



## Curry County Counsel

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### **HOUSE BILL 3453- AN OVERVIEW OF SALIENT PROVISIONS (CONFIDENTIAL)**

- 1) The purpose of HB 3453 is 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. (Section 1)
- 2) The 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. (Section 1)
- 3) The provisions of House Bill 3453 are to be liberally construed. (Section 1)
- 4) The process would be initiated here in Curry County if and when the Board of Curry County Commissioners requests in writing that the Governor proclaim a public safety fiscal emergency.
- 5) Upon receipt of the request from the county, 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 proposed to be subject to the public safety fiscal emergency and the sheriff of the County that is proposed to be subject to the public safety fiscal emergency. (Section 2(2))
- 6) The criterion for declaring a public safety fiscal emergency is if fiscal conditions exist or are imminent in the county that compromises the ability of the county to provide a minimally adequate level of public safety services. (Section 2(1))
- 7) The Governor shall specify in a proclamation 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 an emergency, but may not be smaller than a single county. (Section 2(3))

- 8) If the Governor proclaims a local public safety fiscal emergency in Curry County, he shall first consult with the Curry County Sheriff before executing an intergovernmental agreement. (Section 3)
- 9) Following the declaration of a public safety fiscal emergency, 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 (county) 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 a party to the agreement or its officers or agencies have authority to perform. (Section 3)
- 10) ORS 190.010 (the ORS on Intergovernmental Agreements) applies to any intergovernmental agreement entered into under this law. (Section 3(2))
- 11) The State shall bear 50 percent of the cost of public safety service provided under an IGA under this Act. Section 3(3)(a)
- 12) The counties that are parties to this IGA under this law shall bear the remaining 50 percent of the cost of the public safety services, which may be funded through:
  - A. An income tax as outlined in Section 7.
  - B. A tax on telecommunication services with access to the 9-1-1 emergency reporting system
  - C. Any assessment the county governing body is lawfully capable of imposing, 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 above. (Section 3(3)(b))
- 13) For purposes of Section 3, the sheriff is considered a non-voting ex officio member of the governing body. The sheriff shall be given notice of any County Board meeting if the Board is convening for purposes of deliberating or making a decision on whether to enter into an IGA under this section, the terms and conditions of the IGA, and any extension or modification of such IGA. (Section 3((4))
- 14) Section 4 describes the content of an IGA under this law. It must specify the functions or activities to be performed and by what means the functions or activities shall be performed. In general, where applicable, the IGA will provide for apportionment among the parties to the agreement of the responsibility for providing funds to pay for expenses to be incurred, apportionment of fees or other revenue derived from functions or activities, and the transfer of personnel and the preservation of their employment benefits. (Section 4)

- 15) A unit of local government that is designated in an IGA 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... (Section 5(1))
- 16) The IGA must provide a procedure for:
- A. The disposition, division and distribution of any assets acquired by the IGA entity, and
  - B. The assumption of any outstanding indebtedness or other liabilities of the IGA entity. (Section 6(4)(b))
- 17) If an IGA is entered into during a regular session of the Legislative Assembly, the IGA may not take effect until after the adjournment sine die of that regular session. If an IGA is entered into during the interim, the IGA may not take effect until after adjournment sine die of the next regular session of the Legislative Assembly. (Section 6a)
- 18) Section 7 would allow the County to impose an income tax as described in the Act. Such a tax would be imposed through a County ordinance that cannot be adopted as an emergency, and hence would be subject to the referendum. This will be covered in greater detail in the future should you consider taking this avenue. (Section 7)
- 19) Section 8 would allow a county covered by the Governor's proclamation to impose a tax on each paying retail customer who has telecommunication services with access to the 9-1-1 emergency reporting system. Such a tax would be done by adopting a non-emergency ordinance that establishes the rate and duration of the tax. The ordinance would be subject to a referendum if sufficient signatures (411 in Curry County, according to Curry County Elections) are obtained. This section provides for additional guidance on how the tax would be applied. If the Board were interested in going down this avenue, I would provide additional information for you. (Section 8)
- 20) A public safety emergency proclaimed under this Act terminates after 18 months unless the Governor extends the public safety emergency for a stated amount of time up to an additional 18 months. (Section 9(1))
- 21) 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. (Section 9(2))
- 22) The public safety fiscal emergency proclaimed by the Governor may be terminated at any time by action of the Legislative Assembly. (Section 9(3))

23) ORS 203.055 is amended to allow the imposition of a tax provided for in HB 3453 at the end of 90 days without a vote of the people so long as a referendum with the proper number of signatures does not occur. (Section 11)

24) HB 3453 has a sunset of January 2, 2018, at which time the law is repealed. (Section 14)

25) Nothing in the repeal referenced above affects the validity of any of the following entered into before the repeal of sections 1-10 of the Act:

- A) A proclamation of a public safety fiscal emergency
- B) An IGA entered into pursuant to section 3 of the Act.
- C) A tax or assessment entered into under section 7, 8, or 8b under the Act.
- D) An extension of a proclamation made under Section 9 of the Act.