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ENGROSSED SUBSTITUTE HOUSE BILL 1153

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State of Washington

59th Legislature

2005 Regular Session

By House Committee on Local Government (originally sponsored by Representatives Springer, Nixon, Clibborn, Jarrett, Simpson, P. Sullivan, Shabro and B. Sullivan)

READ FIRST TIME 02/15/05.

1 AN ACT Relating to equalizing the costs of providing municipal  
2 services to newly annexed areas; adding a new section to chapter 35.21  
3 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that, in many of the  
6 most populous areas of the state, it is in the best interests of the  
7 residents to provide municipal services by encouraging annexation of  
8 those areas into existing adjacent cities. However, even where the  
9 residents desire to become annexed, cities are unable to undertake the  
10 proposed annexations because of the unfair tax burdens that would be  
11 placed on their existing residents to pay for services to the newly  
12 annexed areas.

13 The legislature finds that a voter-approved temporary annexation  
14 surtax on utility services would provide the revenues needed to provide  
15 vital municipal services paid for by the residents of the annexation  
16 area. Because utility taxes are paid by property owners and renters  
17 alike, the legislature believes that a temporary surtax will spread the  
18 burden upon all residents in annexation areas. Furthermore, because it

1 is temporary, it will provide revenue during a transition period  
2 necessary to establish those municipal services needed in the newly  
3 annexed area.

4 Therefore, it is the intent of this act to provide an additional  
5 tool to enable cities to annex unincorporated areas that lie within  
6 designated urban growth areas when the residents of those annexation  
7 areas vote to approve the annexation.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.21 RCW  
9 to read as follows:

10 (1) In addition to and without limiting any other powers, any city  
11 with a population greater than thirty thousand that imposes a utility  
12 tax and that is located in a county with a population greater than  
13 seven hundred thousand may also impose and collect a temporary  
14 annexation surtax on the business activity of providing a utility  
15 service to customers within an annexation area if:

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

19 (b) The city legislative authority determines by resolution or  
20 ordinance that the projected cost to provide municipal services to the  
21 annexation area exceeds the projected general revenue that the city  
22 would otherwise receive from the annexation area on an annual basis;  
23 and

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

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

33 (a) "Annexation area" means an area that: (i) Has been annexed to  
34 a city within the preceding twelve months; or (ii) is the subject of a  
35 resolution regarding annexation under RCW 35.13.015, 35.13.020,  
36 35A.14.015, or 35A.14.020. "Annexation area" includes all territory  
37 described in the city resolution.

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

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

4 (d) "Utility tax" means any tax on the privilege of conducting a  
5 utility business, including those business activities traditionally  
6 taxed as utilities as that term is used in RCW 35.102.020. For the  
7 purposes of this section, a utility business does not include a  
8 telephone business as defined in RCW 82.04.065.

9 (3) A temporary annexation surtax shall be measured by the gross  
10 receipts or gross income received from the business of providing  
11 utility services to the annexation area. This surtax may be imposed  
12 beginning no earlier than the date on which the area is annexed to the  
13 city and for not longer than ten years from its date of first  
14 collection, and shall be subject to the following limitations:

15 (a) Each year during which the surtax is authorized, the city  
16 council shall hold a public hearing and adopt an ordinance setting the  
17 surtax at a rate not to exceed that which the city deems necessary to  
18 generate revenue equal to the difference between the city's cost to  
19 provide, maintain, and operate municipal services for the annexation  
20 area and the general revenues that the city would otherwise expect to  
21 receive from the annexation area during that year. However, in no  
22 event shall the rate of the surtax exceed the rate approved by the  
23 voters in the ballot proposition described under subsection (5) of this  
24 section.

25 (b) All revenue collected under this section shall be used solely  
26 to provide, maintain, and operate municipal services for the annexation  
27 area.

28 (c) The maximum rate of the surtax authorized by this section shall  
29 not exceed ten percent.

30 (d) The surtax authorized by this section shall not be imposed on  
31 the privilege of conducting a business that is subject to the payment  
32 of franchise fees under 47 U.S.C. Sec. 542.

33 (4) A temporary annexation surtax imposed under this section shall  
34 be collected in the same manner as the utility tax on that utility  
35 service. The surtax is separate from and in addition to other utility  
36 taxes and is not subject to the limitations of RCW 35.21.870.

37 (5) A ballot proposition under this section shall be prepared by

1 the city attorney for the annexing city in conformance with the  
2 requirements for local ballot measures under RCW 29A.36.071 and the  
3 following requirements:

4 (a) The ballot proposition shall state: (i) The commencement date  
5 for collection, which may be no earlier than the date on which the area  
6 is annexed to the city; (ii) the maximum rate of the surtax, which may  
7 not exceed ten percent; (iii) the utility services to which the surtax  
8 may be applied; and (iv) the final year in which a surtax may be  
9 imposed, which shall be no later than the tenth year after the surtax  
10 is first collected. When used in the ballot proposition, the phrase  
11 "temporary annexation surtax," or other combination of those words,  
12 shall count as one word.

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

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

22 (7) A city that imposes a temporary annexation surtax must notify  
23 the department of the boundaries of the annexation area, the rate of  
24 the surtax and any subsequent change in such rate, and the effective  
25 date of the surtax and the effective date of any subsequent change in  
26 the rate of such surtax. A temporary annexation surtax and any  
27 subsequent change in the rate of such surtax may take effect (a) no  
28 sooner than seventy-five days after the department receives notice of  
29 the surtax or change in the rate of such surtax and (b) only on the  
30 first day of January, April, July, or October. The department must  
31 develop and provide technology by which a utility can determine  
32 customers subject to a temporary annexation surtax and the rate of such  
33 surtax. A person who collects and remits a temporary annexation surtax  
34 to a city or town and who calculates the tax using technology developed  
35 and provided by the department shall be held harmless and is not liable  
36 for the difference in amount due nor subject to penalties or interest  
37 in regards to rate calculation errors resulting from the proper use of  
38 such technology.

1        NEW SECTION.   **Sec. 3.**   If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

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