

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5670

55th Legislature
1997 Regular Session

Passed by the Senate March 19, 1997
YEAS 49 NAYS 0

President of the Senate

Passed by the House April 10, 1997
YEAS 98 NAYS 0

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5670** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5670

Passed Legislature - 1997 Regular Session

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.

--- END ---