

SENATE BILL REPORT

ESHB 2708

As Reported by Senate Committee On:
Government Operations & Security, February 25, 2016

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: House Committee on Local Government (originally sponsored by Representatives Appleton, Griffey, McBride, Fitzgibbon, Gregerson and Tarleton).

Brief History: Passed House: 2/17/16, 68-30.

Committee Activity: Government Operations & Security: 2/25/16, 2/25/16 [DPA, DNP].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Majority Report: Do pass as amended.

Signed by Senators Roach, Chair; Pearson, Vice Chair; Habib, McCoy and Takko.

Minority Report: Do not pass.

Signed by Senator Dansel.

Staff: Alex Kearns (786-7416)

Background: The Washington State Constitution provides general police powers for cities and towns, which include the power to establish and maintain a fire department to provide fire protection services within its corporate limits. If a city or town does not wish to establish its own fire department, it may also contract for fire protection services with another jurisdiction, form a regional fire protection authority with an adjacent jurisdiction, or be annexed to an adjacent fire protection district.

Fire protection districts (Districts) are municipal corporations created to provide fire and emergency services in locations outside of cities and towns. Districts are governed by a board of three, five, or seven elected fire commissioners and have the authority to impose property taxes and benefit charges. Districts are established through a petition filed with the county auditor. 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

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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.

Districts may impose up to three regular property tax levies, each with a maximum rate of \$0.50 per \$1,000 of assessed value. State law imposes a 1 percent cap on the revenues a taxing district may receive each year based on the highest amount levied in the past three years. A district that chooses to levy an amount less than the maximum allowed under the law may retain the unused levy capacity for future use. This is known as "banked levy capacity." Allowing banked levy capacity removes the incentive for a taxing district to maintain its tax levy at the maximum amount allowed by law.

Districts may also impose benefit charges on property within the district. Benefit charges are designed to reflect the measurable benefits a property receives from being within the District's service area. 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 a majority of voters. Districts that impose a benefits charge may not impose one of the three regular property tax levies of \$0.50 per \$1,000 of assessed value.

Summary of Bill (Recommended Amendments): The legislative authority of a city or town may establish a fire protection district by resolution, subject to the approval of the voters. The resolution must include a financing plan for the District, and may propose the imposition of property taxes or benefit charges. The financing plan must include certain estimated information regarding property taxes, including:

- the estimated total levy rate of the District the first year it imposes a property tax; and
- the estimated reduction in the city or town general fund regular property tax levy rate in the first year the District imposes a property tax.

The resolution containing the financing plan must be scheduled for public hearing and placed on the ballot at the next general election according to general election laws. The ballot title must include the estimated information regarding property taxes that is contained in the financing plan. The resolution must be approved by a simple majority of the city or town's voters if no benefit charge is proposed, or 60 percent of the voters if a benefit charge is proposed.

Upon the District's formation, the city or town's general levy fund is limited to \$3.60 per \$1,000 of assessed value, less the aggregate levy rates of the District. If a city or town has already established a District, and later joins a regional fire protection service authority, the city or town's general levy fund is limited to \$3.37 and one-half cent per \$1,000 of assessed value, less the aggregate levy rate of the District. After a city or town forms a District, it is not permitted to levy an additional fire fighters pension fund levy if that levy causes combined levies to exceed statutory or constitutional limits.

Upon the District's formation, all powers, duties, and functions of the city or town fire department will be transferred to the fire protection district. In addition, the fire department must deliver the following to the fire protection district once created:

- all written reports, documents, records, files, and written materials;

- all real and personal property, including furniture, equipment, and vehicles; and
- all funds, credits, and assets held in connection with fire protection services.

All appropriations, pending business, contracts, and obligations of the fire department will also transfer to the District upon formation. All employees of the fire department will transfer to the District upon its creation date, maintaining the same compensation, benefits, and promotion status as they had when employed by the fire department. Members of the city or town legislative authority will serve ex officio as the District's fire commissioners and may not receive compensation for their service on behalf of the District.

No municipal airport may be included within a District, unless the governing body of the airport agrees to the airport's inclusion. Additionally, no District may establish an ambulance service that would compete with an existing adequate ambulance service.

EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS & SECURITY COMMITTEE (Recommended Amendments): Levy Modifications. Removes portion of the bill requiring a city or town to reduce its general fund regular property tax levy by the total combined levy of the fire protection district, and replaces it with a new section that limits the general fund levy of a city or town establishing a fire protection district to \$3.60 per \$1,000 of assessed value, less the aggregate levy rates of the fire protection district. Requires that a city or town that has already established a fire protection district, and later joins an RFA, limit its general fund levy to \$3.37 and one-half cent per \$1,000 of assessed value, less the aggregate levy rates of the fire protection district. These city and town levy amounts are to be further reduced by the applicable levy rates of a library district, if that city or town is annexed to a library district. Permits the levy information included in the financing plan and the ballot title to be estimated. Eliminates the requirement that the financing plan contain an estimated aggregate net dollar amount impact on property owners. Removes limits previously imposed on a city or town's banked levy capacity. Prohibits a city or town that has established a fire protection district from levying an additional fire fighters pension fund levy if it causes combined levies to exceed statutory or constitutional limits.

Municipal Airport. Prohibits the inclusion of a municipal airport within a proposed fire protection district established by a city or town, unless the governing body of the airport agrees to the airport's inclusion.

Ambulance Service. Prohibits a fire protection district established by a city or town from establishing an ambulance service that would compete with an existing adequate ambulance service. Provides a process for determining if an ambulance service is adequate.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute Bill: PRO: This bill is needed for efficiency. When RFAs are formed, two jurisdictions are consolidated into one, which eliminates extra overhead. One of the obstacles to forming an RFA is that a fire department and a fire district are very different, and it makes it hard for them to join as an RFA. This takes the interim step and allows cities to establish a fire district so that future regionalization is possible. If citizens are not receiving good quality of care from a private ambulance provider, there should be strong recourse, but with the language provided by the ambulance service there is no recourse. It is also not appropriate for an airport to have veto authority over whether or not a fire district is formed. The Department of Revenue has identified some technical issues that need to be fixed, and we support that amendment.

CON: The Spokane International Airport is owned jointly by the City of Spokane and the County of Spokane, and it has a separate board of directors. The Senate version of this bill contained an amendment that more appropriately clarifies that it is only with the agreement of the board of directors that the airport fire protection district could be brought into the city fire protection district. There is no language included protecting private ambulance services, and this is the only place in statute where it is not included so it should be added.

Persons Testifying on Engrossed Substitute Bill: PRO: Geoff Simpson, WA State Council of Firefighters.

CON: Cliff Webster, Spokane International Airport; Bob Berschauer, Washington Ambulance Association.

Persons Signed In To Testify But Not Testifying: PRO: Candice Bock, Association of Washington Cities.