

SENATE BILL REPORT

ESHB 1153

As Reported By Senate Committee On:
Government Operations & Elections, March 31, 2005

Title: An act relating to equalizing the costs of providing municipal services to newly annexed areas.

Brief Description: Equalizing the costs of providing municipal services to newly annexed areas.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Springer, Nixon, Clibborn, Jarrett, Simpson, P. Sullivan, Shabro and B. Sullivan).

Brief History: Passed House: 3/11/05, 58-35.

Committee Activity: Government Operations & Elections: 3/29/05, 3/31/05 [DPA, DNP].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: Do pass as amended.

Signed by Senators Kastama, Chair; Roach, Ranking Minority Member; Kline, McCaslin, Mulliken and Pridemore.

Minority Report: Do not pass.

Signed by Senators Berkey, Vice Chair; Benton, Fairley and Haugen.

Staff: Genevieve Pisarski (786-7488)

Background: Under the state's Growth Management Act (GMA), counties establish urban growth areas (UGAs) in collaboration with cities. Within a UGA, counties are the providers of regional services, and cities are the providers of local services, until the UGA either becomes part of an existing city through annexation or incorporation.

In 2004, the legislature directed the Department of Community, Trade, and Economic Development (CTED) to study the progress of annexation and incorporation in six urban counties and identify both barriers and incentives to fully achieving annexation or incorporation of UGAs. Lack of funding for municipal services during the transition period following annexation was one of the barriers identified by cities, and a temporary utility surtax was one of the incentives.

Cities and towns are currently authorized to impose a tax on utility businesses. For electric, gas, steam, and telephone service there is a limit of 6 percent. Any higher rate must be approved by voters. There is no limit in state law on the tax rate for other utility businesses, such as solid waste, water, sewer, and cable television service. Federal law, however, prohibits any tax from being unduly discriminatory against cable operators and subscribers.

Summary of Amended Bill: To pay for providing municipal services in newly annexed areas, certain cities are given authority to impose a temporary annexation surtax of up to ten percent on utilities, for up to ten years, after obtaining voter approval. This authority is limited

to cities over 30,000 that impose a utility tax and are in a county with a population over 700,000.

These cities must determine that the annual cost of providing services to a newly annexed area will exceed annual revenue from the area. If the surtax is approved, the rate will be set annually at the level necessary to make up the difference between costs and revenues. The surtax is not subject to the 6 percent limitation on municipal utility taxes or to local initiative or referendum.

The ballot proposition for the surtax must state when collection will begin, which can be no sooner than the date of annexation; the maximum rate, which can be no more than 10 percent; the utilities on which it is imposed; and the last year in which it can be imposed.

A city imposing the surtax must notify the Department of Revenue of the boundaries of the annexation area, the rate of the surtax, the effective date, and any subsequent changes in the rate. The effective date and any subsequent changes must occur no sooner than 75 days after notice to the department and only in January, April, July, or October. The department must provide access to existing GIS data for utilities to determine customers subject to the surtax and the rate. If the GIS data is used properly, utilities are not liable for any difference in amount due, penalties, or interest.

The surtax does not apply to either telephone or cable service.

Amended Bill Compared to Original Bill:

Technical corrections are made to clarify that no form of telephone service is subject to the surtax and that access to GIS data is what the Department of Revenue must provide.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This proposal will allow Kirkland and other cities to accomplish annexations that have been waiting for years. Residential areas traditionally present a net revenue loss, in terms of paying for municipal services they receive, but these areas want annexation and want the better municipal services that come with it. All potential taxing mechanisms have been examined. Constitutional limitations prohibit mechanisms based on property tax, even though the property taxes in the annexed area will go down. The citizens must first vote to approve this mechanism. Thereafter, there is also an annual review and rate adjustment. Only the needed amount is imposed and only for as long as needed. The amount of surtax is tied to the specific services provided in the annexed area. Cities are not able to absorb these increased costs the way they were in the past, because they have lost many sources of revenue. With this approach, a city can increase the level of service for the annexed area without diminishing it for the rest of the city. This proposal is also narrow, applying only to King and Pierce Counties.

Testimony Against: The negotiated exemption of telephone service has been removed. The wireless telephone industry bears the highest tax burden. Adding more taxes will hurt the

ability of cell phone providers to compete. The surtax is impossible to implement by the utilities. These taxes are never really temporary. An alternative mechanism based on property taxes was proposed and should be adopted. All telephone businesses are very highly taxed and should be exempted, because they would all be hurt in terms of ability to compete.

Who Testified: PRO: Mayor Mary Alyce Burleigh, Mike Ryherd, City of Kirkland.

CON: Steve Gano, Cingular Wireless; Cliff Webster, Verizon Wireless and Verizon Northwest; Mike Woodin, AT&T.