

HOUSE BILL REPORT

HB 2392

As Reported By House Committee On:
Local Government

Title: An act relating to the funding and delivery of local government services.

Brief Description: Creating the joint task force on local governments.

Sponsors: Representatives Doumit, Mulliken, Scott, Mielke, Miloscia, Hatfield, Fortunato, Fisher, Kenney, Edwards and Wolfe.

Brief History:

Committee Activity:

Local Government: 1/20/00, 2/3/00 [DPS].

Brief Summary of Substitute Bill

- Creates a 32 member joint task force with members of the Legislature, and nonvoting members including citizen appointees and local government representatives.
- Requires the joint task force to submit an interim report by January 30, 2001, and a final report by January 1, 2002.
- Requires that state agencies examine the impact of proposed rules on local governments to determine any increased costs.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Mulliken, Republican Co-Chair; Scott, Democratic Co-Chair; Doumit, Democratic Vice Chair; Mielke, Republican Vice Chair; Edwards; Ericksen; Fisher and Fortunato.

Staff: Scott MacColl (786-7106).

Background:

Local government revenues are reduced due to the passage of Initiative 695, which repealed the Motor Vehicle Excise Tax (MVET). Certain local governments formerly received revenue in the form of Sales Tax Equalization, which was funded through MVET receipts.

Administrative agencies are created by the Legislature and have only the authority given to them by the Legislature. Administrative agency powers may be expressly stated in statute or may be implied from statutorily mandated duties. An administrative agency authorized or required to take some action has the implied authority to take those actions that are lawful and necessary to carry out the granted authority or to satisfy the statutory requirement. This "implied authority" of state agencies can be limited by constitutional or statutory conditions or restrictions.

Administrative agencies may be granted statutory authority to promulgate "rules," defined generally by the Administrative Procedure Act (APA) to include any agency orders, directives or regulations of general applicability that may impose penalties or sanctions, establish standards or qualifications, or relate to benefits conferred by law. Agency rules may also specify procedures for agency actions or hearings. The APA includes statutory procedural requirements for promulgation of agency rules, including public notice and opportunity to comment.

Summary of Substitute Bill:

A joint legislative task force is created to study the funding and delivery of local government services. The task force commences on July 1, 2000, and is to report interim findings and recommendations during the 2001 session, and have a final report prepared for the 2002 session. The task force is to complete a thorough study of the delivery of government services and the allotment of revenues.

The task force is made up of 32 members, 10 each from the House and Senate, five appointed by legislative leadership, two from the Association of Washington Cities, two from the Washington State Association of Counties, two from the Washington Association of County Officials, and a representative of the Governor.

The following steps are required when state agencies are considering a proposed rule or amendment. The agencies must:

- Examine the impacts of proposed rules on local governments to determine any increased costs to local governments;
- Notify local government associations of proposed rules if costs are determined to increase due to a proposed rule;
- Utilize rule development processes outlined in the Administrative Procedures Act;

- Ensure that adoption of new rules are consistent with the Governor’s Executive Order 97-02; and
- Utilize rule development mechanisms to ensure that cost impacts are minimized and participation in the rule development process is maximized, including intensive state holder involvement.

Substitute Bill Compared to Original Bill: An additional five members are added to the task force, four legislators and a representative of the Governor. Also, the non-legislative members of the task force are nonvoting members, and are appointed by the leadership of the house and senate.

The prohibition on state agency rulemaking for two years is removed, and a requirement is added for state agency rulemaking. The following steps are required when state agencies are considering a proposed rule or amendment, the agencies must:

- Examine the impacts of proposed rules on local governments to determine any increased costs to local governments;
- Notify local government associations of proposed rules if costs are determined to increase due to a proposed rule;
- Utilize rule development processes outlined in the Administrative Procedures Act;
- Ensure that adoption of new rules are consistent with the Governor’s Executive Order 97-02; and
- Utilize rule development mechanisms to ensure that cost impacts are minimized and participation in the rule development process is maximized, including intensive state holder involvement.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: (Original bill) This bill is driven by local government shortage of funds. A moratorium is not to exacerbate the problem, but to give the local governments a chance to adjust to I-695. The fundamentals, structure, and who pays for local government services and programs need to be examined. Section 3 calls for a task force report, and proposed legislation, and this would give the public something to look at and then decide. This is the most important bill the Legislature will look at this year. The idea of an interim and final report is a good start, but may not be enough.

The Legislature needs to focus on new costs to local governments; if new ideas are good enough and important enough, they should be fully funded. If there is no moratorium, then pay the full cost of a mandate. If the full cost is not covered, put in flexibility to let local governments work it out.

This issue cuts across all county services. Criminal justice eats up 60 percent of county budgets. Most counties are set up in state statute, and are doing jobs as an arm of state government. Most ordinances passed at the county level are required by the state or are to implement state programs. I-695 has exposed weaknesses of counties, and the question of whether or not they are necessary needs to be asked. County prosecuting attorneys' budgets are made up of 90 percent staff; they need predictability in costs for staffing levels.

Most of these problems existed prior to I-695, and local officials' jobs are much more difficult today. The local governments cannot walk away from rule making; however, there are times when locals prefer the rule to be changed. The relationship between the state and counties needs to be addressed, as the counties are not that much different from state agencies.

Special districts would like to be represented on the task force, as water/sewer serves 30 percent of the state; however, these districts are not taxing authorities. As current law reads, federal agencies and the Legislature shouldn't pass on unfunded mandates. Public employees would also like to be at the table, as members have lots of expertise.

(Concerns) The moratorium has a very broad effect, and it may have unintended consequences. There are financial concerns, and public health and safety concerns. For instance, what if there is a state emergency action for a water or food borne illness, and the state can't adopt rules? Also, a delay in protection of salmon may mean the federal government can assume responsibility by default under the federal Endangered Species Act and the Clean Water Act. There is also the possibility of losses in federal funding, such as if some local governments are treated differently than private businesses, then that would jeopardize tax credits for unemployment insurance.

Businesses don't want to be treated differently than local governments when it comes to complying with rules.

Testimony Against: (Opposed) A task force would be supported without a moratorium, as the moratorium is too broad. This won't solve all the local revenue problems, as they were there prior to I-695. For instance, the Salmon Recovery Funding board has \$2.1 million for salmon recovery funding that hasn't been touched. The shoreline management act updates need to happen, and funding from the Legislature is necessary to continue that process. Also, the costs from 4(d) liability

for local governments if they do not respond could be large, and the federal agencies can issue rules that the locals are liable for if they don't comply.

However, as to the moratorium, public employees are concerned about worker safety and about stopping any rule development that protects health and safety.

Testified: (In support) Representative Doumit, prime sponsor; Doug Levy, Cities of Everett and Kent; Patrick Jones, Washington Public Ports Association; Pat Thompson, County and City Employees; Jim Krider, Washington Association of Prosecuting Attorneys; John Ladenburg, Washington Association of Prosecuting Attorneys; Stan Menefee, Washington Association of County Officials; Bill Vogler, Washington State Association of Counties; Joe Daniels, Washington Association of Sewer and Water Districts; Dave Williams, Association of Washington Business; Gred Hellberg, Governor's Office; and Amber Balch, Association of Washington Business.

(Opposed) Bruce Wishart, People for Puget Sound; and Ron Shultz, Audubon Society.