

House Bill 3453

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 **as introduced**.

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; amending ORS 203.055; and
3 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 reduce the loss of life,**
6 **injury to persons or property and suffering that result from public safety fiscal emergencies**
7 **and to provide for recovery and relief assistance. These public safety objectives are to be**
8 **accomplished by creating cooperation among units of local government and granting the**
9 **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, the President and Minority Leader of the Senate and the**
12 **Speaker and Minority Leader of the House of Representatives agree unanimously that a**
13 **public safety fiscal emergency has occurred or is imminent, the Governor may proclaim a**
14 **public safety fiscal emergency.**

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

19 **(3) A proclamation made pursuant to this section shall state any units of local govern-**
20 **ment to be consolidated or merged for the purpose of providing services in the interest of**
21 **public safety and the maximum rate of an income tax assessment, if any, that may be im-**
22 **posed to fund public safety services.**

23 **(4) As used in sections 2 to 8 of this 2013 Act, "local government" has the meaning given**
24 **that term in ORS 174.116.**

25 **SECTION 3. (1) Whenever the Governor has proclaimed a public safety fiscal emergency**
26 **pursuant to section 2 of this 2013 Act, the Governor may, on behalf of a unit of local gov-**
27 **ernment within the area covered by the proclamation, enter into a written intergovern-**
28 **mental agreement with any other unit of local government, whether inside or outside 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 area covered by the proclamation, for the performance of any or all functions and activities
 2 that a unit of local government that is party to the agreement, its officers or agencies have
 3 authority to perform.

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

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

9 (2) Where applicable, the intergovernmental agreement shall provide for:

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

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

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

15 (d) The transfer of possession of or title to real or personal property.

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

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

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

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

32 (3) The debts, liabilities and obligations of an intergovernmental entity shall be, jointly
 33 and severally, the debts, liabilities and obligations of the parties to the intergovernmental
 34 agreement that created the intergovernmental entity, unless the agreement specifically
 35 provides otherwise.

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

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

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

45 (A) The disposition, division and distribution of any assets acquired by the intergovern-

1 mental entity during the term of the intergovernmental agreement that created the inter-
 2 governmental entity; and

3 (B) The assumption of any outstanding indebtedness or other liabilities of the intergove-
 4 rnmental entity by the parties to the intergovernmental agreement that created the inter-
 5 governmental entity.

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

8 **SECTION 7.** (1) To carry out the purposes of sections 2 to 8 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 within or having
 17 income derived from sources, within the area which income is subject to tax under ORS
 18 chapter 317 or 318.

19 (2) A tax imposed pursuant to this section shall require the approval of the governing
 20 bodies of each county within the area.

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

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

27 (5) If a county adopts an ordinance under this section, the ordinance shall be consistent
 28 with any state law relating to the same subject, and with rules and regulations of the De-
 29 partment of Revenue prescribed under ORS 305.620.

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

31 **SECTION 8.** (1) A public safety fiscal emergency proclaimed pursuant to section 2 of this
 32 2013 Act terminates after 18 months unless the Governor, the President and Minority Leader
 33 of the Senate and the Speaker and Minority Leader of the House of Representatives unan-
 34 imously agree to extend the public safety fiscal emergency for a stated amount of time up
 35 to 18 additional months. The Governor shall proclaim the extension.

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

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

40 (4) Prior to the termination of a public safety fiscal emergency, the local governments
 41 that are parties to an intergovernmental agreement entered into under section 3 of this 2013
 42 Act may adopt an ordinance ratifying the creation of the intergovernmental entity to con-
 43 tinue the entity beyond the termination of the emergency. The ratifying ordinance shall be
 44 consistent with ORS 190.085.

45 (5) Nothing in this section shall prohibit a unit of local government from entering into

1 **an intergovernmental agreement under ORS 190.003 to 190.130 during a public safety fiscal**
2 **emergency.**

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

4 203.055. (1) **Except as provided in subsection (2) of this section,** any ordinance, adopted by
5 a county governing body under ORS 203.035 and imposing, or providing an exemption from, taxation
6 shall receive the approval of the electors of the county before taking effect.

7 **(2) A tax may be imposed pursuant to section 7 of this 2013 Act upon receipt of the ap-**
8 **proval of the county governing body.**

9 **SECTION 10.** The Legislative Assembly finds and declares that providing a coordinated
10 and comprehensive response to a local or regional public safety fiscal emergency is a matter
11 of state concern. Notwithstanding any provision of a county charter, a tax imposed pursuant
12 to section 7 of this 2013 Act may be imposed upon receipt of the approval of the county
13 governing body.

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

17 _____