

SHB 2249 - H AMD 296

By Representative Hunter

NOT CONSIDERED 4/26/2009

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

3
4 "NEW SECTION. **Sec. 1.** (1) The legislature recognizes that
5 counties and cities, the general purpose local governments that are
6 closest to the people, are charged with providing numerous and diverse
7 services to their residents. In providing these services, counties
8 and cities must respond to legislative and citizen directives, and a
9 changing, and often challenging, financial landscape.

10 (2) The legislature recognizes that population growth and the
11 enactment and maturation of the growth management act has resulted in
12 many governance changes throughout the state, as annexations and
13 incorporations have expanded existing cities and created new
14 incorporated areas. These actions have been consistent with growth
15 management act principles that call for growth to be thoughtfully and
16 deliberately directed to urban areas and areas characterized by urban
17 growth. These actions have also been consistent with pronouncements
18 of the act specifying that, in general, cities are most appropriate
19 providers of urban governmental services, the services and facilities
20 that are historically and typically provided in cities.

21 (3) Recognizing the governance efficiencies that will result from
22 the annexation of urban and urbanizing areas in the state's largest
23 counties, the principles of fairness that will take root as rural
24 residents cease to bear the costs of providing urban governmental
25 services in unincorporated urban and urbanizing areas, and the
26 unprecedented financial pressures that local governments face, the
27 legislature intends to establish new annexation mechanisms and related

1 fiscal provisions that apply in counties with more than one million
2 five hundred thousand residents.

3
4 **Sec. 2.** RCW 82.14.415 and 2006 c 361 s 1 are each amended to read
5 as follows:

6 (1) The legislative authority of any city (~~((with a population less
7 than four hundred thousand and which))~~) that is located in a county
8 with a population greater than six hundred thousand that annexes an
9 area consistent with its comprehensive plan required by chapter 36.70A
10 RCW(~~(7)~~) may impose a sales and use tax in accordance with the terms
11 of this chapter. The tax is in addition to other taxes authorized by
12 law and shall be collected from those persons who are taxable by the
13 state under chapters 82.08 and 82.12 RCW upon the occurrence of any
14 taxable event within the city. The tax may only be imposed by a city
15 if:

16 (a) The city has commenced annexation of an area under chapter
17 35.13 or 35A.14 RCW having a population of at least ten thousand
18 people prior to January 1, (~~(2010)~~) 2015; 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 (2) The tax authorized under this section is a credit against the
24 state tax under chapter 82.08 or 82.12 RCW. The department of revenue
25 shall perform the collection of such taxes on behalf of the city at no
26 cost to the city (~~(and shall remit)~~). The tax shall be remitted to
27 the city as provided in RCW 82.14.060.

28 (3)(a) Except as provided in (b) of this subsection, the maximum
29 rate of tax any city may impose under this section shall be (~~(0.2~~
30 ~~percent for the total number of annexed areas the city may annex. The~~
31 ~~rate of the tax imposed under this section is))~~):

32 (i) 0.1 percent for each annexed area population that is greater
33 than ten thousand and less than twenty thousand(~~(. The rate of the~~
34 ~~tax imposed under this section shall be))~~); and

1 (ii) 0.2 percent for an annexed area ((which the)) population that
2 is greater than twenty thousand.

3 (b) As of July 1, 2011, and thereafter, 0.85 percent for an annexed
4 area population that is greater than eighteen thousand if:

5 (i) The annexed area is annexed by a city that has officially
6 designated the area a potential annexation area; and

7 (ii) The annexed area is, or was prior to November 1, 2008,
8 officially designated as a potential annexation area by a city with a
9 population greater than four hundred thousand, in a county with a
10 population over one million.

11 (4)(a) The maximum cumulative rate of tax a city may impose under
12 subsection (3)(a)(i) and (ii) of this section is 0.2 percent for the
13 total number of annexed areas the city may annex.

14 (b) The maximum cumulative rate of tax a city may impose under
15 subsection (3)(b) of this section is 0.85 percent and for the single
16 annexed area the city may annex and the amount of tax distributed to a
17 city under subsection (3)(b) of this section shall not exceed five
18 million dollars per fiscal year.

19 (5) The tax imposed by this section shall only be imposed at the
20 beginning of a fiscal year and shall continue for no more than ten
21 years from the date the tax is first imposed. Tax rate increases due
22 to additional annexed areas shall be effective on July 1st of the
23 fiscal year following the fiscal year in which the annexation
24 occurred, provided that notice is given to the department as set forth
25 in subsection ((+8)) (9) of this section.

26 ((+5)) (6) All revenue collected under this section shall be used
27 solely to provide, maintain, and operate municipal services for the
28 annexation area.

29 ((+6)) (7) The revenues from the tax authorized in this section
30 may not exceed that which the city deems necessary to generate revenue
31 equal to the difference between the city's cost to provide, maintain,
32 and operate municipal services for the annexation area and the general
33 revenues that the cities would otherwise expect to receive from the
34 annexation during a year. If the revenues from the tax authorized in

1 this section and the revenues from the annexation area exceed the
2 costs to the city to provide, maintain, and operate municipal services
3 for the annexation area during a given year, the city shall notify the
4 department and the tax distributions authorized in this section shall
5 be suspended for the remainder of the year.

6 ~~((+7))~~ (8) No tax may be imposed under this section before July
7 1, 2007. Before imposing a tax under this section, the legislative
8 authority of a city shall adopt an ordinance that includes the
9 following:

10 (a) A certification that the amount needed to provide municipal
11 services to the annexed area reflects the city's true and actual
12 costs;

13 (b) The rate of tax under this section that shall be imposed
14 within the city; and

15 ~~((+b))~~ (c) The threshold amount for the first fiscal year
16 following the annexation and passage of the ordinance.

17 ~~((+8))~~ (9) The tax shall cease to be distributed to the city for
18 the remainder of the fiscal year once the threshold amount has been
19 reached. No later than March 1st of each year, the city shall provide
20 the department with a certification of the city's true and actual
21 costs to provide municipal services to the annexed area, a new
22 threshold amount for the next fiscal year, and notice of any
23 applicable tax rate changes. Distributions of tax under this section
24 shall begin again on July 1st of the next fiscal year and continue
25 until the new threshold amount has been reached or June 30th,
26 whichever is sooner. Any revenue generated by the tax in excess of
27 the threshold amount shall belong to the state of Washington. Any
28 amount resulting from the threshold amount less the total fiscal year
29 distributions, as of June 30th, shall not be carried forward to the
30 next fiscal year.

31 ~~((+9))~~ (10) The tax shall cease to be distributed to a city
32 imposing the tax under subsection (3)(b) of this section for the
33 remainder of the fiscal year, if the total distributions to the city
34 imposing the tax exceed five million dollars for the fiscal year.

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

3 (a) "Annexation area" means an area that has been annexed to a
4 city under chapter 35.13 or 35A.14 RCW. "Annexation area" includes
5 all territory described in the city resolution.

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

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

9 (d) "Fiscal year" means the year beginning July 1st and ending the
10 following June 30th.

11 (e) "Threshold amount" means the maximum amount of tax
12 distributions as determined by the city in accordance with subsection
13 ~~((6))~~ (7) of this section that the department shall distribute to
14 the city generated from the tax imposed under this section in a fiscal
15 year.

16 (f) "Potential annexation area" means one or more geographic areas
17 that a city has officially designated for potential future annexation,
18 as part of its comprehensive plan adoption process under the state
19 growth management act, chapter 36.70A RCW.

20
21 **Sec. 3.** RCW 47.26.086 and 1994 c 179 s 11 are each amended to
22 read as follows:

23 Transportation improvement account projects selected for funding
24 programs after fiscal year 1995 are governed by the requirements of
25 this section.

26 The board shall allocate funds from the account by June 30th of
27 each year for the ensuing fiscal year to urban counties, cities with a
28 population of five thousand and over, and to transportation benefit
29 districts. Projects may include, but are not limited to, multi-agency
30 projects and arterial improvement projects in fast-growing areas. The
31 board shall endeavor to provide geographical diversity in selecting
32 improvement projects to be funded from the account.

33 The intent of the program is to improve mobility of people and
34 goods in Washington state by supporting economic development and

1 environmentally responsive solutions to our statewide transportation
2 system needs.

3 To be eligible to receive these funds, a project must be
4 consistent with the Growth Management Act, the Clean Air Act including
5 conformity, and the Commute Trip Reduction Law and consideration must
6 have been given to the project's relationship, both actual and
7 potential, with the statewide rail passenger program and rapid mass
8 transit. Projects must be consistent with any adopted high capacity
9 transportation plan, must consider existing or reasonably foreseeable
10 congestion levels attributable to economic development or growth and
11 all modes of transportation and safety, and must be partially funded
12 by local government or private contributions, or a combination of such
13 contributions. Priority consideration shall be given to those
14 projects with the greatest percentage of local or private
15 contribution, or both.

16 A city or town located within a county with a population of one
17 million five hundred thousand or more may not qualify for new grants
18 after December 31, 2011, unless the voter's of the city or town have
19 voted upon the annexation of a potential annexation area subsequent to
20 the effective date of this act, but prior to January 1, 2012. This
21 subsection only applies to cities and towns with potential annexation
22 areas recognized in the city or town's comprehensive plan or related
23 document as such plan or related document exists on the effective date
24 of this act.

25 Within one year after board approval of an application for
26 funding, the lead agency shall provide written certification to the
27 board of the pledged local and private funding for the phase of the
28 project approved. Funds allocated to an applicant that does not
29 certify its funding within one year after approval may be reallocated
30 by the board.

31
32 NEW SECTION. Sec. 4. A new section is added to chapter 43.155
33 RCW to read as follows:
34

1 A city or town located within a county with a population of one
2 million five hundred thousand or more may not qualify for new loans or
3 pledges after December 31, 2011, unless the voter's of the city or
4 town have voted upon the annexation of a potential annexation area
5 subsequent to the effective date of this act, but prior to January 1,
6 2012. This section only applies to cities and towns with potential
7 annexation areas recognized in the city or town's comprehensive plan
8 or related document as such plan or related document exists on the
9 effective date of this act.

10

11 NEW SECTION. **Sec. 5.** (1) The legislative authority of a county
12 with a population of one million five hundred thousand or more may
13 impose an excise tax on the privilege of engaging in business as a
14 utility. The tax is equal to the gross income of the business,
15 multiplied by a rate not exceeding six percent.

16 (2) A county must use taxes collected under the authority of this
17 section only for capital projects and services provided within the
18 unincorporated area of the county.

19 (3) A utility subject to tax under this section must add the tax
20 to the rates or charges it makes for utility services and separately
21 state the amount of tax on billings.

22 (4) The definitions in this subsection apply to this section.

23 (a) "Cable service utility" means a person providing cable service
24 as defined in the federal telecommunications act of 1996.

25 (b) "Electrical power utility" has the same meaning as light and
26 power business as defined in RCW 82.16.010.

27 (c) "Gas utility" has the same meaning as gas distribution
28 business as defined in RCW 82.16.010.

29 (d) "Gross income of the business" is defined as provided in RCW
30 82.04.080.

31 (e) "Sewer utility" means a sewerage collection business as
32 defined in RCW 82.16.020.

33 (f) "Solid waste utility" means a solid waste collection business
34 as defined in RCW 82.18.010.

1 (g) "Telephone utility" means a person providing
2 telecommunications service as defined in RCW 82.04.065.

3 (h) "Water utility" means a water distribution business as defined
4 in RCW 82.16.010.

5 (i) "Utility" means an electrical power utility, gas utility,
6 telephone utility, water utility, sewer utility, solid waste utility,
7 or cable service utility.

8 (5) A county may provide exemptions for sales by utilities to
9 business customers, such as, manufacturing facilities, aircraft repair
10 facilities, industrial parks, industrial facilities, farm businesses,
11 and computer data centers. A county may not provide a general
12 exemption for sales by utilities to residential customers unless
13 business customers are also exempt.

14 (6) A county must allow a credit against the cable service utility
15 tax for any franchise fee paid by the cable service utility to the
16 county.

17 (7) A county must allow a credit against the tax imposed under the
18 authority of this section for the amount of any similar utility tax
19 imposed by a city or town on the same taxable event. The credit
20 required by this subsection may not exceed the amount of tax otherwise
21 due.

22 (8) This section expires January 1, 2012.

23

24 NEW SECTION. **Sec. 6.** A new section is added to chapter 35.21 RCW
25 to read as follows:

26 (1) Subject to the requirements of this section, a city or town
27 located partially or wholly within a county with a population of one
28 million five hundred thousand or more may impose a tax upon the gross
29 income or gross receipts of a water-sewer district.

30 (2) A city or town imposing the tax authorized under this section
31 may not impose a rate of tax that exceeds six percent.

32 (3) A city or town may not impose the tax authorized under this
33 section unless the voter's of the city or town have voted upon the
34 annexation of a potential annexation area subsequent to the effective

1 date of this act, but prior to January 1, 2012. This subsection only
2 applies to cities and towns with potential annexation areas recognized
3 in the city or town's comprehensive plan or related document as such
4 plan or related document exists on the effective date of this act.

5
6 **Sec. 7.** RCW 82.46.035 and 1992 c 221 s 3 and 1991 sp.s c 32 s 33
7 are each reenacted and amended to read as follows:

8 (1) The legislative authority of any county or city shall identify
9 in the adopted budget the capital projects, park maintenance and
10 operation expenditures, or both funded in whole or in part from the
11 proceeds of the tax authorized in this section, and shall indicate
12 that such tax is intended to be in addition to other funds that may be
13 reasonably available for (~~(such capital projects)~~) these purposes.

14 (2) The legislative authority of any county or any city that plans
15 under RCW 36.70A.040(1) may impose an additional excise tax on each
16 sale of real property in the unincorporated areas of the county for
17 the county tax and in the corporate limits of the city for the city
18 tax at a rate not exceeding one-quarter of one percent of the selling
19 price. Any county choosing to plan under RCW 36.70A.040(2) and any
20 city within such a county may only adopt an ordinance imposing the
21 excise tax authorized by this section if the ordinance is first
22 authorized by a proposition approved by a majority of the voters of
23 the taxing district voting on the proposition at a general election
24 held within the district or at a special election within the taxing
25 district called by the district for the purpose of submitting such
26 proposition to the voters.

27 (3) Revenues generated from the tax imposed under subsection (2)
28 of this section shall be used by such counties and cities (~~(solely)~~)
29 for financing capital projects specified in a capital facilities plan
30 element of a comprehensive plan, and, at the option of the city or
31 county, park maintenance and operation expenditures. However,
32 revenues (a) pledged by such counties and cities to debt retirement
33 prior to March 1, 1992, may continue to be used for that purpose until
34 the original debt for which the revenues were pledged is retired, or

1 (b) committed prior to March 1, 1992, by such counties or cities to a
2 project may continue to be used for that purpose until the project is
3 completed.

4 (4) Revenues generated by the tax imposed by this section shall be
5 deposited in a separate account.

6 (5) As used in this section, "city" means any city or town and
7 "capital project" means those public works projects of a local
8 government for planning, acquisition, construction, reconstruction,
9 repair, replacement, rehabilitation, or improvement of streets, roads,
10 highways, sidewalks, street and road lighting systems, traffic
11 signals, bridges, domestic water systems, storm and sanitary sewer
12 systems, and planning, construction, reconstruction, repair,
13 rehabilitation, or improvement of parks.

14 (6) When the governor files a notice of noncompliance under RCW
15 36.70A.340 with the secretary of state and the appropriate county or
16 city, the county or city's authority to impose the additional excise
17 tax under this section shall be temporarily rescinded until the
18 governor files a subsequent notice rescinding the notice of
19 noncompliance.

20

21 **Sec. 8.** RCW 84.55.050 and 2008 c 319 s 1 are each amended to read
22 as follows:

23 (1) Subject to any otherwise applicable statutory dollar rate
24 limitations, regular property taxes may be levied by or for a taxing
25 district in an amount exceeding the limitations provided for in this
26 chapter if such levy is authorized by a proposition approved by a
27 majority of the voters of the taxing district voting on the
28 proposition at a general election held within the district or at a
29 special election within the taxing district called by the district for
30 the purpose of submitting such proposition to the voters. Any
31 election held pursuant to this section shall be held not more than
32 twelve months prior to the date on which the proposed levy is to be
33 made, except as provided in subsection (2) of this section. The
34 ballot of the proposition shall state the dollar rate proposed and

1 shall clearly state the conditions, if any, which are applicable under
2 subsection (4) of this section.

3 (2)(a) Subject to statutory dollar limitations, a proposition
4 placed before the voters under this section may authorize annual
5 increases in levies for multiple consecutive years, up to six
6 consecutive years, during which period each year's authorized maximum
7 legal levy shall be used as the base upon which an increased levy
8 limit for the succeeding year is computed, but the ballot proposition
9 must state the dollar rate proposed only for the first year of the
10 consecutive years and must state the limit factor, or a specified
11 index to be used for determining a limit factor, such as the consumer
12 price index, which need not be the same for all years, by which the
13 regular tax levy for the district may be increased in each of the
14 subsequent consecutive years. Elections for this purpose must be held
15 at a primary or general election. The title of each ballot measure
16 must state the limited purposes for which the proposed annual
17 increases during the specified period of up to six consecutive years
18 shall be used(~~(, and funds raised under the levy shall not supplant~~
19 ~~existing funds used for these purposes)~~).

20 (b) Funds raised by a levy under this subsection shall not supplant
21 existing funds used for the limited purpose specified in the ballot
22 title. For purposes of this subsection, existing funds means the
23 actual operating expenditures for the calendar year in which the
24 ballot measure is approved by voters. Actual operating expenditures
25 excludes lost federal funds, lost or expired state grants or loans,
26 extraordinary events not likely to reoccur, changes in contract
27 provisions beyond the control of the taxing district receiving the
28 services, and major nonrecurring capital expenditures. This
29 subsection (2)(b) does not apply to levies approved by the voters in
30 2009, 2010, and 2011.

31 (3) After a levy authorized pursuant to this section is made, the
32 dollar amount of such levy may not be used for the purpose of
33 computing the limitations for subsequent levies provided for in this
34

1 chapter, unless the ballot proposition expressly states that the levy
2 made under this section will be used for this purpose.

3 (4) If expressly stated, a proposition placed before the voters
4 under subsection (1) or (2) of this section may:

5 (a) Use the dollar amount of a levy under subsection (1) of this
6 section, or the dollar amount of the final levy under subsection (2)
7 of this section, for the purpose of computing the limitations for
8 subsequent levies provided for in this chapter;

9 (b) Limit the period for which the increased levy is to be made
10 under (a) of this subsection;

11 (c) Limit the purpose for which the increased levy is to be made
12 under (a) of this subsection, but if the limited purpose includes
13 making redemption payments on bonds, the period for which the
14 increased levies are made shall not exceed nine years;

15 (d) Set the levy or levies at a rate less than the maximum rate
16 allowed for the district; or

17 (e) Include any combination of the conditions in this subsection.

18 (5) Except as otherwise expressly stated in an approved ballot
19 measure under this section, subsequent levies shall be computed as if:

20 (a) The proposition under this section had not been approved; and

21 (b) The taxing district had made levies at the maximum rates which
22 would otherwise have been allowed under this chapter during the years
23 levies were made under the proposition.

24

25 **Sec. 9.** RCW 82.14.460 and 2008 c 157 s 2 are each amended to read
26 as follows:

27 (1) A county legislative authority may authorize, fix, and impose
28 a sales and use tax in accordance with the terms of this chapter.

29 (2) The tax authorized in this section shall be in addition to any
30 other taxes authorized by law and shall be collected from those
31 persons who are taxable by the state under chapters 82.08 and 82.12
32 RCW upon the occurrence of any taxable event within the county. The
33 rate of tax shall equal one-tenth of one percent of the selling price

34

1 in the case of a sales tax, or value of the article used, in the case
2 of a use tax.

3 (3) Moneys collected under this section shall be used solely for
4 the purpose of providing for the operation or delivery of (~~new or~~
5 ~~expanded~~) chemical dependency or mental health treatment programs and
6 services and for the operation or delivery of (~~new or expanded~~)
7 therapeutic court programs and services. For the purposes of this
8 section, "programs and services" includes, but is not limited to,
9 treatment services, case management, and housing that are a component
10 of a coordinated chemical dependency or mental health treatment
11 program or service.

12 (4) All moneys collected under this section must be used solely
13 for the purpose of providing new or expanded programs and services as
14 provided in this section, except that a portion of moneys collected
15 under this section (~~shall not~~) may be used to supplant existing
16 funding for these purposes(~~, provided that~~) in a county with a
17 population greater than one million five hundred thousand persons as
18 follows: Up to fifty percent may be used to supplant existing funding
19 in the fiscal year ending in 2010; up to forty percent may be used to
20 supplant existing funding in the fiscal year ending in 2011; up to
21 thirty percent may be used to supplant existing funding in the fiscal
22 year ending in 2012; up to twenty percent may be used to supplant
23 existing funding in the fiscal year ending in 2013; and up to ten
24 percent may be used to supplant existing funding in the fiscal year
25 ending in 2014.

26 (5) Nothing in this section shall be interpreted to prohibit the
27 use of moneys collected under this section for the replacement of
28 lapsed federal funding previously provided for the operation or
29 delivery of services and programs as provided in this section.

30
31 NEW SECTION. Sec. 10. A new section is added to chapter 43.09
32 RCW to read as follows:

33 (1) By January 1, 2011, the state auditor shall conduct a
34 performance audit of any county with a population of one million five

1 hundred thousand or more to specifically determine whether policy
2 changes and programs the county has adopted since January 1, 2009,
3 will effectively reduce overhead and other costs, improve services,
4 and streamline operations. The performance audit must identify
5 current deficiencies in recognized best practices in the provision of
6 county goods and services and how the provision of these goods and
7 services could be provided more efficiently and effectively. As part
8 of the performance audit, the auditor shall also evaluate the amount
9 of local and regional services provided by the county within and
10 outside city limits and contrast this with other large counties in
11 Washington and with counties of similar size in other states. The
12 state auditor shall use money distributed to the auditor under RCW
13 82.08.020(5) to pay for the performance audit required under this
14 section.

15 (2) This section expires January 1, 2012.

16
17 NEW SECTION. **Sec. 11.** Section 5 of this act constitutes a new
18 chapter in Title 36 RCW.

19
20 NEW SECTION. **Sec. 12.** Section 9 of this act expires July 1,
21 2014."

22
23 Correct the title.

24
EFFECT: (1) Clarifies for sections 3, 4, and 6 of the bill that
annexation of potential annexation areas (PAAs) must occur before
January 1, 2012, for PAAs recognized in the city or town's
comprehensive plan on the effective date of the act. (2)
Specifies for the purposes of sections 3, 4, and 6 of the bill
that the voter's of a city or town must vote to annex a remaining
PAA for the city or town to maintain TIB and public works
assistance account funding and impose a utility tax on water-sewer
districts. (3) Authorizes cities and towns with no PAAs to
impose the utility tax on water-sewer districts. (4) Clarifies
that a city or town's utility tax on water-sewer districts only
applies to services provided within the city limits. (5) Allows
counties to impose the utility tax countywide, however, a county
must provide a credit for any city utility tax. (6) Eliminates

the section of the bill pertaining to code cities because it is not necessary. (7) Allows King County to use mental health sales and use tax funds to partially supplant other monies used for mental health/chemical dependency services (50% - FY 2010; 40% - FY 2011; 30% - FY 2012; 20% - FY 2013; 10% - FY 2014). (8) Clarifies that the disallowance of TIB/Public Works Assistance funding only applies to new grants/loans issued after January 1, 2012. (9) Extends the commencement date for the annexation sales and use tax by 3 years, to 2015. (10) Allows the City of Seattle to impose the annexation sales and use tax up to \$5 million per year.

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