
SUBSTITUTE HOUSE BILL 1153

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.

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

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

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

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

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

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

35 (5) A ballot proposition under this section shall be prepared by
36 the city attorney for the annexing city in conformance with the
37 requirements for local ballot measures under RCW 29A.36.071 and the
38 following requirements:

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

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

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

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

36 NEW SECTION. **Sec. 3.** If any provision of this act or its

1 application to any person or circumstance is held invalid, the
2 remainder of the act or the application of the provision to other
3 persons or circumstances is not affected.

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