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**SUBSTITUTE HOUSE BILL 2156**

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**State of Washington 64th Legislature 2015 2nd Special Session**

**By** House Finance (originally sponsored by Representatives Reykdal, Carlyle, and Tharinger)

AN ACT Relating to promoting the fiscal sustainability of cities and counties; amending RCW 42.56.100, 42.56.120, 42.56.550, 41.04.205, 41.05.011, 41.05.050, and 82.14.415; reenacting and amending RCW 42.56.080; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; creating a new section; and providing an effective date.

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

**PART I**

**Nuisance Abatement Assessments in Cities and Towns**

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

(1) A city or town that exercises its authority under chapter 7.48 RCW, RCW 35.22.280, 35.23.440, or 35.27.410, or other applicable law to abate a nuisance which threatens health or safety must provide prior notice to the property owner that abatement is pending and a special assessment may be levied on the property for the expense of abatement. The special assessment authority is supplemental to any existing authority of a city or town to obtain a lien for costs of abatement. The notice must be sent by regular mail.

(2) A city or town that exercises its authority under chapter 7.48 RCW, RCW 35.22.280, 35.23.440, or 35.27.410, or other applicable law to declare a nuisance, abate a nuisance, or impose fines or costs upon persons who create, continue, or maintain a nuisance may levy a special assessment on the land or premises where the nuisance is situated to reimburse the city or town for the expense of abatement. A city or town must, before levying a special assessment, notify the property owner and any identifiable mortgage holder that a special assessment will be levied on the property and provide the estimated amount of the special assessment. The notice must be sent by regular mail.

(3) The special assessment authorized by this section constitutes a lien against the property. After said lien is recorded in the county where the affected real property is located, up to two thousand dollars of the recorded lien is of equal rank with state, county, and municipal taxes.

(4) A city or town levying a special assessment under this section may contract with the county treasurer to collect the special assessment in accordance with RCW 84.56.035.

NEW SECTION. **Sec.**  A new section is added to chapter 35A.21 RCW to read as follows:

(1) A code city that exercises its authority under chapter 7.48 RCW, RCW 35.22.280, 35.23.440, or 35.27.410, or other applicable law to abate a nuisance which threatens health or safety must provide prior notice to the property owner that abatement is pending and a special assessment may be levied on the property for the expense of abatement. The special assessment authority is supplemental to any existing authority of a city or town to obtain a lien for costs of abatement. The notice must be sent by regular mail.

(2) A code city that exercises its authority under chapter 7.48 RCW or other applicable law to declare a nuisance, abate a nuisance, or impose fines or costs upon persons who create, continue, or maintain a nuisance may levy a special assessment on the land or premises where the nuisance is situated to reimburse the code city for the expense of abatement. A code city must, before levying a special assessment, notify the property owner and any identifiable mortgage holder that a special assessment will be levied on the property and provide the estimated amount of the special assessment. The notice must be sent by regular mail.

(3) The special assessment authorized by this section constitutes a lien against the property. After said lien is recorded in the county where the affected real property is located, up to two thousand dollars of the recorded lien is of equal rank with state, county, and municipal taxes.

(4) A code city levying a special assessment under this section may contract with the county treasurer to collect the special assessment in accordance with RCW 84.56.035.

**PART II**

**Cost Recovery Mechanism for Public Records Sought for Commercial**

**Purposes**

NEW SECTION. **Sec.**  The legislature finds that public agencies must remain capable of adequately informing the public of their activities through timely disclosure of public records. However, public agencies are increasingly burdened by broad record requests from commercial entities, including data miners, whose purpose is to sell or resell the public records for a private profit. Public agencies expend taxpayer dollars to locate, assemble, redact, review, and provide the requested public records. Under existing law, except for copying and mailing costs, public agencies may not recover the true costs of providing this service. As a result, the taxpayers of this state effectively subsidize commercial requestors. Accordingly, it is the intent of the legislature to protect the public interest and prevent diversion of scarce agency resources by authorizing public agencies to recover their costs through charging a reasonable fee when records are requested for the purpose of sale or resale. It is the intent of the legislature to authorize agencies to establish such fees, without in any manner limiting public inspection of records or delaying public access to records.

**Sec.**  RCW 42.56.080 and 2005 c 483 s 1 and 2005 c 274 s 285 are each reenacted and amended to read as follows:

(1) Public records ((~~shall~~)) must be available for inspection and copying, and agencies ((~~shall~~)) must, upon request for identifiable public records, make them promptly available to any person ((~~including, if applicable,~~)). Public records may be made available on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure.

(2) Agencies ((~~shall~~)) must not deny a request for identifiable public records solely on the basis that the request is overbroad.

(3) Agencies ((~~shall~~)) must not distinguish among persons requesting records, and such persons ((~~shall not be~~)) are not required to provide information as to the purpose for the request, except to establish whether:

(a) Inspection and copying would violate RCW 42.56.070(9) or other statute which exempts or prohibits disclosure of specific information or records to certain persons; or

(b) The request is subject to the fee authorized under RCW 42.56.120(3).

(4) Agency facilities ((~~shall~~)) must be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency. Agencies ((~~shall~~)) must honor requests received by mail for identifiable public records unless exempted by provisions of this chapter.

**Sec.**  RCW 42.56.100 and 1995 c 397 s 13 are each amended to read as follows:

(1) Agencies shall adopt and enforce reasonable rules and regulations, and the office of the secretary of the senate and the office of the chief clerk of the house of representatives shall adopt reasonable procedures allowing for the time, resource, and personnel constraints associated with legislative sessions, consonant with the intent of this chapter to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives. Such rules and regulations shall provide for the fullest assistance to inquirers and the most timely possible action on requests for information. Nothing in this section shall relieve agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives from honoring requests received by mail for copies of identifiable public records.

(2) If a public record request is made at a time when such record exists but is scheduled for destruction in the near future, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives shall retain possession of the record, and may not destroy or erase the record until the request is resolved.

(3) Local agencies may adopt reasonable regulations by ordinance or rule, upon notice and public comment, which establish a priority for promptly fulfilling noncommercial purpose requests before commercial purpose requests.

**Sec.**  RCW 42.56.120 and 2005 c 483 s 2 are each amended to read as follows:

(1) Except as provided in this section, no fee ((~~shall~~)) may be charged ((~~for the inspection of public records. No fee shall be charged~~)) for locating, disclosing the existence of, producing, or inspecting public documents ((~~and~~)) or for making them available for copying.

(2) A reasonable charge may be imposed for providing copies of public records and for the use by any person of agency equipment or equipment of the office of the secretary of the senate or the office of the chief clerk of the house of representatives to copy public records, which charges ((~~shall~~)) may not exceed the amount necessary to reimburse the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives for its actual costs directly incident to such copying. Agency charges for photocopies ((~~shall~~)) must be imposed in accordance with the actual per page cost or other costs established and published by the agency. In no event may an agency charge a per page cost greater than the actual per page cost as established and published by the agency. To the extent the agency has not determined the actual per page cost for photocopies of public records, the agency may not charge in excess of fifteen cents per page. ((~~An agency may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request. If an agency makes a request available on a partial or installment basis, the agency may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the agency is not obligated to fulfill the balance of the request.~~))

(3) A local agency may charge a fee to recover its actual costs in responding to a request made for a commercial purpose. Prior to charging this fee, a local agency must develop and adopt, with notice and public hearing, a fee schedule. The agency must publish the fee schedule along with a summary of the methodology or rationale by which the fees were established. The fee may be a flat fee, a fee per record, or other type of fee, but must not exceed a reasonable estimate of the actual cost to provide the records and must be based upon the least costly method available to the local agency. Actual costs may include, but are not limited to, the cost of locating, producing, inspecting, redacting, and copying the records for the requestor.

(4) A local agency may require a requestor to sign a declaration, pursuant to RCW 9A.72.085, under penalty of perjury attesting whether or not the purpose of the request is for a commercial purpose. A person or entity intentionally misrepresenting the purpose of a request that is made for a commercial purpose is liable for a civil penalty at least equivalent to what the agency would have charged for the records. Penalties under this section are in addition to any other civil or criminal penalties and remedies available under any other law of this state.

(5) A local agency may enter into an agreement with a requestor to fulfill regular periodic records requests. Such an agreement may include a provision for an alternative fee arrangement from the fee authorized in subsection (3) of this section.

(6) If a fee is allowed under this section, an agency may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request that is able to be fulfilled in one transaction. If an agency makes a request available on a partial or installment basis, the agency may charge ten percent as a deposit for each installment of the request and require payment for the remaining balance of the installment when it is provided. If an installment of a records request is not claimed, reviewed, or paid for, the agency is not obligated to fulfill the remainder of the request nor can it collect payment for the remainder of the request that is unfulfilled.

(7) For purposes of this section:

(a) A "commercial purpose" means the use of a public record, or part of a record, requested by or on behalf of a for-profit business, enterprise, or entity:

(i) For the purpose of sale or resale of the record for profit; or

(ii) For obtaining or compiling information derived from the record for the purpose of sale or resale for profit, or facilitating a profit, or increasing business opportunities from the use of such information.

(b) A "commercial purpose" does not mean the use of a public record or part of a record for publication by any print, electronic, or other transmitted news media outlet used to broadly disseminate information regarding matters of public interest or for use in any judicial or quasi-judicial proceeding.

**Sec.**  RCW 42.56.550 and 2011 c 273 s 1 are each amended to read as follows:

(1) Upon the motion of any person having been denied an opportunity to inspect or copy a public record by an agency, the superior court in the county in which a record is maintained may require the responsible agency to show cause why it has refused to allow inspection or copying of a specific public record or class of records. The burden of proof ((~~shall be~~)) is on the agency to establish that refusal to permit public inspection and copying is in accordance with a statute that exempts or prohibits disclosure in whole or in part of specific information or records.

(2) Upon the motion of any person who believes that an agency has not made a reasonable estimate of the time that the agency requires to respond to a public record request, the superior court in the county in which a record is maintained may require the responsible agency to show that the estimate it provided is reasonable. The burden of proof ((~~shall be~~)) is on the agency to show that the estimate it provided is reasonable.

(3) Upon the motion of any person who believes that an agency has required payment of a cost recovery fee that is not consistent with the fee schedule authorized in RCW 42.56.120(3), or has applied a fee for a request that is exempt under RCW 42.56.120(3), the superior court in the county in which a record is maintained may require the responsible agency to show by a preponderance of the evidence that the request was primarily for a commercial purpose and that no exemption is applicable, or that the fee schedule adopted by the local agency was correctly applied.

(4) Judicial review of all agency actions taken or challenged under RCW 42.56.030 through 42.56.520 ((~~shall~~)) must be de novo. Courts ((~~shall~~)) must take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others. Courts may examine any record in camera in any proceeding brought under this section. The court may conduct a hearing based solely on affidavits.

((~~(4)~~)) (5) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time ((~~shall~~)) must be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it ((~~shall be~~)) is within the discretion of the court to award such person an amount not to exceed one hundred dollars for each day that he or she was denied the right to inspect or copy said public record.

((~~(5)~~)) (6) For actions under this section against counties, the venue provisions of RCW 36.01.050 apply.

((~~(6)~~)) (7) Actions under this section must be filed within one year of the agency's claim of exemption or the last production of a record on a partial or installment basis.

**PART III**

**Health Coverage Purchased by Political Subdivisions through the Public Employees' Benefits Board Program**

**Sec.**  RCW 41.04.205 and 1995 1st sp.s. c 6 s 8 are each amended to read as follows:

(1) Notwithstanding the provisions of RCW 41.04.180, the employees, with their dependents, of any county, municipality, or other political subdivision of this state ((~~shall be~~)) are eligible to participate in any insurance or self-insurance program for employees administered under chapter 41.05 RCW if the legislative authority of any such county, municipality, or other political subdivisions of this state determines, subject to collective bargaining under applicable statutes, a transfer to an insurance or self-insurance program administered under chapter 41.05 RCW should be made. In the event of a special district employee transfer pursuant to this section, members of the governing authority ((~~shall be~~)) are eligible to be included in such transfer if such members are authorized by law as of June 25, 1976 to participate in the insurance program being transferred from and subject to payment by such members of all costs of insurance for members.

(2)(a) When the legislative authority of a county, municipality, or other political subdivision determines to so transfer, the state health care authority ((~~shall~~)) must:

((~~(a)~~)) (i) Establish the conditions for participation; and

((~~(b)~~)) (ii) Have the sole right to reject the application, except a group application from a county or other political subdivision of the state with fewer than five thousand employees must be approved.

(b) Approval of the application by the state health care authority ((~~shall~~)) effects a transfer of the employees involved to the insurance, self-insurance, or health care program applied for.

(3) Any application of this section to members of the law enforcement officers' and firefighters' retirement system under chapter 41.26 RCW is subject to chapter 41.56 RCW.

(4) School districts may voluntarily transfer, except that all eligible employees in a bargaining unit of a school district may transfer only as a unit and all nonrepresented employees in a district may transfer only as a unit.

**Sec.**  RCW 41.05.011 and 2015 c 116 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the Washington state health care authority.

(2) "Board" means the public employees' benefits board established under RCW 41.05.055.

(3) "Dependent care assistance program" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or other sections of the internal revenue code.

(4) "Director" means the director of the authority.

(5) "Emergency service personnel killed in the line of duty" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

(6) "Employee" includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state ((~~seeks and receives the approval of~~)) submits application materials to the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021(1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (f) and (g); (e) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (g) and (n); and (f) employees of a charter school established under chapter 28A.710 RCW. "Employee" does not include: Adult family home providers; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

(7) "Employer" means the state of Washington.

(8) "Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; charter school; and a tribal government covered by this chapter.

(9) "Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

(10) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(11) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(12) "Medical flexible spending arrangement" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(13) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the salary reduction plan.

(14) "Plan year" means the time period established by the authority.

(15) "Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(16) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district, educational service district, or charter school on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district, educational service district, or charter school due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(17) "Salary" means a state employee's monthly salary or wages.

(18) "Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, medical flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(19) "Seasonal employee" means an employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

(20) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(17) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000; or

(c) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(33), the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010.

(21) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(22) "Tribal government" means an Indian tribal government as defined in section 3(32) of the employee retirement income security act of 1974, as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

(23) "Employer group" means those counties, municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, school districts, and educational service districts, and employee organizations representing state civil service employees, obtaining employee benefits through a contractual agreement with the authority.

**Sec.**  RCW 41.05.050 and 2009 c 537 s 5 are each amended to read as follows:

(1) Every: (a) Department, division, or separate agency of state government; (b) county, municipal, school district, educational service district, or other political subdivisions; and (c) tribal governments as are covered by this chapter, ((~~shall~~)) must provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the authority. Contributions, paid by the county, the municipality, other political subdivision, or a tribal government for their employees, ((~~shall~~)) must include an amount determined by the authority to pay such administrative expenses of the authority as are necessary to administer the plans for employees of those groups, except as provided in subsection (4) of this section.

(2) If the authority at any time determines that the participation of a county, municipal, other political subdivision, or a tribal government covered under this chapter adversely impacts insurance rates for state employees, the authority ((~~shall implement limitations on the participation of additional~~)) may develop an employer-specific charge for each county, municipal, other political subdivision((~~s~~)), or ((~~a~~)) tribal government that offsets a significant increase in insurance rates for state employees that could be caused by the participation of that employer.

(3) The contributions of any: (a) Department, division, or separate agency of the state government; (b) county, municipal, or other political subdivisions; and (c) any tribal government as are covered by this chapter, ((~~shall~~)) must be set by the authority, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose. Insurance and health care contributions for ferry employees ((~~shall be~~)) are governed by RCW 47.64.270.

(4)(a) The authority ((~~shall~~)) must collect from each participating school district and educational service district an amount equal to the composite rate charged to state agencies, plus an amount equal to the employee premiums by plan and family size as would be charged to state employees, for groups of district employees enrolled in authority plans. The authority may collect these amounts in accordance with the district fiscal year, as described in RCW 28A.505.030.

(b) For all groups of district employees enrolling in authority plans for the first time after September 1, 2003, the authority ((~~shall~~)) must collect from each participating school district an amount equal to the composite rate charged to state agencies, plus an amount equal to the employee premiums by plan and by family size as would be charged to state employees, only if the authority determines that this method of billing the districts will not result in a material difference between revenues from districts and expenditures made by the authority on behalf of districts and their employees. The authority may collect these amounts in accordance with the district fiscal year, as described in RCW 28A.505.030.

(c) If the authority determines at any time that the conditions in (b) of this subsection cannot be met, the authority ((~~shall~~)) must offer enrollment to additional groups of district employees on a tiered rate structure until such time as the authority determines there would be no material difference between revenues and expenditures under a composite rate structure for all district employees enrolled in authority plans.

(d) The authority may charge districts a one-time set-up fee for employee groups enrolling in authority plans for the first time.

(e) For the purposes of this subsection:

(i) "District" means school district and educational service district; and

(ii) "Tiered rates" means the amounts the authority must pay to insuring entities by plan and by family size.

(f) Notwithstanding this subsection and RCW 41.05.065(4), the authority may allow districts enrolled on a tiered rate structure prior to September 1, 2002, to continue participation based on the same rate structure and under the same conditions and eligibility criteria.

(5) The authority ((~~shall~~)) must transmit a recommendation for the amount of the employer contribution to the governor and the director of financial management for inclusion in the proposed budgets submitted to the legislature.

**PART IV**

**Sales and Use Tax for Cities to Offset Municipal Service Costs to Newly Annexed Areas**

**Sec.**  RCW 82.14.415 and 2011 c 353 s 10 are each amended to read as follows:

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

(a) The city has commenced annexation of an area having a population of at least ten thousand people, or four thousand in the case of a city described under subsection (3)(a)(i) of this section, prior to January 1, 2015; and

(b) The city legislative authority determines by resolution or ordinance 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 annexation area on an annual basis.

(2) The tax authorized under this section is a credit against the state tax under chapter 82.08 or 82.12 RCW. The department of revenue must perform the collection of such taxes on behalf of the city at no cost to the city and must remit the tax to the city as provided in RCW 82.14.060.

(3)(a) Except as provided in (b) of this subsection, the maximum rate of tax any city may impose under this section is:

(i) 0.1 percent for each annexed area in which the population is greater than ten thousand and less than twenty thousand. The ten thousand population threshold in this subsection (3)(a)(i) is four thousand for a city with a population between one hundred fifteen thousand and one hundred forty thousand and located within a county with a population over one million five hundred thousand; and

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

(b) Beginning July 1, 2011, the maximum rate of tax imposed under this section is 0.85 percent for an annexed area in which the population is greater than sixteen thousand if the annexed area was, prior to November 1, 2008, officially designated as a potential annexation area by more than one city, one of which has a population greater than four hundred thousand.

(4)(a) Except as provided in (b) of this subsection, the maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.2 percent for the total number of annexed areas the city may annex.

(b) The maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.3 percent, beginning July 1, 2011, if the city commenced annexation of an area, prior to January 1, 2010, that would have otherwise allowed the city to increase the rate of tax imposed under this section absent the rate limit imposed in (a) of this subsection.

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

(5)(a) Except as provided in (b) of this subsection, the tax imposed by this section may only be imposed at the beginning of a fiscal year and may continue for no more than ten years from the date that each increment of the tax is first imposed. Tax rate increases due to additional annexed areas are effective on July 1st of the fiscal year following the fiscal year in which the annexation occurred, provided that notice is given to the department as set forth in subsection (9) of this section.

(b) The tax imposed under subsection (3)(b) of this section may only be imposed at the beginning of a fiscal year and may continue for no more than six years from the date that each increment of the tax is first imposed.

(6) All revenue collected under this section may be used solely to provide, maintain, and operate municipal services for the annexation area.

(7) The revenues from the tax authorized in this section 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 cities would otherwise expect to receive from the annexation during a year. If the revenues from the tax authorized in this section 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 city must notify the department and the tax distributions authorized in this section must be suspended for the remainder of the year.

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

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

(b) The rate of tax under this section that is imposed within the city; and

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

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

(10) The tax must cease to be distributed to a city imposing the tax under subsection (3)(b) of this section for the remainder of the fiscal year, if the total distributions to the city imposing the tax exceed ((~~five~~)) eight million dollars for the fiscal year. A city may not impose tax under subsection (3)(b) of this section unless the annexation is approved by a vote of the people residing within the annexed area. A city may not impose tax under subsection (3)(b) of this section if it provides sewer service in the annexed area.

(11) The resident population of the annexation area must be determined in accordance with chapter 35.13 or 35A.14 RCW.

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

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

(b) "Commenced annexation" means the initiation of annexation proceedings has taken place under the direct petition method or the election method under chapter 35.13 or 35A.14 RCW.

(c) "Department" means the department of revenue.

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

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

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

(g) "Threshold amount" means the maximum amount of tax distributions as determined by the city in accordance with subsection (7) of this section that the department must distribute to the city generated from the tax imposed under this section in a fiscal year.

**PART V**

**Miscellaneous Provisions**

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  This act takes effect August 1, 2015.

**--- END ---**