scheduled to be released from TDCJ.

The SPU is governed by an executive board of 11 district and county attorneys who are selected by the board of directors of the SPU. The board of directors is comprised of every district and county attorney who has TDCJ and/or TJJJ facilities in their districts. The executive board establishes policies and procedures for the SPU and oversees the executive director.

This past June, the executive director notified the executive board of her intention to step down at the end of the regular session of the 83rd Legislature. However, current law requires that the full board of 108 members select her replacement rather than the 11-member executive board. It is extremely difficult to achieve a quorum of 55 people at quarterly meetings.

S.B. 1285 makes changes to the SPU's governance structure to ensure that only those district and county attorneys who want to and do utilize the services of the SPU will be involved in its governance and keeps the board at a manageable number.

As proposed, S.B. 1285 amends current law relating to the operation of the special prosecution unit.

[**Note:** While the statutory reference in this bill is to the Texas Youth Commission (TYC), the following amendments affect the Texas Juvenile Justice Department as the successor agency to TYC.]

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 41.303, Government Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Provides that the special prosecution unit (unit) is governed by a board of directors composed of each prosecuting attorney who represents the state in criminal matters before a court in a county in which one or more facilities owned or operated by or under contract with the Texas Department of Criminal Justice (TDCJ) or the Texas Youth Commission (TYC) are located and has entered into a memorandum of understanding with the unit for the prosecution of offenses and delinquent conduct described by Article 104.003(a) (relating to requiring the state to reimburse the county for certain expenses incurred by the county in a prosecution of a criminal offense or delinquent conduct committed on property owned or operated by or under contract with TDCJ or TYC, or committed by or against a person in the custody of TDCJ or TYC), Code of Criminal Procedure.

(c) Requires the board of directors to meet annually for the purpose of electing the executive board and approving or amending bylaws governing the unit.

(d) Provides that a majority of the members of the board of directors constitutes a quorum for the transaction of business. Requires the board of directors to approve any action by a majority vote of the members present.

SECTION 2. Amends Section 41.304, Government Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Requires the executive board to elect a person to serve the remainder of the term if a vacancy on the executive board occurs before the end of the vacating member's term. Deletes existing text requiring the board of directors to elect a person to serve the remainder of the vacating member's term in the manner provided by Subsection (a) (relating to setting forth the composition of the executive board that governs the board of directors) if a vacancy on the executive board occurs.

(c) Requires the executive board to conduct the business of the unit.

(d) Provides that a majority of the members of the executive board constitutes a quorum for the transaction of business. Requires the executive board to approve any action by a majority vote of the members present.

SECTION 3. Amends Section 41.305(d), Government Code, to require the executive board to elect a person to serve the remainder of the term if a vacancy occurs in the office of presiding officer or assistant presiding officer before the end of the vacating officer's term, rather than requiring the board of directors to elect a person to serve the remainder of the vacating officer's term in the manner provided by Subsection (a) (relating to procedure by which the board of directors is required to elect a presiding officer and assistant presiding officer) if a vacancy occurs in the office of presiding officer or assistant presiding officer.

SECTION 4. Amends Section 41.308, Government Code, to require the executive board, rather than the board of directors, on a majority vote, to employ a person to serve as chief of the unit and additional persons to accomplish the unit's purposes.

SECTION 5. Effective date: September 1, 2013.