Enrolled
House Bill 3453

Sponsored by COMMITTEE ON RULES

CHAPTER ....

AN ACT

Relating to public safety fiscal emergencies; creating new provisions; amending ORS 203.055; appropriating money; and prescribing an effective date.

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

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

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

(2) Prior to declaring a public safety fiscal emergency, the Governor shall consult with the Senate President, the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, the Majority and Minority Leaders of the House of Representatives, each Senator and Representative whose district is wholly or partially within a county that is proposed to be subject to the public safety fiscal emergency and each sheriff of a county that is proposed to be subject to the public safety fiscal emergency.

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

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

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

SECTION 3. (1) Whenever the Governor has proclaimed a public safety fiscal emergency pursuant to section 2 of this 2013 Act, the Governor may, on behalf of a unit of local government within the area covered by the proclamation and only after obtaining written authorization signed by a majority of the governing body of each local government subject to the proclamation, enter into a written intergovernmental agreement with any other unit of local government, whether inside or outside the area covered by the proclamation, for the performance of functions and activities related to public safety that a unit of local government that is party to the agreement or its officers or agencies have authority to perform.

The Governor shall consult with each sheriff affected by the proclamation prior to executing the intergovernmental agreement.

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

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

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

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

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

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

(D) Existing sources of county revenue; or

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

(4) For purposes of this section:

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

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

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

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

(C) Any extension or modification of an intergovernmental agreement entered into under this section.

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

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

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

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

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

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

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

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

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

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

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

(b) The intergovernmental agreement creating the intergovernmental entity must provide a procedure for:

(A) The disposition, division and distribution of any assets acquired by the intergovernmental entity during the term of the intergovernmental agreement that created the intergovernmental entity; and

(B) The assumption of any outstanding indebtedness or other liabilities of the intergovernmental entity by the parties to the intergovernmental agreement that created the intergovernmental entity.

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

SECTION 6a. (1) If an intergovernmental agreement is entered into under section 3 of this 2013 Act, the Governor shall report to the Legislative Assembly as provided in ORS 192.245. The report shall include a copy of the intergovernmental agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) For cellular, wireless or other radio common carriers, the tax applies on a per instrument basis and only if the subscriber's place of primary use, as defined under 4 U.S.C. 124, is within the county imposing the tax;

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

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

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

SECTION 8a. Moneys in the suspense account described in ORS 403.235 that are attributable to a county tax imposed under section 8 of this 2013 Act, after the payment of refunds, are continuously appropriated to the Department of Revenue for distribution to the counties that imposed the tax.

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

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

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

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

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

(a) Income and excise tax years beginning on or after January 1 following the termination; and

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

SECTION 10. The Legislative Assembly finds and declares that providing a coordinated and comprehensive response to a local or regional public safety fiscal emergency is a matter of state concern. The Legislative Assembly also finds that the imposition of a tax or assessment described in section 7, 8 or 8b of this 2013 Act is an integral component of any coordinated and comprehensive response, but the Legislative Assembly further finds that an

income tax imposed under section 7 of this 2013 Act may not be imposed if the imposition would contradict a county charter that expressly prohibits a county income tax under any circumstance.

SECTION 11. ORS 203.055 is amended to read:

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

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

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

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

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

SECTION 13. The amendments to ORS 203.055 by section 12 of this 2013 Act become operative on January 2, 2018.

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

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

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

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

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

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

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

Passed by House July 8, 2013

....
Ramona J. Line, Chief Clerk of House

....
Tina Kotek, Speaker of House

Passed by Senate July 8, 2013

....
Peter Courtney, President of Senate

Received by Governor:

........................M.,..., 2013

Approved:

........................M.,..., 2013

....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

........................M.,..., 2013

....
Kate Brown, Secretary of State