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**SUBSTITUTE SENATE BILL 5670**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** Senate Committee on Government Operations (originally sponsored by Senators McCaslin, Haugen and Roach; by request of Utilities & Transportation Commission)

Read first time 03/05/97.

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 and adding a new section to chapter 81.77 RCW.

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

5 **Sec. 1.** RCW 35.02.160 and 1986 c 234 s 24 are each amended to read  
6 as follows:

7 The incorporation of any territory as a city or town shall cancel,  
8 as of the effective date of such incorporation, any franchise or permit  
9 theretofore granted to any person, firm or corporation by the state of  
10 Washington, or by the governing body of such incorporated territory,  
11 authorizing or otherwise permitting the operation of any public  
12 transportation, garbage (~~collection and/or~~) disposal or other similar  
13 public service business or facility within the limits of the  
14 incorporated territory, but the holder of any such franchise or permit  
15 canceled pursuant to this section shall be forthwith granted by the  
16 incorporating city or town a franchise to continue such business within  
17 the incorporated territory for a term of not less than the remaining  
18 term of the original franchise or permit, or (~~five~~) not less than  
19 seven years, whichever is the shorter period, and the incorporating

1 city or town, by franchise, permit or public operation, shall not  
2 extend similar or competing services to the incorporated territory  
3 except upon a proper showing of the inability or refusal of such  
4 person, firm or corporation to adequately service said incorporated  
5 territory at a reasonable price: PROVIDED, That the provisions of this  
6 section shall not preclude the purchase by the incorporating city or  
7 town of said franchise, business, or facilities at an agreed or  
8 negotiated price, or from acquiring the same by condemnation upon  
9 payment of damages, including a reasonable amount for the loss of the  
10 franchise or permit. In the event that any person, firm or corporation  
11 whose franchise or permit has been canceled by the terms of this  
12 section shall suffer any measurable damages as a result of any  
13 incorporation pursuant to the provisions of chapter 35.02 RCW, such  
14 person, firm or corporation shall have a right of action against any  
15 city or town causing such damages.

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

1 price, or from acquiring the same by condemnation upon payment of  
2 damages, including a reasonable amount for the loss of the franchise or  
3 permit. In the event that any person, firm, or corporation whose  
4 franchise or permit has been canceled in whole or in part by the terms  
5 of this section suffers any measurable damages as a result of any  
6 incorporation pursuant to this chapter, such person, firm, or  
7 corporation has a right of action against any city or town causing such  
8 damages.

9       **Sec. 2.** RCW 35.13.280 and 1994 c 81 s 15 are each amended to read  
10 as follows:

11       The annexation by any city or town of any territory pursuant to  
12 those provisions of chapter 35.10 RCW which relate to the annexation of  
13 a city or town to a city or town, or pursuant to the provisions of  
14 chapter 35.13 RCW shall cancel, as of the effective date of such  
15 annexation, any franchise or permit theretofore granted to any person,  
16 firm or corporation by the state of Washington, or by the governing  
17 body of such annexed territory, authorizing or otherwise permitting the  
18 operation of any public transportation, garbage ((collection and/or))  
19 disposal or other similar public service business or facility within  
20 the limits of the annexed territory, but the holder of any such  
21 franchise or permit canceled pursuant to this section shall be  
22 forthwith granted by the annexing city or town a franchise to continue  
23 such business within the annexed territory for a term of not less than  
24 ((five)) seven years from the date of issuance thereof, and the  
25 annexing city or town, by franchise, permit or public operation, shall  
26 not extend similar or competing services to the annexed territory  
27 except upon a proper showing of the inability or refusal of such  
28 person, firm or corporation to adequately service said annexed  
29 territory at a reasonable price: PROVIDED, That the provisions of this  
30 section shall not preclude the purchase by the annexing city or town of  
31 said franchise, business, or facilities at an agreed or negotiated  
32 price, or from acquiring the same by condemnation upon payment of  
33 damages, including a reasonable amount for the loss of the franchise or  
34 permit. In the event that any person, firm or corporation whose  
35 franchise or permit has been canceled by the terms of this section  
36 shall suffer any measurable damages as a result of any annexation  
37 pursuant to the provisions of the laws above-mentioned, such person,

1 firm or corporation shall have a right of action against any city or  
2 town causing such damages.

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

33 **Sec. 3.** RCW 35A.14.900 and 1967 ex.s. c 119 s 35A.14.900 are each  
34 amended to read as follows:

35 The annexation by any code city of any territory pursuant to this  
36 chapter shall cancel, as of the effective date of such annexation, any  
37 franchise or permit theretofore granted to any person, firm or  
38 corporation by the state of Washington, or by the governing body of

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

24 After an annexation by a code city, the utilities and  
25 transportation commission shall continue to regulate solid waste  
26 collection within the limits of the annexed territory until such time  
27 as the city notifies the commission, in writing, of its decision to  
28 contract for solid waste collection or provide solid waste collection  
29 itself pursuant to RCW 81.77.020. In the event the annexing city at  
30 any time decides to contract for solid waste collection or decides to  
31 undertake solid waste collection itself, the holder of any such  
32 franchise or permit that is so canceled in whole or in part shall be  
33 forthwith granted by the annexing city a franchise to continue such  
34 business within the annexed territory for a term of not less than the  
35 remaining term of the original franchise or permit, or not less than  
36 seven years, whichever is the shorter period, and the city, by  
37 franchise, permit, or public operation, shall not extend similar or  
38 competing services to the annexed territory except upon a proper  
39 showing of the inability or refusal of such person, firm, or

1 corporation to adequately service the annexed territory at a reasonable  
2 price. Upon the effective date specified by the code city council's  
3 ordinance or resolution to have the code city contract for solid waste  
4 collection or undertake solid waste collection itself, the transition  
5 period specified in this section begins to run. This section does not  
6 preclude the purchase by the annexing city of the franchise, business,  
7 or facilities at an agreed or negotiated price, or from acquiring the  
8 same by condemnation upon payment of damages, including a reasonable  
9 amount for the loss of the franchise or permit. In the event that any  
10 person, firm, or corporation whose franchise or permit has been  
11 canceled by the terms of this section suffers any measurable damages as  
12 a result of any annexation pursuant to this chapter, such person, firm,  
13 or corporation has a right of action against any city causing such  
14 damages.

15 NEW SECTION. Sec. 4. A new section is added to chapter 81.77 RCW  
16 to read as follows:

17 A city, town, or combined city-county may at any time reverse its  
18 decision to exercise its authority under RCW 81.77.020. In such an  
19 event, the commission shall issue a certificate to the last holder of  
20 a valid commission certificate of public convenience and necessity, or  
21 its successors or assigns, for the area reverting to commission  
22 jurisdiction. If there was no certificate existing for the area, or  
23 the previous holder was compensated for its certificate property right,  
24 the commission shall consider applications for authority under RCW  
25 81.77.040.

26 NEW SECTION. Sec. 5. If any provision of this act or its  
27 application to any person or circumstance is held invalid, the  
28 remainder of the act or the application of the provision to other  
29 persons or circumstances is not affected.

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