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**SUBSTITUTE SENATE BILL 5560**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Padden and Pedersen)

READ FIRST TIME 02/08/19.

1 AN ACT Relating to mediation of disputes between elected  
2 officials; and adding a new section to chapter 42.17A RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 42.17A  
5 RCW to read as follows:

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

11 (a) Request mediation to occur;

12 (b) Notify all interested parties that mediation must take place  
13 within ninety days of providing notice; and

14 (c) Include a copy of this section.

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

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

10 (4) The mediator shall be agreed upon by the parties. If the  
11 parties cannot agree upon a mediator, any party may petition for the  
12 appointment of a mediator. Once a party petitions for the appointment  
13 of a mediator, no other party may petition for the appointment of a  
14 mediator. The petition shall be filed in the superior court of the  
15 county in which one of the parties serves as an elected official. If  
16 one of the parties in the action is a superior court judge, then the  
17 petition may not be filed in the superior court in which that judge  
18 serves. If any party is a superior court judge and all the parties  
19 serve in the same county, the action shall be filed in an adjacent  
20 county.

21 (5) Upon designation of a mediator by the parties or the court,  
22 the mediator and the parties or the parties' representatives shall  
23 establish a date for the mediation. If a date cannot be agreed upon  
24 within ten days of the designation or appointment of the mediator, a  
25 party may petition the court, as set forth in subsection (4) of this  
26 section, to set a date for the mediation. The mediation shall occur  
27 within ninety days from the day the notice is provided under  
28 subsection (1) of this section, or on a later date if agreed to by  
29 all parties and the mediator or as scheduled by the court.

30 (6) Costs of the mediation, including reasonable compensation for  
31 the mediator's services, shall be paid equally by the parties unless  
32 the superior court determines otherwise in its order appointing the  
33 mediator. The details of those costs, and the compensation of the  
34 mediator, must be set forth in a mediation agreement between the  
35 mediator and all parties, or in the order appointing the mediator.  
36 Unless otherwise agreed, and except for sharing the costs of the  
37 mediator, each party shall bear its own costs and expenses, including  
38 legal fees and witness expenses, in connection with the mediation  
39 proceeding. If the matter is not resolved by mediation and the  
40 parties cannot agree as to how costs are assessed among the parties,

1 the court that resolves the matter shall determine how costs are  
2 assessed among the parties.

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

4 (a) Any elected or appointed county officer as enumerated in RCW  
5 36.16.030;

6 (b) Equivalent positions whether elected or appointed in charter  
7 counties; and

8 (c) Superior, district, and municipal court judges located within  
9 the county.

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