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HOUSE BILL 2249

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State of Washington

61st Legislature

2009 Regular Session

By Representative Hunter

Read first time 02/18/09. Referred to Committee on Finance.

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, 82.14.030, 84.55.050, and 82.14.450;  
4 reenacting and amending RCW 82.46.035; adding a new section to chapter  
5 35.21 RCW; adding a new section to chapter 35A.82 RCW; adding a new  
6 section to chapter 43.09 RCW; adding a new chapter to Title 36 RCW;  
7 creating a new section; and providing expiration dates.

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

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

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

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

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

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

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

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

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

34 (2) The tax authorized under this section is a credit against the  
35 state tax under chapter 82.08 or 82.12 RCW. The department of revenue  
36 shall perform the collection of such taxes on behalf of the city at no

1 cost to the city and shall remit the tax to the city as provided in RCW  
2 82.14.060.

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

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

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

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

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

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

36 (b) The threshold amount for the first fiscal year following the  
37 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 82.14.030 and 2008 c 86 s 101 are each amended to read  
28 as follows:

29 (1)(a) The governing body of any county or city, while not required  
30 by legislative mandate to do so, may, by resolution or ordinance for  
31 the purposes authorized by this chapter, impose a sales and use tax in  
32 accordance with the terms of this chapter. Such tax shall be collected  
33 from those persons who are taxable by the state under chapters 82.08  
34 and 82.12 RCW, upon the occurrence of any taxable event within the  
35 county or city as the case may be. Except as provided in RCW  
36 82.14.230, this sales and use tax shall not apply to natural or  
37 manufactured gas. The rate of such tax imposed by a county shall be

1 five-tenths of one percent of the selling price (in the case of a sales  
2 tax) or value of the article used (in the case of a use tax). The rate  
3 of such tax imposed by a city shall not exceed five-tenths of one  
4 percent of the selling price (in the case of a sales tax) or value of  
5 the article used (in the case of a use tax). (~~However~~) Except as  
6 provided in (b) of this subsection, in the event a county imposes a  
7 sales and use tax under this subsection, the rate of such tax imposed  
8 under this subsection by any city therein shall not exceed four hundred  
9 and twenty-five one-thousandths of one percent.

10 (b) The four hundred and twenty-five one-thousandths of one percent  
11 rate in (a) of this subsection is three hundred and fifty one-  
12 thousandths of one percent if a city has adopted an annexation plan to  
13 annex an urban growth area with a population of four thousand or more  
14 and the city has not commenced annexation of the area before January 1,  
15 2012. This subsection only applies to a city located in a county with  
16 a population greater than one million five hundred thousand.

17 (2)(a) In addition to the tax authorized in subsection (1) of this  
18 section, the governing body of any county or city may by resolution or  
19 ordinance impose an additional sales and use tax in accordance with the  
20 terms of this chapter. Such additional tax shall be collected upon the  
21 same taxable events upon which the tax imposed under subsection (1) of  
22 this section is imposed. The rate of such additional tax imposed by a  
23 county shall be up to five-tenths of one percent of the selling price  
24 (in the case of a sales tax) or value of the article used (in the case  
25 of a use tax). The rate of such additional tax imposed by a city shall  
26 be up to five-tenths of one percent of the selling price (in the case  
27 of a sales tax) or value of the article used (in the case of a use  
28 tax). (~~However~~) Except as provided in (b) of this subsection, in the  
29 event a county imposes a sales and use tax under the authority of this  
30 subsection at a rate equal to or greater than the rate imposed under  
31 the authority of this subsection by a city within the county, the  
32 county shall receive fifteen percent of the city tax. Except as  
33 provided in (b) of this subsection, in the event that the county  
34 imposes a sales and use tax under the authority of this subsection at  
35 a rate which is less than the rate imposed under this subsection by a  
36 city within the county, the county shall receive that amount of  
37 revenues from the city tax equal to fifteen percent of the rate of tax  
38 imposed by the county under the authority of this subsection. The

1 authority to impose a tax under this subsection is intended in part to  
2 compensate local government for any losses from the phase-out of the  
3 property tax on business inventories.

4 (b) The fifteen percent city share amount in (a) of this subsection  
5 is thirty percent if a city has adopted an annexation plan to annex an  
6 urban growth area with a population of four thousand or more and the  
7 city has not commenced annexation of the area before January 1, 2012.  
8 This subsection only applies to a city located in a county with a  
9 population greater than one million five hundred thousand.

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

15 (2) A tax imposed under this section only applies to the  
16 unincorporated areas of the county. The tax must be expended only for  
17 capital projects and services provided within the unincorporated area  
18 of the county.

19 (3) A utility subject to tax under this section must add the tax to  
20 the rates or charges it makes for utility services and separately state  
21 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 business  
28 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 defined  
32 in RCW 82.16.020.

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

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

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

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

6 (5) This section expires January 1, 2012.

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

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

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

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

19 NEW SECTION. **Sec. 6.** A new section is added to chapter 35A.82 RCW  
20 to read as follows:

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

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

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

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

33 (1) The legislative authority of any county or city shall identify  
34 in the adopted budget the capital projects, park maintenance and  
35 operation expenditures, or both funded in whole or in part from the

1 proceeds of the tax authorized in this section, and shall indicate that  
2 such tax is intended to be in addition to other funds that may be  
3 reasonably available for (~~(such capital projects)~~) these purposes.

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

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

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

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



1 (6) When the governor files a notice of noncompliance under RCW  
2 36.70A.340 with the secretary of state and the appropriate county or  
3 city, the county or city's authority to impose the additional excise  
4 tax under this section shall be temporarily rescinded until the  
5 governor files a subsequent notice rescinding the notice of  
6 noncompliance.

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

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

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

1 used(~~(, and funds raised under the levy shall not supplant existing~~  
2 ~~funds used for these purposes)~~).

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

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

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

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

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

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

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

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

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

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

37 (b) The taxing district had made levies at the maximum rates which

1 would otherwise have been allowed under this chapter during the years  
2 levies were made under the proposition.

3 **Sec. 9.** RCW 82.14.450 and 2007 c 380 s 1 are each amended to read  
4 as follows:

5 (1) A county legislative authority may submit an authorizing  
6 proposition to the county voters at a primary or general election and,  
7 if the proposition is approved by a majority of persons voting, impose  
8 a sales and use tax in accordance with the terms of this chapter. The  
9 title of each ballot measure must clearly state the purposes for which  
10 the proposed sales and use tax will be used.

11 (2) A county may impose the sales and use tax authorized in this  
12 section without voter approval in calendar years 2010, 2011, and 2012.  
13 The rate imposed by the county may not change during these years.  
14 Beginning in calendar year 2013, the rate of tax imposed by a county  
15 under this section must not exceed the rate in effect on December 31,  
16 2009.

17 (3) A city may impose a sales and use tax in calendar years 2010,  
18 2011, and 2012. The rate of tax may not exceed the difference between  
19 three-tenths of one percent and the rate imposed by the county under  
20 this section.

21 (4) Funds raised under this tax shall not supplant existing funds  
22 used for these purposes. For purposes of this subsection, existing  
23 funds means the actual operating expenditures for the calendar year in  
24 which the ballot measure is approved by voters. Actual operating  
25 expenditures excludes lost federal funds, lost or expired state grants  
26 or loans, extraordinary events not likely to reoccur, changes in  
27 contract provisions beyond the control of the county or city receiving  
28 the services, and major nonrecurring capital expenditures. The rate of  
29 tax under this section shall not exceed three-tenths of one percent of  
30 the selling price in the case of a sales tax, or value of the article  
31 used, in the case of a use tax. The supplantation restrictions in this  
32 subsection (4) do not apply to taxes imposed by a county for calendar  
33 years 2010, 2011, and 2012.

34 ~~((+2))~~ (5) The tax authorized in this section is in addition to  
35 any other taxes authorized by law and shall be collected from those  
36 persons who are taxable by the state under chapters 82.08 and 82.12 RCW  
37 upon the occurrence of any taxable event within the county.

1        ~~((+3))~~ (6) The retail sale or use of motor vehicles, and the lease  
2 of motor vehicles for up to the first thirty-six months of the lease,  
3 are exempt from tax imposed under this section.

4        ~~((+4))~~ (7) One-third of all money received under this section  
5 shall be used solely for criminal justice purposes. For the purposes  
6 of this subsection, "criminal justice purposes" means additional police  
7 protection, mitigation of congested court systems, or relief of  
8 overcrowded jails or other local correctional facilities.

9        ~~((+5))~~ (8) Money received under this section shall be shared  
10 between the county and the cities as follows: Sixty percent shall be  
11 retained by the county and forty percent shall be distributed on a per  
12 capita basis to cities in the county.

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

15        (1) By January 1, 2011, the state auditor shall conduct a  
16 performance audit of any county with a population of one million five  
17 hundred thousand or more to specifically determine whether policy  
18 changes and programs the county has adopted since January 1, 2009, will  
19 effectively reduce overhead and other costs, improve services, and  
20 streamline operations. The performance audit must identify current  
21 deficiencies in recognized best practices in the provision of county  
22 goods and services and how the provision of these goods and services  
23 could be provided more efficiently and effectively. As part of the  
24 performance audit, the auditor shall also evaluate the amount of local  
25 and regional services provided by the county within and outside city  
26 limits and contrast this with other large counties in Washington and  
27 with counties of similar size in other states.

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

29        NEW SECTION.    **Sec. 11.** Section 4 of this act constitutes a new  
30 chapter in Title 36 RCW.

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