

D R A F T

SUMMARY

Provides that Governor may proclaim, in affected counties, public safety fiscal emergency, with unanimous agreement of President and Minority Leader of Senate and Speaker and Minority Leader of House of Representatives. Allows for consolidation or merger of units of local government and for intergovernmental agreements for purpose of providing services. Allows for imposition of income tax assessment on residents of affected counties, with maximum rate to be specified in proclamation and with approval of county governing body.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public safety fiscal emergencies; creating new provisions;
3 amending ORS 203.055; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. The purposes of sections 2 to 8 of this 2013 Act are to**
6 **reduce the loss of life, injury to persons or property and suffering that**
7 **result from public safety fiscal emergencies and to provide for recov-**
8 **ery and relief assistance. These public safety objectives are to be ac-**
9 **complished by creating cooperation among units of local government**
10 **and granting the Governor the power to act on behalf of units of local**
11 **government. The provisions of this section shall be liberally construed.**

12 **SECTION 2. (1) If the Governor, the President and Minority Leader**
13 **of the Senate and the Speaker and Minority Leader of the House of**
14 **Representatives agree unanimously that a public safety fiscal emer-**
15 **gency has occurred or is imminent, the Governor may proclaim a**
16 **public safety fiscal emergency.**

1 **(2) The Governor shall specify in a proclamation made pursuant to**
2 **this section each county in which the public safety fiscal emergency**
3 **has occurred or is imminent. The area specified in the proclamation**
4 **shall be as small as necessary to allow for an effective response to the**
5 **emergency.**

6 **(3) A proclamation made pursuant to this section shall state any**
7 **units of local government to be consolidated or merged for the purpose**
8 **of providing services in the interest of public safety and the maximum**
9 **rate of an income tax assessment, if any, that may be imposed to fund**
10 **public safety services.**

11 **(4) As used in sections 2 to 8 of this 2013 Act, “local government”**
12 **has the meaning given that term in ORS 174.116.**

13 **SECTION 3.** **(1) Whenever the Governor has proclaimed a public**
14 **safety fiscal emergency pursuant to section 2 of this 2013 Act, the**
15 **Governor may, on behalf of a unit of local government within the area**
16 **covered by the proclamation, enter into a written intergovernmental**
17 **agreement with any other unit of local government, whether inside**
18 **or outside the area covered by the proclamation, for the performance**
19 **of any or all functions and activities that a unit of local government**
20 **that is party to the agreement, its officers or agencies have authority**
21 **to perform.**

22 **(2) ORS 190.010 applies to the performance of a function or activity**
23 **pursuant to an intergovernmental agreement entered into under sub-**
24 **section (1) of this section.**

25 **SECTION 4.** **(1) An intergovernmental agreement entered into un-**
26 **der section 3 of this 2013 Act shall specify the functions or activities**
27 **to be performed and by what means they shall be performed.**

28 **(2) Where applicable, the intergovernmental agreement shall pro-**
29 **vide for:**

30 **(a) Apportionment among the parties to the agreement of the re-**
31 **sponsibility for providing funds to pay for expenses incurred in the**

1 performance of the functions or activities.

2 (b) Apportionment of fees or other revenue derived from the func-
3 tions or activities and the manner of accounting for the fees or other
4 revenue.

5 (c) The transfer of personnel and the preservation of their employ-
6 ment benefits.

7 (d) The transfer of possession of or title to real or personal prop-
8 erty.

9 **SECTION 5.** (1) A unit of local government that is designated, in
10 an intergovernmental agreement entered into under section 3 of this
11 2013 Act, to perform functions or activities is vested with all powers,
12 rights and duties relating to those functions and activities that are
13 vested by law in each party to the agreement, its officers and agencies.

14 (2) An officer designated in an intergovernmental agreement en-
15 tered into under section 3 of this 2013 Act to perform duties, functions
16 or activities of two or more public officers shall be considered to be
17 holding one office.

18 **SECTION 6.** (1) An intergovernmental entity created by an inter-
19 governmental agreement entered into under section 3 of this 2013 Act
20 may, according to the terms of the agreement, adopt all rules neces-
21 sary to carry out the intergovernmental entity's powers and duties
22 under the intergovernmental agreement.

23 (2) As provided in section 7 of this 2013 Act, counties that comprise
24 an intergovernmental entity created by an intergovernmental agree-
25 ment may impose an income tax assessment within the area specified
26 in the proclamation made pursuant to section 2 of this 2013 Act. The
27 purpose of the assessment shall be to carry on the operations and pay
28 the obligations of the intergovernmental entity.

29 (3) The debts, liabilities and obligations of an intergovernmental
30 entity shall be, jointly and severally, the debts, liabilities and obli-
31 gations of the parties to the intergovernmental agreement that created

1 the intergovernmental entity, unless the agreement specifically pro-
2 vides otherwise.

3 (4) A party to an intergovernmental agreement creating an inter-
4 governmental entity may assume responsibility for specific debts, li-
5 abilities or obligations of the intergovernmental entity.

6 (5)(a) Moneys collected by or credited to an intergovernmental en-
7 tity may not inure to the benefit of any private person. Upon dissol-
8 ution of the intergovernmental entity, title to all assets of the
9 intergovernmental entity shall vest in the parties to the intergovern-
10 mental agreement that created the intergovernmental entity.

11 (b) The intergovernmental agreement creating the intergovern-
12 mental entity must provide a procedure for:

13 (A) The disposition, division and distribution of any assets acquired
14 by the intergovernmental entity during the term of the intergovern-
15 mental agreement that created the intergovernmental entity; and

16 (B) The assumption of any outstanding indebtedness or other li-
17 abilities of the intergovernmental entity by the parties to the inter-
18 governmental agreement that created the intergovernmental entity.

19 (6) ORS 190.110 applies to all parties to, and all intergovernmental
20 entities created by, an intergovernmental agreement entered into un-
21 der section 3 of this 2013 Act.

22 SECTION 7. (1) To carry out the purposes of sections 2 to 8 of this
23 2013 Act, counties within the area covered by the proclamation made
24 pursuant to section 2 of this 2013 Act may impose a tax:

25 (a) Upon the entire taxable income of every resident of the area
26 who is subject to tax under ORS chapter 316 and upon the taxable in-
27 come of every nonresident that is derived from sources within the area
28 which income is subject to tax under ORS chapter 316; or

29 (b) On or measured by the net income of a mercantile, manufac-
30 turing, business, financial, centrally assessed, investment, insurance
31 or other corporation or entity taxable as a corporation doing business,

1 located, or having a place of business or office within or having in-
2 come derived from sources, within the area which income is subject
3 to tax under ORS chapter 317 or 318.

4 (2) A tax imposed pursuant to this section shall require the ap-
5 proval of the governing bodies of each county within the area.

6 (3) The tax may be imposed and collected as a surtax upon the state
7 income or excise tax.

8 (4) Any tax imposed pursuant to subsection (1) of this section shall
9 require a nonresident, corporation or other entity taxable as a corpo-
10 ration having income from activity both within and without the area
11 taxable under subsection (1) of this section to allocate and apportion
12 such net income to the area in the manner required for allocation and
13 apportionment of income under ORS 314.280 and 314.605 to 314.675.

14 (5) If a county adopts an ordinance under this section, the ordi-
15 nance shall be consistent with any state law relating to the same
16 subject, and with rules and regulations of the Department of Revenue
17 prescribed under ORS 305.620.

18 (6) An ordinance adopted under this section may not declare an
19 emergency.

20 SECTION 8. (1) A public safety fiscal emergency proclaimed pursu-
21 ant to section 2 of this 2013 Act terminates after 18 months unless the
22 Governor, the President and Minority Leader of the Senate and the
23 Speaker and Minority Leader of the House of Representatives unan-
24 imously agree to extend the public safety fiscal emergency for a stated
25 amount of time up to 18 additional months. The Governor shall pro-
26 claim the extension.

27 (2) The Governor shall terminate a public safety fiscal emergency
28 by proclamation when the emergency no longer exists or the threat
29 of an emergency has passed.

30 (3) The public safety fiscal emergency proclaimed by the Governor
31 may be terminated at any time by action of the Legislative Assembly.

1 **(4) Prior to the termination of a public safety fiscal emergency, the**
2 **local governments that are parties to an intergovernmental agreement**
3 **entered into under section 3 of this 2013 Act may adopt an ordinance**
4 **ratifying the creation of the intergovernmental entity to continue the**
5 **entity beyond the termination of the emergency. The ratifying ordi-**
6 **nance shall be consistent with ORS 190.085.**

7 **(5) Nothing in this section shall prohibit a unit of local government**
8 **from entering into an intergovernmental agreement under ORS 190.003**
9 **to 190.130 during a public safety fiscal emergency.**

10 **SECTION 9.** ORS 203.055 is amended to read:

11 203.055. **(1) Except as provided in subsection (2) of this section, any**
12 **ordinance, adopted by a county governing body under ORS 203.035 and im-**
13 **posing, or providing an exemption from, taxation shall receive the approval**
14 **of the electors of the county before taking effect.**

15 **(2) A tax may be imposed pursuant to section 7 of this 2013 Act upon**
16 **receipt of the approval of the county governing body.**

17 **SECTION 10.** **The Legislative Assembly finds and declares that**
18 **providing a coordinated and comprehensive response to a local or re-**
19 **gional public safety fiscal emergency is a matter of state concern.**
20 **Notwithstanding any provision of a county charter, a tax imposed**
21 **pursuant to section 7 of this 2013 Act may be imposed upon receipt of**
22 **the approval of the county governing body.**

23 **SECTION 11.** **This 2013 Act being necessary for the immediate**
24 **preservation of the public peace, health and safety, an emergency is**
25 **declared to exist, and this 2013 Act takes effect on passage.**