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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)

READ FIRST TIME 02/15/17.

1 AN ACT Relating to fire protection district formation by the  
2 legislative authority of a city or town subject to voter approval;  
3 amending RCW 84.55.092, 29A.36.071, 52.14.010, 52.14.020, and  
4 84.09.030; adding new sections to chapter 52.02 RCW; and adding a new  
5 section to chapter 52.14 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 52.02  
8 RCW to read as follows:

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

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

19 (i) Contain a financing plan for the fire protection district. As  
20 part of the financing plan, the city or town may propose the  
21 imposition of revenue sources authorized by this title for fire

1 protection districts, such as property taxes, as provided in chapter  
2 52.16 RCW, or benefit charges, as provided in chapter 52.18 RCW; and

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

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

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

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

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

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

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

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

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

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

36 (b) An election to approve or reject a resolution forming a fire  
37 protection district, including the proposed financial plan and any  
38 imposition of revenue sources for the fire protection district, must  
39 be conducted by the election officials of the county or counties in  
40 which the proposed district is located in accordance with the general

1 election laws of the state. If a resolution forming a fire protection  
2 district provides that the fire protection district will be governed  
3 by a board of fire commissioners, as permitted under section 5 of  
4 this act, then the initial fire commissioners must be elected at the  
5 same election where the resolution is submitted to the voters  
6 authorizing the creation of the fire protection district. The  
7 election must be held at the next general election date, according to  
8 RCW 29A.04.321 and 29A.04.330, occurring after the date of the public  
9 hearing on the resolution adopted by the city or town legislative  
10 authority. The ballot title must include the information regarding  
11 property taxes that is required to be in the financing plan of the  
12 resolution under subsection (1)(b) of this section.

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

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

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

30 (ii) In determining the adequacy of an existing private ambulance  
31 service, the fire protection district must take into consideration  
32 objective generally accepted medical standards and reasonable levels  
33 of service, which must be published by the district. If a fire  
34 protection district makes a preliminary conclusion that an existing  
35 private ambulance service is inadequate, the district must allow a  
36 minimum of sixty days for the private ambulance service to meet the  
37 generally accepted medical standards and accepted levels of service.  
38 If the fire protection district makes a second preliminary conclusion  
39 of inadequacy within a twenty-four month period, the district may  
40 immediately issue a call for bids or establish its own ambulance

1 service utility and is not required to afford the private ambulance  
2 service another sixty-day period to meet the generally accepted  
3 medical standards and reasonable levels of service.

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

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

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

30 **Sec. 2.** RCW 84.55.092 and 1998 c 16 s 3 are each amended to read  
31 as follows:

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

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

8       (3) Subsection (1) of this section does not apply to any portion  
9 of a city or town's regular property tax levy that has been reduced  
10 as part of the formation of a fire protection district under section  
11 1 of this act.

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

14       (1) Except as provided to the contrary in RCW 82.14.036,  
15 82.46.021, or 82.80.090, the ballot title of any referendum filed on  
16 an enactment or portion of an enactment of a local government and any  
17 other question submitted to the voters of a local government consists  
18 of three elements: (a) An identification of the enacting legislative  
19 body and a statement of the subject matter; (b) a concise description  
20 of the measure; and (c) a question. The ballot title must conform  
21 with the requirements and be displayed substantially as provided  
22 under RCW 29A.72.050, except that the concise description must not  
23 exceed seventy-five words; however, a concise description submitted  
24 on behalf of a proposed or existing regional transportation  
25 investment district or a proposed fire protection district, as  
26 provided in section 1 of this act, may exceed seventy-five words. If  
27 the local governmental unit is a city or a town, or if the ballot  
28 title is for a referendum under RCW 35.13A.115, the concise statement  
29 (~~shall~~) must be prepared by the city or town attorney. If the local  
30 governmental unit is a county, the concise statement (~~shall~~) must  
31 be prepared by the prosecuting attorney of the county. If the unit is  
32 a unit of local government other than a city, town, or county, the  
33 concise statement (~~shall~~) must be prepared by the prosecuting  
34 attorney of the county within which the majority area of the unit is  
35 located.

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

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

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 52.02  
5 RCW to read as follows:

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

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

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

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

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

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

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

37 (3) All rules and all pending business before the city or town  
38 fire department pertaining to the fire protection and emergency  
39 services powers, functions, and duties transferred must be continued

1 and acted upon by the fire protection district, and all existing  
2 contracts and obligations remain in full force and must be performed  
3 by the fire protection district.

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

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

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

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

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

23 (iii) Promotion and service time accrual; and

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

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

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

37 NEW SECTION. **Sec. 5.** A new section is added to chapter 52.14  
38 RCW to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 **Sec. 6.** RCW 52.14.010 and 2012 c 174 s 1 are each amended to  
34 read as follows:

35 (1) The affairs of the district shall be managed by a board of  
36 fire commissioners composed initially of three registered voters  
37 residing in the district, except as provided otherwise in RCW  
38 52.14.015 ((and)), 52.14.020, and section 5 of this act.

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

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

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

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

30       (4) The dollar thresholds established in this section must be  
31 adjusted for inflation by the office of financial management every  
32 five years, beginning July 1, 2008, based upon changes in the  
33 consumer price index during that time period. "Consumer price index"  
34 means, for any calendar year, that year's annual average consumer  
35 price index, for Washington state, for wage earners and clerical  
36 workers, all items, compiled by the bureau of labor and statistics,  
37 United States department of labor. If the bureau of labor and  
38 statistics develops more than one consumer price index for areas  
39 within the state, the index covering the greatest number of people,  
40 covering areas exclusively within the boundaries of the state, and

1 including all items shall be used for the adjustments for inflation  
2 in this section. The office of financial management must calculate  
3 the new dollar threshold and transmit it to the office of the code  
4 reviser for publication in the Washington State Register at least one  
5 month before the new dollar threshold is to take effect.

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

17 **Sec. 7.** RCW 52.14.020 and 2012 c 174 s 2 are each amended to  
18 read as follows:

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

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

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

1 district election after the appointment, at which two commissioners  
2 shall be elected for six-year terms.

3 **Sec. 8.** RCW 84.09.030 and 2012 c 186 s 17 are each amended to  
4 read as follows:

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

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

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

23 (d) The boundaries of a newly established fire protection  
24 district authorized under section 1 of this act are the established  
25 official boundaries of the district as of the date that the voter-  
26 approved proposition required under section 1 of this act is  
27 certified.

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

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

--- END ---