

ASSIGNMENT OF A SPECIAL PROSECUTING ATTORNEY



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FISCAL ANALYSIS

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SENATE BILL 115 As Reported from Committee
Sponsor: Sen. Bill Schuette
House Committee: Criminal Justice

FLOOR ANALYSIS - 12/4/02
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SUMMARY

Senate Bill 115 would amend Chapter 14 of the Revised Statutes of 1846, which pertains to county officers. Currently, if the county prosecutor is disqualified by reason of conflict of interest or is otherwise unable to attend to the duties of the office, the Supreme Court, Court of Appeals, or Circuit Court for that county may appoint another attorney as special prosecuting attorney, to perform the duties of the prosecuting attorney not able to serve, in the respective court.

Senate Bill 115 would require the county prosecutor to file a petition with the Attorney General which states the conflict or the reason the prosecutor is unable to serve, and requests the appointment of a special prosecuting attorney. If the Attorney General determines that a prosecuting attorney is disqualified or otherwise unable to serve, the Attorney General may elect to proceed in the matter or may appoint another prosecuting attorney or assistant prosecuting attorney to act as special prosecuting attorney.

In the bill, as it was reported from the House Criminal Justice Committee, it is specified that a special prosecuting attorney would be vested with all of the powers of the prosecuting attorney, to include the power to investigate and initiate charges. Also, the bill would require the cost of prosecution in any matter handled by a special prosecuting attorney, other than personnel costs, to be paid for by the office of the prosecuting attorney who has been determined to be disqualified or otherwise unable to serve.

The bill would have no fiscal impact on the state. Under state law, the Attorney General is charged with supervising the work of prosecuting attorneys and consulting with and advising prosecuting attorneys on all matters pertaining to the duties of their offices. Currently, the annual number of prosecutors who are disqualified or who are unable to serve is minimal.