

HOUSE BILL REPORT

ESSB 5628

As Reported by House Committee On:

Local Government
Finance

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: Senate Committee on Local Government (originally sponsored by Senators Takko, Fortunato and Sheldon).

Brief History:

Committee Activity:

Local Government: 3/16/17, 3/23/17 [DPA];
Finance: 4/4/17, 4/6/17 [DPA(LG)].

Brief Summary of Engrossed Substitute Bill (As Amended by Committee)

- 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 unless the legislative authority relinquishes its authority to a board of elected fire commissioners.
- Prohibits a district from establishing an ambulance service if it would compete with a private ambulance service, with certain exceptions.

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.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended. Signed by 6 members: Representatives Appleton, Chair; McBride, Vice Chair; Griffey, Ranking Minority Member; Pike, Assistant Ranking Minority Member; Gregerson and Peterson.

Minority Report: Do not pass. Signed by 1 member: Representative Taylor.

Staff: Cassie Jones (786-7303).

Background:

A city or town may establish a fire department to provide fire protection services within its corporate limits. Alternatively, a city or town may contract for fire protection services with another jurisdiction, annex directly to a fire protection district (district), or establish a regional fire protection service authority.

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.

Districts 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. 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. The petition is then scheduled for public hearing. The county legislative authority must consider the petition and either pass a resolution allowing the petition to be submitted to the voters or deny the petition. If a resolution is passed, voters will vote on the district formation and elect the initial fire commissioners at the next general election. A three-fifths majority of votes approving the proposition is required for formation of the district.

Districts are governed by an elected board of three, five, or seven commissioners (board). 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.

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 has 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. 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 Amended 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 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 city or town's highest lawful levy reduced by the total combined levy rate to be imposed by the district; 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. 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. At an election on

approval of the resolution, the ballot title must include the information regarding property taxes that are required to be in the financing plan.

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. If the district does not impose the maximum levy amount initially, but imposes additional levy amounts in subsequent years, the city or town must further reduce its general fund regular property tax levy by the amount of the district levy increases. 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. For purposes of property taxation, the boundaries of the district are established as of the date the voter-approved proposition is certified.

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 fire department's powers, functions, and duties. Additionally, employees of the city or town fire department are transferred to the district.

Fire District—Ambulance Service.

A district established by a city or town under the provisions of the bill may establish an ambulance service. However, the district may not establish an ambulance service that would compete with an existing private ambulance service unless the district determines that the area served by the district is not adequately served by the ambulance service. In determining the adequacy of an existing private ambulance service, the district must take into consideration objective, generally accepted medical standards and reasonable levels of service. In certain circumstances, the district must allow the ambulance service a period of time to meet accepted medical standards and levels of service.

Fire District Commissioners.

For 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. However, the legislative authority of the city or town may relinquish governance authority to an independently elected board of commissioners. Elected commissioners in such a district must receive compensation and necessary expenses in the same manner of fire commissioners of other fire districts. Boards are comprised of three, five, or seven commissioners. In general, commissioners serve staggered, six-year terms.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill makes the following changes to provisions relating to the authority of a fire protection district to establish an ambulance service:

- strikes all provisions and moves them to a new section;
- strikes all references to "city or town fire protection district" and "district" and replaces them with the term "fire protection district;" and

- defines "fire protection district" as a fire protection district established by the legislative authority of a city or town under the provisions of the bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: 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 bill allows a city to create a fire district within its boundaries and reduce its levy by the fire district levy. This can be a step to take prior to consolidating with another district. This bill does not create new taxes. The fire service is embracing regionalism to provide quality services with diminishing revenue. Exploratory committees have been formed to create regional fire authorities that have failed due to the differences between fire districts and city fire departments. This bill allows a city to create a fire district within the city to facilitate future regional fire authorities. Existing language in the bill regarding private ambulance services is unclear as to which fire districts it applies.

(Opposed) None.

(Other) There was an amendment in the Senate that took care of some concerns pertaining to the ability of a fire district to operate an ambulance service. An amendment to clarify language regarding private ambulance service would be acceptable.

Persons Testifying: (In support) Senator Takko, prime sponsor; and Geoff Simpson, Washington State Council of Fire Fighters.

(Other) Bob Berschauer, Washington Ambulance Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended by Committee on Local Government. 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 2 members: Representatives Orcutt, Assistant Ranking Minority Member; Condotta.

Staff: Serena Dolly (786-7150).

Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On Local Government:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Legislation created regional fire authorities (RFAs) in 2006. Since then, 12 have formed throughout the state. There are some obstacles for a city fire department and fire district to form an RFA because they are very different entities. This is an interim step in allowing a city to become part of an RFA. Fire providers have embraced regionalization. It eliminates redundancies and creates economies of scale.

(Opposed) None.

Persons Testifying: Geoff Simpson, Washington State Council of Fire Fighters.

Persons Signed In To Testify But Not Testifying: None.