Rep. Huffman

FULL COMMITTEE PONY

HB 3453
Relating to public safety emergencies

The measure allows the Governor to determine the fiscal conditions that compromise the ability of a county to provide a minimally adequate level of services and declare a "Public Safety Fiscal Emergency" in a county. Under the bill, prior to declaring such an emergency, the Governor shall consult with Senate President, Senate Majority and Minority Leader; Speaker of the House, Majority and Minority leader of the House; and each Senator and Representative whose district is wholly or partially within county subject to the emergency. After obtaining written authorization signed by governing body of each county subject to proclamation, the Governor may enter into a written intergovernmental agreement (IGA) with the affected counties and other counties for performance of functions and activities of the affected county. The cost of the services provided under an IGA will be shared between state and counties parties to the IGA. The state will bear 50 percent of costs and affected counties will bear 50 percent of cost, To pay for the county's portion of cost, counties may impose a surtax on state personal, corporate income or excise tax; a tax on telecommunication services; impose any assessment county governing body is lawfully capable of imposing; use existing sources of county revenue; or any combination of previously identified funding sources.

The bill provides that a public safety fiscal emergency proclamation terminates after 18 months unless Governor extends the declaration. The Governor shall terminate public safety fiscal emergency by proclamation when emergency no longer exists or threat of emergency has passed. A Public safety fiscal emergency proclaimed by Governor may be terminated at any time by action of Legislative Assembly.

The amendments to the bill clarify the requirement for the Governor to consult with the Sheriff of an affected county prior to declaration and the Sheriffs' participation in the intergovernmental agreement process, initially limits a proclamation of a public safety emergency to no more than two counties, clarifies the application of the potential telecommunications tax, and prohibits an intergovernmental agreement from taking effect until the adjournment of the legislative session following the creation of the intergovernmental agreement.

The Capital Construction Subcommittee recommends HB 3453 be amended and reported out do pass, as amended.

77th OREGON LEGISLATIVE ASSEMBLY – 2013 Session **MEASURE: HB 3453-B**
STAFF MEASURE SUMMARY

Joint Committee on Ways and Means **Carrier – House: Rep. Huffman**
Carrier – Senate: Sen. Winters

Revenue:
Fiscal: Fiscal statement issued

Action: Do Pass the A-Engrossed Measure as Amended and be Printed B-Engrossed
Vote:
House
Yeas:
Nays:
Exc:
Senate
Yeas:
Nays:
Exc:
Prepared By: Matt Stayner, Legislative Fiscal Office
Meeting Date: July 7, 2013

WHAT THE MEASURE DOES: The measure allows the Governor to determine the fiscal conditions that compromise the ability of a county to provide a minimally adequate level of services and declare a "Public Safety Fiscal Emergency" in a county. Under the bill, prior to declaring such an emergency, the Governor shall consult with Senate President, Senate Majority and Minority Leader; Speaker of the House, Majority and Minority leader of the House; and each Senator and Representative whose district is wholly or partially within county subject to the emergency. After obtaining written authorization signed by governing body of each county subject to proclamation, the Governor may enter into a written intergovernmental agreement (IGA) with the affected counties and other counties for performance of functions and activities of the affected county. The cost of the services provided under an IGA will be shared between state and counties parties to the IGA. The state will bear 50 percent of costs and affected counties will bear 50 percent of cost, To pay for the county's portion of cost, counties may impose a surtax on state personal, corporate income or excise tax; a tax on telecommunication services; impose any assessment county governing body is lawfully capable of imposing; use existing sources of county revenue; or any combination of previously identified funding sources. The measure specifies minimum content of IGA; specifies that units of local government designated in IGA to perform functions or activities are vested with all powers, rights and duties relating to those functions and activities that are vested by law in each party to agreement and its officers and agencies; states that a public body officer designated in IGA to perform duties of two or more public officers shall be considered to hold one office; specifies that an intergovernmental entity created by IGA may adopt rules necessary to carry out IGA; specifies that an IGA must contain a process for division, disposition, and distribution of any assets, debt or liabilities created by entity under IGA. The bill provides that a public safety fiscal emergency proclamation terminates after 18 months unless Governor extends declaration for up to 18 more months. The Governor shall terminate public safety fiscal emergency by proclamation when emergency no longer exists or threat of emergency has passed. Public safety fiscal emergency proclaimed by Governor may be terminated at any time by action of Legislative Assembly. Termination of a public safety fiscal emergency shall apply to: Income and excise tax years beginning on or after January 1 following the termination and other assessment reporting periods beginning on or after first day of first calendar quarter following termination. Sunsets provisions of this Act on January 2, 2018. Declares emergency, effective upon passage.

ISSUES DISCUSSED:
- Fiscal Impact Statement
- Compatibility of the proposed amendments

EFFECT OF COMMITTEE AMENDMENT: The amendment to the measure makes the following changes:

- Limits the number of counties for which the Governor can proclaim a public safety fiscal emergency to no more than two for any single proclamation before July 15, 2014;
- Specifies that a telecommunications tax, if imposed, applies only to those cellular, wireless or other radio common carriers on a per instrument basis for those subscribers whose primary place of use is within the county imposing the tax. And for other carriers, only those subscriber lines located with the county imposing the tax;
- Requires the Governor to consult with the Sheriff of an affected county prior to a declaration of a public safety fiscal emergency and prior to entering into an intergovernmental agreement. The amendment also removes a provision of the bill allowing parties to an intergovernmental agreement to ratify the agreement to continue beyond the termination of the declared emergency;
- Modifies the bill so that after the Governor has declared a public safety fiscal emergency, the sheriff of an affected county is to be considered a non-voting ex officio member of the governing body and the sheriff must be given notice if a meeting held for the purpose of deliberating or making a decision on entering into an intergovernmental agreement, the terms and conditions of an intergovernmental agreement, or any modification or extension of an intergovernmental agreement; and
- Modifies the bill so that an intergovernmental agreement created for the purpose of the bill must be included in the Governor's report to the Legislative Assembly as provided in ORS 192.245. The amendment also prevents an intergovernmental agreement entered into during a legislative session to take effect until the adjournment of that session or the adjournment of the session following if the agreement is entered into during the interim.

BACKGROUND: In an effort to reduce injury to persons and property resulting from public safety emergencies, House Bill 3453-A creates opportunities for cooperation among units of local government and allows the Governor to act on their behalf. The Governor may proclaim a public safety fiscal emergency, in consultation with Senate President, Majority and Minority Leader; Speaker, Majority and Minority leader of the House; and each Senator and Representative whose district is wholly or partially within county. Upon proclaiming a public safety fiscal emergency, the Governor may enter into intergovernmental agreements (IGAs) with local governments. Those IGAs must specify the functions or activities to be performed and how, including the apportionment of fees and revenues between parties.

FISCAL IMPACT OF PROPOSED LEGISLATION **Measure: HB 3453 - B**

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

Prepared by:	Matt Stayner
Reviewed by:	John Borden, Daron Hill
Date:	7/7/13

Measure Description:
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.

Government Unit(s) Affected:
Statewide, Department of Revenue(DOR)

Analysis:
The fiscal impact of the measure is indeterminate. There are several unknown or undefined elements in the bill that preclude the ability to estimate the cost as follows.

The measure allows the Governor the power to act on behalf of units of local government in the event of a public safety fiscal emergency. For the purpose of the bill, “local government” is defined as a county. After consultation 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 an Representative whose district is wholly or partially within a county that is subject to the public safety emergency, and following the proclamation of such an emergency, the Governor, after obtaining written authorization signed by the majority of the governing body of each local government subject to the proclamation, may enter into a written intergovernmental agreement with any other local government for the performance of activities related to public safety. The measure specifically declares that the provisions contained in the bill should be construed liberally and the term “public safety” is not defined in the measure, therefore it is unknown what services would be provided under the intergovernmental agreements.

The measure requires that half of the costs to provide these public safety services shall be paid by the state and the other half shall be paid by the counties that are parties to the intergovernmental agreement. The bill allows for the county portion to be funded by a telecommunications tax, an income tax on both personal and corporate income (unless specifically prohibited by county charter or other elsewise), any lawful county assessment, existing county revenue, or any combination of these sources. The measure amends statute so that a tax adopted by a county as provided under this bill is not required to be approved by the electors of a county before taking effect. The revenues and expenditures are to be apportioned among the parties, but it does not provide specifically which party would pay. It is unclear if the county providing the services would also be required to pay for the services and whether the imposition of additional taxes, assessments and so forth would apply to all parties in the agreement. There is no source of funding, or mechanism for funding, the state portion of the costs in the measure, nor does the measure make an allowance for the cost to the state to administer the agreements or provide subsequent support for the agreements such as the collection and distribution of the surtaxes by the Department of Revenue.

HB 3453-A27
(LC 3748)
7/7/13 (DAJ/ps)

PROPOSED AMENDMENTS TO A-ENGROSSED HOUSE BILL 3453

On page 1 of the printed A-engrossed bill, delete lines 15 through 19 and insert:

"(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.".

On page 2, after line 4, insert:

"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.".

In line 12, after the period insert "The Governor shall consult with each sheriff affected by the proclamation prior to executing the intergovernmental agreement.".

After line 27, insert:

"(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.".

On page 3, after line 24, insert:

"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.".

On page 4, delete lines 17 and 18 and insert:

"(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".

In line 19, delete "(b)" and insert "(c)".

On page 5, delete lines 5 through 9.
