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**Fiscal Note**

<b>Drafting Number:</b>	LLS 24-0508	<b>Date:</b>	January 29, 2024
<b>Prime Sponsors:</b>	Sen. Gardner; Hinrichsen Rep. McLachlan	<b>Bill Status:</b>	Senate Judiciary
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**Bill Topic:** **DISTRICT ATTORNEYS' SALARIES**

<b>Summary of Fiscal Impact:</b>	<input type="checkbox"/> State Revenue	<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> TABOR Refund	<input checked="" type="checkbox"/> Statutory Public Entity

The bill modifies the compensation structure of district attorneys and assistant district attorneys effective January 1, 2025. Starting in FY 2024-25, the bill increases state and local expenditures.

**Appropriation Summary:** For FY 2024-25, the bill requires an appropriation of \$1.9 million to the Department of Law.

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

**Table 1  
State Fiscal Impacts Under SB 24-013**

		<b>Budget Year FY 2024-25</b>	<b>Out Year FY 2025-26</b>
<b>Revenue</b>		-	-
<b>Expenditures</b>	General Fund	\$1,894,466	\$3,788,933
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>	General Fund Reserve	\$284,170	\$568,340

## **Summary of Legislation**

Effective January 1, 2025, the bill requires that a district attorney's (DA) compensation be no less than a full-time district court judge and an assistant district attorney's (ADA) compensation be no less than a full-time county court judge. Additionally, the bill requires that half of the minimum compensation amount for an ADA be paid by the state, with the remaining half paid by the county or counties comprising the judicial district; the state currently pays 80 percent of the minimum compensation for DAs. This formula also applies to employer retirement plan contributions. DAs may set compensation for ADAs and part-time ADAs higher than minimums with permission from the county commissioners, or where applicable, the city council, within their district. Any increase above the minimum amount must be paid by the local government.

Finally, the bill authorizes local governments within a judicial district, in consultation with the DA, to make a one-time irrevocable election to require any new ADA to become a member of the state division of the Public Employees' Retirement Association (PERA) defined benefit plan.

## **Background**

**District attorney and assistant district attorney salaries.** Under current law, the minimum salary for a DA is \$130,000 per year. The state is required to pay for 80 percent of a DA's minimum salary and benefits, with local governments paying the remaining 20 percent, plus any additional salary and benefits over the minimum. The state portion is a part of the Department of Law's (DOL) budget.

Each DA is authorized to appoint a full-time ADA, whose salary is set by the DA with approval from local governments in the judicial district. Salaries for ADAs are entirely paid by local governments under current law. Additionally, a DA may appoint a part-time ADA if the population of a judicial district does not exceed 50,000.

**Judicial salaries.** According to the Judicial Department's [FY 2023-24 compensation plan](#), the current salary for a district court judge is \$193,008, and the current salary for a county court judge is \$184,704.

## **State Expenditures**

The bill increases expenditures in the DOL by about \$1.9 million in FY 2024-25 (half-year impact), and by about \$3.8 million in FY 2025-26, paid from the General Fund. Expenditures are detailed in Table 2 below.

**Table 2**  
**Expenditures Under SB 24-013**

	FY 2024-25 <i>half-year impact</i>	FY 2025-26
<b>Department of Law</b>		
District Attorney Salary Increase <sup>1</sup>	\$632,944	\$1,265,888
District Attorney PERA Increase <sup>2</sup>	\$136,779	\$273,558
Assistant District Attorney Salary Increase <sup>1</sup>	\$1,093,909	\$2,187,819
District Attorney PERA Increase <sup>2</sup>	\$30,834	\$61,668
<b>Total Cost</b>	<b>\$1,894,466</b>	<b>\$3,788,933</b>

<sup>1</sup> Salary increases assume a 3 percent increase over FY 2023-24 salaries in FY 2024-25 only; future adjustments will be made through the annual budget process as necessary.

<sup>2</sup> PERA contributions include the state division's 11.61% employer contribution rate and 10% supplemental PERA rate on the increase in the state share (80%) of DA salaries for 23 DAs and of ADA salaries (50%) for a 3 DAs.

**Assumptions.** The fiscal note has made the following assumptions.

- A 3 percent salary increase from the current salaries discussed in the Background section for FY 2024-25 only, with the expectation that FY 2025-26 salary increases for ADAs will be addressed through the annual budget process, and that DA salaries will not increase again until the next election cycle, with the impact of any adjustment occurring mid-year FY 2028-29. The 3 percent increase equates to \$198,798 annual salary for DAs and \$190,245 annual salary for ADAs.
- Currently, an estimated three ADAs are PERA members, following a one-time election period in 2004. The bill allows DAs and local governments in a judicial district to make a one-time decision to require new ADAs to join PERA. It is unknown how many districts will opt to make this one-time decision and on what timeline. It is expected that no new PERA-related costs for ADAs will be incurred in FY 2025-26, and that future budget adjustments will be made as elections are made. As such, the fiscal note only reflects PERA benefit increases for the existing three ADAs who are PERA members.

**District attorney salary increase.** Ongoing funding is required starting mid-year FY 2024-25 to cover costs for 80 percent of 23 DA salaries at the bill's new minimum salary. Based on the assumptions above, the bill increases salary costs by \$55,039 per DA from current expenditures, for a new total state share of DA costs of \$159,039 per DA. As discussed in the assumptions above, these salaries are not expected to increase again until mid-year FY 2028-29, after the next district attorney election.

**District attorney PERA employer contribution increase.** Ongoing funding is required starting mid-year FY 2024-25 to cover the employer share of DA's PERA contributions based on increased salary amounts. The fiscal note assumes the state division's 11.61 percent employer contribution rate and a 10 percent supplemental contribution rate for all 23 district attorneys.

**Assistant district attorney salary increase.** Ongoing funding is required starting mid-year FY 2024-25 to cover costs for 50 percent of 23 ADA salaries at the bill's new minimum salary—the state currently pays no share of these costs. Based on the assumptions above, the bill requires a state share of ADA salary costs of \$95,123 per ADA. As discussed in the assumptions above, these salaries may increase year-over-year beginning in the subsequent fiscal year.

**PERA employer contribution increase.** Ongoing funding is required starting mid-year FY 2024-25 to cover the employer share of ADA's PERA contributions based on the new state share of ADA salary costs. As with DAs, the fiscal note assumes the state division's 11.61 percent employer contribution rate and a 10 percent supplemental contribution rate; however, unlike the DAs, the fiscal note assumes only 3 ADAs will require the PERA increase in FY 2024-25, as discussed in the assumptions above.

### **Other Budget Impacts**

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

### **Local Government**

On net, the bill decreases county costs by increasing state funding for DAs and ADAs. County costs for ADA salaries are expected to decrease due to the bill's requirement that the state cover 50 percent of ADA salaries. This amount of new state funding, displayed in Table 2, is expected to exceed county costs for the DA and ADA salary increases under the bill, and will vary based on current salary ranges. For informational purposes, the bill is anticipated to raise the salary of 12 DAs and 14 ADAs, with the remaining attorneys already compensated above the bill's new minimum. The fiscal note assumes that attorneys currently below the minimum compensation established by the bill are primarily in rural jurisdictions, which will have higher costs to cover the new salary minimums.

### **Statutory Public Entity**

The bill is expected to generate additional employer and employee contributions to PERA based on the increased salaries of DAs and from any ADAs that join PERA as a result of this bill, increasing PERA's revenues and future benefit obligations. Assuming that service credit for ADAs will be granted only from the date of elected membership, with no prior service credits for periods in which no contributions were made, this impact is expected to be minimal.

## **Technical Note**

There is currently no mechanism in the bill for the Department of Law to be informed of ADAs opting into PERA. The department will also be required to use the Judicial Department budget request to inform its DA/ADA related budget request; the process may be facilitated if the appropriation were moved to the Judicial Department.

## **Effective Date**

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## **State Appropriations**

For FY 2024-25, the bill requires a General Fund appropriation of \$1,894,466 to the Department of Law.

## **State and Local Government Contacts**

Counties	District Attorneys	Judicial
Law	Public Employees' Retirement Association	

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).