
Local Government & Housing Committee

HB 2549

Brief Description: Concerning providing firefighting services to areas outside a fire protection jurisdiction.

Sponsors: Representatives Chandler and Simpson.

Brief Summary of Bill

- Creates a new chapter in RCW Title 52 for the provision of fire protection services to lands outside of the jurisdictional boundaries of any of the various fire protection service providers.
- Requires counties to collect assessments from landowners with property outside of a fire protection jurisdiction in order to fund firefighting services for such property.
- Clarifies the tort liability of a fire district and its employees with respect to providing firefighting services outside of the jurisdictional boundaries of the district.

Hearing Date: 1/18/10

Staff: Thamas Osborn (786-7129).

Background:

Overview: Fire Protection Services

State law authorizes the creation of several types of fire protection/ emergency service providers so as to address the varying needs of cities, towns, and counties as determined by demographic factors, geography, and other regional differences. The primary types of fire protection service providers are:

- city/town fire departments;
- fire protection districts;
- regional fire protection service authorities; and
- port district fire departments.

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Each type of fire protection service provider operates within a specified jurisdiction and each has the authority to tax residents for the services provided. In addition, fire protection jurisdictions are authorized to enter into interlocal agreements among themselves in order to provide mutual aid outside of their customary jurisdictional boundaries.

Although the residents of every area of the state have the option of establishing a local fire protection service, the creation of such a service requires either a public vote or legislative action by the pertinent local government. Accordingly, due to inaction by either the resident voters or the local governing body, some areas of the state are not within the jurisdiction of any of the various fire protection service providers. In such areas, residents do not have access to publicly funded fire or emergency services.

Fire Protection Districts

Fire protection districts are created to provide fire prevention, fire suppression, and emergency medical services within a district's boundaries, which can include incorporated and unincorporated areas. The creation of such districts requires voter approval. Generally, districts serve residents outside of cities or towns, except when cities and towns have been annexed into a district or when the district continues to provide service to a newly incorporated area. Fire protection districts are governed by an elected board of commissioners consisting of either three or five members. The districts finance their activities and facilities by imposing regular property taxes, excess voter-approved property tax levies, and benefit charges.

Regional Fire Protection Service Authorities

A Regional Fire Protection Service Authority (Authority) may be created for the purpose of conducting specified fire protection functions at a regional level. An Authority may be created by the merger of two or more adjacent fire protection jurisdictions, including fire protection districts, cities, port districts, and Indian tribes. The creation of an authority requires voter approval and is governed by a board responsible for the execution of the regional fire protection service plan approved by the voters. A board is authorized to:

- levy and impose taxes;
- enter into intergovernmental agreements;
- acquire, hold, or dispose of real property;
- exercise the powers of eminent domain;
- enforce fire codes;
- accept grants and contributions to support the purposes of the Authority;
- monitor and audit the progress and execution of the Authority's programs and projects;
- enter into leases, contracts, and pay for services;
- hire and fire personnel; and
- exercise other powers and duties as are reasonably necessary to carry out its purposes.

An Authority may obtain revenues through property taxes which are based on the assessed value of taxable property within the Authority. An Authority may also obtain revenues through the imposition of a "benefits charge." Benefit charges are not based on the value of real property, but are instead linked to other factors such as insurance savings, water sources, or the distance from fire service facilities. An Authority may use this funding approach as a means for reducing

property taxes and apportioning the costs of service in a manner that more accurately reflects the benefits delivered.

Forest Fire Protection Assessment

Owners of forest land within a "forest protection zone" are required to provide adequate fire protection for such land consistent with statutory guidelines. If an owner of such forest land fails to do so, the Department of Natural Resources must provide the requisite fire protection and collect an annual assessment from the landowner to defray the cost of such fire protection services.

Summary of Bill:

Overview of the Act

The act creates a new chapter in Title 52 RCW, which governs fire protection districts and regional fire protection service authorities. The stated intent of the act is to:

- authorize and facilitate the provision of publicly funded firefighting services to the residents of areas that are outside the jurisdictional boundaries of any fire protection service provider;
- provide a public funding mechanism for the provision of firefighting services; and
- clarify the nature of the tort liability faced by firefighters operating outside of their ordinary jurisdictional boundaries.

The act creates several statutory definitions, including the following:

- "unprotected land" means improved property located outside of a fire protection jurisdiction;
- "firefighting services" means the provision of fire prevention services, fire suppression services, emergency medical services, and other services necessary for the protection of life and property;
- "district" means a fire protection district organized under the act; and
- "fund" means the firefighting fund created under the act for unprotected lands; and
- "improved property" means property containing structures, but excludes property devoted primarily to the commercial production of timber, livestock, or agricultural commodities.

Unprotected Lands Firefighting Assessment

County assessors are required to collect an annual assessment from the owners of unprotected land for the purpose of creating a fund for the provision of firefighting services for such land. The amount of the assessment must approximate the expected cost of providing the firefighting services, but cannot be less than the amount the landowner would pay in taxes if the land were in a fire protection district. The procedure for collecting the assessment is the same as that for the collection of the property taxes on the property. A county is authorized to keep a portion of the assessment as reimbursement for costs related to collection and administration of the fund.

County Responsibility for the Provision of Firefighting Services to Unprotected Land

Within two years of the effective date of the act, a county and the fire districts within a county must reach agreement on two issues: (1) the allocation of responsibility for providing firefighting services to unprotected lands within the county; and (2) the allocation of funds to the fire districts as reimbursement for their services. The agreement must provide for the provision of firefighting services to all unprotected lands within the county. In reaching the requisite fire protection agreement, a county and its fire districts may consider a list of factors in negotiating the allocation of moneys from the fund. These factors include the size, location, nature, and accessibility of the property and the size and nature of improvements on the property.

If the counties and fire districts fail to reach an agreement for the provision fire protection services to unprotected lands, the firefighting assessments in the county fund are forfeited to the Department of Natural Resources (Department). Upon such forfeiture, the Department must step in and use the funds to provide firefighting services to the unprotected lands within the county. The use of the funds and the services provided must be in accordance with statutory requirements pertaining to the Department's responsibility to provide fire protection services within a "forest protection zone."

Tort Liability of Firefighters Operating Outside of Their District

If a fire protection district provides firefighting services to unprotected lands outside the jurisdictional boundaries of the district, the district and its employees are subject to the same tort liability as would be the case if the services were provided within the boundaries of the district.

Appropriation: None.

Fiscal Note: Requested on January 16, 2010.

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