ESHB 1153 - S COMM AMD
     By Committee on Government Operations & Elections

 1   Strike everything after the enacting clause and insert the
 2 following:

 3   "NEW SECTION. **Sec. 1.** The legislature finds that, in many of the
 4 most populous areas of the state, it is in the best interests of the
 5 residents to provide municipal services by encouraging annexation of
 6 those areas into existing adjacent cities. However, even where the
 7 residents desire to become annexed, cities are unable to undertake the
 8 proposed annexations because of the unfair tax burdens that would be
 9 placed on their existing residents to pay for services to the newly
10 annexed areas.
11   The legislature finds that a voter-approved temporary annexation
12 surtax on utility services would provide the revenues needed to provide
13 vital municipal services paid for by the residents of the annexation
14 area. Because utility taxes are paid by property owners and renters
15 alike, the legislature believes that a temporary surtax will spread the
16 burden upon all residents in annexation areas. Furthermore, because it
17 is temporary, it will provide revenue during a transition period
18 necessary to establish those municipal services needed in the newly
19 annexed area.
20   Therefore, it is the intent of this act to provide an additional
21 tool to enable cities to annex unincorporated areas that lie within
22 designated urban growth areas when the residents of those annexation
23 areas vote to approve the annexation.

24   NEW SECTION. **Sec. 2.** A new section is added to chapter 35.21 RCW
25 to read as follows:
26   (1) In addition to and without limiting any other powers, any city
27 with a population greater than thirty thousand that imposes a utility
28 tax and that is located in a county with a population greater than

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1 seven hundred thousand may also impose and collect a temporary
2 annexation surtax on the business activity of providing a utility
3 service to customers within an annexation area if:

4   (a) The city legislative authority has adopted a resolution
5 initiating annexation under chapter 35.13 or 35A.14 RCW, or has annexed
6 an area within the preceding twelve months; and

7   (b) The city legislative authority determines by resolution or
8 ordinance that the projected cost to provide municipal services to the
9 annexation area exceeds the projected general revenue that the city
10 would otherwise receive from the annexation area on an annual basis;
11 and

12   (c) A ballot proposition, as described in subsection (5) of this
13 section, is submitted to the voters living within the annexation area
14 and approved by a majority of those voting on the proposition at a
15 general or special election. A ballot proposition under this section
16 may be submitted simultaneously with any ballot proposition or
17 propositions regarding annexation under chapter 35.13 or 35A.14 RCW.
18 Costs of conducting the election shall be paid by the city.

19   (2) The following definitions apply throughout this section unless
20 the context clearly requires otherwise:

21   (a) "Annexation area" means an area that: (i) Has been annexed to
22 a city within the preceding twelve months; or (ii) is the subject of a
23 resolution regarding annexation under RCW 35.13.015, 35.13.020,
24 35A.14.015, or 35A.14.020. "Annexation area" includes all territory
25 described in the city resolution.

26   (b) "Department" means the department of revenue.

27   (c) "Municipal services" means those services customarily provided
28 to the public by city government.

29   (d) "Utility tax" means any tax on the privilege of conducting a
30 utility business, including those business activities traditionally
31 taxed as utilities as that term is used in RCW 35.102.020. For the
32 purposes of this section, a utility business does not include a
33 telephone service as defined in RCW 82.04.065.

34   (3) A temporary annexation surtax shall be measured by the gross
35 receipts or gross income received from the business of providing
36 utility services to the annexation area. This surtax may be imposed
37 beginning no earlier than the date on which the area is annexed to the

1 city and for not longer than ten years from its date of first
2 collection, and shall be subject to the following limitations:
3   (a) Each year during which the surtax is authorized, the city
4 council shall hold a public hearing and adopt an ordinance setting the
5 surtax at a rate not to exceed that which the city deems necessary to
6 generate revenue equal to the difference between the city's cost to
7 provide, maintain, and operate municipal services for the annexation
8 area and the general revenues that the city would otherwise expect to
9 receive from the annexation area during that year. However, in no
10 event shall the rate of the surtax exceed the rate approved by the
11 voters in the ballot proposition described under subsection (5) of this
12 section.
13   (b) All revenue collected under this section shall be used solely
14 to provide, maintain, and operate municipal services for the annexation
15 area.
16   (c) The maximum rate of the surtax authorized by this section shall
17 not exceed ten percent.
18   (d) The surtax authorized by this section shall not be imposed on
19 the privilege of conducting a business that is subject to the payment
20 of franchise fees under 47 U.S.C. Sec. 542.
21   (4) A temporary annexation surtax imposed under this section shall
22 be collected in the same manner as the utility tax on that utility
23 service. The surtax is separate from and in addition to other utility
24 taxes and is not subject to the limitations of RCW 35.21.870.
25   (5) A ballot proposition under this section shall be prepared by
26 the city attorney for the annexing city in conformance with the
27 requirements for local ballot measures under RCW 29A.36.071 and the
28 following requirements:
29   (a) The ballot proposition shall state: (i) The commencement date
30 for collection, which may be no earlier than the date on which the area
31 is annexed to the city; (ii) the maximum rate of the surtax, which may
32 not exceed ten percent; (iii) the utility services to which the surtax
33 may be applied; and (iv) the final year in which a surtax may be
34 imposed, which shall be no later than the tenth year after the surtax
35 is first collected. When used in the ballot proposition, the phrase
36 "temporary annexation surtax," or other combination of those words,
37 shall count as one word.

1   (b) The ballot proposition shall require the voters to cast ballots
2   that contain the words "For temporary annexation surtax" and "Against
3   temporary annexation surtax" or equivalent words.

4   (6) Nothing in this section limits the discretion of a city
5   legislative body to determine whether or not to proceed with an
6   annexation under chapter 35.13 or 35A.14 RCW. Notwithstanding the
7   requirements of RCW 35.21.706 or any local charter provision, a
8   temporary annexation surtax shall not be the subject of a local
9   initiative or be subject to local referendum.

10   (7) A city that imposes a temporary annexation surtax must notify
11   the department of the boundaries of the annexation area, the rate of
12   the surtax and any subsequent change in such rate, and the effective
13   date of the surtax and the effective date of any subsequent change in
14   the rate of such surtax. A temporary annexation surtax and any
15   subsequent change in the rate of such surtax may take effect (a) no
16   sooner than seventy-five days after the department receives notice of
17   the surtax or change in the rate of such surtax and (b) only on the
18   first day of January, April, July, or October. The department must
19   provide access to existing geographic information system data by which
20   a utility can determine customers subject to a temporary annexation
21   surtax and the rate of such surtax. A person who collects and remits
22   a temporary annexation surtax to a city or town and who calculates the
23   tax using geographic information system data provided by the department
24   shall be held harmless and is not liable for the difference in amount
25   due nor subject to penalties or interest in regards to rate calculation
26   errors resulting from the proper use of such geographic information
27   system data.

28   NEW SECTION. Sec. 3. If any provision of this act or its
29   application to any person or circumstance is held invalid, the
30   remainder of the act or the application of the provision to other
31   persons or circumstances is not affected."

1   On page 1, line 2 of the title, after "areas;" strike the remainder
2 of the title and insert "adding a new section to chapter 35.21 RCW; and
3 creating a new section."

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