

**B-Engrossed**  
**House Bill 3453**

Ordered by the House July 7  
Including House Amendments dated June 28 and July 7

Sponsored by COMMITTEE ON RULES

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Provides that Governor may proclaim public safety fiscal emergency for one or more counties where fiscal conditions compromise county ability to provide minimally adequate level of public safety services. Following proclamation and with consent of governing bodies of affected counties, permits establishment of intergovernmental agreement to provide for performance of public safety services and equally shared funding of services by state and affected counties. Provides alternative means for affected counties to raise revenue and suspends requirement that affected county tax measures receive approval of county electors.]*

**Provides that Governor may proclaim public safety fiscal emergency for one or more counties where fiscal conditions compromise county ability to provide minimally adequate level of public safety services. Limits proclamation to two or fewer counties before July 15, 2014.**

**Following proclamation and with consent of governing bodies of affected counties, permits establishment of intergovernmental agreement to provide for performance of public safety services and equally shared funding of services by state and affected counties. Requires sheriff of affected county to be nonvoting ex officio member of governing body for deliberations on intergovernmental agreement. Places limits on when intergovernmental agreements may take effect and requires Governor to report to Legislative Assembly on terms of agreements.**

**Provides alternative means for affected counties to raise revenue and suspends requirement that affected county tax measures receive approval of county electors.**

Repeals Act on January 2, 2018.

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to public safety fiscal emergencies; creating new provisions; amending ORS 203.055; ap-  
3 propriating money; and prescribing an effective date.

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

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

11 **SECTION 2. (1) If the Governor determines that fiscal conditions exist or are imminent**  
12 **in one or more counties that compromise the ability of the affected counties to provide a**  
13 **minimally adequate level of public safety services, the Governor may proclaim a public safety**  
14 **fiscal emergency.**

15 **(2) Prior to declaring a public safety fiscal emergency, the Governor shall consult with**  
16 **the Senate President, the Majority and Minority Leaders of the Senate, the Speaker of the**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 House of Representatives, the Majority and Minority Leaders of the House of Represen-  
2 tatives, each Senator and Representative whose district is wholly or partially within a county  
3 that is proposed to be subject to the public safety fiscal emergency and each sheriff of a  
4 county that is proposed to be subject to the public safety fiscal emergency.

5 (3) The Governor shall specify in a proclamation made pursuant to this section each  
6 county in which the public safety fiscal emergency has occurred or is imminent. The area  
7 specified in the proclamation shall be as small as necessary to allow for an effective response  
8 to the emergency, but may not be smaller than a single county.

9 (4) As used in sections 2 to 10 of this 2013 Act, "local government" means a county.

10 **SECTION 2a.** Notwithstanding section 2 of this 2013 Act, the Governor may not proclaim  
11 a public safety fiscal emergency that affects more than two counties before July 15, 2014.

12 **SECTION 3.** (1) Whenever the Governor has proclaimed a public safety fiscal emergency  
13 pursuant to section 2 of this 2013 Act, the Governor may, on behalf of a unit of local gov-  
14 ernment within the area covered by the proclamation and only after obtaining written au-  
15 thorization signed by a majority of the governing body of each local government subject to  
16 the proclamation, enter into a written intergovernmental agreement with any other unit of  
17 local government, whether inside or outside the area covered by the proclamation, for the  
18 performance of functions and activities related to public safety that a unit of local govern-  
19 ment that is party to the agreement or its officers or agencies have authority to perform.  
20 The Governor shall consult with each sheriff affected by the proclamation prior to executing  
21 the intergovernmental agreement.

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

24 (3)(a) The state shall bear 50 percent of the cost of public safety services provided under  
25 the intergovernmental agreement entered into under subsection (1) of this section.

26 (b) The counties that are parties to the intergovernmental agreement entered into under  
27 subsection (1) of this section shall bear the remaining 50 percent, which may be funded  
28 through:

29 (A) An income tax as provided in section 7 of this 2013 Act;

30 (B) A tax on telecommunications services with access to the 9-1-1 emergency reporting  
31 system under section 8 of this 2013 Act;

32 (C) Any assessment the county governing body is lawfully capable of imposing, to the  
33 extent the governing body determines that the other assessment is necessary to satisfy the  
34 county's funding obligations;

35 (D) Existing sources of county revenue; or

36 (E) Any combination of funding described in this paragraph.

37 (4) For purposes of this section:

38 (a) The sheriff of a county affected by a public safety fiscal emergency shall be considered  
39 a nonvoting ex officio member of the governing body; and

40 (b) The sheriff must be given notice of any meeting of the governing body if the govern-  
41 ing body is meeting for purposes of deliberating or making a decision on:

42 (A) Whether to enter into an intergovernmental agreement under this section;

43 (B) The terms and conditions of an intergovernmental agreement entered into under this  
44 section; or

45 (C) Any extension or modification of an intergovernmental agreement entered into under

1 this section.

2 **SECTION 4.** (1) An intergovernmental agreement entered into under section 3 of this 2013  
3 Act must specify the functions or activities to be performed and by what means the func-  
4 tions or activities shall be performed.

5 (2) Where applicable and subject to section 3 of this 2013 Act, the intergovernmental  
6 agreement shall provide for:

7 (a) Apportionment among the parties to the agreement of the responsibility for providing  
8 funds to pay for expenses incurred in the performance of the functions or activities.

9 (b) Apportionment of fees or other revenue derived from the functions or activities and  
10 the manner of accounting for the fees or other revenue.

11 (c) The transfer of personnel and the preservation of their employment benefits.

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

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

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

23 (2) Except as provided in section 3 (3) of this 2013 Act, the debts, liabilities and obli-  
24 gations of an intergovernmental entity shall be, jointly and severally, the debts, liabilities and  
25 obligations of the parties to the intergovernmental agreement that created the intergovern-  
26 mental entity, unless the agreement specifically provides otherwise.

27 (3) A party to an intergovernmental agreement creating an intergovernmental entity may  
28 assume responsibility for specific debts, liabilities or obligations of the intergovernmental  
29 entity.

30 (4)(a) Moneys collected by or credited to an intergovernmental entity may not inure to  
31 the benefit of any private person. Upon dissolution of the intergovernmental entity, title to  
32 all assets of the intergovernmental entity shall vest in the parties to the intergovernmental  
33 agreement that created the intergovernmental entity.

34 (b) The intergovernmental agreement creating the intergovernmental entity must pro-  
35 vide a procedure for:

36 (A) The disposition, division and distribution of any assets acquired by the intergovern-  
37 mental entity during the term of the intergovernmental agreement that created the inter-  
38 governmental entity; and

39 (B) The assumption of any outstanding indebtedness or other liabilities of the intergovern-  
40 mental entity by the parties to the intergovernmental agreement that created the inter-  
41 governmental entity.

42 (5) ORS 190.110 applies to all parties to, and all intergovernmental entities created by,  
43 an intergovernmental agreement entered into under section 3 of this 2013 Act.

44 **SECTION 6a.** (1) If an intergovernmental agreement is entered into under section 3 of  
45 this 2013 Act, the Governor shall report to the Legislative Assembly as provided in ORS

1 **192.245. The report shall include a copy of the intergovernmental agreement.**

2 (2)(a) **If an intergovernmental agreement is entered into under section 3 of this 2013 Act**  
3 **during a regular session of the Legislative Assembly, the intergovernmental agreement may**  
4 **not take effect until after adjournment sine die of that regular session.**

5 (b) **If an intergovernmental agreement is entered into under section 3 of this 2013 Act**  
6 **during the interim, the intergovernmental agreement may not take effect until after**  
7 **adjournment sine die of the next regular session of the Legislative Assembly.**

8 **SECTION 7. (1) To carry out the purposes of sections 2 to 6 of this 2013 Act, counties**  
9 **within the area covered by the proclamation made pursuant to section 2 of this 2013 Act may**  
10 **impose a tax:**

11 (a) **Upon the entire taxable income of every resident of the area who is subject to tax**  
12 **under ORS chapter 316 and upon the taxable income of every nonresident that is derived**  
13 **from sources within the area which income is subject to tax under ORS chapter 316; or**

14 (b) **On or measured by the net income of a mercantile, manufacturing, business, finan-**  
15 **cial, centrally assessed, investment, insurance or other corporation or entity taxable as a**  
16 **corporation doing business, located, or having a place of business or office or having income**  
17 **derived from sources, within the area which income is subject to tax under ORS chapter 317**  
18 **or 318.**

19 (2) **A tax imposed pursuant to this section shall require the adoption of an ordinance by**  
20 **the governing body of each county authorizing a tax under this section. The Governor may**  
21 **not act on behalf of a county governing body in authorizing a tax under this section.**

22 (3) **The tax may be imposed and collected as a surtax upon the state personal income or**  
23 **corporate income or excise tax.**

24 (4) **Any tax imposed pursuant to this section shall require a nonresident, corporation or**  
25 **other entity taxable as a corporation having income from activity both within and without**  
26 **the area taxable under subsection (1) of this section to allocate and apportion such net in-**  
27 **come to the area in the manner required for allocation and apportionment of income under**  
28 **ORS 314.280 and 314.605 to 314.675.**

29 (5) **If a county governing body adopts an ordinance under this section, the ordinance shall**  
30 **be compatible with any state law establishing taxable income or relating to the adminis-**  
31 **tration, collection or enforcement of any tax law of this state, and with any rules adopted**  
32 **by the Department of Revenue under ORS 305.620 or otherwise.**

33 (6) **An ordinance adopted under this section may not declare an emergency.**

34 (7) **This section does not apply to a county that is subject to a charter that prohibits the**  
35 **imposition of county income taxes.**

36 **SECTION 8. (1) To carry out the purposes of sections 2 to 6 of this 2013 Act, counties**  
37 **within the area covered by the proclamation made pursuant to section 2 of this 2013 Act may**  
38 **impose a tax on each paying retail subscriber who has telecommunication services with ac-**  
39 **cess to the 9-1-1 emergency reporting system, to the extent the governing body determines**  
40 **that the tax is necessary to satisfy the county's funding obligations under section 3 (3)(b)**  
41 **of this 2013 Act.**

42 (2) **A county governing body that elects to impose a tax under this section may do so by**  
43 **adopting an ordinance that establishes the rate and duration of the tax, but in all other re-**  
44 **spects the tax must be imposed in accordance with ORS 403.200 to 403.230, except that:**

45 (a) **For cellular, wireless or other radio common carriers, the tax applies on a per in-**

1 **strument basis and only if the subscriber's place of primary use, as defined under 4 U.S.C.**  
2 **124, is within the county imposing the tax;**

3 **(b) For all other subscriber lines, the tax applies to lines designated for a particular**  
4 **subscriber located within the county imposing the tax; and**

5 **(c) Net revenues, after the payment of refunds, from the tax imposed under authority**  
6 **of this section shall be transferred from the suspense account described in ORS 403.235 as**  
7 **prescribed in section 8a of this 2013 Act.**

8 **(3) The Governor may not act on behalf of a county governing body in authorizing a tax**  
9 **under this section.**

10 **SECTION 8a. Moneys in the suspense account described in ORS 403.235 that are attrib-**  
11 **utable to a county tax imposed under section 8 of this 2013 Act, after the payment of refunds,**  
12 **are continuously appropriated to the Department of Revenue for distribution to the counties**  
13 **that imposed the tax.**

14 **SECTION 8b. To carry out the purposes of sections 2 to 6 of this 2013 Act, counties**  
15 **within the area covered by the proclamation made pursuant to section 2 of this 2013 Act may**  
16 **impose any other assessment the governing body is lawfully capable of imposing, to the ex-**  
17 **tent the governing body determines that the assessment is necessary to satisfy the county's**  
18 **funding obligations under section 3 (3)(b) of this 2013 Act. The Governor may not act on be-**  
19 **half of a county governing body in authorizing an assessment under this section.**

20 **SECTION 9. (1) A public safety fiscal emergency proclaimed pursuant to section 2 of this**  
21 **2013 Act terminates after 18 months unless the Governor extends the public safety fiscal**  
22 **emergency for a stated amount of time up to 18 additional months. The Governor shall con-**  
23 **sult with the Senate President, the Majority and Minority Leaders of the Senate, the Speaker**  
24 **of the House of Representatives, the Majority and Minority Leaders of the House of Repre-**  
25 **sentatives and each Senator and Representative whose district is wholly or partially within**  
26 **a county that is subject to the public safety fiscal emergency.**

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

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

31 **(4) A termination of a public safety fiscal emergency shall apply to:**

32 **(a) Income and excise tax years beginning on or after January 1 following the termi-**  
33 **nation; and**

34 **(b) Other tax or assessment reporting periods beginning on or after the first day of the**  
35 **first calendar quarter following the termination.**

36 **SECTION 10. The Legislative Assembly finds and declares that providing a coordinated**  
37 **and comprehensive response to a local or regional public safety fiscal emergency is a matter**  
38 **of state concern. The Legislative Assembly also finds that the imposition of a tax or assess-**  
39 **ment described in section 7, 8 or 8b of this 2013 Act is an integral component of any coordi-**  
40 **nated and comprehensive response, but the Legislative Assembly further finds that an**  
41 **income tax imposed under section 7 of this 2013 Act may not be imposed if the imposition**  
42 **would contradict a county charter that expressly prohibits a county income tax under any**  
43 **circumstance.**

44 **SECTION 11. ORS 203.055 is amended to read:**

45 **203.055. (1) Except as provided in subsection (2) of this section, any ordinance, adopted by**

1 a county governing body under ORS 203.035 and imposing, or providing an exemption from, taxation  
2 shall receive the approval of the electors of the county before taking effect.

3 **(2) A tax or assessment may be imposed under section 7, 8 or 8b of this 2013 Act upon**  
4 **the taking effect of an ordinance adopted by the governing body of the county that so pro-**  
5 **vides. An emergency may not be declared in an ordinance described in this subsection.**

6 **SECTION 12.** ORS 203.055, as amended by section 11 of this 2013 Act, is amended to read:

7 203.055. *[(1) Except as provided in subsection (2) of this section,]* Any ordinance, adopted by a  
8 county governing body under ORS 203.035 and imposing, or providing an exemption from, taxation  
9 shall receive the approval of the electors of the county before taking effect.

10 *[(2) A tax or assessment may be imposed under section 7, 8 or 8b of this 2013 Act upon the taking*  
11 *effect of an ordinance adopted by the governing body of the county that so provides. An emergency may*  
12 *not be declared in an ordinance described in this subsection.]*

13 **SECTION 13.** The amendments to ORS 203.055 by section 12 of this 2013 Act become op-  
14 erative on January 2, 2018.

15 **SECTION 14.** Sections 1 to 10 of this 2013 Act are repealed on January 2, 2018.

16 **SECTION 15.** Nothing in the repeal of sections 1 to 10 of this 2013 Act by section 14 of  
17 this 2013 Act affects the validity of any of the following entered into before the repeal of  
18 sections 1 to 10 of this 2013 Act:

19 **(1) A proclamation of a public safety fiscal emergency pursuant to section 2 of this 2013**  
20 **Act;**

21 **(2) An intergovernmental agreement entered into under section 3 of this 2013 Act;**

22 **(3) A tax or assessment entered into under section 7, 8 or 8b of this 2013 Act; or**

23 **(4) An extension of a proclamation made under section 9 of this 2013 Act.**

24 **SECTION 16.** This 2013 Act takes effect on the 91st day after the date on which the 2013  
25 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

26