
HOUSE BILL 2674

State of Washington 61st Legislature 2010 Regular Session

By Representatives Priest, Dammeier, Haler, Roach, Rolfes, and McCune

Read first time 01/12/10. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to requiring certain annexation ordinances be
2 subject to referendum; and amending RCW 35.13.238 and 35A.14.480.

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

4 **Sec. 1.** RCW 35.13.238 and 2009 c 60 s 7 are each amended to read
5 as follows:

6 (1)(a) An annexation by a city or town that is proposing to annex
7 territory served by one or more fire protection districts may be
8 accomplished by ordinance after entering into an interlocal agreement
9 as provided in chapter 39.34 RCW with the county and the fire
10 protection district or districts that have jurisdiction over the
11 territory proposed for annexation.

12 (b) A city or town proposing to annex territory shall initiate the
13 interlocal agreement process by sending notice to the fire protection
14 district representative and county representative stating the city's or
15 town's interest to enter into an interlocal agreement negotiation
16 process. The parties have forty-five days to respond in the
17 affirmative or negative. A negative response must state the reasons
18 the parties do not wish to participate in an interlocal agreement
19 negotiation. A failure to respond within the forty-five day period is

1 deemed an affirmative response and the interlocal agreement negotiation
2 process may proceed. The interlocal agreement process may not proceed
3 if any negative responses are received within the forty-five day
4 period.

5 (c) The interlocal agreement must describe the boundaries of the
6 territory proposed for annexation and must be consistent with the
7 boundaries identified in an ordinance describing the boundaries of the
8 territory proposed for annexation and setting a date for a public
9 hearing on the ordinance. If the boundaries of the territory proposed
10 for annexation are agreed to by all parties, a notice of intention must
11 be filed with the boundary review board created under RCW 36.93.030.
12 However, the jurisdiction of the board may not be invoked as described
13 in RCW 36.93.100 for annexations that are the subject of such
14 agreement.

15 (2) An interlocal annexation agreement under this section must
16 include the following:

17 (a) A statement of the goals of the agreement. Goals must include,
18 but are not limited to:

19 (i) The transfer of revenues and assets between the fire protection
20 districts and the city or town;

21 (ii) A consideration and discussion of the impact to the level of
22 service of annexation on the unincorporated area, and an agreement that
23 the impact on the ability of fire protection and emergency medical
24 services within the incorporated area must not be negatively impacted
25 at least through the budget cycle in which the annexation occurs;

26 (iii) A discussion with fire protection districts regarding the
27 division of assets and its impact to citizens inside and outside the
28 newly annexed area;

29 (iv) Community involvement, including an agreed upon schedule of
30 public meetings in the area or areas proposed for annexation;

31 (v) Revenue sharing, if any;

32 (vi) Debt distribution;

33 (vii) Capital facilities obligations of the city, county, and fire
34 protection districts;

35 (viii) An overall schedule or plan on the timing of any annexations
36 covered under this agreement; and

37 (ix) A description of which of the annexing cities' development
38 regulations will apply and be enforced in the area.

1 (b) The subject areas and policies and procedures the parties agree
2 to undertake in annexations. Subject areas may include, but are not
3 limited to:

- 4 (i) Roads and traffic impact mitigation;
- 5 (ii) Surface and storm water management;
- 6 (iii) Coordination and timing of comprehensive plan and development
7 regulation updates;
- 8 (iv) Outstanding bonds and special or improvement district
9 assessments;
- 10 (v) Annexation procedures;
- 11 (vi) Distribution of debt and revenue sharing for annexation
12 proposals, code enforcement, and inspection services;
- 13 (vii) Financial and administrative services; and
- 14 (viii) Consultation with other service providers, including water-
15 sewer districts, if applicable.

16 (c) A term of at least five years, which may be extended by mutual
17 agreement of the city or town, the county, and the fire protection
18 district.

19 ~~(3) ((If the fire protection district, annexing city or town, and~~
20 ~~county reach an agreement on the enumerated goals, the annexation~~
21 ~~ordinance may proceed and is not subject to referendum. If only the~~
22 ~~annexing city or town and county reach an agreement on the enumerated~~
23 ~~goals, the city or town and county may proceed with annexation under~~
24 ~~the interlocal agreement, but))~~ (a) If an agreement is reached on the
25 enumerated goals either (i) among the fire protection district,
26 annexing city or town, and the county; or (ii) between the annexing
27 city or town and the county, then the annexation may proceed under the
28 interlocal agreement, and, in either case, the annexation ordinance is
29 subject to referendum.

30 (b) The annexation ordinance provided for in this section is
31 subject to referendum for forty-five days after its passage. Upon the
32 filing of a timely and sufficient referendum petition with the
33 legislative body of the city or town, signed by qualified electors in
34 a number not less than ten percent of the votes cast in the last
35 general state election in the area to be annexed, the question of
36 annexation must be submitted to the voters of the area in a general
37 election if one is to be held within ninety days or at a special
38 election called for that purpose according to RCW 29A.04.330. Notice

1 of the election must be given as provided in RCW 35.13.080, and the
2 election must be conducted as provided in the general election laws
3 under Title 29A RCW. The annexation must be deemed approved by the
4 voters unless a majority of the votes cast on the proposition are in
5 opposition to the annexation.

6 After the expiration of the forty-fifth day from, but excluding,
7 the date of passage of the annexation ordinance, if a timely and
8 sufficient referendum petition has not been filed, the area annexed
9 becomes a part of the city or town upon the date fixed in the ordinance
10 of annexation.

11 (4) If any portion of a fire protection district is proposed for
12 annexation to or incorporation into a city or town, both the fire
13 protection district and the city or town shall jointly inform the
14 employees of the fire protection district about hires, separations,
15 terminations, and any other changes in employment that are a direct
16 consequence of annexation or incorporation at the earliest reasonable
17 opportunity.

18 (5) The needed employees shall be taken in order of seniority and
19 the remaining employees who transfer as provided in this section and
20 RCW 35.10.360 and 35.10.370 shall head the list for employment in the
21 civil service system in order of their seniority, to the end that they
22 shall be the first to be reemployed in the city or town fire department
23 when appropriate positions become available. Employees who are not
24 immediately hired by the city or town shall be placed on a reemployment
25 list for a period not to exceed thirty-six months unless a longer
26 period is authorized by an agreement reached between the collective
27 bargaining representatives of the employees of the annexing and annexed
28 fire agencies and the annexing and annexed fire agencies.

29 (6)(a) Upon transfer, an employee is entitled to the employee
30 rights, benefits, and privileges to which he or she would have been
31 entitled as an employee of the fire protection district, including
32 rights to:

33 (i) Compensation at least equal to the level of compensation at the
34 time of transfer, unless the employee's rank and duties have been
35 reduced as a result of the transfer. If the transferring employee is
36 placed in a position with reduced rank and duties, the employee's
37 compensation may be adjusted, but the adjustment may not result in a

1 decrease of greater than fifty percent of the difference between the
2 employee's compensation before the transfer and the compensation level
3 for the position that the employee is transferred to;

4 (ii) Retirement, vacation, sick leave, and any other accrued
5 benefit;

6 (iii) Promotion and service time accrual; and

7 (iv) The length or terms of probationary periods, including no
8 requirement for an additional probationary period if one had been
9 completed before the transfer date.

10 (b) (a) of this subsection does not apply if upon transfer an
11 agreement for different terms of transfer is reached between the
12 collective bargaining representatives of the transferring employees and
13 the participating fire protection jurisdictions.

14 (7) If upon transfer, the transferring employee receives the
15 rights, benefits, and privileges established under subsection (6)(a)(i)
16 through (iv) of this section, those rights, benefits, and privileges
17 are subject to collective bargaining at the end of the current
18 bargaining period for the jurisdiction to which the employee has
19 transferred.

20 (8) Such bargaining must take into account the years of service the
21 transferring employee accumulated before the transfer and must be
22 treated as if those years of service occurred in the jurisdiction to
23 which the employee has transferred.

24 **Sec. 2.** RCW 35A.14.480 and 2009 c 60 s 9 are each amended to read
25 as follows:

26 (1)(a) An annexation by a code city proposing to annex territory
27 served by one or more fire protection districts may be accomplished by
28 ordinance after entering into an interlocal agreement as provided in
29 chapter 39.34 RCW with the county and the fire protection district or
30 districts that have jurisdiction over the territory proposed for
31 annexation.

32 (b) A code city proposing to annex territory shall initiate the
33 interlocal agreement process by sending notice to the fire protection
34 district representative and county representative stating the code
35 city's interest to enter into an interlocal agreement negotiation
36 process. The parties have forty-five days to respond in the
37 affirmative or negative. A negative response must state the reasons

1 the parties do not wish to participate in an interlocal agreement
2 negotiation. A failure to respond within the forty-five day period is
3 deemed an affirmative response and the interlocal agreement negotiation
4 process may proceed. The interlocal agreement process may not proceed
5 if any negative responses are received within the forty-five day
6 period.

7 (c) The interlocal agreement must describe the boundaries of the
8 territory proposed for annexation and must be consistent with the
9 boundaries identified in an ordinance describing the boundaries of the
10 territory proposed for annexation and setting a date for a public
11 hearing on the ordinance. If the boundaries of the territory proposed
12 for annexation are agreed to by all parties, a notice of intention must
13 be filed with the boundary review board created under RCW 36.93.030.
14 However, the jurisdiction of the board may not be invoked as described
15 in RCW 36.93.100 for annexations that are the subject of such
16 agreement.

17 (2) An interlocal annexation agreement under this section must
18 include the following:

19 (a) A statement of the goals of the agreement. Goals must include,
20 but are not limited to:

21 (i) The transfer of revenues and assets between the fire protection
22 district and the code city;

23 (ii) A consideration and discussion of the impact to the level of
24 service of annexation on the unincorporated area, and an agreement that
25 the impact on the ability of fire protection and emergency medical
26 services within the incorporated area must not be negatively impacted
27 at least through the budget cycle in which the annexation occurs;

28 (iii) A discussion with fire protection districts regarding the
29 division of assets and its impact to citizens inside and outside the
30 newly annexed area;

31 (iv) Community involvement, including an agreed upon schedule of
32 public meetings in the area or areas proposed for annexation;

33 (v) Revenue sharing, if any;

34 (vi) Debt distribution;

35 (vii) Capital facilities obligations of the code city, county, and
36 fire protection districts;

37 (viii) An overall schedule or plan on the timing of any annexations
38 covered under this agreement; and

1 (ix) A description of which of the annexing code cities'
2 development regulations will apply and be enforced in the area.

3 (b) The subject areas and policies and procedures the parties agree
4 to undertake in annexations. Subject areas may include, but are not
5 limited to:

6 (i) Roads and traffic impact mitigation;

7 (ii) Surface and storm water management;

8 (iii) Coordination and timing of comprehensive plan and development
9 regulation updates;

10 (iv) Outstanding bonds and special or improvement district
11 assessments;

12 (v) Annexation procedures;

13 (vi) Distribution of debt and revenue sharing for annexation
14 proposals, code enforcement, and inspection services;

15 (vii) Financial and administrative services; and

16 (viii) Consultation with other service providers, including water-
17 sewer districts, if applicable.

18 (c) A term of at least five years, which may be extended by mutual
19 agreement of the code city, the county, and the fire protection
20 district.

21 ~~(3) ((If the fire protection district, annexing code city, and~~
22 ~~county reach an agreement on the enumerated goals, the annexation~~
23 ~~ordinance may proceed and is not subject to referendum. If only the~~
24 ~~annexing code city and county reach an agreement on the enumerated~~
25 ~~goals, the code city and county may proceed with annexation under the~~
26 ~~interlocal agreement, but))~~ (a) If an agreement is reached on the
27 enumerated goals either (i) among the fire protection district,
28 annexing code city, and the county; or (ii) between the annexing code
29 city and the county, then the annexation may proceed under the
30 interlocal agreement, and, in either case, the annexation ordinance is
31 subject to referendum.

32 (b) The annexation ordinance provided for in this section is
33 subject to referendum for forty-five days after its passage. Upon the
34 filing of a timely and sufficient referendum petition with the
35 legislative body of the code city, signed by qualified electors in a
36 number not less than ten percent of the votes cast in the last general
37 state election in the area to be annexed, the question of annexation
38 must be submitted to the voters of the area in a general election if

1 one is to be held within ninety days or at a special election called
2 for that purpose according to RCW 29A.04.330. Notice of the election
3 must be given as provided in RCW 35A.14.070, and the election must be
4 conducted as provided in the general election laws under Title 29A RCW.
5 The annexation must be deemed approved by the voters unless a majority
6 of the votes cast on the proposition are in opposition to the
7 annexation.

8 After the expiration of the forty-fifth day from, but excluding,
9 the date of passage of the annexation ordinance, if a timely and
10 sufficient referendum petition has not been filed, the area annexed
11 becomes a part of the code city upon the date fixed in the ordinance of
12 annexation.

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