
SUBSTITUTE HOUSE BILL 2249

State of Washington **61st Legislature** **2009 Regular Session**

By House Finance (originally sponsored by Representative Hunter)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to modifying local government revenue options in
2 counties with a population of one million five hundred thousand or
3 more; amending RCW 82.14.415, 47.26.086, and 84.55.050; reenacting and
4 amending RCW 82.46.035; adding a new section to chapter 43.155 RCW;
5 adding a new section to chapter 35.21 RCW; adding a new section to
6 chapter 35A.82 RCW; adding a new section to chapter 43.09 RCW; adding
7 a new chapter to Title 36 RCW; creating a new section; and providing
8 expiration dates.

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

10 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that counties
11 and cities, the general purpose local governments that are closest to
12 the people, are charged with providing numerous and diverse services to
13 their residents. In providing these services, counties and cities must
14 respond to legislative and citizen directives, and a changing, and
15 often challenging, financial landscape.

16 (2) The legislature recognizes that population growth and the
17 enactment and maturation of the growth management act has resulted in
18 many governance changes throughout the state, as annexations and
19 incorporations have expanded existing cities and created new

1 incorporated areas. These actions have been consistent with growth
2 management act principles that call for growth to be thoughtfully and
3 deliberately directed to urban areas and areas characterized by urban
4 growth. These actions have also been consistent with pronouncements of
5 the act specifying that, in general, cities are most appropriate
6 providers of urban governmental services, the services and facilities
7 that are historically and typically provided in cities.

8 (3) Recognizing the governance efficiencies that will result from
9 the annexation of urban and urbanizing areas in the state's largest
10 counties, the principles of fairness that will take root as rural
11 residents cease to bear the costs of providing urban governmental
12 services in unincorporated urban and urbanizing areas, and the
13 unprecedented financial pressures that local governments face, the
14 legislature intends to establish new annexation mechanisms and related
15 fiscal provisions that apply in counties with more than one million
16 five hundred thousand residents.

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

19 (1) The legislative authority of any city with a population less
20 than four hundred thousand and which is located in a county with a
21 population greater than six hundred thousand that annexes an area
22 consistent with its comprehensive plan required by chapter 36.70A RCW,
23 may impose a sales and use tax in accordance with the terms of this
24 chapter. The tax is in addition to other taxes authorized by law and
25 shall be collected from those persons who are taxable by the state
26 under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable
27 event within the city. The tax may only be imposed by a city if:

28 (a) The city has commenced annexation of an area under chapter
29 35.13 or 35A.14 RCW having a population of at least ten thousand people
30 prior to January 1, (~~2010~~) 2012; and

31 (b) The city legislative authority determines by resolution or
32 ordinance that the projected cost to provide municipal services to the
33 annexation area exceeds the projected general revenue that the city
34 would otherwise receive from the annexation area on an annual basis.

35 (2) The tax authorized under this section is a credit against the
36 state tax under chapter 82.08 or 82.12 RCW. The department of revenue

1 shall perform the collection of such taxes on behalf of the city at no
2 cost to the city and shall remit the tax to the city as provided in RCW
3 82.14.060.

4 (3) The maximum rate of tax any city may impose under this section
5 shall be 0.2 percent for the total number of annexed areas the city may
6 annex. The rate of the tax imposed under this section is 0.1 percent
7 for each annexed area population that is greater than ten thousand and
8 less than twenty thousand. The rate of the tax imposed under this
9 section shall be 0.2 percent for an annexed area which the population
10 is greater than twenty thousand.

11 (4) The tax imposed by this section shall only be imposed at the
12 beginning of a fiscal year and shall continue for no more than ten
13 years from the date the tax is first imposed. Tax rate increases due
14 to additional annexed areas shall be effective on July 1st of the
15 fiscal year following the fiscal year in which the annexation occurred,
16 provided that notice is given to the department as set forth in
17 subsection (8) of this section.

18 (5) All revenue collected under this section shall be used solely
19 to provide, maintain, and operate municipal services for the annexation
20 area.

21 (6) The revenues from the tax authorized in this section may not
22 exceed that which the city deems necessary to generate revenue equal to
23 the difference between the city's cost to provide, maintain, and
24 operate municipal services for the annexation area and the general
25 revenues that the cities would otherwise expect to receive from the
26 annexation during a year. If the revenues from the tax authorized in
27 this section and the revenues from the annexation area exceed the costs
28 to the city to provide, maintain, and operate municipal services for
29 the annexation area during a given year, the city shall notify the
30 department and the tax distributions authorized in this section shall
31 be suspended for the remainder of the year.

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

35 (a) The rate of tax under this section that shall be imposed within
36 the city; and

37 (b) The threshold amount for the first fiscal year following the
38 annexation and passage of the ordinance.

1 (8) The tax shall cease to be distributed to the city for the
2 remainder of the fiscal year once the threshold amount has been
3 reached. No later than March 1st of each year, the city shall provide
4 the department with a new threshold amount for the next fiscal year,
5 and notice of any applicable tax rate changes. Distributions of tax
6 under this section shall begin again on July 1st of the next fiscal
7 year and continue until the new threshold amount has been reached or
8 June 30th, whichever is sooner. Any revenue generated by the tax in
9 excess of the threshold amount shall belong to the state of Washington.
10 Any amount resulting from the threshold amount less the total fiscal
11 year distributions, as of June 30th, shall not be carried forward to
12 the next fiscal year.

13 (9) The following definitions apply throughout this section unless
14 the context clearly requires otherwise:

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

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

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

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

23 (e) "Threshold amount" means the maximum amount of tax
24 distributions as determined by the city in accordance with subsection
25 (6) of this section that the department shall distribute to the city
26 generated from the tax imposed under this section in a fiscal year.

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

29 Transportation improvement account projects selected for funding
30 programs after fiscal year 1995 are governed by the requirements of
31 this section.

32 The board shall allocate funds from the account by June 30th of
33 each year for the ensuing fiscal year to urban counties, cities with a
34 population of five thousand and over, and to transportation benefit
35 districts. Projects may include, but are not limited to, multi-agency
36 projects and arterial improvement projects in fast-growing areas. The

1 board shall endeavor to provide geographical diversity in selecting
2 improvement projects to be funded from the account.

3 The intent of the program is to improve mobility of people and
4 goods in Washington state by supporting economic development and
5 environmentally responsive solutions to our statewide transportation
6 system needs.

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

19 A city or town located within a county with a population of one
20 million five hundred thousand or more may not receive funds after
21 January 1, 2012, if the city has not annexed any potential annexation
22 areas recognized in the city's comprehensive plan or related document
23 prior to the effective date of this act.

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

29 NEW SECTION. Sec. 4. A new section is added to chapter 43.155 RCW
30 to read as follows:

31 A city or town located within a county with a population of one
32 million five hundred thousand or more may not receive funds under this
33 chapter after January 1, 2012, if the city or town has not annexed any
34 potential annexation areas recognized in the city's comprehensive plan
35 or related document prior to the effective date of this act.

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

6 (2) A tax imposed under this section only applies to the
7 unincorporated areas of the county. The tax must be expended only for
8 capital projects and services provided within the unincorporated area
9 of the county.

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

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

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

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

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

20 (d) "Gross income of the business" is defined as provided in RCW
21 82.04.080.

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

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

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

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

30 (i) "Utility" means an electrical power utility, gas utility,
31 telephone utility, water utility, sewer utility, solid waste utility,
32 or cable service utility.

33 (5) A county may provide exemptions for sales by utilities to
34 business customers, such as, manufacturing facilities, aircraft repair
35 facilities, industrial parks, industrial facilities, farm businesses,
36 and computer data centers. A county may not provide a general
37 exemption for sales by utilities to residential customers unless
38 business customers are also exempt.

1 (6) A county must allow a credit against the cable service utility
2 tax for any franchise fee paid by the cable service utility to the
3 county.

4 (7) This section expires January 1, 2012.

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

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

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

13 (3) A city or town may impose the tax authorized under this section
14 only if the city has annexed a potential annexation area that has been
15 recognized in an ordinance or resolution adopted by the city or town
16 prior to the effective date of this section.

17 NEW SECTION. **Sec. 7.** A new section is added to chapter 35A.82 RCW
18 to read as follows:

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

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

25 (3) A city or town may impose the tax authorized under this section
26 only if the city has annexed a potential annexation area that has been
27 recognized in an ordinance or resolution adopted by the city or town
28 prior to the effective date of this section.

29 **Sec. 8.** RCW 82.46.035 and 1992 c 221 s 3 and 1991 sp.s c 32 s 33
30 are each reenacted and amended to read as follows:

31 (1) The legislative authority of any county or city shall identify
32 in the adopted budget the capital projects, park maintenance and
33 operation expenditures, or both funded in whole or in part from the
34 proceeds of the tax authorized in this section, and shall indicate that

1 such tax is intended to be in addition to other funds that may be
2 reasonably available for (~~(such capital projects)~~) these purposes.

3 (2) The legislative authority of any county or any city that plans
4 under RCW 36.70A.040(1) may impose an additional excise tax on each
5 sale of real property in the unincorporated areas of the county for the
6 county tax and in the corporate limits of the city for the city tax at
7 a rate not exceeding one-quarter of one percent of the selling price.
8 Any county choosing to plan under RCW 36.70A.040(2) and any city within
9 such a county may only adopt an ordinance imposing the excise tax
10 authorized by this section if the ordinance is first authorized by a
11 proposition approved by a majority of the voters of the taxing district
12 voting on the proposition at a general election held within the
13 district or at a special election within the taxing district called by
14 the district for the purpose of submitting such proposition to the
15 voters.

16 (3) Revenues generated from the tax imposed under subsection (2) of
17 this section shall be used by such counties and cities (~~(solely)~~) for
18 financing capital projects specified in a capital facilities plan
19 element of a comprehensive plan, and, at the option of the city or
20 county, park maintenance and operation expenditures. However, revenues
21 (a) pledged by such counties and cities to debt retirement prior to
22 March 1, 1992, may continue to be used for that purpose until the
23 original debt for which the revenues were pledged is retired, or (b)
24 committed prior to March 1, 1992, by such counties or cities to a
25 project may continue to be used for that purpose until the project is
26 completed.

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

29 (5) As used in this section, "city" means any city or town and
30 "capital project" means those public works projects of a local
31 government for planning, acquisition, construction, reconstruction,
32 repair, replacement, rehabilitation, or improvement of streets, roads,
33 highways, sidewalks, street and road lighting systems, traffic signals,
34 bridges, domestic water systems, storm and sanitary sewer systems, and
35 planning, construction, reconstruction, repair, rehabilitation, or
36 improvement of parks.

37 (6) When the governor files a notice of noncompliance under RCW
38 36.70A.340 with the secretary of state and the appropriate county or

1 city, the county or city's authority to impose the additional excise
2 tax under this section shall be temporarily rescinded until the
3 governor files a subsequent notice rescinding the notice of
4 noncompliance.

5 **Sec. 9.** RCW 84.55.050 and 2008 c 319 s 1 are each amended to read
6 as follows:

7 (1) Subject to any otherwise applicable statutory dollar rate
8 limitations, regular property taxes may be levied by or for a taxing
9 district in an amount exceeding the limitations provided for in this
10 chapter if such levy is authorized by a proposition approved by a
11 majority of the voters of the taxing district voting on the proposition
12 at a general election held within the district or at a special election
13 within the taxing district called by the district for the purpose of
14 submitting such proposition to the voters. Any election held pursuant
15 to this section shall be held not more than twelve months prior to the
16 date on which the proposed levy is to be made, except as provided in
17 subsection (2) of this section. The ballot of the proposition shall
18 state the dollar rate proposed and shall clearly state the conditions,
19 if any, which are applicable under subsection (4) of this section.

20 (2)(a) Subject to statutory dollar limitations, a proposition
21 placed before the voters under this section may authorize annual
22 increases in levies for multiple consecutive years, up to six
23 consecutive years, during which period each year's authorized maximum
24 legal levy shall be used as the base upon which an increased levy limit
25 for the succeeding year is computed, but the ballot proposition must
26 state the dollar rate proposed only for the first year of the
27 consecutive years and must state the limit factor, or a specified index
28 to be used for determining a limit factor, such as the consumer price
29 index, which need not be the same for all years, by which the regular
30 tax levy for the district may be increased in each of the subsequent
31 consecutive years. Elections for this purpose must be held at a
32 primary or general election. The title of each ballot measure must
33 state the limited purposes for which the proposed annual increases
34 during the specified period of up to six consecutive years shall be
35 used(~~(, and funds raised under the levy shall not supplant existing~~
36 ~~funds used for these purposes)~~).

1 (b) Funds raised by a levy under this subsection shall not supplant
2 existing funds used for the limited purpose specified in the ballot
3 title. For purposes of this subsection, existing funds means the
4 actual operating expenditures for the calendar year in which the ballot
5 measure is approved by voters. Actual operating expenditures excludes
6 lost federal funds, lost or expired state grants or loans,
7 extraordinary events not likely to reoccur, changes in contract
8 provisions beyond the control of the taxing district receiving the
9 services, and major nonrecurring capital expenditures. This subsection
10 (2)(b) does not apply to levies approved by the voters in 2009, 2010,
11 and 2011.

12 (3) After a levy authorized pursuant to this section is made, the
13 dollar amount of such levy may not be used for the purpose of computing
14 the limitations for subsequent levies provided for in this chapter,
15 unless the ballot proposition expressly states that the levy made under
16 this section will be used for this purpose.

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

19 (a) Use the dollar amount of a levy under subsection (1) of this
20 section, or the dollar amount of the final levy under subsection (2) of
21 this section, for the purpose of computing the limitations for
22 subsequent levies provided for in this chapter;

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.09 RCW
2 to read as follows:

3 (1) By January 1, 2011, the state auditor shall conduct a
4 performance audit of any county with a population of one million five
5 hundred thousand or more to specifically determine whether policy
6 changes and programs the county has adopted since January 1, 2009, will
7 effectively reduce overhead and other costs, improve services, and
8 streamline operations. The performance audit must identify current
9 deficiencies in recognized best practices in the provision of county
10 goods and services and how the provision of these goods and services
11 could be provided more efficiently and effectively. As part of the
12 performance audit, the auditor shall also evaluate the amount of local
13 and regional services provided by the county within and outside city
14 limits and contrast this with other large counties in Washington and
15 with counties of similar size in other states. The state auditor shall
16 use money distributed to the auditor under RCW 82.08.020(5) to pay for
17 the performance audit required under this section.

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

19 NEW SECTION. **Sec. 11.** Section 5 of this act constitutes a new
20 chapter in Title 36 RCW.

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