

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1425

Chapter 351, Laws of 2023

68th Legislature
2023 Regular Session

MUNICIPAL ANNEXATIONS—SALES AND USE TAX

EFFECTIVE DATE: July 23, 2023

Passed by the House March 3, 2023
Yeas 96 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 19, 2023
Yeas 49 Nays 0

DENNY HECK

President of the Senate

Approved May 9, 2023 10:48 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1425** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 10, 2023

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1425

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By House Finance (originally sponsored by Representatives Berg, Low, Eslick, Ryu, Stonier, Duerr, Ortiz-Self, Cortes, Peterson, Fosse, Donaghy, and Pollet)

READ FIRST TIME 02/23/23.

1 AN ACT Relating to facilitating municipal annexations; and
2 amending RCW 35.13.470 and 82.14.415.

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

4 **Sec. 1.** RCW 35.13.470 and 2003 c 299 s 1 are each amended to
5 read as follows:

6 (1) The legislative body of a county, city, or town planning
7 under chapter 36.70A RCW and subject to the requirements of RCW
8 36.70A.215 may initiate an annexation process for unincorporated
9 territory by adopting a resolution commencing negotiations for an
10 interlocal agreement as provided in chapter 39.34 RCW between a
11 county and any city or town within the county. The territory proposed
12 for annexation must meet the following criteria: (a) Be within the
13 city or town urban growth area designated under RCW 36.70A.110, and
14 (b) at least (~~sixty~~) 60 percent of the boundaries of the territory
15 proposed for annexation must be contiguous to the annexing city or
16 town or one or more cities or towns.

17 (2) If the territory proposed for annexation has been designated
18 in an adopted county comprehensive plan as part of an urban growth
19 area, urban service area, or potential annexation area for a specific
20 city or town, or if the urban growth area territory proposed for
21 annexation has been designated in a written agreement between a city

1 or town and a county for annexation to a specific city or town, the
2 designation or designations shall receive full consideration before a
3 city or county may initiate the annexation process provided for in
4 RCW 35.13.480.

5 (3) The agreement shall describe the boundaries of the territory
6 to be annexed. A public hearing shall be held by each legislative
7 body, separately or jointly, before the agreement is executed. Each
8 legislative body holding a public hearing shall, separately or
9 jointly, publish the agreement at least once a week for two weeks
10 before the date of the hearing in one or more newspapers of general
11 circulation within the territory proposed for annexation.

12 (4) If an interlocal agreement under this section is used for a
13 sales and use tax under RCW 82.14.415, the agreement under this
14 section must address the following:

15 (a) Balancing of annexations of commercial, industrial, and
16 residential properties so that any potential loss or gain is
17 considered and distributed fairly as determined by tax revenue;

18 (b) Development, ownership, and maintenance of infrastructure;
19 and

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

21 (5) Following adoption and execution of the agreement by both
22 legislative bodies, the city or town legislative body shall adopt an
23 ordinance providing for the annexation of the territory described in
24 the agreement. The legislative body shall cause notice of the
25 proposed effective date of the annexation, together with a
26 description of the property to be annexed, to be published at least
27 once each week for two weeks subsequent to passage of the ordinance,
28 in one or more newspapers of general circulation within the city and
29 in one or more newspapers of general circulation within the territory
30 to be annexed. If the annexation ordinance provides for assumption of
31 indebtedness or adoption of a proposed zoning regulation, the notice
32 shall include a statement of the requirements. Any territory to be
33 annexed through an ordinance adopted under this section is annexed
34 and becomes a part of the city or town upon the date fixed in the
35 ordinance of annexation, which date may not be fewer than (~~forty-~~
36 ~~five~~) 45 days after adoption of the ordinance.

37 **Sec. 2.** RCW 82.14.415 and 2016 c 5 s 1 are each amended to read
38 as follows:

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

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

14 ~~(b))~~) The city legislative authority determines by resolution or
15 ordinance that the projected cost to provide municipal services to
16 the annexation area exceeds the projected general revenue that the
17 city would otherwise receive from the annexation area on an annual
18 basis; and

19 (b) The city, as provided in RCW 35A.14.472, 35A.14.296, or
20 35.13.470, has entered into an interlocal agreement with the county
21 regarding the proposed annexation area.

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

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

29 (~~(i))~~) (a) 0.1 percent for each annexed area in which the
30 population is greater than (~~ten thousand~~) 2,000 and less than
31 (~~twenty thousand. The ten thousand population threshold in this~~
32 ~~subsection (3)(a)(i) is four thousand for a city with a population~~
33 ~~between one hundred fifteen thousand and one hundred forty thousand~~
34 ~~and located within a county with a population over one million five~~
35 ~~hundred thousand)) 10,000; and~~

36 (~~(ii))~~) (b) 0.2 percent for an annexed area in which the
37 population is greater than (~~twenty thousand~~) 10,000.

38 (~~(b) Beginning July 1, 2011, the maximum rate of tax imposed~~
39 ~~under this section is 0.85 percent for an annexed area in which the~~
40 ~~population is greater than sixteen thousand if the annexed area was,~~

1 ~~prior to November 1, 2008, officially designated as a potential~~
2 ~~annexation area by more than one city, one of which has a population~~
3 ~~greater than four hundred thousand.))~~

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

8 ~~((b) The maximum cumulative rate of tax a city may impose under~~
9 ~~subsection (3)(a) of this section is 0.3 percent, beginning July 1,~~
10 ~~2011, if the city commenced annexation of an area, prior to January~~
11 ~~1, 2010, that would have otherwise allowed the city to increase the~~
12 ~~rate of tax imposed under this section absent the rate limit imposed~~
13 ~~in (a) of this subsection.~~

14 ~~(c) The maximum cumulative rate of tax a city may impose under~~
15 ~~subsection (3)(b) of this section is 0.85 percent for the single~~
16 ~~annexed area the city may annex and the amount of tax distributed to~~
17 ~~a city under subsection (3)(b) of this section may not exceed seven~~
18 ~~million seven hundred twenty-five thousand dollars per fiscal year.))~~

19 ~~((a) Except as provided in (b) of this subsection, the))~~ The
20 tax imposed by this section may only be imposed at the beginning of a
21 fiscal year and may continue for no more than ~~((ten))~~ 10 years from
22 the date that each increment of the tax is first imposed. Tax rate
23 increases due to additional annexed areas are effective on July 1st
24 of the fiscal year following the fiscal year in which the annexation
25 occurred, provided that notice is given to the department as set
26 forth in subsection (9) of this section.

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

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

34 (7) The revenues from the tax authorized in this section may not
35 exceed that which the city deems necessary to generate revenue equal
36 to the difference between the city's cost to provide, maintain, and
37 operate municipal services for the annexation area and the general
38 revenues that the cities would otherwise expect to receive from the
39 annexation during a year. If the revenues from the tax authorized in
40 this section and the revenues from the annexation area exceed the

1 costs to the city to provide, maintain, and operate municipal
2 services for the annexation area during a given year, the city must
3 notify the department and the tax distributions authorized in this
4 section must be suspended for the remainder of the year.

5 (8) No tax may be imposed under this section before July 1,
6 ((2007)) 2023. Before imposing a tax under this section, the
7 legislative authority of a city must adopt an ordinance that includes
8 the following:

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

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

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

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

30 ~~(10) ((The tax must cease to be distributed to a city imposing~~
31 ~~the tax under subsection (3)(b) of this section for the remainder of~~
32 ~~the fiscal year, if the total distributions to the city imposing the~~
33 ~~tax exceed seven million seven hundred twenty-five thousand dollars~~
34 ~~for the fiscal year. A city may not impose tax under subsection~~
35 ~~(3)(b) of this section unless the annexation is approved by a vote of~~
36 ~~the people residing within the annexed area. A city may not impose~~
37 ~~tax under subsection (3)(b) of this section if it provides sewer~~
38 ~~service in the annexed area.~~

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

1 (~~(12)~~) (11) A city may not begin to impose the tax authorized
2 by this section after July 1, 2028.

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

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

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

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

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

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

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

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

Passed by the House March 3, 2023.

Passed by the Senate April 19, 2023.

Approved by the Governor May 9, 2023.

Filed in Office of Secretary of State May 10, 2023.

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