
SUBSTITUTE HOUSE BILL 1596

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Dunshee, Gardner, L. Thomas and Dunn)

Read first time 02/20/97.

1 AN ACT Relating to state-issued solid waste collection certificates
2 in cities and towns; amending RCW 35.02.160, 35.13.280, and 35A.14.900;
3 adding a new section to chapter 81.77 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the current law
6 pertaining to the cancellation of a solid waste collection franchise
7 due to a city or town incorporation or annexation is confusing and
8 incomplete. The legislature further finds that the increased number of
9 incorporations and annexations in recent years has made clarification
10 of this area an important issue for the solid waste collection
11 industry, cities and towns, the utilities and transportation
12 commission, and the citizens of the state. The legislature therefore
13 declares that it is in the best interest of the state to clarify the
14 law pertaining to garbage collection franchises without affecting any
15 franchises that may have been issued for garbage disposal.

16 **Sec. 2.** RCW 35.02.160 and 1986 c 234 s 24 are each amended to read
17 as follows:

1 (1) The incorporation of any territory as a city or town shall
2 cancel, as of the effective date of such incorporation, any franchise
3 or permit theretofore granted to any person, firm or corporation by the
4 state of Washington, or by the governing body of such incorporated
5 territory, authorizing or otherwise permitting the operation of any
6 public transportation, garbage (~~collection and/or~~) disposal or other
7 similar public service business or facility within the limits of the
8 incorporated territory, but the holder of any such franchise or permit
9 canceled pursuant to this section shall be forthwith granted by the
10 incorporating city or town a franchise to continue such business within
11 the incorporated territory for a term of not less than the remaining
12 term of the original franchise or permit, or (~~five~~) seven years,
13 whichever is the shorter period, and the incorporating city or town, by
14 franchise, permit or public operation, shall not extend similar or
15 competing services to the incorporated territory except upon a proper
16 showing of the inability or refusal of such person, firm or corporation
17 to adequately service (~~said~~) the incorporated territory at a
18 reasonable price(~~(:—PROVIDED, That)~~). The provisions of this section
19 shall not preclude the purchase by the incorporating city or town of
20 (~~said~~) the franchise, business, or facilities at an agreed or
21 negotiated price, or from acquiring the same by condemnation upon
22 payment of damages, including a reasonable amount for the loss of the
23 franchise or permit. In the event that any person, firm or corporation
24 whose franchise or permit has been canceled by the terms of this
25 section shall suffer any measurable damages as a result of any
26 incorporation pursuant to the provisions of chapter 35.02 RCW, such
27 person, firm or corporation shall have a right of action against any
28 city or town causing such damages.

29 (2) After the incorporation of any city or town, the utilities and
30 transportation commission shall continue to regulate solid waste
31 collection within the limits of the incorporated city or town until
32 such time as the city or town notifies the commission, in writing, of
33 its decision to contract for solid waste collection or provide solid
34 waste collection itself pursuant to RCW 81.77.020. In the event the
35 incorporating city or town at any time decides to contract for solid
36 waste collection or decides to undertake solid waste collection itself,
37 the holder of any such franchise or permit that is so canceled, in
38 whole or in part, shall be forthwith granted by the incorporating city
39 or town a franchise to continue such business within the incorporated

1 territory for a term of not less than the remaining term of the
2 original franchise or permit, or not less than seven years, whichever
3 is the shorter period, and the incorporating city or town, by
4 franchise, permit, or public operation, shall not extend similar or
5 competing services to the incorporated territory except upon a proper
6 showing of the inability or refusal of such person, firm, or
7 corporation to adequately service the incorporated territory at a
8 reasonable price. Upon the effective date specified by the city or
9 town legislative authority's ordinance or resolution to have the city
10 or town contract for solid waste collection or undertake solid waste
11 collection itself, the seven-year transition period specified in this
12 section begins to run. This section does not preclude the purchase by
13 the incorporating city or town of the franchise, business, or
14 facilities at an agreed or negotiated price, or from acquiring the same
15 by condemnation upon payment of damages, including a reasonable amount
16 for the loss of the franchise or permit. In the event that any person,
17 firm, or corporation whose franchise or permit has been canceled, in
18 whole or in part, by the terms of this section suffers any measurable
19 damages as a result of any incorporation pursuant to this chapter, such
20 person, firm, or corporation has a right of action against any city or
21 town causing such damages.

22 **Sec. 3.** RCW 35.13.280 and 1994 c 81 s 15 are each amended to read
23 as follows:

24 (1) The annexation by any city or town of any territory pursuant to
25 those provisions of chapter 35.10 RCW which relate to the annexation of
26 a city or town to a city or town, or pursuant to the provisions of
27 chapter 35.13 RCW shall cancel, as of the effective date of such
28 annexation, any franchise or permit theretofore granted to any person,
29 firm or corporation by the state of Washington, or by the governing
30 body of such annexed territory, authorizing or otherwise permitting the
31 operation of any public transportation, garbage ((collection and/or))
32 disposal or other similar public service business or facility within
33 the limits of the annexed territory, but the holder of any such
34 franchise or permit canceled pursuant to this section shall be
35 forthwith granted by the annexing city or town a franchise to continue
36 such business within the annexed territory for a term of not less than
37 ((five)) seven years from the date of issuance thereof, and the
38 annexing city or town, by franchise, permit or public operation, shall

1 not extend similar or competing services to the annexed territory
2 except upon a proper showing of the inability or refusal of such
3 person, firm or corporation to adequately service ((said)) the annexed
4 territory at a reasonable price(~~(:—PROVIDED, That)~~). The provisions
5 of this section shall not preclude the purchase by the annexing city or
6 town of ((said)) the franchise, business, or facilities at an agreed or
7 negotiated price, or from acquiring the same by condemnation upon
8 payment of damages, including a reasonable amount for the loss of the
9 franchise or permit. In the event that any person, firm or corporation
10 whose franchise or permit has been canceled by the terms of this
11 section shall suffer any measurable damages as a result of any
12 annexation pursuant to the provisions of the laws above-mentioned, such
13 person, firm or corporation shall have a right of action against any
14 city or town causing such damages.

15 (2) After an annexation by a city or town, the utilities and
16 transportation commission shall continue to regulate solid waste
17 collection within the limits of the annexed territory until such time
18 as the city or town notifies the commission, in writing, of its
19 decision to contract for solid waste collection or provide solid waste
20 collection itself pursuant to RCW 81.77.020. In the event the annexing
21 city or town at any time decides to contract for solid waste collection
22 or decides to undertake solid waste collection itself, the holder of
23 any such franchise or permit that is so canceled, in whole or in part,
24 shall be forthwith granted by the annexing city or town a franchise to
25 continue such business within the annexed territory for a term of not
26 less than the remaining term of the original franchise or permit, or
27 not less than seven years, whichever is the shorter period, and the
28 city or town, by franchise, permit, or public operation, shall not
29 extend similar or competing services to the annexed territory except
30 upon a proper showing of the inability or refusal of such person, firm,
31 or corporation to adequately service the annexed territory at a
32 reasonable price. Upon the effective date specified by the city or
33 town legislative authority's ordinance or resolution to have the city
34 or town contract for solid waste collection or undertake solid waste
35 collection itself, the seven-year transition period specified in this
36 section begins to run. This section does not preclude the purchase by
37 the annexing city or town of the franchise, business, or facilities at
38 an agreed or negotiated price, or from acquiring the same by
39 condemnation upon payment of damages, including a reasonable amount for

1 the loss of the franchise or permit. In the event that any person,
2 firm, or corporation whose franchise or permit has been canceled, in
3 whole or in part, by the terms of this section suffers any measurable
4 damages as a result of any annexation pursuant to this chapter, such
5 person, firm, or corporation has a right of action against any city or
6 town causing such damages.

7 **Sec. 4.** RCW 35A.14.900 and 1967 ex.s. c 119 s 35A.14.900 are each
8 amended to read as follows:

9 (1) The annexation by any code city of any territory pursuant to
10 this chapter shall cancel, as of the effective date of such annexation,
11 any franchise or permit theretofore granted to any person, firm or
12 corporation by the state of Washington, or by the governing body of
13 such annexed territory, authorizing or otherwise permitting the
14 operation of any public utility, including but not limited to, public
15 electric, water, transportation, garbage (~~collection and/or~~) disposal
16 or other similar public service business or facility within the limits
17 of the annexed territory, but the holder of any such franchise or
18 permit canceled pursuant to this section shall be forthwith granted by
19 the annexing code city a franchise to continue such business within the
20 annexed territory for a term of not less than (~~five~~) seven years from
21 the date of issuance thereof, and the annexing code city, by franchise,
22 permit or public operation, shall not extend similar or competing
23 services to the annexed territory except upon a proper showing of the
24 inability or refusal of such person, firm or corporation to adequately
25 service (~~said~~) the annexed territory at a reasonable price(~~(+~~
26 ~~PROVIDED, That~~)). The provisions of this section shall not preclude
27 the purchase by the annexing code city of (~~said~~) the franchise,
28 business, or facilities at an agreed or negotiated price, or from
29 acquiring the same by condemnation upon payment of damages, including
30 a reasonable amount for the loss of the franchise or permit. In the
31 event that any person, firm or corporation whose franchise or permit
32 has been canceled by the terms of this section shall suffer any
33 measurable damages as a result of any annexation pursuant to the
34 provisions of the laws above-mentioned, such person, firm or
35 corporation shall have a right of action against any code city causing
36 such damages.

37 (2) After an annexation by a code city, the utilities and
38 transportation commission shall continue to regulate solid waste

1 collection within the limits of the annexed territory until such time
2 as the city notifies the commission, in writing, of its decision to
3 contract for solid waste collection or provide solid waste collection
4 itself pursuant to RCW 81.77.020. In the event the annexing city at
5 any time decides to contract for solid waste collection or decides to
6 undertake solid waste collection itself, the holder of any such
7 franchise or permit that is so canceled, in whole or in part, shall be
8 forthwith granted by the annexing city a franchise to continue such
9 business within the annexed territory for a term of not less than the
10 remaining term of the original franchise or permit, or not less than
11 seven years, whichever is the shorter period, and the city, by
12 franchise, permit, or public operation, shall not extend similar or
13 competing services to the annexed territory except upon a proper
14 showing of the inability or refusal of such person, firm, or
15 corporation to adequately service the annexed territory at a reasonable
16 price. Upon the effective date specified by the code city legislative
17 authority's ordinance or resolution to have the code city contract for
18 solid waste collection or undertake solid waste collection itself, the
19 seven-year transition period specified in this section begins to run.
20 This section does not preclude the purchase by the annexing city of the
21 franchise, business, or facilities at an agreed or negotiated price, or
22 from acquiring the same by condemnation upon payment of damages,
23 including a reasonable amount for the loss of the franchise or permit.
24 In the event that any person, firm, or corporation whose franchise or
25 permit has been canceled, in whole or in part, by the terms of this
26 section suffers any measurable damages as a result of any annexation
27 pursuant to this chapter, such person, firm, or corporation has a right
28 of action against any city causing such damages.

29 NEW SECTION. Sec. 5. A new section is added to chapter 81.77 RCW
30 to read as follows:

31 A city, town, or combined city-county may at any time reverse its
32 decision to exercise its authority under RCW 81.77.020. In such an
33 event, the commission shall issue a certificate to the last holder of
34 a valid commission certificate of public convenience and necessity, or
35 its successors or assigns, for the area reverting to commission
36 jurisdiction. If there was no certificate existing for the area, or
37 the previous holder was compensated for its certificate property right,

1 the commission shall consider applications for authority under RCW
2 81.77.040.

3 NEW SECTION. **Sec. 6.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

--- END ---