

AMENDED IN SENATE APRIL 25, 2013

SENATE BILL

No. 16

Introduced by Senator Gaines

December 3, 2012

An act to ~~amend Section 27701~~ *add Chapter 3.5 (commencing with Section 15205) to Part 6 of Division 3 of Title 2 of the Government Code, relating to public defenders.* ~~counties.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 16, as amended, Gaines. ~~Public defenders.~~ *Administration of justice: county costs: nonhomicide criminal trials.*

Existing law authorizes a county that is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide to apply to the Controller for reimbursement of the costs incurred by the county in excess of a specified amount subject to certain limitations. Existing law defines "costs incurred by the county" to mean, among other things, all costs, including the trial or trials of a person or persons for the offense of homicide, including costs incurred by the district attorney in investigation and prosecution, by the sheriff in investigation, by the public defender or court-appointed attorney or attorneys in investigation and defense, and all other costs incurred by the county in connection with bringing the person or persons to trial, including the trial itself. Existing law authorizes the Controller to establish rules and regulations to carry out these provisions.

This bill would, when the Attorney General is handling the prosecution of a nonhomicide crime in a county, authorize the county that is responsible for the defense costs of a trial or trials or any hearing of a person for the offense of a nonhomicide crime to apply to the Controller for reimbursement of the defense costs incurred by the county in excess

1 15205.4. (a) Subject to appropriation by the Legislature, when
2 the Attorney General is handling the prosecution of a nonhomicide
3 crime in a county, the county that is responsible for the defense
4 costs of a trial or trials or any hearing of a person for the offense
5 of a nonhomicide crime may apply to the Controller for
6 reimbursement of the costs incurred by the county in excess of the
7 amount of money derived by the county from a tax of 0.0125 of 1
8 percent of the full value of property assessed for purposes of
9 taxation within the county.

10 (b) The county authorization in subdivision (a) shall apply to
11 any nonhomicide criminal trial or trials or any hearing
12 commencing on or after January 1, 2012.

13 (c) The Controller shall not reimburse any county for costs that
14 exceed the California Victim Compensation and Government
15 Claims Board's standards for travel and per diem expenses. The
16 Controller may reimburse extraordinary costs in unusual cases if
17 the county provides sufficient justification of the need for these
18 expenditures. This section shall not permit the reimbursement of
19 costs for travel in excess of 1,000 miles on any single round trip,
20 without the prior approval of the Attorney General.

21 (d) Subject to appropriation by the Legislature, reimbursement
22 funds appropriated pursuant to this section shall be available for
23 three fiscal years from the date of the appropriation. After three
24 fiscal years, any unused funds shall revert back to the General
25 Fund.

26 15205.6. If the venue for trial of a nonhomicide criminal case
27 has been changed from the county that is eligible for
28 reimbursement under Section 15205.4 to another county, and the
29 public defender of that county has entered into a contract with an
30 attorney to try the case or an investigator to assist in the trial of
31 the case, the Controller shall, upon appropriation by the
32 Legislature, reimburse the county for the actual defense costs of
33 the attorney or investigator under this section, at an hourly rate
34 not to exceed the hourly rate charged to state agencies by the
35 Attorney General for similar attorney services or investigators,
36 without a further showing of justification. This section shall not
37 permit the reimbursement of costs for travel in excess of 1,000
38 miles on any single round trip, without the prior approval of the
39 Attorney General.

1 15205.8. *If the county meets the conditions described in Section*
2 *15205.4 and applies to the Controller for reimbursement pursuant*
3 *to that section, and the Controller determines that the*
4 *reimbursement meets the provisions of Section 15205.2, the*
5 *Controller shall request that the Director of Finance include any*
6 *amounts necessary to fulfill the purposes of Section 15205.4*
7 *annually in a request for a deficiency appropriation in*
8 *augmentation of the emergency fund.*

9 15205.10. *Subject to the rulemaking provisions of the*
10 *Administrative Procedure Act (Chapter 3.5 (commencing with*
11 *Section 11340) of Part 1 of Division 3 of Title 2), the Controller*
12 *may adopt rules and regulations to carry out the purposes of this*
13 *chapter.*

14 ~~SECTION 1. Section 27701 of the Government Code is~~
15 ~~amended to read:~~

16 ~~27701. A person is not eligible to hold the office of public~~
17 ~~defender unless he or she has been a practicing attorney in all of~~
18 ~~the courts of this state for at least the year preceding the date of~~
19 ~~his or her election or appointment.~~