



King County

Budget and Fiscal Management Committee

STAFF REPORT

Agenda Item: 4

Name: Polly St. John

Proposed No.: 2013-0165

Date: May 21, 2013

SUBJECT

AN ORDINANCE providing for a November ballot measure to support the Medic One emergency medical services (EMS) 2014-2019 levy at a rate of \$0.335 or less per \$1,000 of assessed valuation.

SUMMARY

This is the second hearing on the proposed ballot measure. This report will provide background regarding the EMS system and update members on the status of the EMS Strategic Plan, which is the primary policy and financial document for the 2014-2019 levy period. The report will also provide an overview of the financial assumptions supported by the rate proposal.

RCW 84.52.069 requires that for a countywide EMS levy, cities over 50,000 in population must approve the plan and placement of a levy on the ballot. This requirement is usually accomplished by each city's adoption of a resolution¹ endorsing the levy. Only legislation approved by the City of Seattle is outstanding, but action by the city is anticipated on June 3, 2013.

BACKGROUND

King County Medic One/EMS System: King County's Medic One/EMS system provides residents of Seattle and King County with life-saving services through an internationally recognized tiered regional response system. This system relies upon coordinated partnerships with fire departments, paramedic agencies, dispatch centers and hospitals.

For a full understanding of the system operations, the following list shows the components of the tiered system:

1. **Universal Access:** A patient or bystander accesses the Medic One/ EMS system by calling 9-1-1 for medical assistance. Bystanders' reactions and rapid responses to the scene can greatly impact the chances of patient survival.

¹ All city resolutions will be transmitted to the Clerk of the Council to include as part of the legislative file for Proposed Ordinance 2013-0165.

2. Dispatcher Triage: Calls to 9-1-1 are received and triaged by professional dispatchers who determine the most appropriate level of care needed. Dispatchers are trained to provide pre-arrival instructions for most medical emergencies and guide the caller through life-saving steps, including Cardiopulmonary Resuscitation (CPR) and Automated External Defibrillator (AED) instructions, until the Medic One/EMS provider arrives.
3. Basic Life Support (BLS): BLS personnel are the “first responders” to an incident, providing immediate basic life support medical care that includes advanced first aid and CPR/AED to stabilize the patient. Staffed by firefighters trained as Emergency Medical Technicians (EMTs), BLS units arrive at the scene in under five minutes (on average). BLS contributes significantly to the success of the Medic One/EMS system. These services are provided by Emergency Medical Technicians (EMT)/Firefighters with 120 hours of EMT training. BLS services are provided by 30 fire departments/districts across King County.
4. Advanced Life Support (ALS): Paramedics provide out-of-hospital emergency medical care for critical or life-threatening injuries and illnesses. As the second on scene, they provide airway control, heart pacing, the dispensing of medicine and other life-saving procedures. Also known as Medic One, these services are for the most serious injuries and illnesses and are provided by paramedics with 3000 hours of highly specialized university training. Six specialized providers, employing 26 medic units, cover sub-regions of the county. These regional providers are: Seattle Medic One, Shoreline Medic One, Redmond Medic One, Bellevue Medic One, Vashon-Maury Medic One and King County Medic One (south county area). ALS services to the Skykomish area are provided under contract by Snohomish County Fire District 26.
5. Transport to Hospitals: Once a patient is stabilized, it is determined whether transport to a hospital or clinic for further medical attention is needed. Transport is most often provided by an ALS agency, BLS agency or private ambulance.

In addition to these components of the system, King County EMS also oversees Strategic Initiatives and Regional Services. These core programs and services further provide for regional coordination and consistent quality across all jurisdictions in King County. These services include program supervision, BLS EMT staff training, E-911 dispatch training, medical data collection and analysis, financial oversight, contract administration, and division management. EMS regularly integrates initiatives that are aimed at preventing/reducing emergency calls and improving the quality of the services.

Strategic Plan Recommendations: The EMS Strategic Plan is the primary policy and financial document that will direct the Medic One/EMS system from 2014 to 2019 and forms the basis for the levy that the Council will ask voters to approve to fund the EMS program

Ordinance 17578 approving the EMS Strategic Plan was adopted by the Council on May 6, 2013 after consideration by the Regional Policy Committee (RPC) and the Law, Justice, Health and Human Services (LJHHS) Committee. (The plan was amended in RPC to

include an independent analysis of ALS service provision, a study to develop scope of work and staffing models for two new initiatives, and to make other technical revisions.)

Table 1 below summarizes the major components of the EMS Strategic Plan for 2014-2019: *Strategic Plan pages that specifically address each area have been added for reference:*

Table 1. Operational and Financial Recommendations

Financial Recommendations		<i>pages 43-73</i>
Continue with the EMS levy	<ul style="list-style-type: none"> • Six-year EMS levy, per RCW 84.52.069 • Forecasted budget of \$695 million over six-year span, including reserves • Levy rate of 33.5 cents/\$1,000 Assessed Valuation • Maintain financial policies, use of reserves, use a 65% confidence level for financial model • Would be run at either the 2013 Primary or General election, with the King County Council determining which election 	
ALS Recommendations		<i>pages 23-31</i>
Continue services from 2008-2013 levy	<ul style="list-style-type: none"> • Continue operations with the 26 units currently in service • Fully fund eligible costs of existing paramedic services to prevent cost shifting to agencies • Fund units starting at \$2.12 million per unit, using approved unit allocation methodology • Continue to refine costs through effectiveness and efficiencies analysis • Project annual increases using a compound inflator 	
Provide to meet expected demands	<ul style="list-style-type: none"> • No new medic units over the span of a six-year levy • Reserves to cover unanticipated and one-time expenses • Efficiencies to refine ALS costs and increase effectiveness • Funding for a possible 12hour medic unit in the later years of the levy in case demand for services increases 	
BLS Recommendations		<i>pages 32-35</i>
Continue services from 2008-2013 levy	<ul style="list-style-type: none"> • Partial funding for BLS services (firefighters/EMTs) • Maintain King County portion of BLS funding at same percentage of overall expenses of previous levy period (23%) • Maintain current funding formula for allocation (based 50/50 on Assessed Values and Call Volume) 	
Provide to meet expected demands	<ul style="list-style-type: none"> • Inflate annual costs using CPI-W + 1% • Programs and Initiatives that help manage growth, reduce impacts and increase the role of BLS agencies in regional decision-making 	
Regional Services Recommendations		<i>pages 36-42</i>
Continue services from 2008-2013 levy	<ul style="list-style-type: none"> • Essential Regional Services programs that support the Medic One/EMS system • Continue audits by the King County Auditor's Office 	
Provide to meet expected demands	<ul style="list-style-type: none"> • Re-scoped and enhanced Regional Services programs to meet emergent needs 	
Strategic Initiatives Recommendations		<i>pages 36-42</i>
Continue services from 2008-2013 levy	<ul style="list-style-type: none"> • Conversion of ten 2008-2013 initiatives that have improved the quality of service and managed growth and costs into Regional Services programs to become on-going programs 	
Provide to meet expected demands	<ul style="list-style-type: none"> • Revamp three current initiatives – BLS efficiencies, EMS efficiency and effectiveness studies, and Community Medical Technician (CMT) Program • Add three new initiatives – Vulnerable Populations, Regional Records Management System, BLS Lead Agency 	

Strategic Plan Amendments: The RPC amended the Strategic Plan by making the following changes:

1. Language was removed that described the number of paramedic providers as “no more than six” and returned it to the original language of “six”.
2. Language was removed that described “no new providers” to ensure that any changes in the provision of ALS services would not be limited by changes in the governance structures for service provision, such as annexations, incorporations, new regional fire authorities.
3. The financial plan was based on the August 2012 forecast from the Office of Economic and Financial Analysis (OEFA). Based on the new March 2013 OEFA Forecast, the financial plan was updated to reflect the most recent property tax information, to add an AV reserve, and to fund the two new studies discussed in item 5.
4. Language was changed in the appendices titles and tables, substituting the word “planned” for the word “financed” or “funded” to ensure that the language comports with the ordinance that states that the Strategic Plan “shall inform and update” the provision of EMS in King County.
5. Two new additional recommendations were added for Regional Services Programs:
 - a. Recommendation 9 adds an independent study be conducted and completed before mid-2016 to determine the correct number of ALS providers this area needs. This study was added to help inform the 2020-2025 levy process.
 - b. Recommendation 10 adds a study to create the scopes of work and staffing models for two new strategic initiatives: the Records Management System and the BLS lead agency

These recommendations require the EMS Advisory Task Force, the Regional Policy Committee, and the King County Council to review the studies’ scope of work and final recommendations. The Task Force expired after making recommendations for the 2014-2019 EMS levy proposal. Consequently, the Council will need to pass legislation reestablishing the Task Force to accomplish this body of work.

Funding of EMS Services and Levy Authorization: The Revised Code of Washington (RCW) 84.52.069 authorizes EMS levies and stipulates that revenues collected may only be used for EMS operations and support purposes. This type of levy is considered an excess levy and is collected outside the \$1.80 limit for county taxing authority and the \$5.90 limit for the maximum aggregate rate of \$5.90 per \$1,000 of assessed value for counties, cities, fire districts, library districts and certain other junior taxing districts.

Further, RCW 84.52.069 requires that for a countywide EMS levy, cities over 50,000 in population must approve the plan and placement of a levy on the ballot. The exact language in Section 6 states that "*no countywide levy proposal may be placed on the ballot without the approval of the legislative authority of each city exceeding fifty thousand population within the county.*" This requirement is usually accomplished by each city approving legislation to endorse the levy.

Since 1980, EMS services in King County have been funded, in part, by an EMS Levy approved by the voters². The current levy period is 2008 through 2013.

EMS levies in King County have typically been approved for six-year periods with rates in recent years ranging from \$0.25 per \$1,000 assessed valuation (AV) to \$0.30 per \$1,000 AV. Current Washington State Law permits EMS levies to be approved for six years, ten years, or on a permanent basis. However, EMS levies in King County have never been authorized for more than six years.

The current EMS levy was approved in November, 2007 for a period of six years (2008-2013), at a levy rate of \$.30 per \$1,000 AV. Due to the limitations of state law, total property tax collections in the county cannot exceed an increase of more than 1% per year (excluding new construction). In 2013, the maximum rate approved by the voters of \$0.30 is being levied and is expected to generate revenues of approximately \$92 million countywide.

Past King County EMS levies have been authorized as six year levies³ in accordance with state law. Past levy rates are shown in Table 1, below:

Table 2. EMS Levy History

Levy Period	Rate per \$1,000
2008 - 2013	\$0.30
2002 - 2007	\$0.25
1999 - 2001 (3 year levy)	\$0.29
1992 - 1997	\$0.25
1986 - 1991	\$0.25
1980 - 1985	\$0.21

Status of Approval by Cities over 50,000 in Population: RCW 84.52.069 requires that for a countywide EMS levy, cities over 50,000 in population must approve the plan and placement of a levy on the ballot. The exact language in Section 6 states that *"no countywide levy proposal may be placed on the ballot without the approval of the legislative authority of each city exceeding fifty thousand population within the county."* This requirement is usually accomplished by each city approving legislation to endorse the levy.

Nine cities meet the criteria required by RCW 84. Those cities are Auburn, Bellevue, Federal Way, Kent, Kirkland, Redmond, Renton, Seattle, and Shoreline. The City of Seattle usually supports the levy by passing legislation approving an interlocal agreement with King County to provide EMS services. Although the city has not yet done so, the city is planning a briefing regarding the legislation on May 20th⁴. Currently, final City Council action is anticipated on June 3, 2013.

² Early levy support also included approximately \$350,000 from the General Fund and is also supported by small grants.

³ An exception was a three year levy for the 1999-2001 period after the November, 1997 levy failure, in which the EMS levy only received a 56% "yes" vote (state law requires a super-majority or 60% "yes" vote to authorize). In February 1998, the voters overwhelmingly passed (81%) a three year regular levy at \$.29 per \$1,000.

⁴ City of Seattle Council Bill Number: 117786

Ballot Measure Timing and Validation: The EMS Strategic Plan and Proposed Ordinance 2013-0165 assume that the recommended programs will be supported by a levy rate of \$0.335 cents per \$1,000 Assessed Valuation (AV). This rate as well as the use of fund balance and reserves is projected to support \$696 million in expenditures over six years to maintain the current levels of service and to meet future demands. Proposed Ordinance 2013-0165, if approved, would place an EMS levy on the November 5, 2013 special election.

During the last legislative session, the legislature approved SSB 5381, adjusting the voting requirements for the reauthorization of EMS levies. The legislation was signed by the Governor on March 29, 2012 and became effective June 7, 2012. The new law allows a simple majority election (50% plus one) for renewal of either a six year or ten year EMS levy. In the past, voter turnout equal to 40% of those who voted in the previous general election and a super majority of 60% favorable support was required for approval of or renewal of an EMS levy. **Attachment 4**, SSB 5381 Final Bill Report, is a summary of the bill obtained from the state website.

An informal opinion dated November 30, 2012 from the Attorney General (AG) of Washington, **Attachment 5**, states on page 7 that:

A ballot measure that asks the voters to approve an EMS levy at a higher rate is not simply an “uninterrupted continuation” of the prior levy. Where two levies are authorized at different rates the second cannot be considered a mere “continuation” of the first, even if they are “uninterrupted” in time. To qualify as a “continuation” of the first levy, the second levy must prolong the same levy rate previously approved by a three-fifths majority of the voters in the initial multi-year levy. A levy authorization that is uninterrupted in time, but discontinuous in effect, is a new “initial” levy rather than a continuation levy qualifying for voter approval by a simple majority vote.

The Department of Revenue (DOR) has indicated that the department has adopted an unofficial Attorney General’s interpretation of the term “uninterrupted continuation of a six-year or ten-year levy”. Based on this interpretation, if the council adopts an EMS levy ordinance that sets the levy rate higher than the current levy rate of \$0.30 per \$1,000 AV, the ballot measure would need to comply with the higher voter validation requirements and could not be validated by a simple majority. However, if the council adopts an EMS levy ordinance with a levy rate at \$.30, the ballot proposition can be approved by a simple majority.

As instructed by the DOR, the proposed levy rate of \$0.335 would require a voter turnout equal to 40% of those who voted in the previous general election and a super majority of 60% favorable support for approval of or renewal of an EMS levy.

On March 28, 2013, Council staff was notified that the Washington State Council of Fire Fighters (WSCFF) is working with legislators to make a formal request for an official opinion from the Attorney General's Office regarding levy renewal requirements.

Attachment 6 to this report is a letter dated May 13, 2013 from State Representative Kevin Van De Wege asking for a formal opinion from the Attorney General's Office. The letter asks for an opinion on whether "a simple majority of fifty percent plus one rather than the three-fifths needed to initially impose the levy" would be needed for validation. Until the AG's Office issues a response, it is assumed that validation of the EMS levy ballot measure would require voter turnout equal to 40% of those who voted in the previous general election and a super majority of 60% favorable support.

Preferred Funding Recommendation:

Economic Conditions: During planning for development of the Strategic Plan, an EMS Task Force received regular briefings by the county's Chief Economist on current revenue forecasts and economic conditions facing the region. Economic conditions impacting the EMS levy assumptions include the following:

- The national economy is slowly recovering, although there are risks to continued recovery.
- King County's economy is recovering with increased employment, retail sales growth and a stabilizing housing market.
- Countywide assessed value (AV) is likely to fall in 2013 and 2014 but recover afterwards.
- New construction is still depressed and likely to stay that way for a while.
- Inflation is up in 2012, but should moderate in future years as long as energy prices remain stable.
- Countywide AV in 2014 is projected to be approximately 6% less than AV in 2008 which was the first year of the current EMS levy period.

Due to these factors, the 2014-2019 EMS Financial Plan differs from previous levies by:

1. **Limited new programs and expenditures:** With previous levies, substantial increases were implemented during the first year of each new levy. In contrast, there is reduced planned spending in the first year of the 2014-2019 levy, when adjusted for inflation. Proposed new services and programs are minimal and are offset by reduced expenditures. Overall proposed increases across the levy span are less than projected CPI plus increased population.
2. **System-wide Regional Reductions:** EMS levy policy decisions made during the Task Force planning process impacted EMS agencies throughout the entire system. The Task Force recommendations were to control growth and to provide system efficiencies while providing the same service levels to King County citizens. The following list provides examples of these decisions that resulted in over \$30 million in system-wide reductions.

A. **(\$9,591,257)** Reduced unit allocation.

ALS providers reviewed the unit allocation and made deliberate cuts of over \$84,000 per year, resulting in over \$9.5 million in savings over the span of the levy period.

Breakdown by ALS agency (not including Seattle)

Agency	2014-2019 Reduction
Bellevue	\$ (2,019,212)
Redmond	\$ (1,514,409)
Shoreline	\$ (1,514,409)
KCM1	\$ (4,038,424)
Vashon	\$ (504,803)
TOTAL	\$ (9,591,257)

B. **(\$9,800,000)** Commitment to no new medic units over the levy span.

ALS agencies deliberated over the potential need for additional new medic units and decided that the region had enough capacity to manage expected growth and agreed to add no new units. This decision was based on the region's past and continued ability to manage growth of ALS calls through dispatch and other initiatives. Traditionally, the levy has included at least one new unit per levy – phased in over the course of the six years. The approximate impact for this service decision is \$9.8 million.

C. **(\$3,800,000)** Forego total BLS allocation increase.

BLS agencies discussed the possibility of increasing the total BLS allocation. Every department was impacted by the economic downturn and had only limited options for getting additional revenues. However, BLS agencies agreed that asking for additional funding was inappropriate due to the economic conditions. Although the difference between the current levy period and what is proposed in the 2014-2019 Strategic Plan is only \$377,000, BLS agencies relinquished over \$3.8 million by deliberately choosing not to follow the past practice of resetting the first year allocation for the new levy period.

D. **(Reduced to 4.73%)** BLS allocation formula unchanged.

BLS agencies agreed not to change how the BLS funding is distributed among agencies. However, this conflicts with the past practice of supporting smaller rural agencies. Smaller agencies will be forced to compete alongside very large urban departments for funds, placing them at a disadvantage. This decision reduced the rural proportion from 6.01% to 4.73% of the total allocation.

E. **(\$2,685,913)** Phasing in regional programs.

One strategy to reduce costs of regional programs was to phase in components of specific proposed programs, resulting in implementation and timing differences across the county. The impact associated with two programs that made the largest reductions – the Regional Record Management System and the Community Medical Technician – is equal to \$2.6 million.

F. **(\$4,600,000)** Reduced opportunities for EMS agencies.

EMS agencies agreed to cut regional program costs in order to keep the levy rate down, which results in a reduction of approximately \$4.6 million over the life of the levy. The bulk of these cuts were in regional programs that directly benefit EMS agencies such as training, growth management, and quality improvement programs.

3. Reduced proposed revenues: The 2014-2019 levy proposes using funds from the 2008-2013 levy to reduce or “buy down” the amount needed to be raised over planned expenditures. Estimated savings are \$21 million, or a reduction of 1.6 cents, and results in the proposed levy rate of 33.5 cents per \$1,000 assessed valuation. The savings result through changes in reserve levels, aggressive management to control expenditures, use of fund balance, and conservative revenue forecasts.

The "buy down" of the rate reflects management strategies that include the application of millage reduction reserves that were mandated in the current levy and by use of fund balance. The savings are also realized through not adding two anticipated 12-hour ALS units during the 2008-2013 levy period, reducing of previous contingency assumptions such as the ALS Disaster Relief Contingency, reducing 2008-2013 strategic initiatives, and regional services using existing program balances. These forecast savings from 2012 and 2013 are assumed toward a buy down for the rate.

Financial Assumptions to Support the Strategic Plan Programs for 2014-2019

The 2014-2019 EMS Financial Plan, like other financial plans, is based on numerous assumptions and acknowledges that actual conditions may differ from the original projections. The objective is to create a plan that is flexible enough to handle changes as they occur while remaining within expected variance. Key financial assumptions provided by the King County economist include new construction growth, assessed value, inflation and cost indices.

The financial tables below have been updated to reflect the revised financial plan adopted in the Strategic Plan. The EMS financial plan was revised to reflect changes in assessed valuation estimates and to include funding for new studies added in the Strategic Plan. Financial assumptions will change as more current economic forecasts become available. Of note, anticipated revenues, expenditures and reserves are annually reviewed and updated by the EMS Advisory Committee Financial Subcommittee, the EMS Advisory Committee, and the King County Council (usually during budget deliberations).

Revenues: The revenue forecast is based on assumptions of the assessed value at the start of the levy period, assessed value growth, and new construction growth, as forecast by the King County Economist. In addition, the King County Economist recommended assuming a 99% collection rate for property taxes (1% delinquency rate). Other considerations are the division of revenues between the City of Seattle and the King County EMS fund, interest income on fund balance, and other revenues. *(As in all past levies, revenues collected in the City of Seattle are sent directly to the city by King County; revenues for the remainder of the county are deposited in the King County EMS fund.)*

An average annual property tax collection amount of \$113 million is estimated, with total revenues of \$683.2 million forecasted over the six year period, as shown in Table 4 below:

Table 3. Forecasted Property Tax Revenue for 2014 - 2019 (in millions)
Figures assume a 1% delinquency rate

	2014	2015	2016	2017	2018	2019	TOTAL
City of Seattle	\$40.6	\$41.6	\$42.3	\$43.0	\$43.7	\$44.4	\$255.6
KC EMS Funds	\$67.6	\$69.0	\$70.5	\$72.0	\$73.5	\$75.0	\$427.6
Total	\$108.2	\$110.6	\$112.8	\$115.0	\$117.2	\$119.4	\$683.2
<i>Growth in Total Levy</i>		2.22%	1.99%	1.95%	1.91%	1.88%	

The King County portion of revenues includes \$5.05 million that is assumed from charges for services, interest income, and other financial sources.

Expenditures

The proposed financial plan anticipates \$682.2 million to support programs and services. Table 5 below denotes the costs by program area:

Table 4. EMS Expenditures by Program Area and Reserve Assumptions

Program Area	Seattle	King County	Total
Advanced Life Support - ALS	\$121,390,108	270,338,534	391,728,642
Basic Life Support – BLS	121,833,460	103,210,353	225,043,813
Regional Support Services/Audit		55,378,130	55,378,130
Strategic Initiatives/CMT Program		10,017,546	10,017,546
Subtotal	243,223,568	438,944,563	682,168,131
Reserves		13,943,616	13,943,616
TOTAL EXPENDITURES	243,223,568	452,888,179	696,111,747

The Task Force finance group endorsed expenditure and revenue assumptions. These assumptions include policies for the “buy down” use of reserves, inflator policies, and the use of a 65% confidence level for forecasting financials. Essentially, the buy down equals the difference between assumed revenue and projected total expenditure and reserve amounts.

The revised financial plan decreases by \$8 million the amount of buy down assumed from \$21 million to \$13 million. This amount could be held to address any revenue fluctuations over the six year levy period. Analysis currently shows that overall property values are increasing in Seattle, but not throughout the rest of the county. This difference in AV could result in lower collections for the King County portion of the levy over the six year period. Any differences in the buy down amount not needed to cover expenses should be held in the financial plan to address lower AV collections or to reduce the levy rate for the period beginning in 2020.

Impact on the Rate Payer

The proposed programs and financial assumptions to support them that are contained in the Strategic Plan are cost effective for King County citizens. This Medic One/EMS levy proposal increases services at a funding level that is lower than the cost of continuing the current six-year funding level with inflation. The Table 5 below provides a comparison:

Table 5. Initial Year Cost Per Household

Year	Average Cost per Household	EMS Calls	
		BLS	ALS
2008	\$110	176,000	50,796
2014	\$107	164,690	45,220

The proposed levy rate of 33.5 cents per \$1,000 assessed valuation (AV) means that the average homeowner will pay approximately \$107 a year in 2014 for Medic One services. This amount is \$3 less than the average homeowner paid in 2008 for these same services. *(In 2008, the median house value was \$368,000 so a 30 cent levy generated \$110. In 2014, the median house value is estimated to be \$318,000, so a 33.5 cent levy would generate \$107.)*

This reduction in costs and call volume is the result of lower AV and a focus on system-wide operational and financial efficiencies.

Schedule for Approval of the Legislation

Timelines for Council approval of the EMS levy ballot submission are determined by the timelines necessary for Elections to include the ballot measure for the general elections ballot on November 5. The timelines are as follows:

Last regular council meeting with maximum processing time (25 days).....	07/08/13
Last regular council meeting with minimum processing time (10 days).....	07/22/13
Last regular council meeting to pass as emergency.....	08/05/13
Last special council meeting to pass as emergency.....	08/06/13
Election Division deadline for receiving effective ordinance.....	08/06/13

ATTACHMENTS

1. Proposed Ordinance 2013-0165
2. Transmittal letter, dated March 6, 2013
3. Fiscal Note
4. SSB 5381 Final Bill Report
5. Attorney General of Washington letter dated November 30, 2012
6. Representative Van De Wege letter dated May 13, 2013

INVITED

- Jim Fogarty, Director, Emergency Medical Services (EMS)
- Helen Chatalas, Levy Planner, EMS
- Peggy Pahl, Prosecuting Attorney’s Office (PAO)

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KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

May 20, 2013

Ordinance

Proposed No. 2013-0165.1

Sponsors Dunn

1 AN ORDINANCE relating to the funding and provision of
2 Medic One emergency medical services; providing for the
3 submission to the qualified electors of King County, at
4 special election on November 5, 2013, of a proposition to
5 fund county-wide Medic One emergency medical services
6 by authorizing the continuation of an additional regular
7 property tax levy for a consecutive six year period, for
8 collection beginning in 2014, at a rate of \$0.335 or less per
9 \$1,000 of assessed valuation to provide for Medic One
10 emergency medical services.

11 **PREAMBLE:**

12 The Medic One Emergency Medical Services ("EMS") system of King
13 County, publicly known as Medic One, is an integrated publicly funded
14 partnership between the county, cities, fire districts, regional fire
15 authorities, hospitals and the University of Washington.

16 Medic One/EMS is a tiered response system that is based on the regional
17 medical model and collaborative partnerships. The services that EMS
18 personnel provide are derived from the highest standards of medical
19 training, practices and care, scientific evidence and close supervision by

20 physicians experienced in EMS care. It includes basic life support by city,
21 fire district and regional fire authority emergency medical technicians,
22 advanced life support by University of Washington/Harborview Medical
23 Center trained paramedics, and regional support programs that provide
24 citizen and EMS personnel training, regional medical control and quality
25 improvement.

26 The Medic One/EMS system of King County is recognized as one of the
27 best emergency medical services program in the country. It saves
28 thousands of lives every year, providing life-saving services on average
29 every 3 minutes. Compared to other cities, cardiac arrest victims are 4 to
30 5 times more likely to survive. In 2011, it achieved a 52% survival rate
31 for cardiac arrest, which is the highest rate to date anywhere.

32 The provision of Medic One emergency medical services on a countywide
33 basis is a public purpose of King County. King County supports Medic
34 One emergency medical services as a regional service that requires a
35 continuing leadership role for the county. The county should continue to
36 exercise its leadership and assume responsibility for assuring the orderly
37 and comprehensive development and provision of Medic One emergency
38 medical services throughout the county. The concern for assuring the
39 continuance of a county-wide Medic One/EMS system is shared by King
40 County cities, fire protection districts, and regional fire authorities that
41 participate in the Medic One emergency medical services programs.

42 Sustained funding for the regional Medic One/EMS system is needed to
43 continue this essential service for the residents of King County.

44 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

45 **SECTION 1. Approval of cities over 50,000 in population.** Pursuant to RCW
46 84.52.069, before submission to the electors of King County at a special election on
47 November 5, 2013, approval to place this countywide levy proposal on the ballot will be
48 obtained from the legislative bodies of all cities in the county over 50,000 in population.

49 **SECTION 2. Definitions.** The definitions in this section apply throughout this
50 ordinance unless the context clearly requires otherwise.

51 A. "County" means King County.

52 B. "Levy" means the levy of regular property taxes, for the specific purpose and
53 term provided in this ordinance and authorized by the electorate in accordance with state
54 law.

55 C. "Levy proceeds" means the principal amount of funds raised by the levy, any
56 interest earnings on the funds and the proceeds of any interim financing following
57 authorization of the levy.

58 **SECTION 3. City of Seattle reimbursement.** It is recognized that the city of
59 Seattle operates and funds a Medic One emergency medical services program that is
60 separate from the county program but part of the regional delivery system. All levy
61 proceeds collected pursuant to the levy authorized in this ordinance from taxable property
62 located within the legal boundaries of the City of Seattle shall be reimbursed and
63 transferred to the city of Seattle and used solely for the Seattle Medic One emergency
64 medical services program in accordance with RCW 84.52.069.

65 **SECTION 4. Levy submittal to voters.** To provide necessary funds for the
66 Medic One/EMS system under the authority of RCW.84.52.069, the county council shall
67 submit to the qualified electors of the county a proposition authorizing a regular property
68 tax levy for six consecutive years, with collection commencing in 2014, at a rate not to
69 exceed \$0.335 per one thousand dollars of assessed value. As provided under state law,
70 this levy shall be exempt from the rate limitations under RCW 84.52.043, but subject in
71 years two through six to the limitations imposed under Chapter 84.55 RCW.

72 **SECTION 5. Deposit of levy proceeds.** Except for the levy proceeds provided
73 to the City of Seattle under section 3 of this ordinance, all levy proceeds shall be
74 deposited into the county Emergency Medical Services fund.

75 **SECTION 6. Eligible expenditures.** If approved by the qualified electors of the
76 county, all levy proceeds authorized in this ordinance shall be used in accordance with
77 RCW 84.52.069.

78 **SECTION 7. Call for special election.** In accordance with RCW 29A.04.321, a
79 special election is called for November 5, 2013, to consider a proposition authorizing an
80 additional regular property tax levy for the purposes described in this ordinance. The
81 director of elections shall cause notice to be given of this ordinance in accordance with
82 the state constitution and general law and to submit to the qualified electors of the county,
83 at the said special election, the proposition hereinafter set forth. The clerk of the council
84 shall certify that proposition to the director of elections, in substantially the following
85 form:

86 **PROPOSITION ONE:** The King County Council passed Ordinance _____
87 concerning funding for the county-wide Medic One emergency medical services system.

88 This proposition would replace an expiring levy to continue funding of Medic One
89 emergency medical services. It would authorize King County to impose regular property
90 tax levies of \$0.335 or less per thousand dollars of assessed valuation for each of six
91 consecutive years, with collection beginning in 2014, as provided in King County
92 Ordinance _____. Should this proposition be:

93 Approved? _____

94 Rejected? _____

95 **SECTION 8. Interlocal agreement.** The county executive is hereby authorized
96 and directed to enter into an interlocal agreement with the City of Seattle relating to the
97 Medic One program, to implement the provisions of section 3 of this ordinance.

98 **SECTION 9. Local voters' pamphlet.** The director of elections is hereby
99 authorized and requested to prepare and distribute a local voters' pamphlet, pursuant to
100 K.C.C. 1.10.010, for the special election called for in this ordinance, the cost of the
101 pamphlet to be included as part of the cost of the election.

102 **SECTION 10. Ratification.** Certification of the proposition by the clerk of the
103 county council to the King County director of elections in accordance with law before the
104 election on November 5, 2013, and any other act consistent with the authority and before
105 the effective date of this ordinance are hereby ratified and confirmed.

106 **SECTION 11. Severability.** If any provision of this ordinance or its application
107 to any person or circumstance is held invalid, the remainder of the ordinance or the
108 application of the provision to other persons or circumstances if not affected.

109

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Gossett, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: None

March 6, 2013

The Honorable Larry Gossett
Chair, King County Council
Room 1200
C O U R T H O U S E

Dear Councilmember Gossett:

I am pleased to transmit this ordinance that places a reauthorization of a six-year Medic One/Emergency Medical Services (EMS) levy at 33.5-cents per \$1,000 assessed value (AV) before the voters in November 2013. The 33.5-cent levy rate supports the programmatic and fiscal proposals that were developed collaboratively by the region, endorsed by the EMS Advisory Task Force on July 26, 2012, and affirmed in the Medic One/EMS 2014-2019 Strategic Plan.

The Medic One/EMS system in King County provides essential life-saving services throughout the region, regardless of location, incident circumstances, day of the week, or time of day. Medic One/EMS is one of the most important services provided to County residents and visitors, as well as an important part of the quality of life standards afforded to residents of this area. Our regional system is recognized as one of the best emergency medical service programs in the country, and is acclaimed for its patient outcomes, including the highest reported survival rates in the treatment of out-of-hospital cardiac arrest patients across the nation (52% in 2011).

Developing the Strategic Plan and a levy rate to support the Medic One/EMS system for 2014-2019 was truly a regional effort. For over nine months, the EMS Advisory Task Force worked collaboratively with Stakeholders from all parts of the EMS system to develop the future direction and basis for the next Medic One/EMS levy. The result of this inclusive and complex discussion is a proposal that builds on key services from the current levy to maintain service levels, incorporates efficiencies, offers improvements where appropriate, and costs less than if 2008-2013 operations were continued into the 2014-2019 levy period.

The 33.5-cent EMS levy will support a \$695 million budget over six years to maintain current levels of service and meet future demands. A levy rate of 33.5-cents/\$1,000 AV means that the average homeowner will pay approximately \$107 a year for highly trained medical personnel to arrive within minutes of an emergency, any time of day or night, no

matter where in King County – this is \$3 less than the average homeowner paid in 2008 for these same services.

Specifically, the 33.5-cent levy rate will:

- Maintain the existing number of medic units and not add any new units over the span of the next levy period;
- Fully fund eligible Advanced Life Support (referred to as ALS or paramedic) costs;
- Continue the contribution to support Basic Life Support (referred to as BLS or “first responders”);
- Continue programs that provide essential support to the system and encourage efficiencies, innovation, and leadership;
- Develop programs to address BLS demand and support BLS’s role in regional decision-making;
- Implement conservative financial policies and procedures that lend to financial stability; and
- Fund responsible level of reserves for unanticipated costs.

We began this levy planning process faced with decreased AV (2014 AV is projected at 6% lower than 2008 AV), yet the cost of doing business continues to increase. Under the current economic conditions, a levy rate of 35.1 cents per \$1,000/AV would have been required to support the 2014-2019 levy expenditures. However, the region undertook a three-tiered strategy to decrease the amount of funding needed to be raised in the next levy. This entailed aggressively managing resources and saving funds from the 2008-2013 levy to buy down the levy rate (millage reduction) for the 2014-2019 levy, managing the growth of services (particularly paramedic services), and creating efficiencies to continue key existing priorities with lower investments. These strategies resulted in \$21 million of savings that reduced the levy rate by 1.6 cents to a proposed starting rate of 33.5 cents.

This EMS levy proposal represents a departure from increases included in past levies. Previous levies included substantial increases in the first years of the levy supporting new programs and expenses. In contrast, the 2014-2019 levy proposes increases in the first year of the levy that are lower than assumed inflation while including new programs and services.

In accordance with RCW 84.2.069, the approval for placing a 33.5-cent Medic One/EMS levy on the ballot will be sought from cities with populations exceeding 50,000. Those cities are Auburn, Bellevue, Federal Way, Kent, Kirkland, Redmond, Renton, Seattle and Shoreline.

The services supported by the Medic One/EMS levy focus on safety, health, and ensuring financial stewardship, directly aligning with the goals and strategies of the King County Strategic Plan. Because EMS responses are distributed throughout the region based on service criteria, areas with economic challenges are provided the same level of service as

The Honorable Larry Gossett

March 6, 2013

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areas with economic prosperity. This ensures access to health and human services and furthers King County's Equity and Social Justice Program.

The EMS system in King County has a long history of collaboration and this levy planning process was no different. This speaks to the strength of the system's partnerships, and the ability for King County jurisdictions to collectively recognize these regional benefits, and consider needs beyond their local boundaries and interests. I want to thank all those who worked diligently to support our outstanding EMS system in King County:

- EMS Advisory Task Force members, who were invaluable in determining the right proposal and its implications for their jurisdictions;
- The Chairs of the four Subcommittees, who managed 23 meetings at which the bulk of programmatic and cost analysis were conducted, leading to the development of the recommendations;
- The many levy planning participants, numbering nearly 100 and representing EMS Stakeholders with vested interests; subject matter experts from all aspects of the Medic One/EMS system and other interested parties, whose time, expertise and efforts demonstrate exactly why the EMS system is so successful and serves as an international role model; and
- The King County EMS Division that provided staff support in organizing, preparing for, and facilitating the EMS Advisory Task Force and Subcommittee meetings.

Thank you for your prompt consideration of this EMS levy proposal for 2014-2019. If you have any questions, please feel free to contact Jim Fogarty, Emergency Medical Services Division Director, at 206-263-8579.

Sincerely,

Dow Constantine
King County Executive

Enclosures

cc: King County Councilmembers
ATTN: Michael Woywod, Chief of Staff
Anne Noris, Clerk of the Council
Fred Jarrett, Deputy County Executive, King County Executive Office (KCEO)
Carrie S. Cihak, Chief Advisor, Policy and Strategic Initiatives, KCEO
Dwight Dively, Director, Office of Performance, Strategy and Budget
David Fleming, MD, Director and Health Officer, Public Health – Seattle & King
County (PHSKC)
Jim Fogarty, Director, Emergency Medical Services Division, PHSKC

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FISCAL NOTE

Ordinance/Motion No. 00-	
Title:	Authorizing the approval of the Medic One/EMS 2014-2019 Strategic Plan
Affected Agency and/or Agencies:	Public Health/Emergency Medical Services
Note Prepared By:	Cynthia Bradshaw
Note Reviewed By:	

Impact of the above legislation on the fiscal affairs of King County is estimated to be:

Revenue to:

Fund/Agency	Fund Code	Revenue Source	1st Year <u>2014</u>	2nd Year <u>2015</u>	3rd Year <u>2016</u>	4th Year <u>2017</u>
Emergency Medical Svcs	1190	31111	67,011,565	68,614,030	70,053,216	71,537,532
Emergency Medical Svcs	1190	43334	1,650	1,650	1,650	1,650
Emergency Medical Svcs	1190	R3400	195,880	196,852	196,852	196,852
Emergency Medical Svcs	1190	31720	120,000	120,000	120,000	120,000
Emergency Medical Svcs	1190	31210	30,000	30,000	30,000	30,000
Emergency Medical Svcs	1190	R3600	109,200	135,200	391,200	595,200
Emergency Medical Svcs	1190	39510	54,000	54,000	54,000	54,000
TOTAL			67,522,295	69,151,732	70,846,918	72,535,234

Expenditures from:

Fund/Agency	Fund Code	Department	1st Year <u>2014</u>	2nd Year <u>2015</u>	3rd Year <u>2016</u>	4th Year <u>2017</u>
Emergency Medical Svcs	1190	PH/EMS	65,643,191	68,845,225	71,642,112	74,560,901
TOTAL						

Expenditures by Categories

	1st Year <u>2014</u>	2nd Year <u>2015</u>	3rd Year <u>2016</u>	4th Year <u>2017</u>
Advanced Life Support Services (ALS)	40,913,876	42,462,326	44,076,832	45,794,986
Basic Life Support Services (BLS)	15,801,074	16,335,150	16,880,744	17,453,001
Regional Support Services (RSS)	8,398,551	8,682,422	8,972,414	9,276,579
EMS Strategic Initiatives (SI)	529,690	841,781	1,007,823	1,196,833
Reg'l Community Medical Technician (CMT)		363,546	704,299	679,502
Audits		160,000		160,000
TOTAL	65,643,191	68,845,225	71,642,112	74,560,901

Assumptions:

Financial forecast -- revenues and inflators for expenditures based on OEFA forecast 8/22/2012

Revenues and expenditures do not include potential double counting associated with usages/direct distributed.

Programmatic assumptions based in Medic One/EMS Levy Task Force Recommendations

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FINAL BILL REPORT

SSB 5381

Synopsis as Enacted

Brief Description: Adjusting voting requirements for the renewal of emergency medical service levies.

Sponsors: Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Prentice and Regala).

Senate Committee on Government Operations, Tribal Relations & Elections
House Committee on Ways & Means

Background: The Legislature has established rate maximums and aggregate rate maximums for the individual taxing districts that derive their funding from the regular property tax. The state property tax is limited to \$3.60 per \$1,000 of assessed value. The levies of the remaining taxing districts are generally divided into two types: senior taxing districts and junior taxing districts. Senior taxing districts are cities and counties. Junior taxing districts include library districts, fire protection districts, and port districts, among others.

If the combined rates of the senior and junior taxing districts exceed \$5.90 – the rates of the junior taxing districts are reduced first and then the rates of the senior districts are reduced, according to statutorily set priorities, until the combined rates fit within the \$5.90 limit. This process is referred to as prorationing.

The following levies are outside of the \$5.90 limit, but still subject to the 1 percent constitutional limit:

- voter approved emergency medical services (EMS) taxes;
- taxes to acquire conservation futures;
- voter approved taxes for affordable housing;
- voter approved metropolitan part district taxes;
- King County ferry district taxes for passenger-only ferries; and
- voter approved county criminal justice taxes.

An emergency medical care and services levy (EMS levy) can be imposed for six years, ten years, or permanently. The EMS levy must be approved by a majority of at least three-fifths of the registered voters. The maximum rate of the levy is \$0.50 per \$1,000.

Summary: A permanent EMS tax levy or the initial imposition of a six-year or ten-year EMS levy requires a three-fifths majority to pass. The continuation of a six- or ten-year EMS levy requires approval of a majority of registered voters.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Notes on Final Passage:

Senate 32 17
House 72 26

Effective: 90 Days.



Rob McKenna
ATTORNEY GENERAL OF WASHINGTON
1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

November 30, 2012

The Honorable Kirk Pearson
State Representative, District 39
PO Box 40600
Olympia, WA 98504

Dear Representative Pearson:

By letter previously acknowledged, you requested an informal opinion from this office on two questions which I have paraphrased as follows:

1. **If a taxing district receives voter approval to continue an emergency medical service levy for an additional multi-year term as permitted by RCW 84.52.069(2), is the district's tax collection in the first year of the renewed multi-year term limited by the one-percent growth rule set forth in RCW 84.55.010?**
2. **Where a taxing district seeks to continue a previously-approved multi-year emergency medical service levy, does the portion of votes required to approve the continuation levy depend on voter turnout?**

BRIEF ANSWER

I conclude that an emergency medical service (EMS) levy approved by voters under RCW 84.52.069(2) qualifies for an exception from the one-percent growth rule in the first year it is levied by the taxing district, regardless of whether it is an initial multi-year levy or the uninterrupted continuation of a previously-approved levy. A taxing district thus may increase the tax actually collected up to the full amount authorized by the voters without submitting a separate levy lid lift measure for voter approval, even if the amount actually collected thereby constitutes an annual property tax growth rate in excess of the district's normal levy lid. Additionally, when a continuation EMS levy is brought to a public vote at a general or special election, the measure need only pass by a simple majority regardless of voter turnout.

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The Honorable Kirk Pearson
November 30, 2012
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BACKGROUND

State law allows the voters of various taxing districts¹ to impose a property tax levy for the specific purpose of providing emergency medical care or emergency medical services. RCW 84.52.069(2), (5). Such EMS levies are limited to a maximum rate of fifty cents per thousand dollars of the total assessed value of property in the district. RCW 84.52.069(2). The levy may be imposed indefinitely, or limited to a term of six or ten consecutive years. RCW 84.52.069(2).

In the 2012 regular session, the legislature amended the EMS levy statute by enacting Substitute Senate Bill 5381 (Laws of 2012, ch. 115). That bill made changes to subsection (2), which now reads as follows:

Except [in the case of a city located in two counties], a taxing district may impose additional regular property tax levies in an amount equal to fifty cents or less per thousand dollars of the assessed value of property in the taxing district. The tax is imposed (a) each year for six consecutive years, (b) each year for ten consecutive years, or (c) permanently. *A permanent tax levy under this section, or the initial imposition of a six-year or ten-year levy under this section, must be specifically authorized by a majority of at least three-fifths of the registered voters thereof approving a proposition authorizing the levies submitted at a general or special election, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty percent of the total number of voters voting in such taxing district at the last preceding general election when the number of registered voters voting on the proposition does not exceed forty percent of the total number of voters voting in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the registered voters thereof voting on the proposition when the number of registered voters voting on the proposition exceeds forty percent of the total number of voters voting in such taxing district in the last preceding general election. The uninterrupted continuation of a six-year or ten-year tax levy under this section must be specifically authorized by a majority of the registered voters thereof approving a proposition authorizing the levies submitted at a general or special election.* Ballot propositions must conform with RCW 29A.36.210. A taxing district may not submit to the voters at the same election multiple propositions to impose a levy under this section.

RCW 84.52.069(2) (relevant new language from SSB 5381 italicized).²

¹ A "taxing district" for the purposes of EMS levies means "a county, emergency medical service district, city or town, public hospital district, urban emergency medical service district, regional fire protection service authority, or fire protection district." RCW 84.52.069(1).

² For ease of reference, a copy of RCW 84.52.069 is attached.

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SSB 5381 thus created a distinction in state law between imposing a new EMS levy and continuing a previously-approved levy in effect for longer than the six or ten years initially approved by the voters. "Initial" levies must be approved by a supermajority of registered voters, while the "uninterrupted continuation" of an existing levy requires only a simple majority.

The statute elsewhere provides a mechanism for the taxing district to increase the amount of an existing EMS levy:

If a ballot proposition approved under subsection (2) of this section did not impose the maximum allowable levy amount authorized for the taxing district under this section, any future increase up to the maximum allowable levy amount must be specifically authorized by the voters in accordance with subsection (2) of this section at a general or special election.

RCW 84.52.069(8). A taxing district that initially requests voter approval of a levy for less than the maximum rate of fifty cents may thus later increase the levy amount, but only with separate voter authorization. As the Department of Revenue describes it, "a taxing district may impose a levy rate up to, but no greater than, the rate contained in the approved ballot measure without obtaining additional voter approval." WAC 458-19-060.

In addition to the rate limitations in RCW 84.52, regular property taxes—including EMS levies—are generally subject to the legal provisions in RCW 84.55 defining and limiting the extent to which taxing districts may increase the total dollar amount of regular property tax levies over the amounts collected in previous years. Taxing districts generally are limited each year to collecting no more than one percent above the amount of regular property taxes lawfully levied in the highest of the three most recent years. RCW 84.55.005(2), .010.³ The maximum dollar amount that a district may levy in a particular year is commonly known as a "levy lid."

The assessed dollar value of existing property in a taxing district may rise faster than one percent per year. When that happens, the levy lid restricts the total dollar amount the taxing district can collect, resulting in a reduction to the rate per thousand dollars of assessed property value. Thus, over time the levy lid can result in the district collecting less than the full voter-approved EMS levy rate. See RCW 84.55.010 (limiting the amount of tax payable).

The statute authorizing EMS levies allows the taxing district to impose the full voter-approved EMS levy rate for the "first levy imposed" following a qualifying public vote, even if

³ The limit factor also takes into account increased valuation within the district due to new construction, the construction of certain wind turbines, property improvements, and the increased value of state-assessed property. RCW 84.55.010.

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initial levies did not yet exist as a separate category from continuation levies. Rather, the reference in subsection (9) to “the approval of such levy by the voters pursuant to subsection (2)” clearly incorporated all of the voter approval methods described in subsection (2).

In fact, the language of subsection (9) has remained essentially unchanged since the EMS levy statute was created in 1979. *See* Laws of 1979, Ex. Sess., ch. 200, § 1 (“The limitation in RCW 84.55.010 shall not apply to the first levy imposed pursuant to this section following the approval of such levy by the voters pursuant to subsection (2) of this section.”).⁵ At that time, subsection (2) included only one method for voter approval of an EMS levy: a three-fifths majority vote to approve a six-year levy. Over the years the legislature has amended subsection (2) in a number of ways, including by allowing voters to authorize a ten-year levy or a permanent levy. Laws of 1999, ch. 224, § 1. Like SSB 5381, the 1999 amendment to RCW 84.52.069 left subsection (9) unchanged. In the absence of any substantive change to subsection (9) since the original 1979 EMS levy legislation, it is reasonable to assume that the legislature has not intended to restrict the application of subsection (9) only to a subset of the voter approval procedures described in subsection (2), even as the list of acceptable voter approval procedures has been expanded over time. That history reinforces that the plain meaning of subsection (9) controls.

In posing your question, you suggest the possibility that a taxing district, having previously received voter authorization to impose an initial multi-year levy for less than the statutory maximum rate, might simultaneously seek to continue that levy and to raise the authorized levy rate.⁶ As you note, if the taxing district could do so as a continuation levy based upon a simple majority vote, and if RCW 84.52.069(9) excluded the first imposition of such a levy from the levy lid, then the result would be an increase of the EMS levy rate upon less than a three-fifths vote. You suggest that this result might be a basis for concluding that RCW 84.52.069(9) does not apply to continuation levies, but only to initial levies, which require a two-thirds vote. This suggestion, however, assumes that a measure proposing not only to authorize an EMS levy for an additional six-year or ten-year period but to simultaneously increase the rate of the levy would constitute an “uninterrupted continuation” of the initial levy. Only if it did would such a levy qualify for approval based on a simple majority. RCW 84.52.069(2).

⁵ What is now subsection (9) was originally enumerated as subsection (6) in the 1979 legislation. In 2011, the legislature amended subsection (9) to replace the phrase “shall not” with the phrase “does not” with no apparent change in meaning. Laws of 2011, ch. 365, § 2.

⁶ For example, in the August 2012 primary election, Skagit County voters were asked to approve Proposition 1, which asked voters to continue Skagit County’s EMS levy for six additional years, and simultaneously to increase the levy amount from \$0.25 to \$0.375 per \$1,000 of assessed valuation. According to the website of the Skagit County Assessor, Proposition 1 passed with 79.48 percent of the vote. There may be similar examples from other taxing districts. The purpose of this opinion is to assist you in your legislative capacity by providing our analysis of the applicable law so that you can determine whether further legislation on the topic may be desirable. The purpose is not to resolve any particular dispute regarding any specific local tax levy.

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The Honorable Kirk Pearson
November 30, 2012
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A ballot measure that asks the voters to approve an EMS levy at a higher rate is not simply an “uninterrupted continuation” of the prior levy. Where two levies are authorized at different rates the second cannot be considered a “continuation” of the first, even if they are “uninterrupted” in time.⁷ To qualify as a “continuation” of the first levy, the second levy must prolong the same levy rate previously approved by a three-fifths majority of the voters in the initial multi-year levy. A levy authorization that is uninterrupted in time, but discontinuous in effect, is a new “initial” levy rather than a continuation levy qualifying for voter approval by a simple majority vote.⁸

I therefore conclude that RCW 84.52.069(9) excludes the first imposition of a continuation levy from the levy lid of RCW 84.55.010. Because SSB 5381 did not amend subsection (9), that subsection retains its historic and plain meaning, excluding the first year of a voter-authorized EMS levy from the district’s generally applicable levy lid regardless of which of the subsection (2) voter approval methods the district relies upon to impose that levy.

⁷ The EMS levy statute does not define the term “uninterrupted continuation,” and so it should be given its ordinary meaning. *State v. Chester*, 133 Wn.2d 15, 22, 940 P.2d 1374 (1997). “[W]e may discern the plain meaning of nontechnical statutory terms from their dictionary definitions.” *State v. Klitz*, 169 Wn.2d 537, 547, 238 P.3d 470 (2010) (alteration in original). The word “continuation” has two meanings that may be relevant here. The first definition given by *Webster’s* is “continuance in a state, existence, or activity : uninterrupted extension or succession : PROLONGATION . . . : the causing of something to continue.” *Webster’s Third New International Dictionary* 493 (2002). Alternatively, “continuation” may refer to “something that continues, extends, increases, or supplements.” *Id.* “Continuation” must mean more than merely “uninterrupted,” since that word immediately precedes “continuation” in the statute. See *G-P Gypsum Corp. v. Dep’t of Revenue*, 169 Wn.2d 304, 309, 237 P.3d 256 (2010) (“Statutes must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous.” (Internal quotation marks omitted.)). The key term from the first definition, “continuance,” has the relevant meaning of “a holding on or remaining in a particular state or course of action.” *Webster’s* at 493. In the context of this statute, the relevant “state,” “activity,” or “course of action” being extended is the voter-authorized levy rate.

⁸ One passage from the House floor debate on SSB 5381 might suggest a contrary conclusion. One opponent of the bill argued that it would allow a taxing district to increase taxes based on a simple majority vote. House Floor Debate on Substitute S.B. 5381, 62d Leg., Reg. Sess. (Wash. Feb. 29, 2012), at 44:21, *video recording* by TVW, Washington State’s Public Affairs Network, available at http://www.tvw.org/index.php?option=com_tvw_player&eventID=2012020184A (remarks of Rep. Ed Orcutt: “[U]nder the definition of ‘renewal’ in this bill there could actually be a tax increase.”). However, that statement is at best ambiguous: it may have been a reference to the interaction of SSB 5381 with subsection (9) which, as discussed above, allows a continuing levy to be imposed at the full voter-approved rate even if doing so constitutes a tax increase of more than one percent compared to the amount collected in previous years. Even if the floor statement were not ambiguous, “a legislator’s comments from the floor are not necessarily indicative of legislative intent.” *Spokane Cnty. Health Dist. v. Brockett*, 120 Wn.2d 140, 154-55, 839 P.2d 324 (1992). This is particularly so when the member spoke in opposition to the bill. 2A Norman B. Singer & J.D. Shambie Singer, *Statutes and Statutory Construction* § 48:16 (2007). In any case, since the language of RCW 84.52.069 is plain on its face, there is no need to resort to legislative history. “If the statute’s meaning is plain on its face, we give effect to that plain meaning as the expression of what was intended.” *TracFone Wireless, Inc. v. Dep’t of Revenue*, 170 Wn.2d 273, 281, 242 P.3d 810 (2010).

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The Honorable Kirk Pearson
November 30, 2012
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2. **Where a taxing district seeks to continue a previously-approved multi-year emergency medical service levy, does the portion of votes required to approve the continuation levy depend on voter turnout?**

Your second question relates to the voter turnout required to pass a continuation EMS levy. A three-fifths supermajority of the voters is generally required to approve a permanent levy or "the initial imposition of a six-year or ten-year levy[.]" RCW 84.52.069(2). However, that three-fifths threshold is subject to the requirement that "the number of registered voters voting on the proposition exceeds forty percent of the total number of voters voting in such taxing district in the last preceding general election." RCW 84.52.069(2). When the public vote on a permanent or initial multi-year EMS levy fails to attain more than forty percent turnout compared to the most recent general election, the levy will not pass unless "the number of persons voting 'yes' on the proposition . . . constitute[s] three-fifths of a number equal to forty percent of the total number of voters voting in such taxing district at the last preceding general election[.]" RCW 84.52.069(2).

The effect of those provisions is to set a minimum floor for the number of "yes" votes required to pass an EMS levy, even if the proportion of "yes" votes constitutes a three-fifths majority of those voting on the proposition. In other words, a permanent or initial EMS levy proposition that fails to receive a minimum forty percent voter turnout compared to the preceding general election must garner an adequate number of "yes" votes to have constituted a three-fifths majority if turnout had reached the forty percent mark. In the case of low voter turnout, an EMS levy will need even more than a three-fifths supermajority to pass. The exact proportion of "yes" votes required to pass an initial or permanent EMS levy can thus vary depending on the precise number of votes cast on the proposition compared to turnout in prior elections.

You ask whether a similar voter turnout requirement applies where a district seeks voter authorization of a continuation EMS levy rather than an initial or permanent levy. It does not.

The turnout-sensitive three-fifths supermajority requirement described above applies only to "[a] permanent tax levy . . . or the initial imposition of a six-year or ten-year levy[.]" RCW 84.52.069(2). The voter authorization requirements for "[t]he uninterrupted continuation of a six-year or ten-year tax levy" is described separately. RCW 84.52.069(2). That requirement reads in full:

The uninterrupted continuation of a six-year or ten-year tax levy under this section must be specifically authorized by a majority of the registered voters thereof approving a proposition authorizing the levies submitted at a general or special election.

RCW 84.52.069(2). The statute thus requires a continuation levy to be "specifically authorized by a majority" vote. Additionally, the vote must take place during "a general or special

ATTORNEY GENERAL OF WASHINGTON

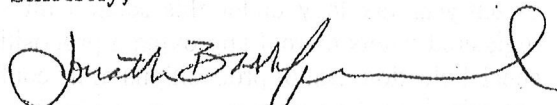
The Honorable Kirk Pearson
November 30, 2012
Page 9

election.” RCW 84.52.069(2). The plain language of the statute does not impose the kind of turnout-related conditions on continuation EMS levy approval that are imposed on the approval of an initial or permanent EMS levy.

The voter turnout requirements for initial and permanent EMS levies are imposed in the sentence immediately preceding the sentence that governs voter authorization requirements for continuation multi-year levies. Had the legislature meant to impose a similar turnout-dependent sliding scale on continuation levies as it imposes on initial and permanent levies, it could easily and clearly have done so by adopting similar language. In the absence of such language, the plain meaning of the phrase “a majority of the registered voters thereof approving a proposition” is that such a ballot proposition will pass if it garners a majority of votes, regardless of voter turnout compared to prior elections.⁹

I hope the foregoing information will prove useful. This is an informal opinion and will not be published as an official Attorney General Opinion.

Sincerely,



JONATHON BASHFORD
Assistant Attorney General
(360) 586-6535

⁹ The three-fifths majority vote requirement and the forty percent turnout requirement applicable to initial and permanent EMS levies under RCW 84.52.069(2) mirror the standard imposed by the Washington Constitution for voter approval of an aggregate annual levy amount, from all state and local sources, exceeding “one per centum of the true and fair value” on any real or personal property. Const. art. VII, § 2; *see* Const. art. VII, § 2(a). Regardless of whether the legislature meant the voting requirements for initial and permanent EMS levies to simultaneously meet the requirement for exceeding the aggregate one percent limitation—a possibility we will not analyze here—the lower vote threshold applicable to continuation levies clearly falls short of that constitutional requirement. A continuing EMS levy that results in the aggregate tax rate on some properties exceeding one percent of true and fair value would require separate and specific voter authorization under article VII, section 2.

RCW 84.52.069

Emergency medical care and service levies.

(1) As used in this section, "taxing district" means a county, emergency medical service district, city or town, public hospital district, urban emergency medical service district, regional fire protection service authority, or fire protection district.

(2) Except as provided in subsection (10) of this section, a taxing district may impose additional regular property tax levies in an amount equal to fifty cents or less per thousand dollars of the assessed value of property in the taxing district. The tax is imposed (a) each year for six consecutive years, (b) each year for ten consecutive years, or (c) permanently. A permanent tax levy under this section, or the initial imposition of a six-year or ten-year levy under this section, must be specifically authorized by a majority of at least three-fifths of the registered voters thereof approving a proposition authorizing the levies submitted at a general or special election, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty percent of the total number of voters voting in such taxing district at the last preceding general election when the number of registered voters voting on the proposition does not exceed forty percent of the total number of voters voting in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the registered voters thereof voting on the proposition when the number of registered voters voting on the proposition exceeds forty percent of the total number of voters voting in such taxing district in the last preceding general election. The uninterrupted continuation of a six-year or ten-year tax levy under this section must be specifically authorized by a majority of the registered voters thereof approving a proposition authorizing the levies submitted at a general or special election. Ballot propositions must conform with RCW 29A.36.210. A taxing district may not submit to the voters at the same election multiple propositions to impose a levy under this section.

(3) A taxing district imposing a permanent levy under this section shall provide for separate accounting of expenditures of the revenues generated by the levy. The taxing district must maintain a statement of the accounting which must be updated at least every two years and must be available to the public upon request at no charge.

(4) (a) A taxing district imposing a permanent levy under this section must provide for a referendum procedure to apply to the ordinance or resolution imposing the tax. This referendum procedure must specify that a referendum petition may be filed at any time with a filing officer, as identified in the ordinance or resolution. Within ten days, the filing officer must confer with the petitioner concerning form and style of the petition, issue the petition an identification number, and secure an accurate, concise, and positive ballot title from the designated local official. The petitioner has thirty days in which to secure the signatures of not less than fifteen percent of the registered voters of the taxing district, as of the last general election, upon petition forms which contain the ballot title and the full text of the measure to be referred. The filing officer must verify the sufficiency of the signatures on the petition and, if sufficient valid signatures are properly submitted, must certify the referendum measure to the next election within the taxing district if one is to be held within one hundred eighty days from the date of filing of the

referendum petition, or at a special election to be called for that purpose in accordance with RCW 29A.04.330.

(b) The referendum procedure provided in this subsection (4) is exclusive in all instances for any taxing district imposing the tax under this section and supersedes the procedures provided under all other statutory or charter provisions for initiative or referendum which might otherwise apply.

(5) Any tax imposed under this section may be used only for the provision of emergency medical care or emergency medical services, including related personnel costs, training for such personnel, and related equipment, supplies, vehicles and structures needed for the provision of emergency medical care or emergency medical services.

(6) If a county levies a tax under this section, no taxing district within the county may levy a tax under this section. If a regional fire protection service authority imposes a tax under this section, no other taxing district that is a participating fire protection jurisdiction in the regional fire protection service authority may levy a tax under this section. No other taxing district may levy a tax under this section if another taxing district has levied a tax under this section within its boundaries: PROVIDED, That if a county levies less than fifty cents per thousand dollars of the assessed value of property, then any other taxing district may levy a tax under this section equal to the difference between the rate of the levy by the county and fifty cents: PROVIDED FURTHER, That if a taxing district within a county levies this tax, and the voters of the county subsequently approve a levying of this tax, then the amount of the taxing district levy within the county must be reduced, when the combined levies exceed fifty cents. Whenever a tax is levied countywide, the service must, insofar as is feasible, be provided throughout the county: PROVIDED FURTHER, That no countywide levy proposal may be placed on the ballot without the approval of the legislative authority of each city exceeding fifty thousand population within the county: AND PROVIDED FURTHER, That this section and RCW 36.32.480 shall not prohibit any city or town from levying an annual excess levy to fund emergency medical services: AND PROVIDED, FURTHER, That if a county proposes to impose tax levies under this section, no other ballot proposition authorizing tax levies under this section by another taxing district in the county may be placed before the voters at the same election at which the county ballot proposition is placed: AND PROVIDED FURTHER, That any taxing district emergency medical service levy that is limited in duration and that is authorized subsequent to a county emergency medical service levy that is limited in duration, expires concurrently with the county emergency medical service levy. A fire protection district that has annexed an area described in subsection (10) of this section may levy the maximum amount of tax that would otherwise be allowed, notwithstanding any limitations in this subsection (6).

(7) The limitations in RCW 84.52.043 do not apply to the tax levy authorized in this section.

(8) If a ballot proposition approved under subsection (2) of this section did not impose the maximum allowable levy amount authorized for the taxing district under this section, any

future increase up to the maximum allowable levy amount must be specifically authorized by the voters in accordance with subsection (2) of this section at a general or special election.

(9) The limitation in RCW 84.55.010 does not apply to the first levy imposed pursuant to this section following the approval of such levy by the voters pursuant to subsection (2) of this section.

(10) For purposes of imposing the tax authorized under this section, the boundary of a county with a population greater than one million five hundred thousand does not include all of the area of the county that is located within a city that has a boundary in two counties, if the locally assessed value of all the property in the area of the city within the county having a population greater than one million five hundred thousand is less than two hundred fifty million dollars.

(11) For purposes of this section, the following definitions apply:

(a) "Fire protection jurisdiction" means a fire protection district, city, town, Indian tribe, or port district; and

(b) "Participating fire protection jurisdiction" means a fire protection district, city, town, Indian tribe, or port district that is represented on the governing board of a regional fire protection service authority.

STATE REPRESENTATIVE
24th LEGISLATIVE DISTRICT
KEVIN VAN DE WEGE
MAJORITY WHIP

State of
Washington
House of
Representatives



AGRICULTURE &
NATURAL RESOURCES
—
GENERAL GOVERNMENT
APPROPRIATIONS & OVERSIGHT
—
HEALTHCARE & WELLNESS
—
RULES

May 13, 2013

Attorney General Bob Ferguson, Office of the Attorney General
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100

Re: Formal Opinion Request – Renewal of Emergency Medical Services Levy

Attorney General Ferguson:

I respectfully submit the following question for a Formal Opinion:

Whether, under RCW 84.52.069, as amended by Substitute Senate Bill 5381 during the 2012 legislative session, a taxing district seeking to continue a previously-established emergency medical service levy may increase the levy rate, beyond the level previously approved by the voters, with only a simple majority of fifty percent plus one rather than the three-fifths needed to initially impose the levy.

By way of background, the Washington State Legislature passed, and Governor Gregoire signed into law, SSB 5381 during the 2012 legislative session.¹ This bill concerned the voting requirements for the renewal of emergency medical services (EMS) levies, changing the requirement from a super majority of three-fifths to a simple majority of fifty percent plus one to renew an existing EMS levy.

It was the intent of the sponsors and stakeholders that this legislation refer merely to the levy itself and not address the issue of the levy rate. Accordingly, the bill was drafted to refer to the “uninterrupted continuation” of a levy, without reference to the rate that was being levied. Statements on the floor of the House on both this bill, as well as an identical House bill, HB 2474,² support this notion.³ During both these remarks, reference was made to discussions with both the Department of Revenue (DOR), as well as the non-partisan staff with the Office of Program Research (OPR), both of which indicated that the legislation allowed for an increase in the levy rate without implication on the simple majority requirement for renewal of a pre-existing six-year or ten-year levy.⁴

¹ SSB 5381, 2012 legislative session, <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=5381&year=2011>

² HB 2474, 2012 legislative session, <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=2474&year=2011>

³ See comments during House floor debate on HB 2474 on Feb. 11, 2012 at approximately 36:50 mark, as well as comments during House floor debate on SSB 5381 on Feb. 29, 2012 at approximately 44:20 mark.

⁴ *Id.*

After passage of the legislation, the Municipal Research and Services Center (MSRC) posted an article entitled “It’s Now Easier to Renew an EMS Levy!” by Judy Cox.⁵ In her initial article on the subject, Ms. Cox indicated that MSRC had spoken with the Property Tax Division of DOR, who in turn had spoken with OPR staff. All parties agreed that “[t]he new language doesn’t say anything about *the tax rate* at which the levy will be ‘continued.’” The article went on to say that “the new tax rate is not an issue. It can be as high as 50 cents per thousand dollars AV, the maximum allowed under [RCW 84.52.069](#) no matter what the current rate is or what rate was in the ballot measure for the expiring levy.”⁶ The biography on MSRC’s website for Ms. Cox describes her as “an expert on budgeting, revenue options and forecasting, financing capital projects, and everything else related to local government finance.”⁷

In November of 2012, then-Representative Kirk Pearson sought an opinion regarding the following question:

“If a taxing district receives voter approval to continue an emergency medical service levy for an additional multi-year term as permitted by RCW 84.52.069(2), is the district’s tax collection in the first year of the renewed multi-year term limited by the one-percent growth rule set forth in RCW 84.55.010?”⁸

The answer was no, but AAG Bashford continued by saying that although the renewed levy is not limited by the one-percent growth rule, it is limited to a rate of no more than the rate at which it was previously established. This is to say that a district seeking to continue an established levy may not increase the levy rate beyond the level at which it was initially approved by the voters.⁹

The result of this opinion has been that at least one fire department seeking to renew a previously approved, non-permanent levy, at a rate higher than that which was originally approved, has refused to authorize such a vote without a super majority of three-fifths approval.¹⁰ Needless to say, this runs afoul of the legislative intent of SSB 5381. Such confusion was noted by a subsequent article by Ms. Cox on the MSRC website, noting that Mr. Bashford’s opinion “is at odds with that of the legislative staff consulted by DOR, who said that the rate of the continuation levy could be as high as 50 cents.”¹¹

Based on the conflicting interpretations of SSB 5381 and the resulting statute, RCW 84.52.069, I respectfully request a Formal Opinion on the question presented at the outset.

⁵ Cox, Judy. “It’s Now Easier to Renew an EMS Levy!” May 11, 2012. <http://insight.msrc.org/2012/05/11/now-easier-to-renew-an-ems-levy/>

⁶ *Id.*

⁷ <http://insight.msrc.org/author/mrscjudy/>

⁸ Response to Rep. Kirk Pearson by Assistant Attorney General Jonathan Bashford, November 30, 2012.

⁹ *Id.*, page 7.

¹⁰ Insert King County EMS Citation Here

¹¹ Cox, Judy. “Revisiting the ‘Uninterrupted Continuation’ EMS Levy with an Informal Attorney General’s Opinion.” February 4, 2013. <http://insight.msrc.org/2013/02/04/revisiting-the-uninterrupted-continuation-ems-levy-with-an-informal-attorney-generals-opinion/>

Thank you for your attention to this matter. I, as well as other stakeholders, will be happy to supply additional information as may be necessary to adequately address this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Van De Wege". The signature is fluid and cursive, with the first name "Kevin" being the most prominent part.

Representative Kevin Van De Wege
24th Legislative District

CC: Jeffrey Evan, Office of the Attorney General