
SUBSTITUTE SENATE BILL 5334

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Kastama, Finkbeiner, Esser and Keiser)

READ FIRST TIME 03/02/05.

1 AN ACT Relating to equalizing the costs of providing municipal
2 services to newly annexed areas; adding a new section to chapter 35.21
3 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that, in many of the
6 most populous areas of the state, it is in the best interests of the
7 residents to provide municipal services by encouraging annexation of
8 those areas into existing adjacent cities. However, even where the
9 residents desire to become annexed, cities are unable to undertake the
10 proposed annexations because of the unfair tax burdens that would be
11 placed on their existing residents to pay for services to the newly
12 annexed areas.

13 The legislature finds that a voter-approved temporary annexation
14 surtax on utility services would provide the revenues needed to provide
15 vital municipal services paid for by the residents of the annexation
16 area. Because utility taxes are paid by property owners and renters
17 alike, the legislature believes that a temporary surtax will spread the
18 burden upon all residents in annexation areas. Furthermore, because it

1 is temporary, it will provide revenues during a transition period
2 necessary to establish those municipal services needed in the newly
3 annexed area.

4 Therefore, the legislature intends that this act will provide an
5 additional tool to enable cities to annex unincorporated areas that lie
6 within designated urban growth areas when the residents of those
7 annexation areas vote to approve the annexation.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.21 RCW
9 to read as follows:

10 (1) The definitions in this subsection apply throughout this
11 section unless the context clearly requires otherwise.

12 (a) "Annexation area" means an area that (i) has been annexed to a
13 city within the preceding twelve months, or (ii) is the subject of a
14 resolution regarding annexation under RCW 35.13.015, 35.13.020,
15 35A.14.015, or 35A.14.020. For the purposes of this section, an
16 annexation area includes all territory described in the city
17 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) "Utility tax" means any tax on the privilege of conducting a
22 utility business, including those business activities traditionally
23 taxed as utilities as that term is used in RCW 35.102.020.

24 (2) In addition to and without limiting any other powers, any city
25 with a population greater than thirty thousand that imposes a utility
26 tax and that is located in a county with a population greater than
27 seven hundred thousand, may also impose and collect a temporary
28 annexation surtax on the business activity of providing a utility
29 service to customers within an annexation area if:

30 (a) The city legislative authority has adopted a resolution
31 initiating annexation under chapter 35.13 or 35A.14 RCW, or has annexed
32 an area within the preceding twelve months; and

33 (b) The city legislative authority determines by resolution or
34 ordinance that the projected cost to provide municipal services to the
35 annexation area exceeds the projected general revenues that the city
36 would otherwise receive from the annexation area on an annual basis;
37 and

1 (c) A ballot proposition, as described in subsection (5) of this
2 section, is submitted to the voters living within the annexation area
3 and approved by a majority of those voting on the proposition at a
4 general or special election. A ballot proposition under this section
5 may be submitted simultaneously with any ballot proposition or
6 propositions regarding annexation under chapter 35.13 or 35A.14 RCW.
7 Costs of conducting the election shall be paid by the city.

8 (3) A temporary annexation surtax shall be measured by the gross
9 receipts or gross income received from the business of providing
10 utility services to the annexation area. This surtax may be imposed
11 beginning no earlier than the date on which the area is annexed to the
12 city and for not longer than ten years from its date of first
13 collection, and shall be subject to the following limitations:

14 (a) Each year during which the surtax is authorized, the city
15 council shall hold a public hearing and adopt an ordinance setting the
16 surtax at a rate not to exceed that which the city deems necessary to
17 generate revenue equal to the difference between the city's cost to
18 provide, maintain, and operate municipal services for the annexation
19 area and the general revenues that the city would otherwise expect to
20 receive from the annexation area during that year. However, in no
21 event shall the rate of the surtax exceed the rate approved by the
22 voters in the ballot proposition under subsections (2) and (5) of this
23 section.

24 (b) All revenue collected under this section shall be used solely
25 to provide, maintain, and operate municipal services for the annexation
26 area.

27 (c) The maximum rate of the surtax authorized by this section shall
28 not exceed ten percent.

29 (d) The surtax authorized by this section shall not be imposed on
30 the privilege of conducting a business that is subject to the payment
31 of franchise fees under 47 U.S.C. Sec. 542.

32 (4) A temporary annexation surtax imposed under this section shall
33 be collected in the same manner as the utility tax on that utility
34 service. The surtax is separate from and in addition to other utility
35 taxes and is not subject to the limitations of RCW 35.21.870.

36 (5) A ballot proposition under this section shall be prepared by
37 the city attorney for the annexing city in conformance with the

1 requirements for local ballot measures under RCW 29A.36.071 and the
2 following requirements:

3 (a) The ballot proposition shall state: (i) The commencement date
4 for collection, which may be no earlier than the date on which the area
5 is annexed to the city; (ii) the maximum rate of the surtax, which may
6 not exceed ten percent; (iii) the utility services to which the surtax
7 may be applied; and (iv) the final year in which a surtax may be
8 imposed, which shall be no later than the tenth year after the surtax
9 is first collected. When used in the ballot proposition, the phrase
10 "temporary annexation surtax," or other combination of those words,
11 shall count as one word.

12 (b) The ballot proposition shall require the voters to cast ballots
13 that contain the words "For temporary annexation surtax" and "Against
14 temporary annexation surtax" or equivalent words.

15 (6) Nothing in this section limits the discretion of a city
16 legislative body to determine whether or not to proceed with an
17 annexation under chapter 35.13 or 35A.14 RCW. Notwithstanding the
18 requirements of RCW 35.21.706 or any local charter provision, a
19 temporary annexation surtax shall not be the subject of a local
20 initiative or be subject to local referendum.

21 (7) A city that imposes a temporary annexation surtax must notify
22 the department of the boundaries of the annexation area, the rate of
23 the surtax and any subsequent change in such rate, and the effective
24 date of the surtax and the effective date of any subsequent change in
25 the rate of such surtax. A temporary annexation surtax and any
26 subsequent change in the rate of such surtax may take effect (a) no
27 sooner than seventy-five days after the department receives notice of
28 the surtax or change in the rate of such surtax and (b) only on the
29 first day of January, April, July, or October. The department must
30 provide access to existing geographic information system data by which
31 a utility can determine customers subject to a temporary annexation
32 surtax and the rate of such surtax. A person who collects and remits
33 a temporary annexation surtax to a city or town and who calculates the
34 tax using geographic information system data provided by the department
35 shall be held harmless and is not liable for the difference in amount
36 due nor subject to penalties or interest in regards to rate calculation
37 errors resulting from the proper use of such geographic information
38 system data.

1 NEW SECTION. **Sec. 3.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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