

SSB 5560 - H COMM AMD

By Committee on Civil Rights & Judiciary

ADOPTED 04/17/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) Before a lawsuit may be commenced in
4 disputes between elected officials, as the term "elected official" is
5 defined in subsection (7) of this section, in their official
6 capacity, the party bringing the claim must first notify in writing
7 the other parties to the claim. The notice must:

- 8 (a) Request mediation to occur;
- 9 (b) Notify all interested parties that mediation must take place
10 within ninety days of providing notice; and
- 11 (c) Include a copy of this section.

12 (2) The making of a written, good faith notice requesting
13 mediation prior to commencing a lawsuit by the party bringing the
14 claim as provided in subsection (1) of this section tolls the statute
15 of limitations until the ninetieth day from the date of notice, or
16 the day following the date set in subsection (5) of this section, or
17 mediation ends, whichever is later.

18 (3) After the notice of mediation has been provided to all
19 interested parties, unless otherwise agreed to by the parties, all
20 interested parties must mediate pursuant to the process set forth in
21 this section within ninety days or by the date set in subsection (5)
22 of this section. If any party refuses to mediate, fails to mediate in
23 good faith, or if mediation does not resolve the claim, the party
24 bringing the claim may commence a lawsuit on the claim upon the
25 passage of the 90th day from the date of notice or the day following
26 the date set in subsection (5) of this section, whichever is later.

27 (4) The mediator shall be agreed upon by the parties. If the
28 parties cannot agree upon a mediator, any party may petition for the
29 appointment of a mediator. Once a party petitions for the appointment
30 of a mediator, no other party may petition for the appointment of a
31 mediator. The petition shall be filed in the superior court of the

1 county in which one of the parties serves as an elected official. If
2 one of the parties in the action is a superior court judge, then the
3 petition may not be filed in the superior court in which that judge
4 serves. If any party is a superior court judge and all the parties
5 serve in the same county, the action shall be filed in an adjacent
6 county.

7 (5) Upon designation of a mediator by the parties or the court,
8 the mediator and the parties or the parties' representatives shall
9 establish a date for the mediation. If a date cannot be agreed upon
10 within ten days of the designation or appointment of the mediator, a
11 party may petition the court, as set forth in subsection (4) of this
12 section, to set a date for the mediation. The mediation shall occur
13 within ninety days from the day the notice is provided under
14 subsection (1) of this section, or on a later date if agreed to by
15 all parties and the mediator or as scheduled by the court.

16 (6) Costs of the mediation, including reasonable compensation for
17 the mediator's services, shall be paid equally by the parties unless
18 the superior court determines otherwise in its order appointing the
19 mediator. The details of those costs, and the compensation of the
20 mediator, must be set forth in a mediation agreement between the
21 mediator and all parties, or in the order appointing the mediator.
22 Unless otherwise agreed, and except for sharing the costs of the
23 mediator, each party shall bear its own costs and expenses, including
24 legal fees and witness expenses, in connection with the mediation
25 proceeding. If the matter is not resolved by mediation and the
26 parties cannot agree as to how costs are assessed among the parties,
27 the court that resolves the matter shall determine how costs are
28 assessed among the parties.

29 (7) For the purposes of this section, "elected official" means:

30 (a) Any elected or appointed county officer as enumerated in RCW
31 36.16.030;

32 (b) Equivalent positions whether elected or appointed in charter
33 counties; and

34 (c) Superior, district, and municipal court judges located within
35 the county.

36 NEW SECTION. **Sec. 2.** Section 1 of this act constitutes a new
37 chapter in Title 36 RCW."

38 Correct the title.

EFFECT: Retains the entirety of the underlying bill, but recodifies it in the RCW Title that pertains to counties.

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