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# King County asks voters to back new public-defense system

King County voters will see a measure on the ballot this fall to restructure the county's unique public-defense system.

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King County voters are being asked to restructure the county's unique public-defense system.

King County Charter Amendment No. 1, on the Nov. 5 ballot, asks voters to formally create a Department of Public Defense within the county's executive branch. The measure requires a simple majority to pass.

The new office will employ public-defense lawyers and support staff assigned to represent indigent criminal defendants as well as petitioners and respondents in child-dependency cases in King County. While the exact makeup of the department is still being ironed out, it would represent a drastic change from the county's longtime use of four separate contracted nonprofit agencies.

The amendment would create the position of county public defender, who would serve a four-year-term but be eligible for reappointment to additional terms. This position would be appointed by the county executive.

The amendment also would establish a public-defense advisory board.

In May, the Metropolitan King County Council approved the creation of an interim Department of Public Defense to replace the county's longstanding Office of Public Defense, which oversaw the four nonprofit agencies that handled indigent public defense under contract with the county.

The interim Department of Public Defense still oversees the four public-defense agencies.

The ballot measure, if approved, would make the Department of Public Defense permanent, said Dave Chapman, who heads the county defense agency.

In July, lawyers and support staff at the four public-defense agencies — The Defender Association, Society of Counsel Representing Accused Persons, Associated Counsel for the Accused and Northwest Defenders Association — became county employees under the new Department of Public Defense.

“The system was very unique; not many spots in the country have copied [it],” Chapman said of King County’s independent public-defense system. “It offered boards of directors, who worked at nonprofits and were not politicians. The directors were free to speak up; their budgets came from the county.”

The four-firm system came under fire in 2006 when Kevin Dolan, a public defender at the Associated Counsel for the Accused, filed suit on behalf of employees of the four defender groups who sought enrollment in the county’s retirement system.

In response to Dolan’s lawsuit, the state Supreme Court ordered King County to allow the contracted public-defense employees to enroll in the county’s Public Employees Retirement System.

For more than a year, Metropolitan King County Executive Dow Constantine, the former Office of Public Defense, the County Council and members of the four separate public-defense agencies have been meeting to discuss the restructuring. How, exactly, the new public-defense system would work, how much it would cost and what would happen to the more than 350 public-defense employees has not yet been determined.

On Friday, a senior lawyer at the Associated Counsel for the Accused said he and his counterparts at the other firms still work for their respective agencies. A proposal by Constantine would include morphing the four independent public-defense agencies and creating two separate county-run public-defense firms inside the new Department of Public Defense.

If the plan is approved by the County Council, the change would happen sometime next year, Chapman.

Chapman said they have decided on creating two firms inside the Department of Public Defense because of cases involving multiple defendants and other conflicts.

On Sept. 26, Chapman formally transitioned as head of the former Office of Public Defense to leading the new Department of Public Defense, according to spokeswoman Leslie Brown.

Eileen Farley, who heads Northwest Defenders Association, one of the four public-defense agencies, said her nonprofit agency supports the measure before voters.

“It’s going to give some insulation and protection to the department director, both to have a term of office the same length as the prosecutor, and making it difficult to remove him or her because somebody in the county doesn’t like what they’re doing,” Farley said. “We have an executive who said he’s a strong supporter of public defense. In other counties you have leaders who don’t say that.”

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