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FISCAL NOTE

Drafting Number: LLS 19-0387
Prime Sponsors: Sen. Gardner

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Bill Status: Senate Judiciary
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Bill Topic: DISTRICT ATTORNEY OFFICE SALARY

- Summary of Fiscal Impact:
- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

This bill creates minimum salary amounts for any district attorney, assistant district attorney, and chief deputy district attorney based upon the salaries of a specified judge or magistrate and requires the state to pay a share of the salaries for one assistant district attorney and one chief deputy district attorney per judicial district. This bill increases state expenditures and decreases local expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required for this bill.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 19-050

Table with 4 columns: Category, FY 2019-20, FY 2020-21, FY 2021-23. Rows include Revenue, Expenditures (General Fund), Transfers, and TABOR Refund.

Summary of Legislation

This bill creates minimum salary amounts for any district attorney, assistant district attorney, and chief deputy district attorney based upon the salaries of a district court judge, a county court judge, and a district court magistrate, respectively. In addition, the state is required to pay a share of the salaries for one assistant district attorney and one chief deputy district attorney, if these positions are appointed, for a judicial district. Starting in FY 2020-21, the state will pay:

- 80 percent of the salary for an assistant district attorney (ADA); and
- 50 percent of the salary for a chief deputy district attorney (CDDA)

Retirement Plans. The bill allows the boards of county commissioners within a judicial district, in consultation with the district attorney, to make a one-time, irrevocable election to require any ADA hired after the election to become a member of the Public Employees' Retirement Association (PERA)'s defined benefit plan in the State Division. If this occurs, the state is required to pay 80 percent of the employee contribution, with the counties paying 20 percent. An ADA who is employed on the date of the election has 60 days to decide whether to enroll in PERA or remain in his or her existing retirement plan. The employee contribution will continue to be paid by the employee.

Background

Other than the current \$130,000 per year minimum salary for an elected DA, there are no minimum salary requirements for other district attorney staff. The state currently pays 80 percent of an elected district attorney's salary through the Department of Law. Counties currently pay the full cost of ADAs and CDDAs.

State Expenditures

Beginning in FY2020-21, this bill increases state General Fund expenditures in the Department of Law by at least \$5.1 million. It also conditionally increases costs related to participation in PERA by at least \$0.9 million per year, conditional upon the local decisions to join PERA. Costs in the fiscal note are assumed to increase by 3 percent per year, based on future changes in judicial salaries.

Salaries. The bill requires that specified positions be paid minimum salaries aligned with the salaries of a specified judge or magistrate. Table 2 shows the estimated additional state share of the new DA salaries and the state share of ADA and CDDA salaries under the bill, including adjustments for when current DA salaries are below the required minimum. Salary amounts are calculated using FY 2018-19 salary and position estimates provided by the Judicial Department. The exact amounts will vary based on the actual number of positions filled and salary levels at any given time. The fiscal note assumes that the Department of Law may request adjustments to the estimates provided in this analysis through the annual budget process.

Table 2
State Salary Expenditures Under SB 19-050

	FY 2019-20	FY 2020-21	FY 20221-22
Department of Law			
DAs - 80 percent state	-	\$391,512	\$485,731
ADAs - 80 percent state	-	\$3,005,534	\$3,095,700
CDDAs - 50 percent state	-	\$1,679,480	\$1,729,864
Total Cost		\$5,076,526	\$5,311,295

PERA. If a counties in a judicial district elects to join PERA, the state will incur additional expenses to provide a share of the employer contributions in proportion to the salary it is required to pay for ADAs. In addition, with an increase in salaries for DAs, the amount paid for PERA will also increase. The current employer contribution rate for PERA is 20.4 percent. This includes an employer contribution of 10.4 percent, amortization equalization disbursement (AED) payments of 5.0 percent, and supplemental AED payments of 5.0 percent. Table 3 shows the maximum amount, based on current salary and position data, that the state could be required to contribute, if all counties elected to enroll in PERA.

Table 3
PERA Expenditures Under SB 19-050

	FY 2019-20	FY 2020-21	FY 2021-22
Department of Law			
ADAs	-	\$613,129	\$631,523
DAs	-	\$240,041	\$264,067
Total Cost		\$853,170	\$895,590

Local Government

This bill affects local governments in two ways. First, it increases salary payments for DAs by raising the minimum salary and decreases salary payments for ADAs and CDDAs by providing state funding for these positions. Based on the assumptions described above in the State Expenditures section, the total net statewide savings shown in Table 4 are estimated to be \$3.0 million in FY 2020-21 and \$3.1 million in FY 2021-22. These amounts are based on current expenditures compared to new expenditures, after modification of salary levels where required by the bill. Second, the bill may alter the amount of contributions counties pay for employee retirement plans on behalf of ADAs if they elect to participate in PERA. These impacts are speculative and have not been estimated, but are likely to result in additional savings.

Table 4
County Savings Under SB 19-050

	FY 2019-20	FY 2020-21	FY 2021-22
District Attorney Offices			
DAs increased salary - 20 percent county	-	\$0.2 million	\$0.3 million
ADAs - 20 percent county	-	(\$2.4 million)	(\$2.5 million)
CDDAs - 50 percent county	-	(\$0.8 million)	(\$0.9 million)
Change in Costs		(\$3.0 million)	(\$3.1 million)

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Counties District Attorneys Judicial
Municipalities PERA