
SUBSTITUTE SENATE BILL 5628

State of Washington

65th Legislature

2017 Regular Session

By Senate Local Government (originally sponsored by Senators Takko, Fortunato, and Sheldon)

READ FIRST TIME 02/15/17.

1 AN ACT Relating to fire protection district formation by the
2 legislative authority of a city or town subject to voter approval;
3 amending RCW 84.55.092, 29A.36.071, 52.14.010, and 52.14.020; adding
4 new sections to chapter 52.02 RCW; and adding a new section to
5 chapter 52.14 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 52.02
8 RCW to read as follows:

9 (1) As an alternative to the petition method of formation for
10 fire protection districts provided in this chapter, the legislative
11 authority of a city or town may by resolution, subject to the
12 approval of the voters, establish a fire protection district with
13 boundaries that are the same as the corporate boundaries of the city
14 or town for the provision of fire prevention services, fire
15 suppression services, and emergency medical services, and for the
16 protection of life and property within the city or town.

17 (a) Any resolution adopted by a city or town under this section
18 to establish a fire protection district must, at a minimum:

19 (i) Contain a financing plan for the fire protection district. As
20 part of the financing plan, the city or town may propose the
21 imposition of revenue sources authorized by this title for fire

1 protection districts, such as property taxes, as provided in chapter
2 52.16 RCW, or benefit charges, as provided in chapter 52.18 RCW; and
3 (ii) Set a date for a public hearing on the resolution.
4 (b) The financing plan in the resolution adopted by the city or
5 town must contain the following information regarding property taxes
6 that will be imposed by the fire protection district and city or town
7 subsequent to the formation of the district:
8 (i) The total combined levy rate of the fire protection district
9 in the first year in which the fire protection district imposes any
10 of the regular property taxes in RCW 52.16.130, 52.16.140, or
11 52.16.160;
12 (ii) The reduction in the city or town general fund regular
13 property tax levy rate in the first year in which the fire protection
14 district imposes any of the property taxes in RCW 52.16.130,
15 52.16.140, or 52.16.160. In calculating the reduction in a city or
16 town general fund regular property tax levy rate under this
17 subsection (1)(b)(ii), the maximum allowable tax rate that the city
18 could have imposed subject to the limitations of chapter 84.55 RCW
19 must be used; and
20 (iii) The estimated aggregate net dollar amount impact on
21 property owners within the city or town based on the levy rate
22 changes described in (b)(i) and (ii) of this subsection (1).
23 (c) If a city or town proposes the initial imposition of a
24 benefit charge as a revenue source for the fire protection district
25 under (a) of this subsection, the resolution adopted by the city or
26 town must comply with the requirements of RCW 52.18.030.
27 (d) Notice of public hearing on a resolution adopted by a city or
28 town must be published for three consecutive weeks in a newspaper of
29 general circulation in the city or town, and must be posted for at
30 least fifteen days prior to the date of the hearing in three public
31 places within the boundaries of the proposed fire protection
32 district. All notices must contain the time, date, and place of the
33 public hearing.
34 (2)(a) A resolution adopted under this section is not effective
35 unless approved by the voters of the city or town at a general
36 election. The resolution must be approved:
37 (i) By a simple majority of the voters of the city or town; or
38 (ii) If the resolution proposes the initial imposition of a
39 benefit charge, by sixty percent of the voters of the city or town.

1 (b) An election to approve or reject a resolution forming a fire
2 protection district, including the proposed financial plan and any
3 imposition of revenue sources for the fire protection district, must
4 be conducted by the election officials of the county or counties in
5 which the proposed district is located in accordance with the general
6 election laws of the state. If a resolution forming a fire protection
7 district provides that the fire protection district will be governed
8 by a board of fire commissioners, as permitted under section 5 of
9 this act, then the initial fire commissioners must be elected at the
10 same election where the resolution is submitted to the voters
11 authorizing the creation of the fire protection district. The
12 election must be held at the next general election date, according to
13 RCW 29A.04.321 and 29A.04.330, occurring after the date of the public
14 hearing on the resolution adopted by the city or town legislative
15 authority. The ballot title must include the information regarding
16 property taxes that is required to be in the financing plan of the
17 resolution under subsection (1)(b) of this section.

18 (c) If a ballot proposition on the resolution is approved by
19 voters, as provided in (a) of this subsection, the county legislative
20 authority shall by resolution declare the fire protection district
21 organized under the name designated in the ballot proposition.

22 (d) Nothing contained in this chapter may be construed to alter a
23 municipal airport fire department or affect any powers authorized
24 under RCW 14.08.120(2). If a question arises as to whether this
25 chapter modifies the affairs of municipal airports in any way, the
26 answer is no.

27 (e)(i) A city or town fire protection district may establish an
28 ambulance service to be operated as a public utility. However, the
29 fire protection district may not provide for the establishment of an
30 ambulance service utility that would compete with any existing
31 private ambulance service unless the district determines that the
32 area served by the district, or a substantial portion of the area
33 served by the district, is not adequately served by an existing
34 private ambulance service.

35 (ii) In determining the adequacy of an existing private ambulance
36 service, the fire protection district must take into consideration
37 objective generally accepted medical standards and reasonable levels
38 of service, which must be published by the district. If a fire
39 protection district makes a preliminary conclusion that an existing
40 private ambulance service is inadequate, the district must allow a

1 minimum of sixty days for the private ambulance service to meet the
2 generally accepted medical standards and accepted levels of service.
3 If the fire protection district makes a second preliminary conclusion
4 of inadequacy within a twenty-four month period, the district may
5 immediately issue a call for bids or establish its own ambulance
6 service utility and is not required to afford the private ambulance
7 service another sixty-day period to meet the generally accepted
8 medical standards and reasonable levels of service.

9 (iii) A private ambulance service that is not licensed by the
10 department of health, or has had its license denied, suspended, or
11 revoked, is not entitled to a sixty-day period to demonstrate
12 adequacy, and the district may immediately issue a call for bids or
13 establish an ambulance service utility.

14 (iv) A private ambulance service that abandons service in the
15 area served by the district, or a substantial portion of the area
16 served by the district, is not entitled to a sixty-day period to
17 demonstrate adequacy, and the district may immediately issue a call
18 for bids or establish an ambulance service utility. If a district
19 becomes aware of an intent to abandon service at a future date, the
20 district may immediately issue a call for bids or establish an
21 ambulance service utility to avoid an interruption in service.

22 (3) A city or town must reduce its general fund regular property
23 tax levy by the total combined levy of the fire protection district.
24 The tax rate reduction of the city or town must occur in the first
25 year in which the fire protection district imposes any of the
26 property taxes in RCW 52.16.130, 52.16.140, or 52.16.160 and must be
27 specified in the financing plan and ballot proposition as provided in
28 this section. If the fire protection district does not impose all
29 three levies under RCW 52.16.130, 52.16.140, and 52.16.160 when it
30 begins operations, the city must further reduce its general fund
31 regular property tax levy if the district initially imposes any of
32 the levies in subsequent years.

33 **Sec. 2.** RCW 84.55.092 and 1998 c 16 s 3 are each amended to read
34 as follows:

35 (1) The regular property tax levy for each taxing district other
36 than the state may be set at the amount which would be allowed
37 otherwise under this chapter if the regular property tax levy for the
38 district for taxes due in prior years beginning with 1986 had been
39 set at the full amount allowed under this chapter including any levy

1 authorized under RCW 52.16.160 that would have been imposed but for
2 the limitation in RCW 52.18.065, applicable upon imposition of the
3 benefit charge under chapter 52.18 RCW.

4 (2) The purpose of subsection (1) of this section is to remove
5 the incentive for a taxing district to maintain its tax levy at the
6 maximum level permitted under this chapter, and to protect the future
7 levy capacity of a taxing district that reduces its tax levy below
8 the level that it otherwise could impose under this chapter, by
9 removing the adverse consequences to future levy capacities resulting
10 from such levy reductions.

11 (3) Subsection (1) of this section does not apply to any portion
12 of a city or town's regular property tax levy that has been reduced
13 as part of the formation of a fire protection district under section
14 1 of this act.

15 **Sec. 3.** RCW 29A.36.071 and 2015 c 172 s 3 are each amended to
16 read as follows:

17 (1) Except as provided to the contrary in RCW 82.14.036,
18 82.46.021, or 82.80.090, the ballot title of any referendum filed on
19 an enactment or portion of an enactment of a local government and any
20 other question submitted to the voters of a local government consists
21 of three elements: (a) An identification of the enacting legislative
22 body and a statement of the subject matter; (b) a concise description
23 of the measure; and (c) a question. The ballot title must conform
24 with the requirements and be displayed substantially as provided
25 under RCW 29A.72.050, except that the concise description must not
26 exceed seventy-five words; however, a concise description submitted
27 on behalf of a proposed or existing regional transportation
28 investment district or a proposed fire protection district, as
29 provided in section 1 of this act, may exceed seventy-five words. If
30 the local governmental unit is a city or a town, or if the ballot
31 title is for a referendum under RCW 35.13A.115, the concise statement
32 (~~shall~~) must be prepared by the city or town attorney. If the local
33 governmental unit is a county, the concise statement (~~shall~~) must
34 be prepared by the prosecuting attorney of the county. If the unit is
35 a unit of local government other than a city, town, or county, the
36 concise statement (~~shall~~) must be prepared by the prosecuting
37 attorney of the county within which the majority area of the unit is
38 located.

1 (2) A referendum measure on the enactment of a unit of local
2 government (~~shall~~) must be advertised in the manner provided for
3 nominees for elective office.

4 (3) Subsection (1) of this section does not apply if another
5 provision of law specifies the ballot title for a specific type of
6 ballot question or proposition.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 52.02
8 RCW to read as follows:

9 (1) Except as provided otherwise in the resolution adopted by the
10 legislative authority of a city or town establishing a fire
11 protection district under section 1 of this act, all powers, duties,
12 and functions of the city or town fire department pertaining to fire
13 protection and emergency services of the city or town are transferred
14 to the fire protection district on its creation date.

15 (2)(a) The city or town fire department must transfer or deliver
16 to the fire protection district:

17 (i) All reports, documents, surveys, books, records, files,
18 papers, or written material in the possession of the city or town
19 fire department pertaining to fire protection and emergency services
20 powers, functions, and duties;

21 (ii) All real property and personal property including cabinets,
22 furniture, office equipment, motor vehicles, and other tangible
23 property employed by the city or town fire department in carrying out
24 the fire protection and emergency services powers, functions, and
25 duties; and

26 (iii) All funds, credits, or other assets held by the city or
27 town fire department in connection with fire protection and emergency
28 services powers, functions, and duties.

29 (b) Any appropriations made to the city or town fire department
30 for carrying out the fire protection and emergency services powers,
31 functions, and duties of the city or town must be transferred and
32 credited to the fire protection district.

33 (c) Whenever any question arises as to the transfer of any
34 personnel, funds, books, documents, records, papers, files,
35 equipment, or other tangible property used or held in the exercise of
36 the powers and the performance of the duties and functions
37 transferred to the fire protection district, the legislative
38 authority of the city or town must make a determination as to the
39 proper allocation.

1 (3) All rules and all pending business before the city or town
2 fire department pertaining to the fire protection and emergency
3 services powers, functions, and duties transferred must be continued
4 and acted upon by the fire protection district, and all existing
5 contracts and obligations remain in full force and must be performed
6 by the fire protection district.

7 (4) The transfer of powers, duties, functions, and personnel of
8 the city or town fire department do not affect the validity of any
9 act performed before creation of the fire protection district.

10 (5) If apportionments of budgeted funds are required because of
11 the transfers, the treasurer for the city or town fire department
12 must certify the apportionments.

13 (6)(a) Subject to (c) of this subsection, all employees of the
14 city or town fire department are transferred to the fire protection
15 district on its creation date. Upon transfer, unless an agreement for
16 different terms of transfer is reached between the collective
17 bargaining representatives of the transferring employees and the fire
18 protection district, an employee is entitled to the employee rights,
19 benefits, and privileges to which he or she would have been entitled
20 as an employee of the city or town fire department, including rights
21 to:

22 (i) Compensation at least equal to the level at the time of
23 transfer;

24 (ii) Retirement, vacation, sick leave, and any other accrued
25 benefit;

26 (iii) Promotion and service time accrual; and

27 (iv) The length or terms of probationary periods, including no
28 requirement for an additional probationary period if one had been
29 completed before the transfer date.

30 (b) If a city or town provides for civil service in its fire
31 department, the collective bargaining representatives of the
32 transferring employees and the fire protection district must
33 negotiate regarding the establishment of a civil service system
34 within the fire protection district.

35 (c) Nothing contained in this section may be construed to alter
36 any existing collective bargaining unit or the provisions of any
37 existing collective bargaining agreement until the agreement has
38 expired or until the bargaining unit has been modified as provided by
39 law.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 52.14
2 RCW to read as follows:

3 (1) The members of the legislative authority of a city or town
4 shall serve ex officio, by virtue of their office, as the fire
5 commissioners of a fire protection district created under section 1
6 of this act.

7 (2) The legislative authority of a city or town may, within the
8 initial resolution establishing the district's formation, relinquish
9 governance authority of a fire protection district created under this
10 act to an independently elected board of commissioners to be elected
11 in accordance with RCW 52.14.060.

12 (3)(a) The legislative authority of a city or town may, by a
13 majority vote of its members in an open public meeting, relinquish
14 governance authority of a fire protection district created under this
15 act to an appointed board of three fire commissioners at any time
16 after formation. Each appointed commissioner serves until successors
17 are elected at the next qualified election.

18 At the next qualified election, the person who receives the
19 greatest number of votes for each commissioner position is elected to
20 that position. The terms of office for the initial elected fire
21 commissioners are staggered as follows:

22 (i) The person who is elected receiving the greatest number of
23 votes is elected to a six-year term of office if the election is held
24 in an odd-numbered year, or a five-year term of office if the
25 election is held in an even-numbered year;

26 (ii) The person who is elected receiving the next greatest number
27 of votes is elected to a four-year term of office if the election is
28 held in an odd-numbered year, or a three-year term of office if the
29 election is held in an even-numbered year; and

30 (iii) The other person who is elected is elected to a two-year
31 term of office if the election is held in an odd-numbered year, or a
32 one-year term of office if the election is held in an even-numbered
33 year. The term of office for each subsequent commissioner is six
34 years.

35 (b) If the legislative authority of a city or town relinquishes
36 governance authority of a fire protection district after formation
37 under this section, and that fire protection district maintains a
38 fire department consisting wholly of personnel employed on a full-
39 time, fully paid basis, that district shall have five fire

1 commissioners. The terms of office for the initial elected fire
2 commissioners are staggered as follows:

3 (i) The two people elected receiving the two greatest number of
4 votes are elected to six-year terms of office if the election is held
5 in an odd-numbered year, or five-year terms of office if the election
6 is held in an even-numbered year;

7 (ii) The two people who are elected receiving the next two
8 greatest number of votes are elected to four-year terms of office if
9 the election is held in an odd-numbered year, or three-year terms of
10 office if the election is held in an even-numbered year; and

11 (iii) The other person who is elected is elected to a two-year
12 term of office if the election is held in an odd-numbered year, or a
13 one-year term of office if the election is held in an even-numbered
14 year. The term of office for each subsequent commissioner is six
15 years.

16 (c) If the legislative authority of a city or town relinquishes
17 governance authority of a fire protection district after formation
18 under this section, and that fire protection district has an annual
19 budget of ten million dollars or more, that district must have seven
20 fire commissioners. The terms of office for the initial elected fire
21 commissioners are staggered as follows:

22 (i) The three people who are elected receiving the three greatest
23 number of votes are elected to six-year terms of office if the
24 election is held in an odd-numbered year, or five-year terms of
25 office if the election is held in an even-numbered year;

26 (ii) The two people who are elected receiving the next two
27 greatest number of votes are elected to four-year terms of office if
28 the election is held in an odd-numbered year, or three-year terms of
29 office if the election is held in an even-numbered year; and

30 (iii) The other two people who are elected are elected to two-
31 year terms of office if the election is held in an odd-numbered year,
32 or one-year terms of office if the election is held in an even-
33 numbered year. The term of office for each subsequent commissioner is
34 six years.

35 **Sec. 6.** RCW 52.14.010 and 2012 c 174 s 1 are each amended to
36 read as follows:

37 (1) The affairs of the district shall be managed by a board of
38 fire commissioners composed initially of three registered voters

1 residing in the district, except as provided otherwise in RCW
2 52.14.015 (~~and~~), 52.14.020, and section 5 of this act.

3 (2)(a) Each member of an elected board of fire commissioners
4 shall each receive one hundred four dollars per day or portion
5 thereof, not to exceed nine thousand nine hundred eighty-four dollars
6 per year, for time spent in actual attendance at official meetings of
7 the board or in performance of other services or duties on behalf of
8 the district. Members serving in an ex officio capacity on a board of
9 fire commissioners may not receive compensation, but shall receive
10 necessary expenses in accordance with (b) of this subsection.

11 (~~In addition, they~~) (b) Each member of a board of fire
12 commissioners shall receive necessary expenses incurred in attending
13 meetings of the board or when otherwise engaged in district business,
14 and shall be entitled to receive the same insurance available to all
15 firefighters of the district: PROVIDED, That the premiums for such
16 insurance, except liability insurance, shall be paid by the
17 individual commissioners who elect to receive it.

18 (c) Any commissioner may waive all or any portion of his or her
19 compensation payable under this section as to any month or months
20 during his or her term of office, by a written waiver filed with the
21 secretary as provided in this section. The waiver, to be effective,
22 must be filed any time after the commissioner's election and prior to
23 the date on which the compensation would otherwise be paid. The
24 waiver shall specify the month or period of months for which it is
25 made.

26 (3) The board shall fix the compensation to be paid the secretary
27 and all other agents and employees of the district. The board may, by
28 resolution adopted by unanimous vote, authorize any of its members to
29 serve as volunteer firefighters without compensation. A commissioner
30 actually serving as a volunteer firefighter may enjoy the rights and
31 benefits of a volunteer firefighter.

32 (4) The dollar thresholds established in this section must be
33 adjusted for inflation by the office of financial management every
34 five years, beginning July 1, 2008, based upon changes in the
35 consumer price index during that time period. "Consumer price index"
36 means, for any calendar year, that year's annual average consumer
37 price index, for Washington state, for wage earners and clerical
38 workers, all items, compiled by the bureau of labor and statistics,
39 United States department of labor. If the bureau of labor and
40 statistics develops more than one consumer price index for areas

1 within the state, the index covering the greatest number of people,
2 covering areas exclusively within the boundaries of the state, and
3 including all items shall be used for the adjustments for inflation
4 in this section. The office of financial management must calculate
5 the new dollar threshold and transmit it to the office of the code
6 reviser for publication in the Washington State Register at least one
7 month before the new dollar threshold is to take effect.

8 (5) A person holding office as commissioner for two or more
9 special purpose districts or serving ex officio as commissioner as a
10 member of the legislative authority of a city or town shall receive
11 only that per diem compensation authorized for one of his or her
12 ~~((commissioner))~~ official positions as compensation for attending an
13 official meeting or conducting official services or duties while
14 representing more than one ~~((of his or her districts))~~ district or
15 representing a municipality and a district. However, such
16 commissioner may receive additional per diem compensation if approved
17 by resolution of ~~((all))~~ the boards of ~~((the))~~ an affected
18 commission~~((s))~~, city, or town.

19 **Sec. 7.** RCW 52.14.020 and 2012 c 174 s 2 are each amended to
20 read as follows:

21 (1) In a fire protection district ~~((maintaining))~~ with elected
22 commissioners that maintains a fire department consisting wholly of
23 personnel employed on a full-time, fully-paid basis, there shall be
24 five fire commissioners. A fire protection district with an annual
25 budget of ten million dollars or more may have seven fire
26 commissioners.

27 (2)(a) If two positions are created on boards of fire
28 commissioners by this section, such positions shall be filled
29 initially as for a vacancy, except that the appointees shall draw
30 lots, one appointee to serve until the next general fire district
31 election after the appointment, at which two commissioners shall be
32 elected for six-year terms, and the other appointee to serve until
33 the second general fire district election after the appointment, at
34 which two commissioners shall be elected for six-year terms.

35 (b) If four positions are created on boards of fire commissioners
36 by this section, such positions shall be filled initially as for a
37 vacancy, except that the appointees shall draw lots, three appointees
38 to serve until the next general fire district election after the
39 appointment, at which three commissioners shall be elected for

1 six-year terms and two commissioners shall be elected for four-year
2 terms, and the other appointee to serve until the second general fire
3 district election after the appointment, at which two commissioners
4 shall be elected for six-year terms.

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