



# PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: May 22, 2018

TIME: 10:09 AM

WSR 18-11-111

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:
June 27, 2018	10:00 A.M.	Conference Room 114A 6400 Linderson Way SW Tumwater, Washington 98501	

**Date of intended adoption:** July 3, 2018 (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) June 27, 2018

**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:** May 22, 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 provides that a city or town may 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 the calculation of the highest lawful levy for cities or towns that create a fire protection district under these conditions.

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

(3) **Examples.** 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) **Levy limit calculation.** A city or town that establishes a fire protection district under RCW 52.02.160 must reduce its highest lawful levy since 1986 by the total amount levied in the first year by the newly established fire protection district. This reduced amount will become the new highest lawful levy since 1986 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.

The city or town must further reduce its highest lawful levy in subsequent years if the fire protection district did not impose all regular property tax levies as allowed under RCW 52.16.130, 52.16.140, and 52.16.160. The maximum statutory dollar rate for fire protection districts is one dollar and fifty cents per one thousand dollars of assessed value.

**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 since 1986. In this example, the maximum statutory dollar rate of the city is \$3.375 per \$1,000 of assessed value. 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, thus the district is imposing regular levies under RCW 52.16.130 and 52.16.140. 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 for subsequent levy calculations.

Two years 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, thus the district is imposing regular levies under RCW 52.16.130, 52.16.140, and 52.16.160. Therefore, City A must further reduce its highest lawful levy by the amount resulting from the fire district imposing its third regular levy under RCW 52.16.160. The additional amount resulting from the initial imposition of the fire protection

Under no circumstances is this proposed rule to be used to determine tax liability and/or exemptions.

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 final reduction of \$13,344 to its highest lawful levy. City A's newly reduced highest lawful levy is the amount it will use for subsequent levy calculations. 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.

DRAFT