

HOUSE BILL REPORT

SHB 1467

As Passed House:
March 7, 2017

Title: An act relating to removing disincentives to the voluntary formation of regional fire protection service authorities by establishing parity, equalizing certain provisions with existing laws governing fire protection districts, and clarifying the formation process.

Brief Description: Removing disincentives to the voluntary formation of regional fire protection service authorities by establishing parity, equalizing certain provisions with existing laws governing fire protection districts, and clarifying the formation process.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Stokesbary, Peterson, Griffey, Robinson, Muri, McBride, Rodne, Fitzgibbon and Tharinger).

Brief History:

Committee Activity:

Local Government: 1/31/17, 2/9/17 [DPS];

Finance: 2/21/17, 2/23/17 [DPS(LG)].

Floor Activity:

Passed House: 3/7/17, 85-12.

Brief Summary of Substitute Bill

- Allows regional fire protection service authorities (RFAs) to continue imposing benefit charges for six consecutive years with a ballot measure approved by a majority of those voting in the election.
- Authorizes RFAs to protect its future levy capacity and its tax levies from prorationing.
- Exempts certain government and nonprofit organization properties from benefit charges, and establishes a procedure to impose charges for properties with significantly high emergency service requirements.
- Authorizes the effective formation date of RFAs to be a date set forth in the service plan.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Appleton, Chair; McBride, Vice Chair; Griffey, Ranking Minority Member; Gregerson and Peterson.

Minority Report: Do not pass. Signed by 2 members: Representatives Pike, Assistant Ranking Minority Member; Taylor.

Staff: Desiree Omli (786-7383).

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill by Committee on Local Government be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Lytton, Chair; Frame, Vice Chair; Nealey, Ranking Minority Member; Dolan, Pollet, Springer, Stokesbary and Wylie.

Minority Report: Do not pass. Signed by 3 members: Representatives Orcutt, Assistant Ranking Minority Member; Condotta and Wilcox.

Staff: Richelle Geiger (786-7139).

Background:

Regional Fire Protection Service Authorities.

Regional fire protection services authorities (RFAs) are municipal corporations created to conduct selected fire protection functions at a regional level. Regional fire protection services authorities are formed by transferring the powers, duties, and functions of two or more adjacent fire protection jurisdictions to a RFA in accordance with a RFA plan approved by voters. If the voters approve the plan, including the creation of a RFA, the RFA is formed on the next January 1 or July 1, whichever occurs first. A fire protection jurisdiction includes a fire district, city, town, port district, municipal airport, or Indian tribe. A fire protection jurisdiction may not participate in more than one RFA. In addition, RFAs are classified as junior taxing districts with independent taxing authority.

A RFA planning committee acts as an advisory entity for the RFA and adopts a RFA plan providing for the governance, design, financing, and development of fire protection and emergency services. Each governing body of the fire protection jurisdictions participating in planning must appoint three elected officials to the planning committee. Each RFA is governed by a governing board, which is determined by the RFA plan.

Fire Districts.

Fire protection districts (fire districts) are created to provide fire and emergency services to protect life and property in locations outside of cities and towns. A fire district may be established through a process involving a petition by the residents of a proposed district, a public hearing, and voter approval. A board of three or five elected commissioners govern fire districts.

Property Tax and Benefit Charges Imposed—Regional Fire Protection Service Authorities.

For purposes of financing, a RFA may impose up to three separate regular property tax levies, each of which may not exceed 50 cents per \$1,000 of assessed value on taxable property located within the jurisdiction of the authority (for a total of \$1.50 per \$1,000 of assessed value).

In addition, a RFA may obtain revenues by imposing a benefit charge on personal property and improvements to real property located within the jurisdiction of the RFA, which have received or will receive the benefits provided by the RFA. Personal property includes tangible property such as chattels, stock in trade, estates, or crops. It does not include personal property used for farming, field crops, farm equipment, or livestock. The benefit charges must be reasonably proportioned to the measurable benefits to the property. The governing body of a RFA must hold a public hearing on its proposal to impose benefit charges prior to the election at which the proposition to impose the benefit charge is to be decided.

Any benefit charge imposed must be approved by 60 percent of voters within the RFA, and expires in six or fewer years. An election to authorize benefit charges must be held within 12 months of the date on which the first charge will be assessed. Once a benefit charge expires, a RFA may impose another benefit charge for an additional six years with the subsequent approval of 60 percent of voters. A RFA that imposes a benefit charge is barred from imposing 50 cents of the total property tax levy of \$1.50 per \$1,000 of assessed valuation that it may otherwise impose.

Benefit charges do not apply to certain properties owned or used by any recognized religious denomination or religious organization, unless it is being used for business operations, profit-making enterprises, or activities other than the use of a sanctuary or activities that are related to kindergarten, primary, or secondary educational purposes or for institutions of higher education.

Property Tax and Benefit Charges Imposed—Fire Districts.

Fire districts may impose property taxes, benefit charges, or both. Similar to RFAs, benefit charges in fire districts are imposed on personal property and improvements to real property within the fire district. A fire district that imposes a benefit charge may not impose all or part of the property levies that are originally authorized. For a fire district, the initial imposition of benefit charges requires approval by 60 percent of the voters voting on the ballot measure. However, unlike in a RFA, the continued imposition of benefit charges need only be approved by a majority of the voters voting on the measure. In addition, similar to RFAs, benefit charges imposed by fire districts also do not apply to certain properties owned or used by a recognized religious organization, with exceptions identical to the exceptions that apply in RFAs.

Property Tax Limitations and Prorationing.

All property is subject to a tax each year based on the highest and best use, unless the law provides for a specific exemption. State and local governments, including RFAs and fire districts, impose property taxes. The county assessor determines assessed value for each property and calculates property taxes. The property tax bill for an individual property is determined by multiplying the assessed value of the property by the tax rate for each taxing district in which the property is located.

The state Constitution limits regular property tax levies to a maximum of 1 percent of the property's value (\$10 per \$1,000 of assessed value). Property taxes that are subject to this 1 percent limitation are "regular" property tax levies.

The Legislature established individual district rate maximums and aggregate rate maximums to keep the total tax rate for regular property taxes within the constitutional limit. The total tax rates for most senior and junior taxing districts must fit within an overall rate limit of \$5.90 per \$1,000 of value. Senior taxing districts are the state, city, and county taxing districts. Junior taxing districts include RFAs and fire districts.

There is a system of prorating the various levies imposed by junior taxing districts so that the total rate does not exceed \$5.90. Statutory schedules specify the preferential order in which the various junior taxing district levies will be reduced, or prorated, in the event that the total tax rate exceeds the \$5.90 limit.

Some regular property tax levies of junior taxing districts are not subject to the \$5.90 aggregate rate limit and are protected from prorating. This includes the protected portion of a fire district's levy. A fire district may, in order to protect its tax levy from prorating, impose up to a total of 25 cents per \$1,000 of assessed value of tax levies outside of the \$5.90 per \$1,000 of assessed value if those taxes would otherwise be reduced.

Protection of Future Levy Capacities.

A regular property tax district that chooses to levy an amount that is less than the highest lawful amount allowed may retain its ability to levy higher taxes in the future if necessary. The regular property tax levy for fire districts may be set at the amount which would be allowed otherwise if the property tax levy for the district had been set at the full amount authorized by law. This includes any fire district levy that would have been imposed but for provisions barring the imposition of the tax levy because of the imposition of a benefit charge.

The expressly stated purpose of the fire district levy protection provisions is to:

- remove the incentive for a taxing district to maintain its levy at the maximum level; and
- protect the future levy capacity of a district that reduces its levy below the level that it otherwise could impose by removing the adverse consequences to future levy capacities resulting from levy reductions.

Summary of Substitute Bill:

Voter Approval of Benefit Charges—Regional Fire Protection Service Authorities and Fire Districts.

In a regional fire protection services authority, only initial benefit charges must be approved by 60 percent of the voters voting on the ballot measure. After the initial benefit charge expires, reapproval is contingent upon a majority of voters voting in the election to approve the continued imposition of a benefit charge. In addition, the requirement that an election for the imposition of a benefit charge be held within 12 months of the date that the first charge will be assessed is limited to the initial imposition of a benefit charge only. Moreover, the

RFA planning committee, rather than the governing board of the RFA, must conduct the public hearing required before an election authorizing the imposition of benefit charges by a RFA, if the benefit charge is proposed as part of the initial formation of a RFA.

For both RFAs and fire districts, the reauthorization of a benefit charge is for six consecutive years. The ballot question in the ballot measure calling for the continued imposition of a benefit charge is changed to reflect that the six-year period is for six consecutive years.

Properties Exempt from Benefit Charges—Regional Fire Protection Service Authorities and Fire Districts.

For both RFAs and fire districts, certain tax-exempt properties of the following entities are not subject to a benefit charge:

- housing authorities;
- nonprofit entities that provide rental housing for very low-income households or space for placement of a mobile home for a very low-income household;
- nonprofit homes for the aging;
- nonprofit organizations, corporations, or associations that provide housing for persons with developmental disabilities;
- nonprofit organizations providing emergency transitional housing for low-income homeless persons or victims of domestic violence who are homeless for personal safety reasons;
- the state Housing Finance Commission; and
- nonprofit corporations operating sheltered workshops for persons with disabilities.

A RFA or fire district may take further action if it finds that a:

- property exempt from benefit charges has a substantial increase in requested emergency services over the prior year; or
- new tax-exempt property similar in size, population, and geographic location as another tax-exempt property has an increase in requested emergency services.

When a RFA or fire district makes a finding described above, the fire service agency must work in collaboration, and in good faith, with the tax-exempt property owner to address the problem by implementing community risk reduction efforts. The community risk reduction plan may include wellness programs and community action plans.

If, at the next annual review, the heightened service needs have not been reasonably addressed by joint mitigation efforts, and the tax-exempt property owner has not acted in good faith, either a:

- benefit charge will be imposed on the tax-exempt property in the next year, subject to approval by the governing board; or
- fire protection charge will be imposed, in an amount equivalent to the benefit rates for similarly situated properties for that year.

Definitions.

The definition of "fire protection jurisdiction" is expanded to include RFAs. In addition, the definition of "regional fire protection service authority plan" is clarified to mean a plan to develop and finance a regional fire protection service authority project.

Protection of Future Levy Capacities—Regional Fire Protection Service Authorities.

The regular property tax levy for RFAs may be set at the amount which would otherwise be allowed if the property tax levy for the district had been set at the full amount authorized by law. This includes any RFA levy that would have been imposed but for provisions barring the imposition of the tax levy because of the imposition of a benefit charge.

The protection of future levy capacity applies to property taxes levied for collection in 2018.

Tax Limitations and Protection from Prorating—Regional Fire Protection Service Authorities.

If a RFA's tax levies will be reduced, a RFA may protect part of its tax levy from reduction by imposing up to a total of 25 cents per \$1,000 of assessed value of tax levies outside of the \$5.90 per \$1,000 of assessed value limit. This protected portion of a RFA's tax levy is not subject to the \$5.90 per \$1,000 of assessed value limit applicable to junior taxing districts. However, if the combined rate of regular property tax levies subject to the \$10 per \$1,000 assessed value limitation exceeds the \$10 (1 percent) limit, then any protected portion of the RFA's tax levy will be reduced or eliminated.

This provision applies to property taxes levied for collection in 2018.

Emergency Clause.

Except for provisions relating to statutory and constitutional tax limitations and prorating, the act takes effect immediately.

Formation of the RFA

When voters approve the creation of a RFA, it is formed on the effective date set forth in the service plan or the next January 1 or July 1, whichever occurs first.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately, except for sections 10 and 12, relating to tax limitations, which take effect January 1, 2018.

Staff Summary of Public Testimony (Local Government):

(In support) With this bill Regional Fire Protection Service Authorities (RFAs) have the same financial benefits as fire districts, which removes any disincentive to forming a RFA. The regionalization that occurs when fire departments join saves money by eliminating redundancies, and is better for taxpayers. Fire service is a critical resource for our state's most vulnerable residents, and, where there has been tension in the past, this bill creates partnership opportunities between low-income housing providers and fire services agencies so that both entities can provide better and more efficient services. In addition, the properties that are exempt from benefit charges are the same properties that are tax-exempt; this bill simply extends the same exemption that affordable housing properties would otherwise receive in tax exemptions. In addition, this bill is a performance-based bill because if the affordable housing properties cannot reduce the volume of inappropriate calls, benefit

charges may be charged on those properties. By allowing affordable housing properties to redirect funds away from fire benefit charges to stabilizing high utilizers of emergency medical services, this conserves fire service resources for actual emergencies.

(Opposed) The goal to find administrative efficiencies is understandable, but the concern is regarding the break from uniform application of benefit charges. Fire benefit charges are based on the characteristic of a building, such as the square foot of the property, rather than on the value of the property. At the same time, this bill exempts types of properties that have relatively high-needs populations. The primary service that is provided is not fire service necessarily, but aid service. Under this bill, agricultural property, such as outbuildings, may be charged at a higher rate, based on square footage, than residential-type buildings when it does not require the same level of demand for services, as affordable housing properties require. This can significantly impair agricultural properties. In addition, some districts, like North Highline, are small districts with a high concentration of poverty and low-income housing where the median income is approximately \$30,000 less than the rest of King County. Providing exemptions to certain properties from paying benefit charges shifts the burden of payment to a smaller share of people who are already struggling to cover a much larger number of exempt properties.

Staff Summary of Public Testimony (Finance):

(In support) The intent of this bill is to encourage economies of scale through regional fire authorities. Instead of three chiefs or payroll departments, you only need one.

Regional fire authorities have difficulty sustaining their budgets. Property tax limits have had a very negative impact on local jurisdictions, especially fire departments that are solely dependent on property taxes. Fire benefit charges allow them to diversify their revenue base. In 2013 fire districts were allowed to authorize benefit charge renewal with simple majority approval. Since that happened, there is little incentive for a fire district to join a regional fire authority, which requires 60 percent approval for renewal.

This bill levels the playing field for all types of fire districts by allowing each fire district and fire authority to choose the best governing structure. Neighboring districts have come together to form larger authorities. This simply removes the disincentives for regionalization.

This bill takes an innovative approach to addressing the affordable housing issue, as those with this issue are often one of the highest users of services but the least able to pay. Affordable housing providers and fire service agencies have had a contentious past over funding concerns. The parties came together over the interim and reached a compromise. This compromise will allow affordable housing providers to redirect funds from fire benefit charges to the stabilization of high users of emergency services, and the ability for fire agencies to conserve resources utilized in serving high users. This means the public will receive better services when they call 911. It provides a framework for affordable housing providers and fire service agencies to work together to create community risk reduction plans to more effectively target resources. If call volumes are not reduced for an identified high user, fire benefit charges may be imposed.

(Opposed) Fire benefit charges are a way to get around property tax protections under Initiative 747. In a number of places, it has become a square footage tax. Fire benefit charges can disproportionately impact agricultural properties. Some small agricultural properties have high square footage, but low value. Agricultural properties should be protected as other properties are, such as affordable housing.

This bill would have a devastating impact on the small district of North Highline. With a looming Seattle annexation, it is not possible to join a regional fire authority. The North Highline district has very concentrated low income housing. King County Housing Authority owns 10 percent of the property. An estimated 20 percent of property in the district is affordable housing, but nobody keeps that data. This bill would open the door for these properties to not pay additional fees.

Persons Testifying (Local Government): (In support) Representative Stokesbary, prime sponsor; Megan Hyla, King County Housing Authority; LeighBeth Merrick, Leading Age Washington; Mark Smith, Housing Consortium of Everett and Snohomish County; Brian VanCamp and Dylan Doty, Washington Fire Chiefs; and Geoff Simpson, Washington State Council of Firefighters.

(Opposed) Brad Tower and Eric Bernard, Washington Christmas Tree Growers; and Mike Marrs and Julie Hiatt, North Highline Fire District.

Persons Testifying (Finance): (In support) Megan Hyla, Association of Washington Housing Authorities; Dylan Doty, Washington Fire Chiefs; and Geoff Simpson, Washington Council of Fire Fighters.

(Opposed) Brad Tower, Washington Christmas Tree Growers; and Julie Hiatt, North Highline Fire District

Persons Signed In To Testify But Not Testifying (Local Government): None.

Persons Signed In To Testify But Not Testifying (Finance): None.