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## Local Government Committee

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### HB 1635

**Brief Description:** Authorizing local government funding of ambulance and emergency services.

**Sponsors:** Representatives Kessler, Haler, Clibborn, Jarrett, O'Brien, Hankins, Ericks, Grant, Buck, Chase and Kenney.

#### Brief Summary of Bill

- Adds criteria and a procedure for determining whether a city is adequately served by existing private ambulance service.
- Authorizes a city to set and collect rates and charges for the availability of an ambulance and emergency medical service system as well as actual utilization of the service.
- Requires that rates and charges be set based upon the benefit and the burdens.
- Permits rate reductions or exemptions for the poor and infirm.
- Requires revenues to be deposited in a separate fund to be used only for the ambulance and emergency medical system.

**Hearing Date:** 2/21/05

**Staff:** CeCe Clynch (786-7168).

#### Background:

Cities have, for some time, been authorized to establish a system of ambulance service to be operated as a public utility when the city is not adequately served by existing private ambulance service. They also have the authority to levy and collect:

- a business and occupation tax for the privilege of engaging in the ambulance business; and
- excise taxes from persons, industry, and businesses who are served and billed for ambulance service.

All proceeds must be used only for the operation, maintenance, and capital needs of the municipally owned, operated, leased, or contracted for ambulance service.

Pursuant to an ordinance adopted in 1989, the City of Kennewick imposed what it called an "excise tax" in the form of a monthly flat fee of \$2.60 upon each household, business, and

industry within the area served by the emergency medical and ambulance services. The city's authority to do so was challenged in court. Subsequent to the case being filed, the ordinance was amended to change the "excise tax" to a "utility charge" but it apparently remained the same in all other respects except for the name.

In Arborwood Idaho, L.L.C. v. City of Kennewick, the Washington Supreme Court held that the city lacked necessary, specific statutory authority to levy an excise tax upon all households, businesses, and industry for availability, as opposed to actual utilization, of the ambulance service. The court further held that the charge did not meet the test for a regulatory fee and, instead, was an unauthorized tax. In holding that the charge was not a fee, but a tax, the court noted that it was a flat charge which did not take into account benefits or burdens.

### **Summary of Bill:**

Specific findings are included as to the benefit to persons, businesses, and industries from the availability of ambulance and emergency medical services. It is explicitly recognized that local jurisdictions have the ability and the authority to collect utility service charges to fund ambulance and emergency medical service systems that are based, at least in part, on a charge for the availability of the service.

In the context of determining the adequacy of existing ambulance service, cities are directed to determine if existing service is meeting relevant performance standards. These standards are to be adopted following a public hearing process and are to be no less stringent than those adopted by the Department of Health or any other agency with applicable jurisdiction.

Cities are specifically authorized to set and collect rates and charges for (1) the availability of the service; and (2) the actual utilization of the service. These rates and charges combined may not exceed the total cost of the maintenance, operation, and capital improvements of the utility. Rates and charges are to be set based upon the benefit conferred on ratepayers through the availability of the service and the burden imposed upon the service by the ratepayer. Factors which may be considered in setting the rate include:

- the frequency of calls made;
- distance to hospitals;
- individual demands for service;
- other factors identified in studies conducted to assess benefits and burdens.

Rates may reflect a reduction or exemption for the necessary support of the poor and infirm, as allowed by Const. Art. VIII, Section 7.

All revenues generated must be deposited in a separate fund and be used only for the ambulance and emergency medical service. A party may file a claim for a refund pursuant to appeal procedures established by the city but, even if the party filing the claim prevails, refunds for periods before the time the appeal is filed are not required.

Specific provision is included that the rates are not otherwise prohibited by law, and that they do not constitute taxes or charges under any of several impact fee statutes.

**Appropriation:** None.

**Fiscal Note:** Requested on February 18, 2005.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.