

# **King County Potential Annexation Area Action Plan**

## **Background**

In adopting the Washington State Growth Management Act (GMA), the Legislature recognized that counties are regional governments within their boundaries, and that cities are the primary providers of urban governmental services within urban growth areas. Consistent with this direction, the King County Countywide Planning Policies (CPPs) contain policies designed to facilitate annexation of urban unincorporated areas by cities, and a map identifying Potential Annexation Areas (PAAs).

The 2016 King County Comprehensive Plan included a Workplan Action Item directing the Executive to work with cities and the Growth Management Planning Council (GMPC) to develop a countywide plan to move remaining unincorporated urban PAAs toward annexation. Workplan Action Item 17 reads as follows:

1. **Action 17: Develop a Countywide Plan to Move Remaining Unincorporated Urban Potential Annexation Areas Toward Annexation.** The GMPC has authority to propose amendments to the Countywide Planning Policies, and a unique defined role related to recommending approval or denial of Urban Growth Area expansions. In order to move remaining unincorporated areas, which vary in size and complexity, towards annexation, the GMPC would reconsider the Potential Annexation Areas map and the "Joint Planning and Annexation" section of the Countywide Planning Policies. This effort would include an evaluation of how to address Potential Annexation Areas that have been previously unsuccessful in annexation and/or where annexation does not appear feasible in the near future. The report shall include a review of tax revenue impacts to the County resulting from annexations, and; evaluation of requirements regarding annexation of roadways within potential annexation areas; Identification of current orphaned roads; and potential methods to transfer ownership to cities.

King County is bringing the work resulting from this Action Item to the GMPC for review, consideration and potential recommendations.

## **Work to date:**

- **March 2017:** The GMPC was briefed on the Workplan Action Item, and that the work would begin with the creation of an Annexation Area Databook.
- **November 2018:** A second GMPC briefing where the Databook was presented in draft form, and GMPC members were informed that County staff would be reaching out to cities to vet the data and to discuss annexation generally.
- **July 2019:** A third GMPC briefing where broad themes from meetings with cities were presented. These themes informed development of the draft plan.
- **September 2019:** The final draft Databook and draft Annexation Action Plan were presented to the GMPC for review, consideration, and potential recommendations.
- **November 2019:** The final Databook and final Annexation Action Plan are being presented to the GMPC for review, consideration, and potential recommendations.

## **Discussion**

Development of the Annexation Action Plan occurred in two phases:

**Phase 1:** Creation of the Annexation Area Databook. The purpose of the Databook is to support engagement with cities and residents of PAAs by providing information on individual annexation areas, on each City's combined annexation areas, and on all annexation areas across the County. King County created a draft of the Databook, which cataloged for the first time the remaining urban unincorporated area islands in King County. It also assigned names to all PAAs.

**Phase 2:** Validation of the data in the Annexation Area Databook and development of a plan to move the remaining PAAs toward annexation. King County staff worked with City staff over several months to vet the data and to discuss annexation generally. These discussions led to the identification of themes which in turn informed development of the draft Action Plan.

### **Maps:**

A map illustrating PAAs is included in the adopted Countywide Planning Policies. This map shows all urban unincorporated areas – those affiliated with cities and those not yet affiliated. The PAA map is updated whenever the CPPs are updated and is considered the official map for policy purposes.

A similar PAA map can be found in the King County Comprehensive Plan. Because the Comprehensive Plan is updated more frequently than the CPPs, this map is generally more current. In 2016, the King County Comprehensive Plan included an updated PAA map. No changes were made to PAA boundaries, only changes to formatting and adding names<sup>1</sup> for clarity. For the smaller PAAs unnamed in the CPPs, names were added based on proximate geographic features, large subdivisions, roadways, predominant ownerships, or other information that helped to describe the area.

The attached map is from the Annexation Databook, and is the most updated version currently available. While not the official PAA map, it reflects the most recent annexations, and colloquial names cities use to reference PAAs.

### **Policy Direction:**

The 2012 Countywide Planning Policies regarding annexation address the following:

- Managing targeted levels of growth;
- Ensuring Urban Growth Area expansions are linked to annexation;
- Establishing a collaborative process for affiliating areas with cities and avoiding overlapping affiliations or gaps;
- Addressing affiliation and annexation of infrastructure such as rights-of-way as well as urban service provision;
- Supporting joint planning between the County and the cities; and
- Prohibiting annexations of certain types of lands such as agricultural lands

These policies (see Appendix 1) form the adopted basis, built on state annexation law, for how jurisdictions work together in the planning process to facilitate annexation. Note that work on the Annexation Action Plan included a review of these policies and resulted in no proposed revisions.

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<sup>1</sup> Names have no legal status and are only intended for the purpose of reference

## **Annexation Themes**

King County received positive feedback about the Databook, with City staff indicating they appreciated having access to data about their specific PAAs and seeing the larger picture of urban islands across the county. In general, cities are committed to fulfilling the GMA goal to ensure residents of urban unincorporated areas receive urban level services through annexation. However, annexations present challenges for cities, primarily due to the associated fiscal impacts and increased service responsibilities. Discussions with cities have revealed there are currently very few annexations planned. There are various reasons for this, including:

- Fiscal concerns associated with serving new areas;
- Infrastructure challenges;
- Limited awareness amongst residents regarding annexation processes;
- Uncertainty and/or concerns amongst residents about the costs and benefits of annexation;
- Limited city and county resources to support the ongoing engagement required to facilitate annexation; and
- Inconsistency between city and county approaches to service delivery (e.g., design standards, infrastructure).

Previous analysis by King County has determined that the single most effective tool in facilitating past annexations was a sales tax credit created by the 2006 Legislature (RCW 82.14.415). This tool allowed certain cities to impose a sales and use tax to help provide municipal services within a newly annexed area where the revenues received from the annexed area did not offset the costs of providing services to the area. The tax was a credit of up to 0.3 percent against the 6.5 percent state sales tax, so it was not an additional tax to a consumer. Originally slated to apply to annexations commenced prior to January 1, 2010, the tax was extended by the 2013 legislature and sunset on January 1, 2015.<sup>2</sup>

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<sup>2</sup> This section contains information from the MRSC Report “Annexation by Washington Cities and Towns”, June 2014.

## **Action Plan**

After consulting extensively with cities, and in light of the County's previous analysis highlighting fiscal constraints as the number one barrier to annexation, King County recommends the following Annexation Action Plan. The first and most important action upon which the remaining actions rest is the initiation of pre-annexation conversations with cities to identify mutual interests and supportive planning principles that would ensure coordinated planning until annexation is feasible.

### **1. MOU's: Develop Joint Memorandums of Understanding:**

- Goal: Create a framework for annexation discussions that brings clarity and organization to annexation work focused on cataloging individual and mutual interests, and impediments to annexation.
- Detail: Since cities do not have plans to move annexations forward in the near future, development of MOU's that identify individual and shared interests and known impediments can create opportunities to address sticking points and create paths toward annexation.

### **2. Affiliate the "Gaps":**

- Goal: Affiliate the remaining PAAs and road islands that have not been claimed by a city.
- Detail = Work with cities to affiliate each of the remaining "gap" urban unincorporated areas as a PAA with a city that borders it; work with cities to affiliate each of the road islands with a city that borders it.

### **3. PAA Annexation Plans: Create PAA specific annexation plans/timelines:**

- Goal: Focus annexation work on realistic, actionable plans and timelines.
- Detail: Following MOU development, work with interested cities to develop PAA- specific annexation plans and timelines that address the interests and challenges outlined in each adopted MOU.

### **4. Annexation Incentive Tool: Work with cities to encourage reauthorization of the sales tax credit by the Washington State Legislature:**

- Goal: Provide cities with the funding they need to move forward with annexation.
- Detail: Work with cities to develop a revised version of the effective sales tax credit tool, and seek reauthorization by the State Legislature.

### **5. GMPC Updates:**

- GMPC Updates: Present yearly updates to the GMPC that detail:
  - a. annexations that have occurred during the previous year
  - b. an updated urban unincorporated area PAA map
  - c. upcoming annexation plans/projects
  - d. joint city-county state legislative agenda items related to annexation

## Appendix 1:

### 2012 Countywide Planning Policies regarding annexation:

#### Development Patterns – Growth Targets

**DP-11** GMPC shall allocate residential and employment growth to each city and unincorporated urban area in the county. This allocation is predicated on:

- Accommodating the most recent 20-year population projection from the state Office of Financial Management and the most recent 20-year regional employment forecast from the Puget Sound Regional Council;
- Planning for a pattern of growth that is consistent with the Regional Growth Strategy including focused growth within cities with countywide designated centers and within other larger cities, limited development in the Rural Area, and protection of designated Resource Lands;
- Efficiently using existing zoned and future planned development capacity as well as the capacity of existing and planned infrastructure, including sewer and water systems;
- Promoting a land use pattern that can be served by a connected network of public transportation services and facilities and pedestrian and bicycle infrastructure and amenities;
- Improving the jobs/housing balance within the region and the county;
- Promoting sufficient opportunities for housing and employment development throughout the Urban Growth Area;
- Allocating growth to individual Potential Annexation Areas within the urban unincorporated area proportionate to its share of unincorporated capacity for housing and employment growth.

**DP-12** GMPC shall:

- Update housing and employment targets periodically to provide jurisdictions with up-to-date growth allocations to be incorporated in state-mandated comprehensive plan updates;
- Adopt housing and employment growth targets in the Countywide Planning Policies pursuant to the procedure described in policy G-1; and
- Adjust targets administratively upon annexation of unincorporated Potential Annexation Areas by cities. Growth targets for the 2006-2031 planning period are shown in table DP-1.

**DP-13** All jurisdictions shall plan to accommodate housing and employment targets. This includes:

- Adopting comprehensive plans and zoning regulations that provide capacity for residential, commercial, and industrial uses that is sufficient to meet 20-year

growth needs and is consistent with the desired growth pattern described in VISION 2040;

- Coordinating water, sewer, transportation and other infrastructure plans and investments among agencies, including special purpose districts; and
- Transferring and accommodating unincorporated area housing and employment targets as annexations occur.

#### Development Patterns – Amendments to the Urban Growth Area

**DP-17** If expansion of the Urban Growth Area is warranted based on the criteria in DP-16(a) or DP-16(b), add land to the Urban Growth Area only if it meets all of the following criteria:

- a) Is adjacent to the existing Urban Growth Area;
- b) For expansions based on DP-16(a) only, is no larger than necessary to promote compact development that accommodates anticipated growth needs;
- c) Can be efficiently provided with urban services and does not require supportive facilities located in the Rural Area;
- d) Follows topographical features that form natural boundaries, such as rivers and ridge lines and does not extend beyond natural boundaries, such as watersheds, that impede the provision of urban services;
- e) Is not currently designated as Resource Land;
- f) Is sufficiently free of environmental constraints to be able to support urban development without significant adverse environmental impacts, unless the area is designated as an Urban Separator by interlocal agreement between King County and the annexing city; and
- g) Is subject to an agreement between King County and the city or town adjacent to the area that the area will be added to the city's Potential Annexation Area. Upon ratification of the amendment, the Countywide Planning Policies will reflect both the Urban Growth Area change and Potential Annexation Area change.

#### Development Patterns – Joint Planning and Annexation

**DP-22** Designate Potential Annexation Areas in city comprehensive plans and adopt them in the Countywide Planning Policies. Ensure that Potential Annexation Areas do not overlap or leave unincorporated urban islands between cities.

**DP-23** Facilitate the annexation of unincorporated areas within the Urban Growth Area that are already urbanized and are within a city's Potential Annexation Area in order to provide urban services to those areas. Annexation is preferred over incorporation.

**DP-24** Allow cities to annex territory only within their designated Potential Annexation Area as shown in the Potential Annexation Areas Map in Appendix 2. Phase annexations to coincide with the ability of cities to coordinate the provision of a full range of urban services to areas to be annexed.

**DP-25** Within the North Highline unincorporated area, where Potential Annexation Areas overlapped prior to January 1, 2009, strive to establish alternative non-overlapping Potential Annexation Area boundaries through a process of negotiation. Absent a

negotiated resolution, a city may file a Notice of Intent to Annex with the Boundary Review Board for King County for territory within its designated portion of a Potential Annexation Area overlap as shown in the Potential Annexation Areas Map in Appendix 2 and detailed in the city's comprehensive plan after the following steps have been taken:

- a) The city proposing annexation has, at least 30 days prior to filing a Notice of Intent to annex with the Boundary Review Board, contacted in writing the cities with the PAA overlap and the county to provide notification of the city's intent to annex and to request a meeting or formal mediation to discuss boundary alternatives, and;
- b) The cities with the Potential Annexation Area overlap and the county have either:
  - i) Agreed to meet but failed to develop a negotiated settlement to the overlap within 60 days of receipt of the notice, or
  - ii) Declined to meet or failed to respond in writing within 30 days of receipt of the notice.

**DP-26** Develop agreements between King County and cities with Potential Annexation Areas to apply city-compatible development standards that will guide land development prior to annexation.

**DP-27** Evaluate proposals to annex or incorporate unincorporated land based on the following criteria:

- a) Conformance with Countywide Planning Policies including the Urban Growth Area boundary;
- b) The ability of the annexing or incorporating jurisdiction to provide urban services at standards equal to or better than the current service providers; and
- c) Annexation or incorporation in a manner that will avoid creating unincorporated islands of development.

**DP-28** Resolve the issue of unincorporated road islands within or between cities. Roadways and shared streets within or between cities, but still under King County jurisdiction, should be annexed by adjacent cities.

#### Development Patterns – Rural Area

**DP-51** Allow cities that own property in the Rural Area to enter into interlocal agreements with King County to allow the cities to provide services to the properties they own as long as the cities agree to not annex the property or serve it with sewers or any infrastructure at an urban level of service. The use of the property must be consistent with the rural land use policies in the Countywide Planning Policies and the King County Comprehensive Plan.

#### Development Patterns – Resource Lands

**DP-55** Prohibit annexation of lands within designated Agricultural Production Districts or within Forest Production Districts by cities.

#### Public Facilities and Services – Collaboration Among Jurisdictions

**PF-3** Cities are the appropriate providers of services to the Urban Growth Area, either directly or by contract. Extend urban services through the use of special districts only where there are agreements with the city in whose Potential Annexation Area the extension is proposed. Within the Urban Growth Area, as time and conditions warrant, cities will assume local urban services provided by special service districts.

## **Appendix 2: Review of Tax Revenue Impacts to the County Resulting from Annexations and Incorporations**

### **Introduction**

Since 1990 and the adoption of the Growth Management Act, King County has undergone a transformation in the way local services are provided to urban communities. In 1989, King County had 29 incorporated cities, and 41% of the population lived in the unincorporated area. In 2019, there are 39 incorporated cities and according to the 2019 estimates by the Washington State Office of Financial Management only 11% of the County's population lives in the unincorporated area. The ten incorporations and numerous annexations since 1989 have had an impact on both the revenues collected by King County and the services the County provides.

This document reviews which revenue streams are affected by incorporations and annexations but does not evaluate the net impact of each annexation and incorporation. It would be extremely difficult to evaluate what services and costs are no longer being borne or provided by King County because of the smaller unincorporated area. In some cases, loss of a revenue source is outweighed by the savings realized by no longer serving an area. In others the opposite is true.

### **Affected Revenues**

#### **Sales Tax**

##### **Description**

The retail sales tax in Washington State provides a revenue source for multiple entities. State government, city government, county government, and special districts may all collect revenue through this mechanism, collected as a percentage of the selling price on retail transactions.

Chapter 82.14 RCW authorizes local retail sales and use taxes. Counties in Washington State may impose a rate of 0.5% on any taxable event within the county, with revenues supporting general county functions. In incorporated areas, revenues are split between the county and the city, with the city getting 85% of generated revenue and the county receiving the other 15% (for an effective rate of 0.425% for the city and .075% for the county).

Counties and cities may also impose an 'optional' additional sales tax increment on top of the 0.5%, in 0.1% increments up to an additional 0.5%. Revenues are again available to support general government functions. Counties and cities share revenue, as described above, for those cases where both are levying the optional increment. As of this writing, all cities in King County collect the full 0.5% optional increment, as does the County in the unincorporated area.

Counties may also levy several other sales taxes with revenues dedicated to specific functions. King County currently imposes three of these increments (on top of the 0.5% and 0.5% optional described above): a 0.1% sales tax to support criminal justice purposes (with counties receiving 10% of gross revenue and the remainder split with cities based on population), a 0.9% sales tax for public transportation (transit) purposes, and a 0.1% sales tax to support behavioral health services (known as the Mental Illness and Drug Dependency tax, or MIDD).

##### **Effect**

Annexations and incorporations affect county retail sales tax collections to the extent that transactions that formerly took place in unincorporated areas now occur in incorporated areas, and insofar as annexations and incorporations affect those revenues allocated based upon city populations.

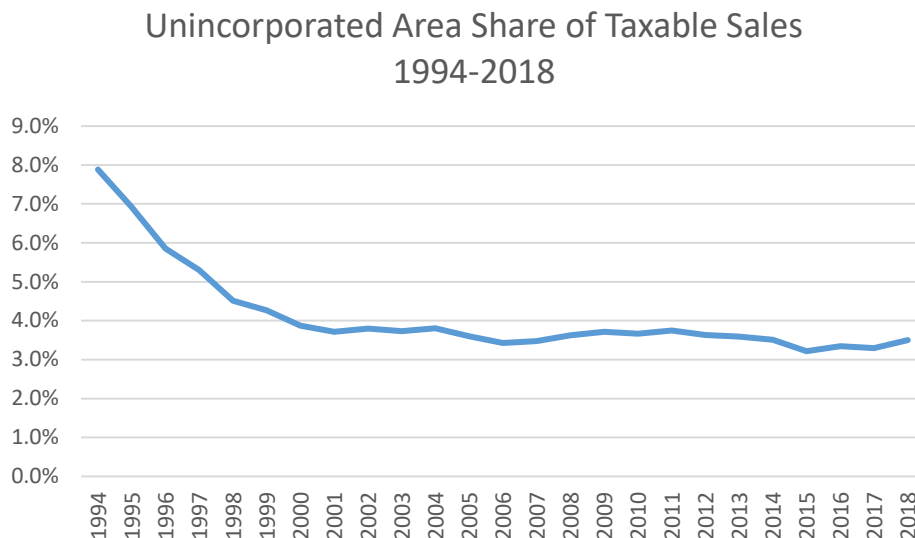


For instance, a county's effective tax rate in unincorporated areas, assuming that both the 0.5% base and the 0.5% optional increment are imposed, is 1%. Once an area is annexed or incorporated, revenue is now split with the city such that the county's effective rate is now 0.15% (with the other 0.85% supporting the city).

For tax increments partially allocated by population, such as the 0.1% criminal justice increment, incorporations and annexations reduce the share of population within unincorporated areas, thus reducing the share of revenue that county government would receive.

### **Impact**

In 2018, sales taxes collected by King County totaled just under \$717M, \$144.4M of which went to the General Fund. An analysis of the distribution of taxable sales in the County shows that from 1994 to 2018 the share of taxable retail sales occurring in the unincorporated area has declined from 7.9% in 1994 to 3.5% in 2018. This decline roughly follows the decline in the proportional number of residents living in the unincorporated area, which fell from 31.5% in 1994 to 12.5% as of 2013.



## **County Road Levy**

### **Description**

Chapter 36.82 RCW authorizes Washington counties to impose a property tax to support county roads (called the Road Levy) up to \$2.25 per \$1,000 of assessed value in their unincorporated areas. These funds may be used for planning, constructing, altering, repairing, improving, and maintaining county roads, bridges, and wharves necessary for vehicle transportation and other county transportation issues.

### **Effect**

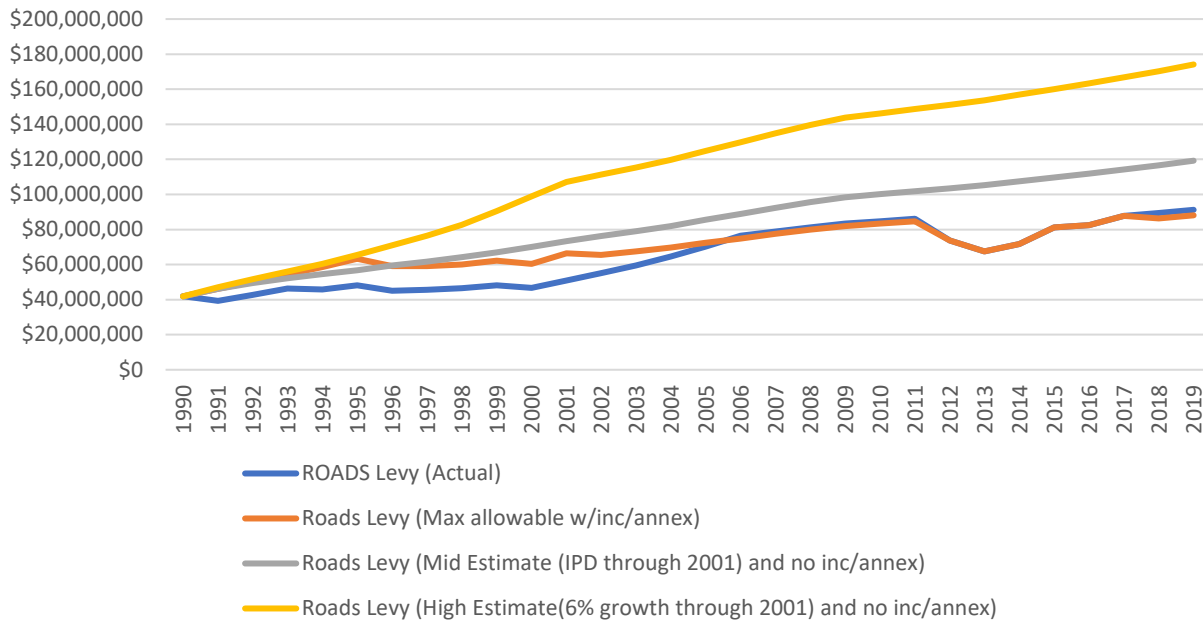
Annexations and incorporations impact the County Road Levy by decreasing the number of parcels subject to the levy. When an area is annexed or incorporated, that area's levy is shifted to the remaining unincorporated area, up to the \$2.25 per \$1,000 of assessed value limit. When the annexation or incorporation of an area would move the levy above \$2.25 per \$1,000 of AV cap, the cap supersedes the 1% growth rule. The King County Roads levy was at the \$2.25 limit from 2012 to 2016.

### **Impact**

The County Road Levy is the Road Fund's largest source of revenue. In 2018, property tax collections for the County Road Levy totaled \$89.26M, which was equivalent to 78.67% of all revenue in the fund. The Office of Economic and Financial Analysis created a model to show the long term impacts of annexations

and incorporations on the County Road Levy, which shows three alternative scenarios to the current levy. The high estimate shows the maximum allowable levy from 1990 to 2019, without any incorporations or annexations. The middle estimate limits the growth of the levy before 2001 to the level of inflation as measured by the Implicit Price Deflator (IPD). The lowest estimate shows the maximum allowable rate from 1990 to 2019 including the impact of recessions. This is higher than the actual rate in some cases because the County elected to levy less than the maximum allowable amount to prevent large increases in property taxes in the unincorporated area.<sup>3</sup>

Unincorporated Roads Levy Actuals and Estimate, 1990-2019



MODEL	2018 REVENUE ESTIMATE	2018 DIFFERENCE FROM ACTUAL	1990-2018 CUMMULATIVE DIFFERENCE FROM ACTUAL
ACTUAL ROADS LEVY	\$89,353,349	\$0	\$0
MAX ALLOWABLE LEVY	\$86,317,818	\$0	\$148,626,796
MIDDLE ESTIMATE	\$116,611,874	\$27,258,525	\$523,742,494
HIGH ESTIMATE	\$170,288,088	\$80,934,739	\$1,443,928,593

<sup>3</sup> The limit on property tax revenue growth of 1% per year plus new construction without a vote of the people stems from Initiative 747, approved in 2001. Although the initiative was subsequently ruled unconstitutional by the State Supreme Court, the Legislature immediately reinstated it.

The modeled estimates show that without any annexations or incorporations between 1990 and 2018, the County Road Levy could have been as high as \$170.28M in 2018, 95% more than actual 2018 road levy income. The model also shows that cumulatively over the last 28 years, annexations and incorporations have reduced total County Road Levy collections by as much as \$1.4B. While annexations and incorporations have reduced the revenue from the County Road Levy, they also reduce the area in which King County is required to provide road services. Because of the difficulty in estimating what costs in annexed areas would have been, it is not feasible to estimate the net impact of annexations and incorporations on the County Road Fund in this report. However, it is clear that the revenue losses are proportionally greater than the avoided expenditures, so the cumulative effect on the Road Fund has been negative.

## **Real Estate Excise Tax**

### **Description**

Chapter 82.46 RCW authorizes counties to collect Real Estate Excise Taxes (REET) totaling 0.50% of the sale price of real estate in the unincorporated area of a county. These taxes are collected when the documents of the sale are presented for recording by the county. State law separates the tax into two portions called the “first quarter percent” (REET 1) and the “second quarter percent” (REET 2). REET 1 can be used for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of roads, sidewalks, water systems, parks, law enforcement buildings, and several other public investments. REET 2 is more restricted in its use and can only be used for roads, sidewalks, water systems, and parks. In addition to restrictions in state law, King County Code 4A.510 restricts the use of both REET 1 and 2 to the unincorporated areas.

### **Effect**

Because annexations and incorporations decrease the amount of real estate in the unincorporated area, they effectively shrink the pool of transactions that are subject to King County’s REET. It is important to note that REET revenues are also very sensitive to local economic conditions and recent volatility in REET revenues is not solely associated with annexations and incorporations.

### **Impact**

Collections from REET 1 and 2 combined totaled \$31.88M in the 2017-2018 biennium. Those funds supported nearly all of the Parks Open Space Construction fund and 24% of the Parks Capital Fund, as well as debt service on other King County capital investments.

Annexations and incorporations have had a significant impact on the areas that King County collects REET revenues from and the amount of revenue collected. In 2018, cities in King County that incorporated after 1989 collected a total of \$26.52M in real estate excise tax revenue. Additionally, annexations have incorporated an estimated 219,839 residents of King County. If those residents engaged in REET eligible transactions at the same rate as the current unincorporated population, those transactions would have generated \$14.12M in additional REET revenue in 2018. Using these rough estimates, the 2018 impact of annexations and incorporations on King County was over \$30.6M.

## **Gambling Tax**

### **Description**

RCW 9.46.110 empowers counties to tax any gambling activities in the unincorporated area. The law also imposes maximum rates based on the type of activity, as well as exceptions to limited amounts of gambling revenue by charitable organizations. These funds may be used by a county for any purpose. The table below shows the tax rate imposed by King County by type of permitted gambling activity and the maximum rate allowed under state law.

<b>Gambling Activity</b>	<b>King County Imposed Rate</b>	<b>Maximum Tax Rate</b>
<b>Amusement Games</b>	2% of net receipts	Actual costs of enforcement, not to exceed 2% of net receipts
<b>Bingo and Raffles</b>	5% of net receipts	5% of net receipts
<b>Punch Boards and Pull-tabs*</b>	5% of gross receipts or 10% of net receipts	5% of gross receipts or 10% of net receipts
<b>Social Card Games</b>	11% of gross receipts over \$10,000	20% of gross receipts

*\*Counties may impose either up to a 5% tax on gross receipts or up to a 10% tax on net receipts for commercial operators of punch boards and pull-tabs. Charitable operators must be taxed on the net receipts basis.*

### **Effect**

Because the County only collects the tax in unincorporated areas, annexations or incorporations of areas that contain licensed gambling establishments reduces the amount of tax that the County is eligible to collect. Currently there are over 40 organizations licensed by the Washington State Gambling Commission that operate in the unincorporated area of King County. Annexation of the areas where these organizations are housed could have a significant impact on the total amount of gambling tax collected by the county in the future.

### **Impact**

Gambling tax collections are a small part of King County's general fund revenue. In total in 2018, gambling taxes generated \$2,205,000 for the fund. The vast majority, over 88%, were generated by the tax on social card games. Altogether, gambling taxes represented 0.25% of general fund revenues in 2018.

### **State Transfers**

### **Description**

Several chapters of state law set out formulas by which revenues collected by state entities are distributed to local governments. Two of these formulas, for liquor revenues and motor vehicle fuel taxes, use the unincorporated population as part of the calculation.

**Liquor revenue** – Liquor revenues are comprised of two sources, excise taxes on the sale of liquor across the state and revenue from license fees for liquor distributors and retailers in the state (known as "liquor profits"). Most of these funds can be used for any purpose, but 2% of each distribution must be used for an approved alcohol or drug addiction program, and 20.23% of the liquor profit distribution must be used for public safety programs. Liquor revenue distributions are placed in the County general fund.

***Motor Vehicle Fuel Taxes*** – Washington State currently collects a 49.4 cents per gallon excise tax on gasoline. RCW 46.68 sets aside a portion of the collected funds to be distributed to counties. These revenues must be placed in the county road fund and are subject to the same restrictions as the county road levy.

#### **Effect**

***Liquor revenue*** – The formulas for distribution of liquor revenues both allocate 80% of eligible money to cities, and the remaining 20% to counties. The 20% county portion is distributed among counties on the basis of the unincorporated population. Annexations and incorporations, by reducing the unincorporated population, also reduce King County’s overall share of the county liquor profits.

***Motor vehicle fuel taxes*** – The county portion of shared gas tax revenues is determined by a formula administered by the County Road Administration Board (CRAB). The CRAB formula has four factors it considers: equivalent population, money needs, road cost, and equal distribution.<sup>4</sup> For the purposes of the formula, equivalent population is determined by adding the sum of a county’s unincorporated population to 25% of the total population residing in incorporated areas of a county. The net effect of incorporations and annexations on this revenue is that they reduce King County’s overall share of equivalent population by moving people from being fully counted to being counted in the 25% of incorporated population.

#### **Impact**

***Liquor Profits*** – Liquor profit distributions are a small portion of the County’s total revenues. In 2018 liquor profit distributions to King County totaled \$1,478,000, which is equivalent to 0.17% of all general fund revenues.

***Motor vehicle fuel tax*** – Shared gas tax revenues are an important component of the County Road Fund’s funding structure. In 2018, state gas tax distributions totaled \$13,780,000, which was the fund’s second largest source of revenue behind the county road property tax levy.

### **Fees and Charges for Services**

#### **Description**

King County, as the local service provider, imposes a variety of fees and charges for services in the unincorporated area. These fees and charges include permitting fees on development in the unincorporated area, surface water management fees, and fines and forfeitures in King County District Court, as well as many others. In addition to charges for local services in the unincorporated area, the County also is a contractor for many local governments to provide services like law enforcement, road maintenance, and animal control.

#### **Effect**

Annexations and incorporations have a mixed effect on overall County revenues from fees and charges for services. In most cases, annexations and incorporations reduce County revenues by shifting delivery of local services to the annexing or incorporating city, which then charges for those services. In some cases, annexations and incorporations by cities that contract with King County for local service delivery may increase revenue, as the County may now be compensated for a service that was previously covered by the General Fund.

#### **Impact**

As stated above, it is extremely difficult to quantify the impact of annexations on fee and service revenues across County government. The Department of Local Services’ Permitting Division is likely one of the agencies most severely impacted by annexations and incorporations. In 2018, charges for services in the

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<sup>4</sup> For additional information on how CRAB determines the non-population elements of the formula, visit the CRAB website: <http://www.crab.wa.gov/mvft/mvft.cfm>

permitting fund totaled \$13,267,000, which was 92.8% of the fund's total revenue. It is important to note that permitting fees, by law, are set equal to the cost of issuing the permit, therefore the county does not financially benefit from issuing more or fewer permits. Another impacted service is surface water management, which collects fees from the unincorporated area to pay for surface water management infrastructure and programs. Annexations and incorporations often move rate-payers into municipal systems, but do not capture all of the infrastructure that supports the surface water system, leaving the County to bear those costs.

## **Discussion**

Annexations and incorporations, especially since 1989, have had significant impacts on King County's revenues from taxes, state transfers, and charges for services. They also have had significant impacts on what services the County provides and to whom. The decrease in the percentage of the county's population living in the unincorporated area, from a high of 41% in the early 1980s to an estimated low of 11% in 2019, has affected a wide range of taxes and state transfers that use the ratio to allocate resources. While incorporations and annexations relieve the County from providing some local services, the unsystematic pattern of annexation and incorporation leaves King County bearing local service costs in disparate areas in both urban and rural communities. While the County has lost potential revenue because of annexation and incorporation, the net impact on the County's finances is difficult to estimate. While the County will continue to implement its master plan under the Growth Management Act, it is incumbent on state-level policy makers to address the impacts of the act on local government finances and provide adequate funding sources for both regional and local services in Washington.

## Appendix 3: Orphaned Roads and Rights of Ways

Orphaned roads are King County road rights-of-way that include half-streets, parts of roads or entire roads completely surrounded by cities, and small segments of road located on or within the Urban Growth Boundary, but which were not transferred from county responsibility to a city as part of past annexation or incorporation.

This appendix responds to elements of King County Comprehensive Plan Workplan Action Item 17 (Ordinance 18810) that called for:

2. Evaluation of requirements regarding annexation of roadways within potential annexation areas;
3. Identification of current orphaned roads; and
4. *[Identification of]* potential methods to transfer ownership to cities.

### **1. Evaluation of requirements regarding annexation of roadways within potential annexation areas**

When a county road is part of an area annexed by a city, the road becomes a city street and the city assumes full responsibility for it. *Evergreen Trailways, Inc. v. Renton*, 38 Wn.2d 82 (1951). If a county road separates a city from territory it proposes to annex, the road must also be annexed or the territory will not be contiguous. Noncontiguous property cannot be legally annexed, except when it is annexed for municipal purposes.

The challenge in years past has been in drawing boundaries and advancing annexations that do not create orphaned roads. The Legislature has since prohibited the use of centerline incorporation boundaries stating that the use of centerlines of public streets, roads and highways as boundaries of incorporated cities and towns had resulted in divided jurisdiction over such public ways causing inefficiencies and waste in their construction, improvement and maintenance and impairing effective traffic law enforcement (RCW 35.02.170/RCW 35.13.290).

Remedies do exist in state law, if the jurisdictions involved are willing partners in eliminating orphaned roads. If the transfer of a ROW from the county into city boundaries does not include transferring property parcels, then the process is simply an administrative boundary revision and is not subject to Boundary Review Board review.

Transfer of orphaned roads attached to a Potential Annexation Area (PAA) would occur as part of an annexation process when the PAA is annexed, unless a boundary revision process precedes the annexation of the PAA. Cities have the authority to propose annexation boundaries and advance annexations, counties do not. Counties can *request* boundary revisions in negotiations with cities or at the Boundary Review Board, but ultimately only cities have the authority to propose and advance annexation area boundaries in a way that eliminates orphaned roads.

## **2. Potential methods to transfer ownership to cities**

There are several RCW's that outline annexation methods and various administrative methods to transfer orphaned roads from a county to a city.

Boundary Line Adjustments: Boundary revisions are an administrative and legislative process that are not subject to review by the Boundary Review Board.

Under RCW 35A.21.210, the governing bodies of a county and any code city may by agreement revise any part of the boundary of the city which coincides with the centerline, edge, or any portion of a public street, road or highway right-of-way by substituting a right-of-way line so as to fully include or exclude that segment of the road within or from, the boundary of the city. The revision of a boundary becomes effective when approved by ordinance of the city council and by ordinance or resolution of the county legislative authority.

RCW 35.13.310 provides a method to adjust the boundary lines between two cities where the two cities share a common boundary within a right-of-way of a public street, road, or highway, or the two cities have a portion of their boundaries separated only by all or part of the right-of-way of a public street, road, or highway.

RCW 35.13.320 provides a method to adjust the boundary lines between two jurisdictions in which an annexation results in boundaries that create orphaned roads, as long as the agreement and action occur within 180 days of the effective date of the annexation, or the county makes the adjustment within 60 days following the one hundred eightieth day.

An agreement or adjustment made by a county under this section shall include only boundary line adjustments between the two cities that are necessary to eliminate the situation described in RCW 35.13.310(1). A boundary line adjustment under this section is not subject to potential review by a boundary review board.

### Adjustments Involving Parcels of Property Located Partially Within and Partially

Without a City's Boundaries: Under RCW 35.13.340, if the parcel involved includes a public right-of-way, the boundary adjustment must be made in a manner to either include all or none of that right-of-way within the boundaries of the city.

Sixty Percent Petition Annexation Method: For all cities, this method requires the signatures of property owners representing 60% of the assessed value of the area proposed for annexation.

Alternative Petition Annexation Method: This method was adopted by the Legislature during the period (2002-04) that the "traditional" method (60% petition method) had been declared unconstitutional by the state Supreme Court; it requires the support of property owners representing a majority of the area proposed for annexation and of a majority of the voters in the area.

Election Annexation Method: The election method requires approval of the voters in the proposed annexation area. Although there are other methods of annexation (municipal purpose annexations, annexations of "islands" of unincorporated territory, and the interlocal agreement method) they are available only in limited circumstances and so not often used.



**Unincorporated Islands Annexation Method:** This method enables the annexation of territory that is wholly or mostly surrounded by incorporated territory. The 2013 Legislature amended, for code cities, the criteria for territory that can be annexed under this method. Per RCW 35A.14.295, an area may be annexed by a code city under the unincorporated island method of annexation if:

- the area is less than 175 acres and all its boundaries are contiguous to the city (i.e., it is entirely surrounded by the city); *or*
- the area is of any size and has at least 80% of its boundaries contiguous to the city, it contains residential property owners, and it is within the same county and urban growth area as the city, and the code city is *required* to plan under the Growth Management Act (GMA).

Annexations under this method are subject to potential referendum (RCW 35A.14.297-.299).

The authority provided to non-code cities under this method is more limited than for code cities. Per RCW 35.13.182, an area may be annexed by a non-code city under this method if the city was planning under the GMA *as of June 30, 1994*, the area contains residential property owners, the area is within the same county and urban growth area of the city, and:

- the area is less than 100 acres and has at least 80% of its boundaries contiguous to the city; *or*
- the area is of any size, has at least 80% of its boundaries contiguous to the city, and it existed before June 30, 1994.

**Unincorporated Island-Interlocal Agreement Annexation Method:** This method provides an "alternative" method of annexing islands of unincorporated territory through use of interlocal agreements. However, this "island-interlocal" method of annexation is only available to cities and towns located in counties that are subject to the "buildable lands" review and evaluation program under the Growth Management Act (GMA). These counties are Clark, King, Kitsap, Pierce, Snohomish, and Thurston. This legislation is codified in RCW 35.13.470-.480 for non-code cities and in RCW 35A.14.460-.470 for code cities

### 3. List of Orphaned Roads

The following table lists all the orphaned roads known by the King County Roads Services Division. Some but not all are affiliated with jurisdictions that have Potential Annexation Areas.

ADJACENT CITY	LOCATION
Algona	West Valley Hwy – between S 360th St. and St and S 372nd St
Auburn	Green River Rd – between SE 280th St and SE 293rd St
Auburn	88th Ave S (D St SE) – between 29th St SE. and approximately 117' south of 32nd St. SE
Auburn	148th Ave SE – between SE 364th St. south to the southern boundary of Auburn
Black Diamond	Lake Sawyer Rd SE – from SE 312th St to approximately 1,800 feet northerly of SE Auburn–Black Diamond Rd

<b>ADJACENT CITY</b>	<b>LOCATION</b>
Bothell	130th Pl NE – between NE 197th Pl and NE 190th Pl
Enumclaw	284th Ave SE – between SE 456th St and approximately 698' north of SE 464th St
Enumclaw	SE 456 <sup>th</sup> St – between 276th Ave SE and 284th Ave SE
Enumclaw	244th Ave SE – between McDougall Ave and approximately 727' northerly of SE 468th St and between SE 456th St and McDougall Ave
Enumclaw	SE 440 <sup>th</sup> St – lying westerly of 292 <sup>nd</sup> Ave SE
Enumclaw	SE 440 <sup>th</sup> St – at the 283rd Pl SE intersection
Enumclaw	SE 432nd St (McHugh Ave) – at Florence St intersection
Federal Way	S Peasley Canyon Rd – between S 320th St and Peasley Canyon Way S
Issaquah	Not KC Maintained. This portion is State Hwy SR–900, but within unincorporated KC – Renton–Issaquah Rd – lying northerly of SE 95th St, in SW 32-24-6
Kenmore	NE 205th St – between 60th Ave NE and 61st Ave NE
Kenmore	NE 205th St – between NE 204th St and 73rd Ave NE
Kent	Lake Fenwick Rd S – between S 272nd Way and S 263rd St
Kent	Orillia Rd S – from S 212th St to approximately 1000' northerly
Kent	Orillia Rd S – from approximately 1000' northerly of S 212th St to S 204th St
Kent	Military Rd S – between S 240th St and Kent–Des Moines Rd
Kent	216th Ave SE – between SE 283rd St and SE 288th St
Kent	S 277th St – at the West Valley Highways intersection
Kent	S 277th St – lying westerly of SR 167
Kent	Old Kent–Des Moines Rd – between Military Rd S and SR–516
Kent	37th Pl S/ 40th Pl S – lying westerly of 42nd Ave S
Kent	S 272nd St – between 42nd Ave S and Lake Fenwick Rd S
Lake Forest Park	NE 205th St – between 39th Pl NE and 45th Ave NE
Lake Forest Park	40th Pl NE/ 37th Ave NE – between NE 205th St and NE 202nd St
Maple Valley	SE 288th St – between 236th Ave SE and 241st Ave SE
Maple Valley	SE 281st Way – between Maple Ridge Way SE and 253rd Pl SE
Pacific	S 372nd St – between 51st Ave S and 56th Ave S
Redmond	154th Pl NE – between NE 116th St and NE 120th Way

<b>ADJACENT CITY</b>	<b>LOCATION</b>
Redmond	NE 116th St – lying easterly of Avondale Rd NE
Redmond	NE Union Hill Rd – lying westerly of 196th Ave NE
Redmond	NE 124th St – at the 162nd Pl NE intersection
Renton	S 125th St – between approx. 86th Ave S and Stevens Ave NW
Renton	Ripley Lane – between SE 64th St and NE 51st St
Renton	148th Ave SE – between SE Renton–Issaquah Rd and SE 105th St
Renton	148th Ave SE – between SE 112th St and SE Renton–Issaquah Rd
Renton	S 104th St (Ryan St) – between Cornell Ave S and 76th Ave S
Renton	59th Ave S – between S 120th St (Juniper St) and S Avon St
Renton	S 120th St (Juniper St) – between 59th Ave S and SR–900 (Martin Luther King JR Way S)
Seattle	SW 98th St – between 21st Ave SW and 19th Ave SW
Seattle	SW Roxbury St. – between 2nd Ave SW and 4th Ave SW
Seattle	12th Ave S – between Dallas Ave S and alley between S Rose St and S Southern St
Seattle	Dallas Ave S – between 12th Ave S and 16th Ave S
Seattle	21st Ave SW – between SW Roxbury St and SW 98th St
Seattle	51st Ave S – between S Ryan St and S Avon St
Seattle	N 145th St – between Lake City Way NE and 40th Ave NE (Lake Washington shoreline)
Seattle	SW Roxbury St – between 30th Ave SW and 21st Ave SW
Seattle	SW Roxbury St – between 19th Ave SW and 4th Ave SW
Seattle	N 145th St – between Greenwood Ave N and Aurora Ave N
Seattle	Not KC Maintained, ROW is under WSDOT jurisdiction as SR523 – N 145th St – between Aurora Ave N and Lake City Way NE
Shoreline	NW 205th St – between 3rd Ave NW and Aurora Ave N
Shoreline	NW 205th St – between 15th Ave NW and 12th Ave NW
Shoreline	Not KC Maintained. This portion is State Hwy SR–104, but ROW under KC jurisdiction – NE 205th St – between Aurora Ave N and I–5
Snoqualmie	SE 96 <sup>th</sup> St – between Snoqualmie Pkwy and 356 <sup>th</sup> Ave SE
Snoqualmie	SE 99 <sup>th</sup> St – portion lying westerly of Snoqualmie Pkwy
Snoqualmie	Meadowbrook Way SE – portion lying northerly SE North Bend Way

ADJACENT CITY	LOCATION
Snoqualmie	SE 80th St – at 382nd Ave SE intersection
Snoqualmie	384th Ave SE – between SE 84th St and SE River St
Snoqualmie	396th Dr. SE – between north city limit to 396th Ave SE
Tukwila	Airport Way S – in the SE ¼ of 33-24-4
Woodinville	140th Ave NE – between NE 171st St and NE 168th St

<sup>1</sup> This document contains information from the MRSC Report “Annexation by Washington Cities and Towns”, June 2014

<sup>2</sup> *Evergreen Trailways, Inc. v. Renton*, 38 Wn.2d 82 (1951): “Any portion of a county not theretofore incorporated as a city or town lying contiguous to a city or town may become annexed to such city or town and, when so annexed, shall become a part thereof. Rem. Supp. 1945, § 8908-10. When territory is annexed to a city, the authority of the city ipso facto extends over the new territory, and it becomes subject to the control and supervision of the municipal authority. *Ettor v. Tacoma*, 77 Wash. 267, 137 Pac. 820; *Western Gas Co. v. Bremerton*, [21 Wn. \(2d\) 907](#), 153 P. (2d) 846; 37 Am. Jur. 651, *Municipal Corporations*, § 34.”

#### **Appendix 4:** See attached PAA Map