

HOUSE AMENDMENTS TO HOUSE BILL 3453

By COMMITTEE ON RULES

June 28

1 On page 1 of the printed bill, line 2, delete “and”.

2 Delete line 3 and insert “appropriating money; and prescribing an effective date.”.

3 In line 5, delete “8” and insert “10”.

4 Delete lines 11 through 28 and delete pages 2 through 4 and insert:

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

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

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

18 **“(4) As used in sections 2 to 10 of this 2013 Act, ‘local government’ means a county.**

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

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

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

31 **“(b) The counties that are parties to the intergovernmental agreement entered into un-**
32 **der subsection (1) of this section shall bear the remaining 50 percent, which may be funded**
33 **through:**

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

35 **“(B) A tax on telecommunications services with access to the 9-1-1 emergency reporting**

1 system under section 8 of this 2013 Act;

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

5 “(D) Existing sources of county revenue; or

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

7 “SECTION 4. (1) An intergovernmental agreement entered into under section 3 of this
8 2013 Act must specify the functions or activities to be performed and by what means the
9 functions or activities shall be performed.

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

12 “(a) Apportionment among the parties to the agreement of the responsibility for provid-
13 ing funds to pay for expenses incurred in the performance of the functions or activities.

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

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

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

21 “(2) An officer designated in an intergovernmental agreement entered into under section
22 3 of this 2013 Act to perform duties, functions or activities of two or more public officers
23 shall be considered to be holding one office.

24 “SECTION 6. (1) An intergovernmental entity created by an intergovernmental agree-
25 ment entered into under section 3 of this 2013 Act may, according to the terms of the
26 agreement, adopt all rules necessary to carry out the intergovernmental entity’s powers and
27 duties under the intergovernmental agreement.

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

32 “(3) A party to an intergovernmental agreement creating an intergovernmental entity
33 may assume responsibility for specific debts, liabilities or obligations of the intergovern-
34 mental entity.

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

39 “(b) The intergovernmental agreement creating the intergovernmental entity must pro-
40 vide a procedure for:

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

44 “(B) The assumption of any outstanding indebtedness or other liabilities of the intergov-
45 ernmental entity by the parties to the intergovernmental agreement that created the inter-

1 governmental entity.

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

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

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

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

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

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

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

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

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

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

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

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

41 “(a) The tax may be imposed on subscriber lines of subscribers whose place of primary
42 use, as defined under 4 U.S.C. 124, is within the county imposing the tax; and

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

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

3 “SECTION 8a. Moneys in the suspense account described in ORS 403.235 that are attrib-
4 utable to a county tax imposed under section 8 of this 2013 Act, after the payment of refunds,
5 are continuously appropriated to the Department of Revenue for distribution to the counties
6 that imposed the tax.

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

13 “SECTION 9. (1) A public safety fiscal emergency proclaimed pursuant to section 2 of this
14 2013 Act terminates after 18 months unless the Governor extends the public safety fiscal
15 emergency for a stated amount of time up to 18 additional months. The Governor shall con-
16 sult with the Senate President, the Majority and Minority Leaders of the Senate, the Speaker
17 of the House of Representatives, the Majority and Minority Leaders of the House of Repre-
18 sentatives and each Senator and Representative whose district is wholly or partially within
19 a county that is subject to the public safety fiscal emergency.

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

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

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

25 “(a) Income and excise tax years beginning on or after January 1 following the termi-
26 nation; and

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

29 “(5) Prior to the termination of a public safety fiscal emergency, the local governments
30 that are parties to an intergovernmental agreement entered into under section 3 of this 2013
31 Act may adopt an ordinance ratifying the creation of the intergovernmental entity to con-
32 tinue the entity beyond the termination of the emergency. The ratifying ordinance shall be
33 consistent with ORS 190.085.

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

42 “SECTION 11. ORS 203.055 is amended to read:

43 “203.055. (1) **Except as provided in subsection (2) of this section,** any ordinance, adopted by
44 a county governing body under ORS 203.035 and imposing, or providing an exemption from, taxation
45 shall receive the approval of the electors of the county before taking effect.

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

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

5 “203.055. *[(1) Except as provided in subsection (2) of this section,]* Any ordinance, adopted by a
6 county governing body under ORS 203.035 and imposing, or providing an exemption from, taxation
7 shall receive the approval of the electors of the county before taking effect.

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

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

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

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

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

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

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

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

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