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SUBSTITUTE HOUSE BILL 2587

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State of Washington

65th Legislature

2018 Regular Session

By House Judiciary (originally sponsored by Representatives Valdez, McBride, Fitzgibbon, Wylie, and Jenkins)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to required disclosures for special prosecuting  
2 attorneys; amending RCW 36.32.200 and 36.27.040; and creating a new  
3 section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 36.32.200 and 1983 c 129 s 1 are each amended to  
6 read as follows:

7 (1) It shall be unlawful for a county legislative authority to  
8 employ or contract with any attorney or counsel to perform any duty  
9 which any prosecuting attorney is authorized or required by law to  
10 perform, unless the contract of employment of such attorney or  
11 counsel has been first reduced to writing and approved by the  
12 presiding superior court judge of the county in writing endorsed  
13 thereon. This section shall not prohibit the appointment of deputy  
14 prosecuting attorneys in the manner provided by law.

15 (2) Any contract written pursuant to this section shall be  
16 limited to two years in duration. It shall include the amount of  
17 compensation expected to be paid to the special prosecuting attorney  
18 or counsel, and the source of the funds used for compensation. If  
19 compensation to a special prosecuting attorney or counsel is provided  
20 by a nonprofit or advocacy organization, all sources of the funding  
21 shall be provided whether donation, grant, or other source.

1       (3) At least seven days prior to seeking the approval of the  
2 presiding superior court judge as required by subsection (1) of this  
3 section, the proposed contract of employment as reduced to writing  
4 must be made freely available to the public on the county web site.

5       **Sec. 2.** RCW 36.27.040 and 2009 c 549 s 4047 are each amended to  
6 read as follows:

7       (1) The prosecuting attorney may appoint one or more deputies who  
8 shall have the same power in all respects as their principal. Each  
9 appointment shall be in writing, signed by the prosecuting attorney,  
10 and filed in the county auditor's office. Each deputy thus appointed  
11 shall have the same qualifications required of the prosecuting  
12 attorney, except that such deputy need not be a resident of the  
13 county in which he or she serves. The prosecuting attorney may  
14 appoint one or more special deputy prosecuting attorneys upon a  
15 contract or fee basis whose authority shall be limited to the  
16 purposes stated in the writing signed by the prosecuting attorney and  
17 filed in the county auditor's office. The contract or fee basis shall  
18 include the amount of compensation expected to be paid to the special  
19 deputy prosecuting attorney, and the source of the funds used for  
20 compensation. If compensation to a special deputy prosecuting  
21 attorney is provided by a nonprofit or advocacy organization, all  
22 sources of the funding shall be provided whether donation, grant, or  
23 other source. Such special deputy prosecuting attorney shall be  
24 admitted to practice as an attorney before the courts of this state  
25 but need not be a resident of the county in which he or she serves  
26 and shall not be under the legal disabilities attendant upon  
27 prosecuting attorneys or their deputies except to avoid any conflict  
28 of interest with the purpose for which he or she has been engaged by  
29 the prosecuting attorney. The prosecuting attorney shall be  
30 responsible for the acts of his or her deputies and may revoke  
31 appointments at will.

32       Two or more prosecuting attorneys may agree that one or more  
33 deputies for any one of them may serve temporarily as deputy for any  
34 other of them on terms respecting compensation which are acceptable  
35 to said prosecuting attorneys. Any such deputy thus serving shall  
36 have the same power in all respects as if he or she were serving  
37 permanently.

38       The provisions of chapter 39.34 RCW shall not apply to such  
39 agreements.

1 The provisions of RCW 41.56.030(~~(+2)~~) (11) shall not be  
2 interpreted to permit a prosecuting attorney to alter the at-will  
3 relationship established between the prosecuting attorney and his or  
4 her appointed deputies by this section for a period of time exceeding  
5 his or her term of office. Neither shall the provisions of RCW  
6 41.56.030(~~(+2)~~) (11) require a prosecuting attorney to alter the at-  
7 will relationship established by this section.

8 (2) The proposed contract of employment as reduced to writing  
9 must be made freely available to the public on the county web site.

10 NEW SECTION. **Sec. 3.** This act applies retroactively to July 1,  
11 2016. Any contract of employment proposed or made under RCW 36.32.200  
12 or 36.27.040 between July 1, 2016, and the effective date of this  
13 section is subject to the disclosure requirements of this act as  
14 though this act were effective when the contract was proposed or  
15 made.

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