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FISCAL IMPACT REPORT

SPONSOR Ivey-Soto/Smith ORIGINAL DATE 2/3/15
 LAST UPDATED _____ HB _____

SHORT TITLE Special Prosecutors for Election violations SB 192

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	None	Unknown	Unknown	Unknown	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorneys (AODA)

Attorney General's Office (AGO)

Secretary of State (SOS)

SUMMARY

Synopsis of Bill

Senate Bill 192 amends and modifies the Campaign Reporting Act (CRA) to require a special prosecutor, rather than the district attorney or attorney general, to prosecute violations of the CRA and the Elections Code. SB 192 also provides time requirements for the mandatory appointment of special prosecutors. SB 192 requires that a special prosecutor be a member of the state bar, but places no other requirements on the appointment.

FISCAL IMPLICATIONS

The mandate that CRA and Elections Code violations be prosecuted by a special prosecutor may result in additional costs for district attorneys and the attorney general. The AODA found less than 10 election code cases opened since July 1, 2012.

SIGNIFICANT ISSUES

SOS writes:

With regard to the Campaign Reporting Act, the SOS is not aware of any criminal matters that

have been prosecuted under Section 1-19-36. The Campaign Reporting Act provides for civil penalties, which the SOS will continue to enforce. With regard to violations of the Election Code, the SOS has referred a number of violations of the Election Code to the AG and district attorneys in this state. Sometimes, the staff of the DA's office is not familiar with the Election Code. The appointment of a special prosecutor may strengthen the ability to have effective prosecution of violations of the Election Code.

AODA writes:

This bill would unnecessarily draw away personal and financial resources from District Attorney's offices, thereby impacting their ability to manage their case loads and attorney time.

AGO writes:

The attorney general and the district attorneys are equipped with tried and true experience in prosecuting violations of the Election Code and the Municipal Election Code. SB 192 may disable the ability of our state's law enforcement agencies to apply this experience. Instead, the enforcement power is placed in the hands of an undesignated "member of the bar." Without providing for an appropriation, SB 192 may require the state to hire a special prosecutor every time an alleged violation of the Election Code or the Municipal Election Code arises, costing taxpayers an exorbitant fee for services that could be rendered by their state law enforcement agencies.

TECHNICAL ISSUES

SB 192 is ambiguous as to whether enforcement power is removed from district attorneys and the attorney general. AGO believes SB 192 may potentially be interpreted as removing both criminal and civil enforcement power from the state's law enforcement agencies. Because SB 192 does all of this work in proposed amendments to Section 1-19-36 without altering the various sections in the Election Code relating to the enforcement power of the attorney general or district attorneys, SB 192 potentially leaves the Election Code in a state of disarray.

CJ/je