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**ENGROSSED SUBSTITUTE SENATE BILL 5628**

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**State of Washington 65th Legislature 2017 Regular Session**

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

AN ACT Relating to fire protection district formation by the legislative authority of a city or town subject to voter approval; amending RCW 84.55.092, 29A.36.071, 52.14.010, 52.14.020, and 84.09.030; adding new sections to chapter 52.02 RCW; and adding a new section to chapter 52.14 RCW.

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

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

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

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

(i) Contain a financing plan for the fire protection district. As part of the financing plan, the city or town may propose the imposition of revenue sources authorized by this title for fire protection districts, such as property taxes, as provided in chapter 52.16 RCW, or benefit charges, as provided in chapter 52.18 RCW; and

(ii) Set a date for a public hearing on the resolution.

(b) The financing plan in the resolution adopted by the city or town must contain the following information regarding property taxes that will be imposed by the fire protection district and city or town subsequent to the formation of the district:

(i) The dollar amount the fire protection district will levy in the first year in which the fire protection district imposes any of the regular property taxes in RCW 52.16.130, 52.16.140, or 52.16.160;

(ii) The city's or town's highest lawful levy for the purposes of RCW 84.55.092, reduced by the fire protection district's levy amount from (b)(i) of this subsection. This reduced highest lawful levy becomes the city's or town's highest lawful levy since 1986 for subsequent levy limit calculations under chapter 84.55 RCW; and

(iii) The estimated aggregate net dollar amount impact on property owners within the city or town based on the changes described in (b)(i) and (ii) of this subsection (1).

(c) If a city or town proposes the initial imposition of a benefit charge as a revenue source for the fire protection district under (a) of this subsection, the resolution adopted by the city or town must comply with the requirements of RCW 52.18.030.

(d) Notice of public hearing on a resolution adopted by a city or town must be published for three consecutive weeks in a newspaper of general circulation in the city or town, and must be posted for at least fifteen days prior to the date of the hearing in three public places within the boundaries of the proposed fire protection district. All notices must contain the time, date, and place of the public hearing.

(2)(a) A resolution adopted under this section is not effective unless approved by the voters of the city or town at a general election. The resolution must be approved:

(i) By a simple majority of the voters of the city or town; or

(ii) If the resolution proposes the initial imposition of a benefit charge, by sixty percent of the voters of the city or town.

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

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

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

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

(ii) In determining the adequacy of an existing private ambulance service, the fire protection district must take into consideration objective generally accepted medical standards and reasonable levels of service, which must be published by the district. If a fire protection district makes a preliminary conclusion that an existing private ambulance service is inadequate, the district must allow a minimum of sixty days for the private ambulance service to meet the generally accepted medical standards and accepted levels of service. If the fire protection district makes a second preliminary conclusion of inadequacy within a twenty-four month period, the district may immediately issue a call for bids or establish its own ambulance service utility and is not required to afford the private ambulance service another sixty-day period to meet the generally accepted medical standards and reasonable levels of service.

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

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

(3) A city or town must reduce its general fund regular property tax levy by the total combined levy of the fire protection district as proposed by the district in accordance with subsection (1)(b)(i) of this section. The reduced levy amount of the city or town must occur in the first year in which the fire protection district imposes any of the property taxes in RCW 52.16.130, 52.16.140, or 52.16.160 and must be specified in the financing plan and ballot proposition as provided in this section. If the fire protection district does not impose all three levies under RCW 52.16.130, 52.16.140, and 52.16.160 when it begins operations, the city must further reduce its general fund regular property tax levy if the district initially imposes any of the levies in subsequent years, by the amount of such levy or levies initially imposed in a subsequent year.

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

(1) The regular property tax levy for each taxing district other than the state may be set at the amount which would be allowed otherwise under this chapter if the regular property tax levy for the district for taxes due in prior years beginning with 1986 had been set at the full amount allowed under this chapter including any levy authorized under RCW 52.16.160 that would have been imposed but for the limitation in RCW 52.18.065, applicable upon imposition of the benefit charge under chapter 52.18 RCW.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) Promotion and service time accrual; and

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

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

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

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

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

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

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

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

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

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

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

(b) If the legislative authority of a city or town relinquishes governance authority of a fire protection district after formation under this section, and that fire protection district maintains a fire department consisting wholly of personnel employed on a full-time, fully paid basis, that district shall have five fire commissioners. The terms of office for the initial elected fire commissioners are staggered as follows:

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

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

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

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

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

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

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

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

(1) The affairs of the district shall be managed by a board of fire commissioners composed initially of three registered voters residing in the district, except as provided otherwise in RCW 52.14.015 ((~~and~~)), 52.14.020, and section 5 of this act.

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

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

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

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

(4) The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2008, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

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

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

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

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

(b) If four positions are created on boards of fire commissioners by this section, such positions shall be filled initially as for a vacancy, except that the appointees shall draw lots, three appointees to serve until the next general fire district election after the appointment, at which three commissioners shall be elected for six‑year terms and two commissioners shall be elected for four-year terms, and the other appointee to serve until the second general fire district election after the appointment, at which two commissioners shall be elected for six‑year terms.

**Sec.**  RCW 84.09.030 and 2012 c 186 s 17 are each amended to read as follows:

(1)(a) Except as provided in (b) ((~~and~~)), (c), and (d) 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 section 1 of this act are the established official boundaries of the district as of the date that the voter-approved proposition required under section 1 of this act is certified.

(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.

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