



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: November 16, 2018

TIME: 1:03 PM

WSR 18-23-068

Agency: Department of Revenue

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-07-072 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) WAC 458-19-090 titled Fire protection district formation-Cities and towns-Highest lawful levy. This new rule was written because of legislation passed in 2017, ESSB 5628, which allows a city or town to form a fire protection district under certain conditions.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
January 2, 2019	1:00 p.m.	Conference Room 114A 6400 Linderson Way SW Tumwater, Washington 98501	Copies of draft rules are available for viewing and printing on our website at dor.wa.gov Call in option can be provided upon request no later than 3 days before the hearing date.

Date of intended adoption: January 9, 2019 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Leslie Mullin

Address: PO Box 47453, Olympia, WA 98504-7453

Email: LeslieMu@dor.wa.gov

Fax: 360-534-1606

Other:

By (date) January 2, 2019

Assistance for persons with disabilities:

Contact Julie King or Renee Cosare

Phone: (360)704-5733 or (360) 704-5734

Fax:

TTY: 800-833-6384

Email:

Other:

By (date) _____

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This new rule provides a comprehensive example to cities and towns on how to calculate their highest lawful levy, if the city or town forms a fire protection district under RCW 52.02.160.

Reasons supporting proposal: Providing an example of how to calculate the highest lawful levy for cities or towns that establish a fire protection district under RCW 52.02.160 will assist the county assessor's office in its levy calculations and assist the affected taxing districts with budgeting.

Statutory authority for adoption: RCW 84.08.010, 84.08.070, 84.55.060

Statute being implemented: RCW 52.02.160 and RCW 84.55.092

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Department of Revenue Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Leslie Mullin	6400 Linderson Way SW, Tumwater, WA	(360) 534-1589
Implementation:	Randy Simmons	6400 Linderson Way SW, Tumwater, WA	(360) 534-1605
Enforcement:	Randy Simmons	6400 Linderson Way SW, Tumwater, WA	(360) 534-1605

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: This rule is not a significant legislative rule as defined by RCW 34.05.328.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW ____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. The proposed language for this new rule clarifies the calculation of the highest lawful levy already described in RCWs 52.02.160 and 84.55.092. This proposed new rule does not impose more than minor costs on businesses, as it does not propose any new requirements not already provided for in statute.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: November 16, 2018

Name: Erin T. Lopez

Title: Rules Coordinator

Signature:



NEW SECTION

WAC 458-19-090 Fire protection district formation—Cities and towns—Highest lawful levy.

(1) **Introduction.** RCW 52.02.160 allows a city or town to establish a fire protection district, subject to voter approval, within the same corporate boundaries of the city or town, for the provision of fire prevention services, fire suppression services, emergency medical services, and for the protection of life and property within the city or town. This rule explains how to calculate the highest amount of regular property taxes that can be lawfully levied (highest lawful levy) by a city or town that creates this type of fire protection district.

(2) **Definitions.** The definitions found in WAC 458-19-005 apply to this rule.

(3) **Example.** This rule includes an example that identifies a number of facts and then states a conclusion. This example should only be used as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

(4) **Highest lawful levy limit calculation.**

(a) **First year.** A city or town that establishes a fire protection district under RCW 52.02.160 must reduce its highest lawful levy by the total amount initially levied in the first year by the newly established fire protection district. This reduced amount will become the new highest lawful levy for the city or town, and will be used for subsequent levy limit calculations under chapter 84.55 RCW. This reduction in the highest lawful levy for the city or town must occur in the first year the newly established fire protection district imposes its property tax levy.

(b) **Second and subsequent years.** The city or town must further reduce its highest lawful levy in subsequent years if the fire protection district initially imposes any additional regular property tax levies as allowed under RCW 52.16.140 and 52.16.160 in those subsequent years.

(c) **Maximum rate.** The maximum statutory dollar rate for fire protection districts is one dollar and fifty cents per one thousand dollars of assessed value. This rate consists of three regular property tax levies as follows: RCW 52.16.130 (up to \$0.50), 52.16.140 (up to \$0.50), and 52.16.160 (up to \$0.50).

Example. City A establishes a fire protection district under RCW 52.02.160. Prior to the formation, City A annually levied an amount of \$200,390, which is equal to its highest lawful levy. In this example, the maximum statutory dollar rate of the city is \$3.375 per \$1,000 of assessed value.

First year levy. In its first year, the newly established fire protection district determines it will need to levy \$57,000 and its total assessed value is \$59,375,000 (the same total assessed value as City A). This levy amount is the equivalent to a levy rate for the fire protection district of \$0.96 per \$1,000 of assessed value ($\$57,000 / \$59,375,000 (1,000)$), thus the district is initially imposing regular property tax levies under RCW 52.16.130 (\$0.50) and 52.16.140 (\$0.46) in the first year. Therefore, City A must reduce its highest lawful levy by \$57,000. City A's reduced highest lawful levy amount is the amount it will use when calculating the following year's levy calculations.

Second year levy. One year later, the fire protection district requests an increased levy amount of \$74,000 and its total assessed value, along with the total assessed value of City A, has increased to \$60,655,738. The increased levy amount is the equivalent to a levy rate for the fire protection district of \$1.22 per \$1,000 of assessed value ($\$74,000/\$60,655,738(1,000)$), thus the district is imposing regular levies under RCW 52.16.130, 52.16.140, and is initially imposing the third regular levy under RCW 52.16.160 (\$0.22). Therefore, City A must further reduce its highest lawful levy by the amount resulting from the fire district initially imposing the third regular levy under RCW 52.16.160. The additional amount resulting from the initial imposition of the fire protection district's third regular levy under RCW 52.16.160 is \$13,344 ($\0.22 per \$1,000 of assessed value multiplied by the total assessed value of \$60,655,738). City A must make a reduction of \$13,344 to its highest lawful levy. City A's newly reduced highest lawful levy is the amount it will use when calculating the following year's levy calculations.

Subsequent year levies. In subsequent years, if the fire protection district's levy rate increases beyond \$1.22 per \$1,000 of assessed value, City A is not required to further reduce its highest lawful levy because the fire protection district had already initially imposed all three regular levies under RCW 52.16.130, 52.16.140, and 52.16.160.

(5) Constitutional one percent limit and five dollars and ninety cents aggregate dollar limit. Fire protection district levies are subject to the constitutional one percent limit for regular property taxes and the statutory aggregate dollar rate limit of five dollars and ninety cents per thousand dollars of assessed value. If a reduction in a fire protection district levy is required because it exceeds these limits, it is reduced in the manner described in RCW 84.52.010, 84.52.043, and 84.52.125.