

2SSB 5368 - H COMM AMD  
By Committee on Appropriations

ADOPTED 04/11/2021

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 35A.14  
4 RCW to read as follows:

5 (1) A code city as provided in RCW 35A.14.296(2) may collaborate  
6 with the county or counties where the code city is located to form an  
7 interlocal agreement regarding annexation of unincorporated territory  
8 within the urban growth area boundary. The interlocal agreement  
9 formation process must include procedures for public participation.  
10 The procedures must provide for broad dissemination of proposals and  
11 alternatives, opportunity for written comments, public meetings after  
12 effective notice, and consideration of and response to public  
13 comments. The interlocal agreement may only be executed after notice  
14 of availability of the agreement is posted on the website of each  
15 legislative body for four weeks and a public hearing by each  
16 legislative body, separately or jointly. This method of annexation  
17 shall be an alternative method and is additional to all other methods  
18 provided for in this chapter.

19 (2) An interlocal agreement under this section may include use of  
20 a sales tax credit for annexed areas should such a credit be  
21 reinstated by the legislature.

22 (3) The agreement or plan under this section must address the  
23 following:

24 (a) A balancing of annexations of commercial, industrial, and  
25 residential properties so that any potential loss or gain is  
26 considered and distributed fairly as determined by tax revenue;

27 (b) Development, ownership, and maintenance of infrastructure;

28 (c) The potential for revenue-sharing agreements.

29 (4) In addressing the items in subsection (3)(a) through (c) of  
30 this section, the parties must also address the balancing of factors  
31 and objectives for annexation review in RCW 36.93.170 and 36.93.180.

1 (5) By December 1, 2021, the association of Washington cities and  
2 the Washington state association of counties shall report to the  
3 legislature, in compliance with RCW 43.01.036, on how a sales tax  
4 credit may be utilized to encourage appropriate annexations and what  
5 limits should be associated with such a credit if reinstated.

6 **Sec. 2.** RCW 36.70A.330 and 1997 c 429 s 21 are each amended to  
7 read as follows:

8 (1) After the time set for complying with the requirements of  
9 this chapter under RCW 36.70A.300(3)(b) has expired, or at an earlier  
10 time upon the motion of a county or city subject to a determination  
11 of invalidity under RCW 36.70A.300, the board shall set a hearing for  
12 the purpose of determining whether the state agency, county, or city  
13 is in compliance with the requirements of this chapter.

14 (2) The board shall conduct a hearing and issue a finding of  
15 compliance or noncompliance with the requirements of this chapter and  
16 with any compliance schedule established by the board in its final  
17 order. A person with standing to challenge the legislation enacted in  
18 response to the board's final order may participate in the hearing  
19 along with the petitioner and the state agency, county, or city. A  
20 hearing under this subsection shall be given the highest priority of  
21 business to be conducted by the board, and a finding shall be issued  
22 within forty-five days of the filing of the motion under subsection  
23 (1) of this section with the board. The board shall issue any order  
24 necessary to make adjustments to the compliance schedule and set  
25 additional hearings as provided in subsection (5) of this section.

26 (3) If the board after a compliance hearing finds that the state  
27 agency, county, or city is not in compliance, the board shall  
28 transmit its finding to the governor. ((The))

29 (a) The board may refer a finding of noncompliance to the  
30 department. The purpose of the referral is for the department to  
31 provide technical assistance to facilitate speedy resolution of the  
32 finding of noncompliance and to provide training pursuant to section  
33 3 of this act as necessary.

34 (b) Alternatively, the board may recommend to the governor that  
35 the sanctions authorized by this chapter be imposed. The board shall  
36 take into consideration the county's or city's efforts to meet its  
37 compliance schedule in making the decision to recommend sanctions to  
38 the governor.

1 (4) In a compliance hearing upon petition of a party, the board  
2 shall also reconsider its final order and decide, if no determination  
3 of invalidity has been made, whether one now should be made under RCW  
4 36.70A.302.

5 (5) The board shall schedule additional hearings as appropriate  
6 pursuant to subsections (1) and (2) of this section.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A  
8 RCW to read as follows:

9 (1) The department shall offer training to assist local  
10 governments in understanding findings of noncompliance from the  
11 growth management hearings board pursuant to RCW 36.70A.300 and  
12 36.70A.330 and applying prior decisions of the board to ongoing  
13 planning efforts to avoid findings of noncompliance.

14 (2) The department may award grants to a public agency with  
15 appropriate expertise and funded by local governments to provide the  
16 training required in subsection (1) of this section.

17 (3) The training provided in subsection (1) of this section is  
18 limited to counties that are largely rural.

19 **Sec. 4.** RCW 43.155.070 and 2017 3rd sp.s. c 10 s 9 are each  
20 amended to read as follows:

21 (1) To qualify for financial assistance under this chapter the  
22 board must determine that a local government meets all of the  
23 following conditions:

24 (a) The city or county must be imposing a tax under chapter 82.46  
25 RCW at a rate of at least one-quarter of one percent;

26 (b) The local government must have developed a capital facility  
27 plan; and

28 (c) The local government must be using all local revenue sources  
29 which are reasonably available for funding public works, taking into  
30 consideration local employment and economic factors.

31 (2) Except where necessary to address a public health need or  
32 substantial environmental degradation, and except as provided in  
33 subsection (12) of this section, a county, city, or town planning  
34 under RCW 36.70A.040 may not receive financial assistance under this  
35 chapter unless it has adopted a comprehensive plan, including a  
36 capital facilities plan element, and development regulations as  
37 required by RCW 36.70A.040. This subsection does not require any  
38 county, city, or town planning under RCW 36.70A.040 to adopt a

1 comprehensive plan or development regulations before requesting or  
2 receiving financial assistance under this chapter if such request is  
3 made before the expiration of the time periods specified in RCW  
4 36.70A.040. A county, city, or town planning under RCW 36.70A.040  
5 that has not adopted a comprehensive plan and development regulations  
6 within the time periods specified in RCW 36.70A.040 may apply for and  
7 receive financial assistance under this chapter if the comprehensive  
8 plan and development regulations are adopted as required by RCW  
9 36.70A.040 before executing a contractual agreement for financial  
10 assistance with the board.

11 (3) In considering awarding financial assistance for public  
12 facilities to special districts requesting funding for a proposed  
13 facility located in a county, city, or town planning under RCW  
14 36.70A.040, the board must consider whether the county, city, or town  
15 planning under RCW 36.70A.040 in whose planning jurisdiction the  
16 proposed facility is located has adopted a comprehensive plan and  
17 development regulations as required by RCW 36.70A.040.

18 (4) (a) The board must develop a process to prioritize  
19 applications and funding of loans and grants for public works  
20 projects submitted by local governments. The board must consider, at  
21 a minimum and in any order, the following factors in prioritizing  
22 projects:

23 (i) Whether the project is critical in nature and would affect  
24 the health and safety of many people;

25 (ii) The extent to which the project leverages other funds;

26 (iii) The extent to which the project is ready to proceed to  
27 construction;

28 (iv) Whether the project is located in an area of high  
29 unemployment, compared to the average state unemployment;

30 (v) Whether the project promotes the sustainable use of resources  
31 and environmental quality, as applicable;

32 (vi) Whether the project consolidates or regionalizes systems;

33 (vii) Whether the project encourages economic development through  
34 mixed-use and mixed income development consistent with chapter 36.70A  
35 RCW;

36 (viii) Whether the system is being well-managed in the present  
37 and for long-term sustainability;

38 (ix) Achieving equitable distribution of funds by geography and  
39 population;

1 (x) The extent to which the project meets the following state  
2 policy objectives:

- 3 (A) Efficient use of state resources;
- 4 (B) Preservation and enhancement of health and safety;
- 5 (C) Abatement of pollution and protection of the environment;
- 6 (D) Creation of new, family-wage jobs, and avoidance of shifting  
7 existing jobs from one Washington state community to another;
- 8 (E) Fostering economic development consistent with chapter 36.70A  
9 RCW;
- 10 (F) Efficiency in delivery of goods and services and  
11 transportation; and
- 12 (G) Reduction of the overall cost of public infrastructure;

13 (xi) Whether the applicant sought or is seeking funding for the  
14 project from other sources; and

15 (xii) Other criteria that the board considers necessary to  
16 achieve the purposes of this chapter.

17 (b) Before September 1, 2018, and each year thereafter, the board  
18 must develop and submit a report regarding the construction loans and  
19 grants to the office of financial management and appropriate fiscal  
20 committees of the senate and house of representatives. The report  
21 must include:

- 22 (i) The total number of applications and amount of funding  
23 requested for public works projects;
- 24 (ii) A list and description of projects approved in the preceding  
25 fiscal year with project scores against the board's prioritization  
26 criteria;
- 27 (iii) The total amount of loan and grants disbursements made from  
28 the public works assistance account in the preceding fiscal year;
- 29 (iv) The total amount of loan repayments in the preceding fiscal  
30 year for outstanding loans from the public works assistance account;
- 31 (v) The total amount of loan repayments due for outstanding loans  
32 for each fiscal year over the following ten-year period; and
- 33 (vi) The total amount of funds obligated and timing of when the  
34 funds were obligated in the preceding fiscal year.

35 (c) The maximum amount of funding that the board may provide for  
36 any jurisdiction is ten million dollars per biennium.

37 (5) Existing debt or financial obligations of local governments  
38 may not be refinanced under this chapter. Each local government  
39 applicant must provide documentation of attempts to secure additional

1 local or other sources of funding for each public works project for  
2 which financial assistance is sought under this chapter.

3 (6) Before September 1st of each year, the board must develop and  
4 submit to the appropriate fiscal committees of the senate and house  
5 of representatives a description of the loans and grants made under  
6 RCW 43.155.065 and 43.155.068.

7 (7) The board may not sign contracts or otherwise financially  
8 obligate funds from the public works assistance account before the  
9 legislature has appropriated funds to the board for the purpose of  
10 funding public works projects under this chapter.

11 (8) To qualify for loans, grants, or pledges for solid waste or  
12 recycling facilities under this chapter, a city or county must  
13 demonstrate that the solid waste or recycling facility is consistent  
14 with and necessary to implement the comprehensive solid waste  
15 management plan adopted by the city or county under chapter 70.95  
16 RCW.

17 (9) After January 1, 2010, any project designed to address the  
18 effects of stormwater or wastewater on Puget Sound may be funded  
19 under this section only if the project is not in conflict with the  
20 action agenda developed by the Puget Sound partnership under RCW  
21 90.71.310.

22 (10) For projects involving repair, replacement, or improvement  
23 of a wastewater treatment plant or other public works facility for  
24 which an investment grade efficiency audit is reasonably obtainable,  
25 the public works board must require as a contract condition that the  
26 project sponsor undertake an investment grade efficiency audit. The  
27 project sponsor may finance the costs of the audit as part of its  
28 public works assistance account program loan or grant.

29 (11) The board must implement policies and procedures designed to  
30 maximize local government consideration of other funds to finance  
31 local infrastructure.

32 (12) The provisions in subsection (2) of this section do not  
33 apply to a county, city, or town applying for grants and loans under  
34 this chapter for projects that support broadband services where such  
35 grants and loans will assist the county, city, or town with economic  
36 development, disaster resiliency and response, adaptation to public  
37 health emergencies such as pandemics, and emergency management.

38 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.160  
39 RCW to read as follows:

1 The board is prohibited from considering whether a county, city,  
2 or town is compliant with chapter 36.70A RCW when considering  
3 applications for broadband funding.

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 80.36  
5 RCW to read as follows:

6 The commission is prohibited from considering whether a county,  
7 city, or town is compliant with chapter 36.70A RCW when considering  
8 applications for broadband funding.

9 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.330  
10 RCW to read as follows:

11 The department is prohibited from considering whether a county,  
12 city, or town is compliant with chapter 36.70A RCW when considering  
13 applications for broadband funding."

14 Correct the title.

EFFECT: (1) Provides that interlocal agreements for annexation may include use of a sales tax credit for annexed areas should such a credit be reinstated by the Legislature.

(2) Requires the Association of Washington Cities and the Washington State Association of Counties to report to the Legislature on how a sales tax credit may be utilized to encourage appropriate annexations and what limits should be associated with such a credit if reinstated.

(3) Removes the provision allowing jurisdictions planning under the Growth Management Act to apply for a determination of compliance from the Department of Commerce for certain actions under the Growth Management Act and the State Environmental Policy Act.

(4) Requires the Department of Commerce to offer training to assist rural counties in understanding findings of noncompliance and applying prior decisions of the Growth Management Hearings Board to ongoing planning efforts and allows the Department of Commerce to award grants to a public agency with expertise and funded by local governments to provide the training.

(5) Adds a provision that establishes an exception to Public Works Board rules requiring a county, city, or town to be in compliance with the Growth Management Act in order to receive financial assistance if the county, city, or town is seeking grants and loans for certain broadband projects.

(6) Adds a provision that prohibits the Community Economic Revitalization Board, the Utilities and Transportation Commission, and the Department of Commerce from considering whether a county, city, or town is compliant with the Growth Management Act when considering applications for broadband funding.

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