

# Senate Bill 808

Sponsored by COMMITTEE ON JUDICIARY

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows county to request that state assume responsibility for prosecution of offenses in county. Requires Department of Justice to assume responsibility if Legislative Assembly appropriates monies for costs of prosecuting offenses in county.

Provides that Governor appoint state prosecutors in counties in which state assumes responsibility for prosecution of offenses. Establishes term, qualifications, powers and salaries of state prosecutors.

Requires county in which state has assumed responsibility for prosecuting offenses to provide suitable and sufficient facilities for state prosecutors.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1 Relating to prosecution of offenses in counties; and declaring an emergency.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1. The Legislative Assembly finds that the prosecution of persons charged with**  
4 **violating increasingly complex state laws imposes a financial burden on county governments.**  
5 **The Legislative Assembly further finds that since the state has assumed the administration**  
6 **of state courts and indigent defense services, the state should provide counties with the op-**  
7 **tion of having the state assume responsibility for the prosecution of crimes within the**  
8 **county along with the expenses normally associated with the operation of the county district**  
9 **attorney's office.**

10 **SECTION 2. (1) Notwithstanding ORS 8.610, a county may elect to have the state assume**  
11 **responsibility for the prosecution of persons charged with offenses within the county by filing**  
12 **with the Governor and the Attorney General a request that the Department of Justice as-**  
13 **sume responsibility for the prosecution of offenses within the county.**

14 **(2) Upon the filing of a request under this section, the Department of Justice shall pre-**  
15 **pare a report that shows the costs of assuming the responsibility for prosecution in the**  
16 **county making the request. The report must be prepared not more than 180 days after re-**  
17 **ceiving the request from the county. If the request is made more than 180 days before the**  
18 **convening of the next regular session of the Legislative Assembly, the Department of Justice**  
19 **shall include the costs reflected in the report in the department's proposed budget for the**  
20 **biennium next following the date on which the request is made. If the request is made less**  
21 **than 180 days before the convening of the next regular session of the Legislative Assembly,**  
22 **the Department of Justice shall include the costs reflected in the report in the department's**  
23 **proposed budget for the second biennium following the date on which the request is made.**

24 **(3) The Department of Justice shall assume responsibility for prosecution in the county**  
25 **making the request under this section not later than 30 days after the effective date of a law**  
26 **that includes an appropriation for the funding of the costs of prosecuting offenses in the**  
27

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 county.

2 **SECTION 3.** (1) In each county in which the Department of Justice assumes responsibil-  
 3 ity for the prosecution of offenses under section 2 of this 2009 Act, the serving district at-  
 4 torney shall act as state prosecutor until the end of the district attorney's term of office or  
 5 the office otherwise becomes vacant. Upon the end of the district attorney's term of office  
 6 or the office otherwise becoming vacant, the Governor shall appoint a person to serve as  
 7 state prosecutor for the county.

8 (2) A person appointed by the Governor as state prosecutor must have the qualifications  
 9 set forth in ORS 8.630 for a district attorney. A state prosecutor serves for a term of four  
 10 years and has the duties set forth in ORS 8.650.

11 (3) In counties with a population of under 100,000 persons, a state prosecutor shall re-  
 12 ceive an annual salary equal to the salary that is provided by law for a circuit court judge.  
 13 In counties with a population of 100,000 or more, the state prosecutor shall receive an annual  
 14 salary equal to the salary that is provided by law for the Chief Judge of the Court of Appeals.

15 **SECTION 4.** (1) Upon a vacancy in the position of state prosecutor, the presiding judge  
 16 of the circuit court for the county in which the state prosecutor served shall convene and  
 17 preside over a committee to advise the Governor in the selection of a state prosecutor for  
 18 the county. The advisory committee shall consist of, but is not limited to:

19 (a) The presiding judge of the circuit court for the county.

20 (b) The county sheriff.

21 (c) The president of the county bar association.

22 (d) A chief of police of a police department from a city within the county.

23 (e) An attorney whose practice includes criminal defense.

24 (f) An attorney who is employed as a prosecutor within the state prosecutor's office for  
 25 the county.

26 (g) A county commissioner or county judge for the county.

27 (h) The Attorney General or a designee of the Attorney General.

28 (2) An advisory committee convened under this section shall submit for the Governor's  
 29 consideration the names of no more than three persons that the committee finds most  
 30 qualified to fill the position of state prosecutor for the county.

31 **SECTION 5.** (1) All persons employed by a district attorney's office on the day before the  
 32 state assumes responsibility of the prosecution of offenses in the county under section 2 of  
 33 this 2009 Act become employees of the Department of Justice on the day that the state as-  
 34 sumes responsibility and are entitled to salaries and benefits that are no less than those  
 35 received by the employees before the state assumed responsibility.

36 (2) The State of Oregon shall assume responsibility from the county for any accrued va-  
 37 cation time and sick leave of employees described in subsection (1) of this section.

38 **SECTION 6.** If the state assumes responsibility for the prosecution of offenses in the  
 39 county under section 2 of this 2009 Act, the county must provide suitable and sufficient fa-  
 40 cilities for the state prosecutor and the staff of the state prosecutor, including a private of-  
 41 fice with accompanying conference room for the state prosecutor, and must provide  
 42 maintenance and utilities for the facilities.

43 **SECTION 7.** This 2009 Act being necessary for the immediate preservation of the public  
 44 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect  
 45 on its passage.

