



Rep. Michael W. Tryon

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09700HB2558ham001

LRB097 07783 KMW 54104 a

1 AMENDMENT TO HOUSE BILL 2558

2 AMENDMENT NO. _____. Amend House Bill 2558 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by changing
5 Section 3-9008 as follows:

6 (55 ILCS 5/3-9008) (from Ch. 34, par. 3-9008)

7 Sec. 3-9008. Appointment of attorney to perform duties.
8 Whenever the State's attorney is sick or absent, or unable to
9 attend, or is interested in any cause or proceeding, civil or
10 criminal, which it is or may be his duty to prosecute or
11 defend, the court in which said cause or proceeding is pending
12 may appoint some competent attorney to prosecute or defend such
13 cause or proceeding, and the attorney so appointed shall have
14 the same power and authority in relation to such cause or
15 proceeding as the State's attorney would have had if present
16 and attending to the same, and in case of a vacancy of more

1 than one year occurring in any county in the office of State's
2 attorney, by death, resignation or otherwise, and it becomes
3 necessary for the transaction of the public business, that some
4 competent attorney act as State's attorney in and for such
5 county during the period between the time of the occurrence of
6 such vacancy and the election and qualification of a State's
7 attorney, as provided by law, the vacancy shall be filled upon
8 the written request of a majority of the circuit judges of the
9 circuit in which is located the county where such vacancy
10 exists, by appointment as provided in The Election Code of some
11 competent attorney to perform and discharge all the duties of a
12 State's attorney in the said county, such appointment and all
13 authority thereunder to cease upon the election and
14 qualification of a State's attorney, as provided by law. Prior
15 to appointing a private attorney, the court shall contact
16 public agencies, including but not limited to the Office of
17 Attorney General, Office of the State's Attorneys Appellate
18 Prosecutor, and local State's Attorney's Offices throughout
19 the State, to determine a public prosecutor's availability to
20 serve as a special prosecutor at no cost to the county. Any
21 attorney appointed for any reason under this Section shall
22 possess all the powers and discharge all the duties of a
23 regularly elected State's attorney under the laws of the State
24 to the extent necessary to fulfill the purpose of such
25 appointment, and shall be paid by the county he serves not to
26 exceed in any one period of 12 months, for the reasonable

1 amount of time actually expended in carrying out the purpose of
2 such appointment, the same compensation as provided by law for
3 the State's attorney of the county, apportioned, in the case of
4 lesser amounts of compensation, as to the time of service
5 reasonably and actually expended. The county shall participate
6 in all agreements on the rate of compensation of a special
7 prosecutor.

8 An order granting authority to a special prosecutor must be
9 construed strictly and narrowly by the court. The power and
10 authority of a special prosecutor shall not be expanded without
11 prior notice to the county. In the case of the proposed
12 expansion of a special prosecutor's power and authority, a
13 county may provide the court with information on the financial
14 impact of an expansion on the county. Prior to the signing of
15 an order requiring a county to pay for attorney's fees or
16 litigation expenses, the county shall be provided with a
17 detailed copy of the invoice describing the fees, and the
18 invoice shall include all activities performed in relation to
19 the case and the amount of time spent on each activity.

20 (Source: P.A. 86-962.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law."