

BILL ANALYSIS

Senate Research Center
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S.B. 252
By: Bettencourt
Local Government
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Taxpayer-owned facilities and funds should not be used to benefit private individuals at public expense, especially when there is no public benefit or access to the goods or services at issue.

However, that is exactly what happened in one Texas county, reportedly at a county commissioners' direction, when a non-descript, public warehouse facility was used for storing, securing, refurbishing, and curating a privately-owned art collection. Officials that allow or facilitate such misuse of public resources for private benefit should be held accountable.

S.B. 252 establishes that a public servant may be charged with the crime of abuse of official capacity when violating the public interest by storing or refurbishing non-government personal property, including art work, at government expense, without public benefit.

Currently, in cases relating to the abuse of official capacity by misuse of public funds, the Attorney General is allowed to have prosecutorial jurisdiction, but only at the discretion of the local prosecutor. However, local prosecutors may not have the political will to prosecute a friendly local official. S.B. 252 allows the Attorney General concurrent jurisdiction of cases that arise from such misuse of public funds, without the need for consent by the local county or district attorney.

S.B. 252 helps to ensure accountable government, public integrity, and good stewardship of public funds and resources.

As proposed, S.B. 252 amends current law relating to certain criminal offenses, punishments, and procedures; creates a criminal offense; and increases a criminal penalty.

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 Title 8, Chapter 39.01, Penal Code, to redefine "misuse," for purposes of Chapter 39 (Abuse of Office), to include dealing with property contrary to the public interest, by storing or refurbishing non-government personal property, including art work, at government expense, without public benefit.

SECTION 2. Amends Title 8, Chapter 39.015, Penal Code, to provide that the attorney general has concurrent jurisdiction with a local prosecutor to prosecute an offense under Chapter 39. Deletes existing text providing that the concurrent jurisdiction is provided with consent of the appropriate local county or district attorney.

SECTION 3. Amends Title 8, Chapter 39.02, Penal Code, to provide that a public servant commits an offense if, with intent to obtain or bestow, rather than to obtain, a benefit or with intent to harm or defraud another, he intentionally or knowingly misuses non-government personal property or any other thing of value, including art work, that has come into the public servant's custody or possession by virtue of the public servant's office or employment by storing

or refurbishing at government expense, without public benefit. Makes nonsubstantive and conforming changes.

SECTION 4. Effective date: September 1, 2021.