

HOUSE BILL REPORT

E2SHB 1368

As Passed House:
March 10, 2015

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

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

Sponsors: House Committee on Finance (originally sponsored by Representatives Reykdal, Stokesbary, Van De Wege and Springer).

Brief History:

Committee Activity:

Local Government: 1/29/15, 2/5/15 [DPS];
Finance: 2/10/15, 2/25/15 [DP2S(w/o sub LG)].

Floor Activity:

Passed House: 3/10/15, 58-39.

Brief Summary of Engrossed Second Substitute Bill

- Allows regional fire protection service authorities (RFAs) to continue imposing benefit charges with a ballot measure approved by a majority, rather than 60 percent, of the voters voting on the measure.
- Allows an existing RFA to participate in the creation of a new RFA.
- Establishes financial protections for RFAs by allowing up to 25 cents per \$1,000 of assessed value of an RFA's levy to be exempted from prorationing requirements, and by extending future levy capacity protection provisions to RFAs that impose benefit charges.
- Requires RFAs to prepare annual fiscal accountability reports.

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 6 members: Representatives Takko, Chair; Gregerson, Vice Chair; Griffey, Assistant Ranking Minority Member; Fitzgibbon, McBride and Peterson.

Minority Report: Do not pass. Signed by 3 members: Representatives Taylor, Ranking Minority Member; McCaslin and Pike.

Staff: Ethan Moreno (786-7386).

HOUSE COMMITTEE ON FINANCE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Local Government. Signed by 12 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Fitzgibbon, Manweller, Pollet, Reykdal, Robinson, Ryu, Springer, Stokesbary, Wilcox and Wylie.

Minority Report: Do not pass. Signed by 4 members: Representatives Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta and Vick.

Staff: Richelle Geiger (786-7175).

Background:

Regional Fire Protection Service Authorities.

In 2004 the Legislature authorized the creation of regional fire protection service authorities (RFAs) as separate taxing districts charged with providing regional fire protection and emergency services within their jurisdictional boundaries. An RFA is formed when elected officials from two or more adjacent fire protection jurisdictions develop a plan for the creation, financing, operation, and governance of an RFA that is subsequently approved by voters. For purposes of RFA formation provisions, "fire protection jurisdiction" means a fire district, city, town, port district, municipal airport, or Indian tribe. No fire protection jurisdiction may participate in more than one RFA.

Imposition of Benefit Charges.

An RFA may impose property taxes, benefit charges, or both. Imposed benefit charges are on personal property and improvements to real property within the RFA. The benefit charges must be paid by the property owners and must be reasonably proportioned to the measurable benefits to property resulting from the services afforded by the RFA. The initial imposition or reauthorization of benefit charges requires approval by 60 percent of the voters voting on the ballot measure.

Certain limitations and requirements associated with the imposition of benefit charges are specified in statute. For example, benefit charges may be imposed for a maximum term of six years, although consecutive terms are permitted. Also, the aggregate amount of benefit charges in any one year may not exceed an amount equaling 60 percent of the operating budget for the year in which the benefit charge is to be collected. An RFA that imposes a benefit charge is barred from imposing 50 cents of the total property tax levy of \$1.50 per \$1,000 dollars of assessed valuation that an RFA may otherwise impose through resolutions

of its governing body. Additionally, in accordance with specified requirements, the governing body of an RFA must hold a public hearing on its proposal to impose benefit charges. The public hearing must be held before the election at which the proposition to impose benefit charges is to be decided.

Property Tax Rate Limits, Prorationing, and Protection from Prorationing Requirements.

The Washington Constitution limits regular property tax levies to a maximum of 1 percent of the property's value (\$10 per \$1,000 of assessed value). Voters within a taxing district can vote to tax themselves higher than this 1 percent limit with an excess levy.

The Legislature has established individual district rate maximums and aggregate rate maximums to keep the total tax rate for regular property taxes within the constitutional limit. For example:

- the state levy rate is limited to \$3.60 per \$1,000 of assessed value;
- county general levies are limited to \$1.80 per \$1,000 of assessed value;
- county road levies are limited to \$2.25 per \$1,000 of assessed value; and
- city levies are limited to \$3.375 per \$1,000 of assessed value.

For property tax purposes, the state, and counties and cities, with respect to the levies listed above, are collectively referred to as "senior taxing districts."

"Junior taxing districts," a term that includes fire, hospital, and most other special purpose districts, also have specific statutory rate limits. The tax rates for senior taxing districts and most junior taxing districts, excluding the state, must fit within an overall rate limit of \$5.90 per \$1,000 of assessed value. If the \$5.90 limit is exceeded, statute establishes the sequential order in which the levies of various junior taxing district levies must be proportionally reduced or eliminated (a process referred to as prorationing) to conform to the \$5.90 limit. Fire districts are listed late in the order of prorationing, so they are among the last of the junior taxing districts subject to mandatory levy reductions.

Some regular property tax levies, including levies for port districts, emergency medical services, and criminal justice purposes, are not subject to the \$5.90 aggregate rate limit. These levies have protections from general prorationing requirements and exist within the 50 cent "gap" that remains after subtracting the \$3.60 state levy and the \$5.90 in local regular levies from the constitutional \$10 limit per \$1,000 of assessed value. Under current law, fire protection districts, but not RFAs, may protect up to 25 cents per \$1,000 of assessed value levy authority through exceptions to general prorationing requirements.

Protection of Future Levy Capacities.

The regular property tax levy for fire and other 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, including any fire protection district levy that would have been imposed but for provisions barring the imposition of the levy because of the imposition of a benefit charge.

The expressly stated purpose of these 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 Engrossed Second Substitute Bill:

Continued Imposition of Benefit Charges - Approval by Simple Majority.

The continued imposition of benefit charges of a RFA must be approved by a majority, rather than 60 percent, of the voters of the RFA voting at a general election or special election called for that purpose.

Authority to Participate in the Creation of a Regional Fire Protection Service Authority.

The definition of "fire protection jurisdiction" established in RFA provisions is modified to specify that the term can include an RFA. The effect of this change is that RFAs are allowed to be partnering jurisdictions in the creation of new RFAs. An RFA, however, is barred from participating in more than one *created* RFA.

Financial Protections - Prorationing Exemption and Future Levy Capacity.

An RFA may protect up to 25 cents per \$1,000 of assessed value levy authority through an exception to general prorationing requirements. Additionally, future levy capacity protections are extended to RFAs that impose benefit charges so that the levy of an RFA may be set at the amount which would otherwise be allowed if the property tax levy for the RFA had been set at the full amount authorized by law, including any levy that would have been imposed but for provisions barring the imposition of the levy because of an imposed benefit charge. The levy-related provisions for RFAs apply to property taxes levied for collection in 2016 and thereafter.

Public Hearing Provision.

The public hearing required before an election authorizing the imposition of benefit charges by an RFA may be conducted by an RFA planning committee, rather than only by the governing board of an RFA, if the benefit charge is proposed as part of the initial formation of the RFA.

Fiscal Accountability Report.

The governing body of each RFA must prepare an annual fiscal accountability report summarizing activity from the preceding calendar year. The report must contain specific information for the RFA, including total annual revenues by source, and total annual expenditures by category. The report must also contain property value and population information for the RFA, and provisions detailing the achievement of response time objectives.

The fiscal accountability report must be presented publicly and formally accepted at a regularly scheduled public meeting of the governing board occurring before each July 1. The report must also be posted on the RFA's web site, and submitted to the governing body of each county, city, and town within the boundaries of the RFA.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except sections 6 and 8, relating to levy limitations, which take effect January 1, 2018, and section 10, relating to protection from levy prorationing, which takes effect January 1, 2018.

Staff Summary of Public Testimony (Local Government):

(In support) This bill is intended to help local communities and junior taxing districts, including first responders. Regional fire protection service authority statutes need modernization, and it is beneficial to have jurisdictions considering regionalization when doing so makes sense. Currently, we have statutes that provide certain protections to fire districts, but not to RFAs. This bill encourages regionalization, economies of scale, and putting more money into resources rather than into administration.

This is a clean-up bill that will create greater equity between fire districts and RFAs. Technical amendments have been worked out and will be offered. Regional fire authorities have saved millions of dollars, have improved efficiencies, and have reduced voters' taxes. Fire districts have prorationing protections and need only majority approval for continuing the imposition of benefit charges; this bill will extend those provisions to RFAs. This bill provides authority for RFAs to merge together, will sustain fire services, and is widely supported by fire officials.

(Opposed) None.

Staff Summary of Public Testimony (Finance):

(In support) Regionalization of emergency and fire protection services makes sense by eliminating redundancies providing economies of scale. Let local governments decide the most efficient way to provide emergency services to their communities.

Efficiencies are returned to the taxpayers, through improved services or lower tax rates. This bill incentivizes the continued formation of regional fire protection service authorities (RFAs).

Currently, there are two continuous RFAs that would like to join together but cannot. This bill would enable them to join together. Also, fire districts have prorationing protection and RFAs would like the same capacity.

(Opposed) Regional fire protection service authorities have not reduced voter's taxes. They are increasingly expensive and their levies are burdensome on small business owners. Regional fire protection service authorities have not resulted in more efficiencies, they are simply expanding their infrastructures and cost to taxpayers.

Persons Testifying (Local Government): Representative Reykdal, prime sponsor; Dylan Doty, Washington Fire Chiefs; Eric Robertson, Valley Regional Fire Authority; and Jim Schneider, Kent Fire Department Regional Fire Authority.

Persons Testifying (Finance): (In support) Representative Reykdal, prime sponsor; Geoff Simpson, Washington State Council of Fire Fighters; and Jim Walkowski, Washington Fire Chiefs.

(Opposed) Eric Bernard; and Gary Smith, Independent Business Association.

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

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