

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 140

PRINTER NO. 684

AMOUNT

No Fiscal Impact
See Fiscal Impact

FUND

General Fund
Municipal Funds

DATE INTRODUCED

April 24, 2023

PRIME SPONSOR

Senator Langerholc

DESCRIPTION

Senate Bill 140 amends Title 74 (Transportation) of the Pennsylvania Consolidated Statutes to require the Attorney General to appoint a special prosecutor to investigate and institute criminal proceedings for crimes on property owned by the primary provider of public passenger transportation in the county of the first class.

Title 74 is amended by adding a new Section 1786 (relating to special prosecutor for mass transit) directing the Attorney General to appoint the special prosecutor that shall have the authority to investigate and prosecute any criminal matter involving an alleged violation of the laws of this Commonwealth occurring within a public transportation authority that serves as the primary provider of public passenger transportation in the county of the first class. The special prosecutor’s prosecutorial jurisdiction shall include the power and independent authority to exercise all investigative and prosecutorial functions and powers of an office of the district attorney of a county of the first class.

A special prosecutor may use facilities, resources and personnel of the Attorney General, including investigators, attorneys and necessary experts, to assist with a criminal investigation or prosecution. A special prosecutor may request assistance from the Pennsylvania State Police (PSP) or any law enforcement agency with appropriate jurisdiction in carrying out the functions of the special prosecutor.

A special prosecutor may assert preemptive prosecutorial jurisdiction over any criminal actions or proceedings involving alleged violations of the laws of this Commonwealth including:

- 1) An assertion of preemptive prosecutorial jurisdiction shall be within the sole discretion of the special prosecutor;
- 2) In cases in which a special prosecutor asserts preemptive prosecutorial jurisdiction, no other prosecuting entity for the Commonwealth shall have authority to act, except as authorized by the special prosecutor;
- 3) A special prosecutor may not assert preemptive prosecutorial jurisdiction in a case where jurisdiction also exists in a county other than a county of the first class unless the special prosecutor requests in writing to the district attorney in said county to assert preemptive prosecutorial jurisdiction;

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- 4) When a special prosecutor asserts preemptive prosecutorial jurisdiction, the office of the district attorney in a county of the first class shall suspend all investigations and proceedings regarding the matter and shall turn over to the special prosecutor all materials, files and other data relating to the matter; and
- 5) Notwithstanding any other law or court rule, prior approval of the district attorney of a county of the first class or an employee of the district attorney of a county of the first class shall not be required prior to the filing of any criminal complaint or arrest warrant affidavit, or both, involving any violation of the laws of this Commonwealth.

The Attorney General shall appoint a replacement within 30 days if a vacancy of the special prosecutor occurs for any reason.

Each law enforcement agency with jurisdiction in a county of the first class shall notify the special prosecutor within 48 hours of any arrest or other criminal action or proceeding involving an alleged violation of the laws of this Commonwealth occurring within a public transportation authority that serves as the primary provider of public passenger transportation in a county of the first class.

No new action or proceeding may be initiated by a special prosecutor after December 31, 2026. Notice of final disposition of the last remaining action or proceeding initiated under this section prior to December 31, 2026, shall be transmitted to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

The special prosecutor shall compile reports related to criminal activity and administrative proceedings within a public transportation authority that serves as the primary provider of public passenger transportation in the county of the first class. The following shall apply:

- 1) An initial report shall be submitted no later than 90 days following the appointment of the special prosecutor. Then, annual reports shall be submitted to the General Assembly;
- 2) Each report shall contain the following information:
 - a. The total number of arrests for alleged criminal activity;
 - b. The total number of bills of information filed for alleged violations;
 - c. The total number of convictions resulting from prosecutions by the special prosecutor; and
 - d. Each sentence imposed for each conviction for a crime committed.

A county of the first class shall reimburse the special prosecutor and the Office of Attorney General for any expenses incurred while investigating or prosecuting an alleged violation of the laws of this Commonwealth. The special prosecutor shall submit an itemized statement of expenses of the special prosecutor and Office of Attorney General to the treasurer of the county of the first class, who shall pay the expenses from the general funds of the county of the first class within 30 days. Reimbursement under this section may not exceed actual expenses incurred in prosecuting any action, including the amount necessary to compensate the special prosecutor.

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The special prosecutor shall receive compensation from the Office of Attorney General at the per diem rate equal to the annual rate of compensation payable to the district attorney of a county of first class. A special prosecutor shall be entitled to the payment of travel expenses within this Commonwealth.

The Commonwealth may not reimburse a county of the first class for the salary of the district attorney of that county during the period in which a special prosecutor serves in this capacity.

The legislation mandates the Attorney General, the county of the first class, the district attorney of the first class and the public transportation authority that serves as the primary provider of public passenger transportation in the county of the first class to comply with this section until it expires.

The legislation restricts a governing body of a political subdivision or public official from enacting or enforcing any ordinance, executive order or directive or taking any other official action that would be inconsistent with this section or restricting a law enforcement agency with appropriate jurisdiction to provide assistance. Any ordinance, executive order or directive or any other official action in violation of this section shall be null and void.

Finally, the term "law enforcement agency" is defined as:

- 1) A public agency of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of the criminal or traffic laws;
- 2) A campus police or university police department, as used in Act 175 of 1929 (known as the Administrative Code of 1929), certified by the Office of Attorney General as a criminal justice agency under the definition of criminal justice agency in 18 Pa.C.S. § 9102 (relating to definitions);
- 3) A railroad or street railway police department formed with officers commissioned under 22 Pa.C.S. Ch. 33 (relating to railroad and street railway police) or any prior statute providing for the commissioning;
- 4) An airport authority police department; and
- 5) A county park police force under section 2511 (b) of Act 130 of 1955 (known as the County Code).

This act shall take effect immediately.

FISCAL IMPACT:

Under this legislation, the special prosecutor shall receive compensation from the Office of Attorney General at the per diem rate equal to the annual rate of compensation payable to the district attorney of a county of first class. The current annual base salary of the district attorney in the city of the first class of the Commonwealth is \$196,119.

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The Office of Attorney General currently reimburses counties with full-time district attorneys an amount equal to sixty-five percent of the district attorney's salary. However, this legislation prohibits that reimbursement during the period in which a special prosecutor serves in a county of the first class and instead directs an amount equal to the reimbursement that would have been made to be used to reimburse the Office of the Attorney General for the compensation of the special prosecutor.

In addition, this legislation requires the Treasurer of the city of the first class to reimburse the special prosecutor and the Office of Attorney General for any remaining expenses incurred while investigating or prosecuting alleged violations of the laws of this Commonwealth on property owned by the primary provider of public passenger transportation in the county of the first class.

Therefore, enactment of this legislation will have no adverse effect on Commonwealth funds.