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## Local Government Committee

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### HB 2681

**Brief Description:** Including costs associated with preparing for new annexations within city sales and use tax authority.

**Sponsors:** Representatives Fitzgibbon, Kochmar, Hargrove, Springer, Bergquist and Freeman.

#### Brief Summary of Bill

- Extends the date by which an annexation must commence in order to impose an annexation sales and use tax by two years to January 1, 2017.
- Allows proceeds from an annexation sales and use tax to be used for a city's cost to prepare for annexation.
- Modifies definitions related to the annexation sales and use tax provision.

**Hearing Date:** 2/3/14

**Staff:** Ethan Moreno (786-7386).

#### **Background:**

##### Annexation Sales and Use Tax.

In 2004 the Legislature directed the Department of Community, Trade, and Economic Development (now known as the Department of Commerce), to study the progress of annexation and incorporation in six urban counties, and to identify barriers and incentives to fully achieving annexation or incorporation of urban growth areas in those counties. Lack of funding for municipal services during the transition period following annexation was one of the barriers identified by cities.

Legislation adopted in 2006 authorized qualifying cities to impose a sales and use tax to provide, maintain, and operate municipal services, a term defined to mean services customarily provided to the public by a city, in a newly annexed areas. Provisions governing the annexation sales and use tax (tax), which is a credit against the state sales tax and not an additional tax to a consumer, were amended in 2009 and in 2011.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

There are numerous requirements that a city must meet before it may impose the tax. For example, the city must:

- be located in a county with more than 600,000 persons;
- annex an area that is consistent with the comprehensive plan adopted by the city in conformity with the Growth Management Act;
- commence annexation of a qualifying area using direct petition or election annexation methods prior to January 1, 2015; and
- adopt an ordinance or resolution stating that the projected cost to provide municipal services to the annexation area exceeds the projected general revenue that the city would otherwise receive from the area on an annual basis.

All revenue from the tax must be used to provide, maintain, and operate municipal services for the annexation area, an area for which an annexation has been completed. The revenues, which are collected by the Department of Revenue and remitted to the city, may not exceed that which the city deems necessary to generate revenue equal to the difference between the city's cost to provide, maintain, and operate municipal services for the annexation area, and the general revenues that the city would otherwise expect to receive from the annexation in a year. If the revenues from the tax and the revenues from the annexation area exceed the costs to the city to provide, maintain, and operate municipal services for the annexation area during a given year, the tax distributions must be suspended for the remainder of the year. Additionally, the tax may continue for no more than 10 years from the date that each increment of the tax is first imposed.

With limited exceptions, the rate of the tax is 0.1 percent for *each* annexed area with a population greater than 10,000, but less than 20,000, and 0.2 percent for an annexed area with more than 20,000 persons. Additionally, subject to specific requirements, the maximum rate of tax a city can impose under specific sales and use tax provisions for qualifying annexed areas with more than 16,000 residents is 0.85 percent.

### Municipal Annexations.

Current law authorizes multiple methods for municipal annexations. While cities that operate under the Optional Municipal Code (code cities) have separate statutory requirements for governance and operation than cities and towns that do not, the annexation methods that all cities and towns may employ are generally similar. A summary of the methods is as follows:

- *resolution-initiated election method* - requires approval of city or town resolutions by voters residing in the proposed annexation area;
- *petition-initiated election method* - includes initiatives petitioned and approved by the voters residing in the proposed annexation area;
- *direct petition method* - requires approval of direct petitions signed by property owners comprising a specific percentage of land value, without voter action. An alternative direct petition method based upon the signatures of qualifying property owners and registered voters meeting specified criteria was enacted into law in 2003;
- *resolution only method* - includes annexations for municipal purposes approved by a majority of the city or town legislative body, or other actions not requiring voter or property owner action; and
- *interlocal agreement method* - includes annexations conducted by ordinance if specific requirements, including the negotiation of interlocal agreements between the participating jurisdictions, are satisfied.

**Summary of Bill:**

Numerous provisions governing the annexation sales and use tax (tax) are modified.

The date that an annexation must commence in order to impose the tax is extended by two years to January 1, 2017.

As a condition for imposing the tax, the city legislative authority must determine by resolution or ordinance that the projected cost to prepare for annexation and to provide municipal services to the annexation area (rather than only to provide municipal services to the area) exceeds the projected general revenue that the city would otherwise receive from the area on an annual basis.

Revenue collected from the tax may be used to prepare for annexation, in addition to being used to provide, maintain, and operate municipal services for the annexation area.

Consideration of costs for preparing for annexation in the annexation area are also to be used in determining the maximum revenue amount that may be generated by the tax, and for related administrative purposes, including required certifications with the Department of Revenue.

Definitions related the imposition of the tax are modified. The definition "annexation area" is amended to include areas that are being annexed, rather than only areas that have been annexed. Additionally, the definition of "commenced annexation," for purposes of determining eligibility for imposing the tax, is amended to allow annexation proceedings to commence under the direct petition method, the election method, or the interlocal agreement-based annexation method if one of the following requirements is satisfied:

- if an annexation is proceeding under the election method, a majority of voters must have voted for the annexation, and the annexing city must have set an effective date within two years following the election; or
- if proceeding under the direct petition or interlocal method, the city must have set an effective date within two years of adoption of the resolution or ordinance setting the effective date.

**Appropriation:** None.

**Fiscal Note:** Requested on January 30, 2014.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.