S-4224.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE SENATE BILL 5574**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 67th Legislature 2022 Regular Session**

**By** Senate Housing & Local Government (originally sponsored by Senator Fortunato)

AN ACT Relating to the consolidation of counties; amending RCW 36.32.020 and 84.09.030; adding new sections to chapter 36.09 RCW; adding a new section to chapter 47.01 RCW; creating a new section; repealing RCW 4.12.070, 36.09.010, 36.09.020, 36.09.035, 36.09.040, and 36.09.050; and prescribing penalties.

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

NEW SECTION. **Sec.**  The purpose of this act is to establish procedures for the consolidation of two or more existing counties.

NEW SECTION. **Sec.**  Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Assets" means all: (a) Real estate and leasehold interests in real estate owned by a county; (b) tangible personal property owned or leased by a county; and (c) intangible personal property owned by a county including cash, securities, commercial paper, notes, accounts receivable, and contract rights. Assets are determined as of the first day of the interim period.

(2) "Interim period" means the period during which a new county government is established. The period begins on January 1st after the end of the regular session at which the new county is created by special legislation or the year in which an election for the consolidation of two or more existing counties is approved, and the period ends on December 31st of the same year.

(3) "New county" means the county that is created by consolidating two or more counties under Article XI, section 3 of the state Constitution.

(4) "Parent county or counties" means the existing county or counties out of which territory is consolidated to create a new county under Article XI, section 3 of the state Constitution.

(5) "Proponents" means up to five individuals who are registered voters in the proposed new county who initiate the petition process to consolidate two or more existing counties under section 3 of this act.

NEW SECTION. **Sec.**  The proponent or proponents of a proposed new county shall, before the circulation of a petition in support of the consolidation of two or more existing counties, file with the secretary of state a statement designating the name of the proposed county and containing the legal description of the proposed county, together with an affidavit from each proponent that he or she is a registered voter within the territory of the proposed county. If there are two or more proponents, one of them must be designated as the principal proponent for the purpose of receiving notices and communications required by law.

NEW SECTION. **Sec.**  (1) Upon receipt of the legal description and affidavit of sponsorship for the consolidation of counties, the secretary of state shall forward a copy of the legal description to the office of financial management.

(2) Within 30 days of receipt of this request from the secretary of state, the director of the office of financial management shall determine if the legal description is consistent and the territory described is a single, contiguous area. If the legal description is defective, the director shall notify the secretary of state and the principal proponent of the nature and extent of the defect.

(3) If the legal description is not defective, the director shall also determine the population of the proposed new county using the most current data available. The director shall certify these populations to the secretary of state and the principal proponent of the new county within 30 days of receipt of the request from the secretary of state.

NEW SECTION. **Sec.**  Petitions for the consolidation of two or more existing counties must be substantially in the following form:

WARNING

Every person who signs this petition with any other than his or her true name, knowingly signs more than one petition for the same consolidation of counties, signs this petition when he or she is not a registered voter, or makes any false statement on this petition may be punished by fine or imprisonment or both.

PETITION FOR THE CONSOLIDATION OF ........ COUNTIES

To the Honorable ........, Secretary of State of the State of Washington:

We the undersigned citizens and legal voters of the state of Washington, respectfully direct that this petition for the consolidation of . . . . . counties, a full, true, and correct copy of the legal description of which is printed on the reverse side of this petition, be transmitted to the legislature of the state of Washington, at its next ensuing regular session. We respectfully petition the legislature to consolidate these counties as provided by law. Each of us for himself or herself declares that: I have personally signed this petition, I am a legal voter of the state of Washington, my residence address is correctly stated, and I have not knowingly signed any other petition for the consolidation of the named counties.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | Petitioner's signature | Print name for positive identification | Residence address, street, and number, if any | City or town | County |
| (Here follow 20 numbered lines divided into columns as below.) | | | | | |
| 1. |  |  |  |  |  |
| 2. |  |  |  |  |  |
| 3. |  |  |  |  |  |
| etc. | | | | | |

A complete legal description of the proposed county must be printed on the reverse side of the petition sheet. A map of the proposed new county may be printed on the front or back of the petition.

NEW SECTION. **Sec.**  Petitions for the consolidation of two or more existing counties, signed by the requisite number of registered voters in the proposed new county, may be submitted to the secretary of state at any time up to three years after the certification of the legal description and populations under section 4 of this act. The standards for acceptance or rejection of signature petitions for the consolidation of two or more existing counties are the same as for initiatives under RCW 29A.72.170, and any appeal of a refusal by the secretary of state to file signature petitions will proceed in the same manner as provided for initiatives under RCW 29A.72.180 and 29A.72.190.

NEW SECTION. **Sec.**  A petition for the consolidation of existing counties circulated before the effective date of this section, filed under section 6 of this act with the secretary of state within three years of the effective date of this section, and differing in form from the information required by section 5 of this act is acceptable as to the requirements for form.

NEW SECTION. **Sec.**  A petition proposing the consolidation of two or more existing counties must be signed by at least 50 percent of the registered voters residing in the combined portions of each parent county that is proposed to be consolidated in the new county.

NEW SECTION. **Sec.**  (1) Every person who signs a petition requesting the consolidation of two or more existing counties with any other than his or her true name is guilty of a class C felony punishable under chapter 9A.20 RCW.

(2) Every person who: (a) Knowingly signs more than one petition for the same effort to consolidate two or more existing counties; (b) signs a petition requesting the consolidation of two or more existing counties knowing that he or she is not a legal voter; or (c) makes a false statement as to his or her residence on any petition requesting the consolidation of two or more existing counties, is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

NEW SECTION. **Sec.**  Within 60 days of receipt of the petition under section 6 of this act, the secretary of state shall examine the signatures on the petition and determine if the number of valid signatures of registered voters on the petition exceeds the number required by section 8 of this act. The secretary of state may contract with the appropriate county auditor to conduct the examination of the signatures in that county or perform any other functions necessary to making the determination of the number of valid signatures on the petition. A variation between the signature on the petition and that on the registration record due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same.

NEW SECTION. **Sec.**  (1) The secretary of state shall certify to the proponents and to the legislature whether the petition for the proposed consolidation of counties has been signed by at least 50 percent of the registered voters in the combined portions of each parent county that is to be consolidated to form the new county.

(2) The secretary of state shall also notify the presiding judge of the state superior court that contains for each parent county that a petition for the consolidation of two or more counties has been transmitted to the legislature and shall transmit with the notice a copy of the legal description of the proposed county.

(3) The secretary of state shall also notify the director of the department of revenue that a petition for the consolidation of two or more counties has been transmitted to the legislature and shall transmit with the notice a copy of the legal description of the proposed county.

(4) Any proponent or opponent of the new county, dissatisfied with the determination of the secretary of state under this section, may appeal that determination to the superior court of Thurston county. The review by the superior court will proceed in the same manner as for initiatives under RCW 29A.72.240.

NEW SECTION. **Sec.**  Within six months of the receipt of a notice under section 11 of this act, the director of the department of revenue, in conjunction with the department of community, trade, and economic development and the office of financial management, shall analyze and prepare a report on the impact of the consolidation of counties on the revenues and expenditures of the parent counties.

NEW SECTION. **Sec.**  (1) If all the requirements of Article XI, section 3 of the state Constitution for the creation of a new county and consolidation of two or more existing counties have been met, the legislature may, during the first regular session after certification under section 11(1) of this act, enact special legislation consolidating the counties and creating the new county, subject to approval by a majority of the voters in the proposed new county at the next general election more than 120 days after the adjournment of the session at which the special legislation is adopted.

(2) If the legislature does not enact special legislation consolidating the parent counties under subsection (1) of this section, the question of the consolidation of two or more existing counties and creation of that county must be referred to a vote of the registered voters residing in the proposed new county at the next general election more than 120 days after the adjournment of the session.

NEW SECTION. **Sec.**  (1) If the legislature provides for the creation of a new county under section 13 of this act by special legislation, that special legislation must include:

(a) A legal description of the proposed new county;

(b) The initial annual salaries of the elected officers of the new county;

(c) An initial county seat for the new county;

(d) Provision for the initial election of officers of the new county if those are different from sections 15 through 17 of this act;

(e) Provision for a superior court and district court for the new county;

(f) Boundaries for three commissioner districts in the proposed new county subject to the criteria in RCW 29A.76.010(4);

(g) Provision for any necessary financial resources for the new county during the interim period and until the receipt of regular taxes and other revenues; and

(h) Any other measures the legislature finds appropriate to the efficient organization and operation of the new county government.

(2) All counties must consist of a single contiguous area of land and water. The legislature may not make changes in the boundaries that would result in the creation of a new county that does not satisfy the requirements of Article XI, section 3 of the state Constitution.

NEW SECTION. **Sec.**  If special legislation enacted under section 13(1) of this act does not provide otherwise or if the question of the consolidation of two or more existing counties is referred under section 13(2) of this act, that question must be submitted to the voters of the parent counties in substantially the following form:

"Shall the new county of (insert name of new county) be created and shall it assume all of the assets and liabilities of (insert the name of the parent counties) as provided in (cite the order of the superior court)? - yes or no?"

NEW SECTION. **Sec.**  (1) If special legislation enacted under section 13(1) of this act does not provide otherwise or if the question of the consolidation of two or more existing counties is referred under section 13(2) of this act, a primary must be held under RCW 29A.04.311 for the nomination of candidates for the various county elected offices, and elections for those offices must be held in conjunction with the state general election in that year. Except as provided in this section, nominations and elections must be held as provided by the general election laws for partisan county offices.

(2) Declarations of candidacy for the initial terms of office for the elected county offices in the new county must be filed with the secretary of state.

(3) Candidates for the office of county commissioner shall file for one of three separate county commissioner positions. If county commissioner districts were created by the special legislation, the filing officer shall designate one position for each district, and the voters in each district shall nominate the candidates for county commissioner for that district.

(4) If any parent county does not provide a local voters' pamphlet for the primary or the general election under chapter 29A.32 RCW, the secretary of state shall provide a pamphlet for the jurisdictions of the proposed new county.

(5) If the local voters' pamphlet is produced by the secretary of state, the committees to draft statements for and against the measures will be appointed as provided for state measures under RCW 29A.32.060. The local voters' pamphlet must include the legal description and map of the proposed new county and the report by the department of revenue about the revenue and expenditure impact of the consolidation of the counties on the revenues and expenditures of the parent counties.

(6) The county auditors of the parent counties shall conduct and canvass the election and certify the results to the secretary of state, who shall canvass and certify the results of the primary and the election.

(7) The newly elected county officials shall assume office immediately upon the certification of the election with limited powers during the interim period as provided in this chapter and full powers after the expiration of the interim period.

NEW SECTION. **Sec.**  If the legislature consolidates two or more existing counties under section 13(1) of this act or if a majority of the registered voters who reside within the boundaries of the proposed new county voting on the question vote in favor of consolidating two or more existing counties under section 13 (1) or (2) of this act, the new county is established, with an interim organization period commencing on January 1st of the year after the session at which the special legislation was enacted or the election at which the voters approved the consolidation of two or more existing counties. The interim period expires on December 31st of the year in which it started.

NEW SECTION. **Sec.**  (1) Except as provided in subsection (2) of this section, the terms of office for all of the initial county officials are from the date of the certification of their election until their successors are elected and qualified at the next general election that is two years before the year in which the governor is elected.

(2) The commissioner or commissioners who receive the greatest number of votes for their respective positions at the general election provided for under section 16 of this act will receive the longer unexpired term or terms.

(3) No regular or unexpired term elections may be held during the interim period. Vacancies in elected county offices will be filled by appointment.

(4) After the expiration of the first set of unexpired terms, the terms of all officers will be four years and until their successors are elected and qualified.

NEW SECTION. **Sec.**  If the new county is not created, the parent counties shall equitably share the costs of conducting the primary and the election to create a new county and elect county officers. For the purposes of this section, the proportionate share of the costs of producing and distributing the local voters' pamphlet under section 16 of this act are included in the cost of conducting the primary and election on the consolidation of two or more existing counties.

NEW SECTION. **Sec.**  Except as provided in this section, the consolidation of two or more existing counties may not affect the boundaries of a city, town, or special district of any kind.

(1) Unless the initial board of county commissioners provides otherwise, a single road district must exist in the new county composed of all the unincorporated area within the new county.

(2) An area in a new county that was included in a county rural library district must remain part of that county rural library district. The trustees of such a library district must be appointed by joint action of the members of the county legislative authorities of the parent county or counties and the new county, with the vote on each appointment distributed among the members of the new county legislative authority.

NEW SECTION. **Sec.**  The superior court and district court for the new county shall obtain jurisdiction over all new matters filed on or after the interim period expires, over which those courts otherwise have jurisdiction under the state Constitution and state law. The superior court and district court of the parent county or counties shall retain jurisdiction of any matters pending before them or on appeal from them on December 31st at the close of the interim period unless all parties to the matter stipulate to a change of venue to the superior or district court of the new county.

All pleadings, process, documents, and files in the office of the county clerk and in the offices of officers of the superior or district court of a parent county pertaining to actions and proceedings transferred to the superior or district court of the new county must be certified and transferred to the county clerk or to officers of the superior or district court of the new county.

NEW SECTION. **Sec.**  Within 10 months of the beginning of the interim period for a new county, all records, documents, and papers in the offices of county auditor, county assessor, county treasurer, and other county officers of a parent county, affecting the title or possession of real property in the new county, assessed valuation of property located in the new county, registration of voters residing in the new county, or other appropriate matters, must be certified by the appropriate parent county official and must be transferred to the appropriate county officials and officers of the new county. If original records, documents, or papers are not transferred, certified copies must be provided. The appropriate county officials of the parent county and the new county may agree to these transfers through electronic, mechanical, or other methods that adequately ensure the accuracy of the transferred information. The new county shall pay all costs incurred with regard to the transfer of records, documents, and papers.

NEW SECTION. **Sec.**  During the interim period for a new county, the initial county officials have the following powers:

(1) The initial board of county commissioners may adopt ordinances and adopt resolutions necessary to implement the general powers provided by this section. The initial board of county commissioners may also adopt ordinances on any matter within the authority of a noncharter county. The ordinances become effective on the expiration of the interim period.

(2) The initial county officials, subject to state law governing counties in general, may purchase or lease land, buildings, equipment, and supplies; contract for services; and employ staff as necessary to implement the powers provided by this section and to assure the establishment of the necessary infrastructure and staffing for the full operation of county government on the expiration of the interim period.

(3) The initial county officials may enter interlocal agreements with the parent county or counties to facilitate the establishment of the new county government and for services to be rendered during the interim period.

(4) The initial board of county commissioners may:

(a) Cause tax anticipation or revenue anticipation notes or warrants or other short-term obligations to be issued as provided in chapter 39.50 RCW;

(b) Authorize the borrowing of money from state or federal agencies to the same extent as is authorized for a nonhome-rule county;

(c) Submit ballot propositions to the voters of the new county authorizing a single-year excess levy to be imposed, as provided by RCW 84.52.052;

(d) Submit ballot propositions to the voters of the new county authorizing both voter-approved general indebtedness and bond retirement excess levies, as provided by RCW 84.52.056 and 39.36.050;

(e) Impose property taxes as authorized for counties, to be collected after the interim period; and

(f) Impose excise taxes as authorized for counties effective on January 1st after the interim period including, but not limited to, sales and use taxes authorized in chapter 82.14 RCW and real estate excise taxes authorized in chapter 82.46 RCW.

NEW SECTION. **Sec.**  The initial county officers of a new county during the interim period are subject to all state laws limiting the authority of or imposing obligations on such offices as if the new county were fully established.

NEW SECTION. **Sec.**  All ordinances, rules, and regulations of a parent county that are in effect at the beginning of the interim period for a new county and that are adopted by the parent county during the interim period of a new county have their full force and effect within the parent county that is consolidated to form the new county until the end of the interim period, unless repealed by the parent county before that date.

NEW SECTION. **Sec.**  During the interim period for a new county, a parent county remains responsible for providing all county services previously provided by the parent county unless otherwise agreed to between the parent county and the initial officers of the new county.

NEW SECTION. **Sec.**  (1) The budget for the interim period for a new county must be adopted as provided in this section. The budget for the first budget cycle of the new county after the interim period must be adopted as provided in chapter 36.40 RCW.

(2) The initial board of county commissioners shall adopt a budget for the interim period and make any subsequent amendments in consultation with the state auditor and the department of commerce. The department of commerce shall provide to the initial officers of the new county, at the earliest date feasible after the election authorizing consolidation of two or more existing counties, a report detailing the potential revenues and expenses of the new county. The interim period budget may initially authorize expenditure of moneys by general category without specific detail. The budget may be amended periodically during the interim period to reflect actual revenues or expenditure requirements as they become known.

NEW SECTION. **Sec.**  During the interim period for a new county, the initial board of county commissioners may borrow money from the state treasurer in amounts and on terms deemed prudent and reasonable by the state treasurer.

Any loan obtained under this section must be repaid within three years of the initial disbursement. The state treasurer may withhold moneys from the funds otherwise payable to the new county to assure repayment.

NEW SECTION. **Sec.**  Each parent county shall continue imposing sales and use taxes throughout its entire boundaries until the end of the interim period. Before the end of the interim period, each parent county will continue receiving federal and state moneys allocated to it as if the new county did not exist. State moneys must be allocated to the new county on whatever basis these moneys are distributed commencing on the first day after the interim period.

NEW SECTION. **Sec.**  The rule of strict construction does not apply to this chapter. The authority granted to the initial county commissioners of a new county must be liberally interpreted to provide for a transition to a new county during the interim period so that, to the greatest extent possible, a new county will be able to fully function as a complete county government at the date the new county is officially created.

NEW SECTION. **Sec.**  A new section is added to chapter 47.01 RCW to read as follows:

Beginning on January 1st following the interim period for a new county, the department of transportation shall adjust the allocations of transportation moneys made to counties to include the new county on the same bases as apply to previously existing counties.

**Sec.**  RCW 36.32.020 and 2018 c 113 s 204 are each amended to read as follows:

The board of county commissioners of each county shall divide their county into three commissioner districts so that each district shall comprise as nearly as possible one-third of the population of the county((~~: PROVIDED, That the~~)). The territory comprised in any voting precincts of such districts shall remain compact, and shall not be divided by the lines of said districts.

However, the commissioners of any county composed entirely of islands and with a population of less than thirty-five thousand may divide their county into three commissioner districts without regard to population, except that if any single island is included in more than one district, the districts on such island shall comprise, as nearly as possible, equal populations.

The commissioners of any county may authorize a change to their electoral system pursuant to RCW 29A.92.040. Except where necessary to comply with a court order issued pursuant to RCW 29A.92.110, and except in the case of an intervening census, the lines of the districts shall not be changed more often than once in four years except for the initial districts in a new county created under section 13 of this act and only when a full board of commissioners is present. The districts shall be designated as districts numbered one, two, and three.

**Sec.**  RCW 84.09.030 and 2017 c 328 s 9 are each amended to read as follows:

(1)(a) Except as provided in (b)((~~, (c), and (d)~~)) through (e) of this subsection (1), for the purposes of property taxation and the levy of property taxes, the boundaries of counties, cities, and all other taxing districts shall be the established official boundaries of such districts existing on the first day of August of the year in which the property tax levy is made.

(b) The boundaries for a newly incorporated port district or regional fire protection service authority shall be established on the first day of October if the boundaries of the newly incorporated port district or regional fire protection service authority are coterminous with the boundaries of another taxing district or districts, as they existed on the first day of August of that year.

(c) The boundaries of a school district that is required to receive or annex territory due to the dissolution of a financially insolvent school district under RCW 28A.315.225 must be the established official boundaries of such districts existing on the first day of September of the year in which the property tax levy is made.

(d) The boundaries of a newly established fire protection district authorized under RCW 52.02.160 are the established official boundaries of the district as of the date that the voter-approved proposition required under RCW 52.02.160 is certified.

(e) Boundaries of a new county and road districts in the newly created county will be established on the first day of January of the interim period after the consolidation of two or more existing counties.

(2) In any case where any instrument setting forth the official boundaries of any newly established taxing district, or setting forth any change in the boundaries, is required by law to be filed in the office of the county auditor or other county official, the instrument shall be filed in triplicate. The officer with whom the instrument is filed shall transmit two copies of the instrument to the county assessor.

(3) No property tax levy shall be made for any taxing district whose boundaries are not established as of the dates provided in this section.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 4.12.070 (Change to newly created county) and 2011 c 336 s 80, 1891 c 33 s 2, Code 1881 s 53, 1877 p 12 s 54, 1869 p 14 s 54, & 1854 p 377 s 2;

(2)RCW 36.09.010 (Debts and property to be apportioned) and 1963 c 4 s 36.09.010;

(3)RCW 36.09.020 (Procedure to settle amount charged new county—Basis of apportionment) and 2009 c 549 s 4004 & 1963 c 4 s 36.09.020;

(4)RCW 36.09.035 (Procedure to settle amount charged new county—Disagreement between auditors—Determination by third person) and 1963 c 4 s 36.09.035;

(5)RCW 36.09.040 (Payment of indebtedness—Transfer of property) and 2009 c 549 s 4005 & 1963 c 4 s 36.09.040; and

(6)RCW 36.09.050 (Collection of taxes levied—Apportionment) and 1963 c 4 s 36.09.050.

NEW SECTION. **Sec.**  Sections 2 through 30 of this act are each added to chapter 36.09 RCW.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**--- END ---**