

HOUSE BILL REPORT

ESHB 2708

As Passed House:
February 17, 2016

Title: An act relating to fire protection district formation by the legislative authority of a city or town subject to voter approval.

Brief Description: Providing for fire protection district formation by the legislative authority of a city or town subject to voter approval.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Appleton, Griffey, McBride, Fitzgibbon, Gregerson and Tarleton).

Brief History:

Committee Activity:

Local Government: 1/26/16, 2/4/16 [DPS].

Floor Activity:

Passed House: 2/17/16, 68-30.

Brief Summary of Engrossed Substitute Bill

- Creates an alternate mechanism for the legislative authority of a city or town to establish a fire protection district (district) with boundaries equal to the corporate boundaries of the city or town.
- Establishes requirements for forming the district, including: (1) the city or town must adopt a resolution establishing the district; (2) the resolution must contain a financing plan; (3) a public hearing on the resolution must be held; and (4) the resolution must be approved by either a simple majority or, if the initial imposition of a benefit charge is proposed, 60 percent of voters.
- Establishes that the members of the city or town legislative authority serve in an ex officio capacity as the fire commissioners of the district.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Appleton, Chair; Gregerson, Vice Chair; Griffey, Assistant Ranking Minority Member; Fitzgibbon, McBride and Peterson.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 3 members: Representatives Taylor, Ranking Minority Member; McCaslin and Pike.

Staff: Michaela Murdock (786-7289).

Background:

Cities and towns may establish fire departments for the prevention and extinguishment of fires within the city or town. Similarly, fire protection districts, whose jurisdiction may include incorporated or unincorporated areas of a county or counties, may be established for the purpose of providing fire prevention and suppression services, emergency medical services, and other related operations.

Fire Protection Districts – Formation.

A fire protection district (district) may be established by petition. The petition must be signed by not less than 10 percent of the registered voters residing within the boundaries of the proposed district who voted in the last general municipal election, and filed with the county auditor of the county in which all, or the largest portion, of the proposed district is located. The petition must:

- designate the boundaries of the proposed district;
- state the purpose of creating the proposed district; and
- allege that establishment of the district will be conducive to public safety, welfare, and convenience, and will be a benefit to the property included in the district.

Within 30 days of the filing, the county auditor must verify the sufficiency of signatures on the petition. If found to be sufficient, the county auditor must transmit the petition to the county legislative authority of the county or counties.

Petitions may be subject to review by a boundary review board. If a petition is not reviewed by a boundary review board, a public hearing on the petition may be held by the county legislative authority. Prior notice of a public hearing must be published in the official newspaper of the county or counties and posted in three public places.

The county legislative authority must consider the petition and either adopt a resolution finding that formation of the district will benefit property within the district, or deny the petition. If the petition is approved by the county legislative authority, at the next general election: (1) the proposition of whether to establish the proposed district must be submitted to voters; and (2) the initial fire commissioners must be elected. If three-fifths of all votes at the election approve creation of the district, the county legislative authority must declare the district organized and declare the successful candidate for each initial fire commissioner position.

Fire Protection District – Commissioners.

Each district is managed by an elected board of fire commissioners (board) composed initially of three registered voters of the district. The number of commissioner positions may

be increased to five or seven positions if approved by voters. In general, commissioners serve staggered, six-year terms.

Each commissioner receives \$114 per day (adjusted for inflation), not to exceed \$10,944 per year, for time spent in attendance at meetings of the board or in performance of other services. In addition, commissioners may receive necessary expenses for attendance at meetings of the board or when otherwise engaged in district business.

Fire Protection District Financing.

Districts are authorized to impose property taxes, benefit charges, or both. For property taxes, districts may impose up to three regular property tax levies, each with a maximum rate of 50 cents per \$1,000 of assessed value on taxable property located within the district. State law imposes a 1 percent cap on the revenues a taxing district can receive each year based on the highest amount levied in the past three years. A district that chooses to levy an amount that is less than the maximum lawful amount may retain unused levy capacity for future use. This is known as "banked levy capacity."

As a result of banked levy capacity, the amount of tax that a district levies in any one year may be more or less than the amount that could otherwise be imposed by a district. The purpose expressed in statute of authorizing a taxing district to maintain banked levy capacity is to remove the incentive for a taxing district to maintain its tax levy at the maximum level permitted under state law. Allowing use of banked levy capacity also protects the future levy capacity of a district that reduces its tax levy below the maximum level that it could otherwise impose under state law.

A district may fix and impose a benefit charge on personal property and improvements to real property located within the district that have received or will receive benefits provided by the district. A benefit charge must be reasonably proportioned to the measurable benefits to property resulting from services afforded by the district. Certain property is exempt from benefit charges. The initial imposition of a benefit charge must be approved by 60 percent of voters within the district voting at an election, and expires in six or fewer years unless subsequently reapproved by voters. Districts that impose a benefit charge may not impose a third 50 cents per \$1,000 assessed value regular property tax levy.

Summary of Engrossed Substitute Bill:

Fire Protection District – Alternative Method of Formation.

As an alternative to the petition method of formation provided in existing statute, the legislative authority of a city or town may establish a fire protection district with boundaries that are the same as the corporate boundaries of the city or town. The legislative authority may establish the district through adoption of a resolution and approval of the resolution by voters of the city or town. The resolution must, at a minimum:

- contain a financing plan for the district, which may propose the imposition of any revenue sources a district is authorized to use under applicable law, such as property taxes or benefit charges; and
- set a date for public hearing on the resolution.

The financing plan for the proposed district must contain certain information regarding property taxes, including:

- the total combined levy rate of the district in the first year it imposes a property tax;
- the reduction in the city or town general fund regular property tax levy rate in the first year the district imposes a property tax; and
- the estimated aggregate net dollar amount impact on property owners within the city or town based on the changes.

If the initial imposition of a benefit charge is proposed, the resolution must also comply with requirements provided in existing statute (*e.g.*, regarding specifying the property to which the charge applies, other information necessary to compute the benefit charge, etc.).

The resolution must be submitted for approval to the voters of the city or town. At an election on approval of the resolution, the ballot title must include the information regarding property taxes that is required to be in the financing plan. The resolution is not effective unless it is approved by a simple majority, or if the initial imposition of a benefit charge is proposed, by 60 percent of voters.

After the district is formed, the city or town must reduce its general fund regular property tax rate by the amounts specified in the financing plan. Additionally, authority regarding banked levy capacity does not apply to any portion of a city or town's regular property tax rate that is reduced as part of the formation of the district.

When a district is established in the manner authorized by the bill, all powers, duties, and functions of the city or town fire department pertaining to fire protection and emergency services of the city or town are transferred to the district on its creation date. The city or town fire department must transfer to the district reports, documents, and other written materials, real and personal property, and funds, credits, and other assets pertaining to the department's powers, functions, and duties. Additionally, employees of the city or town fire department are transferred to the district.

Ex Officio Commissioners.

For fire protection districts established by resolution of the legislative authority of a city or town with voter approval, the members of the legislative authority serve ex officio as the fire commissioners of the district. Members serving in an ex officio capacity on the board may not receive compensation, but may receive necessary expenses.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This is another tool in the toolbox for fire protection districts and cities. In recent years, local governments have struggled with funding, so fire departments have been looking for ways to merge and annex different fire departments and to provide services more efficiently. By giving cities a mechanism to create a fire protection district, this will encourage regionalization and help them do more with less. This will reduce duplication of services and optimize opportunities.

The city councilmembers will be the fire commissioners for the fire protection district, and will be sensitive to concerns of a municipal airport that is governed by a board on which city councilmembers serve. Language proposed for private ambulance services is concerning and should not be included; it would change current law regarding fire protection districts and limit their ability to function. A private ambulance service is a private company that may close up shop at any moment, and districts need to be able to provide continuous service.

(Opposed) The Spokane International Airport is co-owned by the City and county of Spokane, under the provisions of chapter 14.08 RCW, and is managed by an independent board. Most of the airport lies within the corporate boundaries of the City of Spokane. The airport operates its own fire department which provides specialized services for aircraft, as well as provides a range of other fire protection and emergency medical services. The City of Spokane's fire department also provides aid to the airport. There are concerns about the potential impact the bill could have on the airport's operation of a fire department. There are also concerns about additional costs that may be incurred by the airport for possibly redundant services provided by the airport and any new fire protection district created in accordance with the bill.

(Other) An amendment regarding the establishment of ambulance services is proposed. Currently, for cities, towns, and regional fire protection authorities, jurisdictions must show that an existing private ambulance service is inadequate before establishing their own. Fire protection districts are not subject to those requirements. The amendment would apply those requirements to fire protection districts formed by the city or town in accordance with the bill. This is fair and reasonable given that the fire commissioners of the proposed new fire protection district will be the city councilmembers of the city or town. The amendment will protect private ambulance services that provide quality services.

Persons Testifying: (In support) Michael White, Washington State Council of Fire Fighters.

(Opposed) Bruce Millsap, Spokane International Airport.

(Other) Bob Berschauer, Washington Ambulance Association.

Persons Signed In To Testify But Not Testifying: None.