

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5628

Chapter 328, Laws of 2017

65th Legislature
2017 Regular Session

CITIES AND TOWNS--FIRE PROTECTION DISTRICT FORMATION

EFFECTIVE DATE: 7/23/2017

Passed by the Senate April 17, 2017
Yeas 48 Nays 0

CYRUS HABIB

President of the Senate

Passed by the House April 11, 2017
Yeas 67 Nays 30

FRANK CHOPP

Speaker of the House of Representatives

Approved May 16, 2017 11:38 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5628** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

May 16, 2017

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5628

AS AMENDED BY THE HOUSE

Passed Legislature - 2017 Regular Session

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

35 NEW SECTION. **Sec. 2.** A new section is added to chapter 52.02
36 RCW to read as follows:

37 (1) A fire protection district may establish an ambulance service
38 to be operated as a public utility. However, the fire protection
39 district may not provide for the establishment of an ambulance

1 service utility that would compete with any existing private
2 ambulance service unless the fire protection district determines that
3 the area served by the fire protection district, or a substantial
4 portion of that area, is not adequately served by an existing private
5 ambulance service.

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

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

26 (4) A private ambulance service that abandons service in the area
27 served by the fire protection district, or a substantial portion of
28 the area served by the fire protection district, is not entitled to a
29 sixty-day period to demonstrate adequacy, and the fire protection
30 district may immediately issue a call for bids or establish an
31 ambulance service utility. If a fire protection district becomes
32 aware of an intent to abandon service at a future date, the fire
33 protection district may immediately issue a call for bids or
34 establish an ambulance service utility to avoid an interruption in
35 service.

36 (5) For purposes of this section, "fire protection district"
37 means a fire protection district established by the legislative
38 authority of a city or town pursuant to section 1 of this act.

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

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

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

18 (3) Subsection (1) of this section does not apply to any portion
19 of a city or town's regular property tax levy that has been reduced
20 as part of the formation of a fire protection district under section
21 1 of this act.

22 **Sec. 4.** RCW 29A.36.071 and 2015 c 172 s 3 are each amended to
23 read as follows:

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

1 governmental unit is a county, the concise statement (~~shall~~) must
2 be prepared by the prosecuting attorney of the county. If the unit is
3 a unit of local government other than a city, town, or county, the
4 concise statement (~~shall~~) must be prepared by the prosecuting
5 attorney of the county within which the majority area of the unit is
6 located.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (iii) Promotion and service time accrual; and

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

37 (b) If a city or town provides for civil service in its fire
38 department, the collective bargaining representatives of the
39 transferring employees and the fire protection district must

1 negotiate regarding the establishment of a civil service system
2 within the fire protection district.

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

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 52.14
9 RCW to read as follows:

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

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

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

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

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

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

37 (iii) The other person who is elected is elected to a two-year
38 term of office if the election is held in an odd-numbered year, or a
39 one-year term of office if the election is held in an even-numbered

1 year. The term of office for each subsequent commissioner is six
2 years.

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

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

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

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

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

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

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

37 (iii) The other two people who are elected are elected to two-
38 year terms of office if the election is held in an odd-numbered year,
39 or one-year terms of office if the election is held in an even-

1 numbered year. The term of office for each subsequent commissioner is
2 six years.

3 **Sec. 7.** RCW 52.14.010 and 2012 c 174 s 1 are each amended to
4 read as follows:

5 (1) The affairs of the district shall be managed by a board of
6 fire commissioners composed initially of three registered voters
7 residing in the district, except as provided otherwise in RCW
8 52.14.015 ((and)), 52.14.020, and section 6 of this act.

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

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

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

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

38 (4) The dollar thresholds established in this section must be
39 adjusted for inflation by the office of financial management every

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

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

26 **Sec. 8.** RCW 52.14.020 and 2012 c 174 s 2 are each amended to
27 read as follows:

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

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

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

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

12 **Sec. 9.** RCW 84.09.030 and 2012 c 186 s 17 are each amended to
13 read as follows:

14 (1)(a) Except as provided in (b) (~~and~~), (c), and (d) of this
15 subsection (1), for the purposes of property taxation and the levy of
16 property taxes, the boundaries of counties, cities, and all other
17 taxing districts shall be the established official boundaries of such
18 districts existing on the first day of August of the year in which
19 the property tax levy is made.

20 (b) The boundaries for a newly incorporated port district or
21 regional fire protection service authority shall be established on
22 the first day of October if the boundaries of the newly incorporated
23 port district or regional fire protection service authority are
24 coterminous with the boundaries of another taxing district or
25 districts, as they existed on the first day of August of that year.

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

32 (d) The boundaries of a newly established fire protection
33 district authorized under section 1 of this act are the established
34 official boundaries of the district as of the date that the voter-
35 approved proposition required under section 1 of this act is
36 certified.

37 (2) In any case where any instrument setting forth the official
38 boundaries of any newly established taxing district, or setting forth
39 any change in the boundaries, is required by law to be filed in the

1 office of the county auditor or other county official, the instrument
2 shall be filed in triplicate. The officer with whom the instrument is
3 filed shall transmit two copies of the instrument to the county
4 assessor.

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

Passed by the Senate April 17, 2017.

Passed by the House April 11, 2017.

Approved by the Governor May 16, 2017.

Filed in Office of Secretary of State May 16, 2017.

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