



Rep. Kent Gaffney

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09700HB4749ham001

LRB097 17963 KMW 68026 a

1 AMENDMENT TO HOUSE BILL 4749

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4749 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 (a) Whenever the State's attorney is sick or absent, or  
9 unable to attend, or is interested in any cause or proceeding,  
10 civil or criminal, which it is or may be his duty to prosecute  
11 or defend, the court in which said cause or proceeding is  
12 pending may appoint some competent attorney to prosecute or  
13 defend such cause or proceeding, and the attorney so appointed  
14 shall have the same power and authority in relation to such  
15 cause or proceeding as the State's attorney would have had if  
16 present and attending to the same. Prior to appointing a

1 private attorney under this subsection (a), the court shall  
2 contact public agencies, including but not limited to the  
3 Office of Attorney General, Office of the State's Attorneys  
4 Appellate Prosecutor, and local State's Attorney's Offices  
5 throughout the State, to determine a public prosecutor's  
6 availability to serve as a special prosecutor at no cost to the  
7 county. ~~and~~

8 (b) In ~~in~~ case of a vacancy of more than one year occurring  
9 in any county in the office of State's attorney, by death,  
10 resignation or otherwise, and it becomes necessary for the  
11 transaction of the public business, that some competent  
12 attorney act as State's attorney in and for such county during  
13 the period between the time of the occurrence of such vacancy  
14 and the election and qualification of a State's attorney, as  
15 provided by law, the vacancy shall be filled upon the written  
16 request of a majority of the circuit judges of the circuit in  
17 which is located the county where such vacancy exists, by  
18 appointment as provided in The Election Code of some competent  
19 attorney to perform and discharge all the duties of a State's  
20 attorney in the said county, such appointment and all authority  
21 thereunder to cease upon the election and qualification of a  
22 State's attorney, as provided by law. Any attorney appointed  
23 for any reason under this Section shall possess all the powers  
24 and discharge all the duties of a regularly elected State's  
25 attorney under the laws of the State to the extent necessary to  
26 fulfill the purpose of such appointment, and shall be paid by

1 the county he serves not to exceed in any one period of 12  
2 months, for the reasonable amount of time actually expended in  
3 carrying out the purpose of such appointment, the same  
4 compensation as provided by law for the State's attorney of the  
5 county, apportioned, in the case of lesser amounts of  
6 compensation, as to the time of service reasonably and actually  
7 expended. The county shall participate in all agreements on the  
8 rate of compensation of a special prosecutor.

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

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

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