
SUBSTITUTE HOUSE BILL 1755

State of Washington

58th Legislature

2003 Regular Session

By House Committee on Local Government (originally sponsored by Representatives Kirby, Romero, Conway, Jarrett, Rockefeller and Morrell)

READ FIRST TIME 03/06/03.

1 AN ACT Relating to creating alternative means for annexation of
2 unincorporated island of territory; amending RCW 36.70A.110; adding new
3 sections to chapter 35.13 RCW; and adding new sections to chapter
4 35A.14 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.13 RCW
7 to read as follows:

8 (1) The legislative body of any county, city, or town planning
9 under chapter 36.70A RCW may initiate an annexation process for
10 unincorporated territory by adopting a resolution commencing
11 negotiations for an interlocal agreement as provided in chapter 39.34
12 RCW between a county and any city or town within the county. The
13 territory proposed for annexation must meet the following criteria:
14 (a) Be within the city or town urban growth area designated under RCW
15 36.70A.110, and (b) at least sixty percent of the boundaries of the
16 territory proposed for annexation must be contiguous to the annexing
17 city or town or one or more cities or towns.

18 (2) If the territory proposed for annexation has been designated in
19 an adopted county comprehensive plan as part of an urban growth area,

1 urban service area, or potential annexation area for a specific city or
2 town, or if the urban growth area territory proposed for annexation has
3 been designated in a written agreement between a city or town and a
4 county for annexation to a specific city or town, the designation or
5 designations shall receive full consideration before a city or county
6 may initiate the annexation process provided for in section 2 of this
7 act.

8 (3) The agreement shall describe the boundaries of the territory to
9 be annexed. A public hearing shall be held by each legislative body,
10 separately or jointly, before the agreement is executed. Each
11 legislative body holding a public hearing shall, separately or jointly,
12 publish the agreement at least once a week for two weeks before the
13 date of the hearing in one or more newspapers of general circulation
14 within the territory proposed for annexation.

15 (4) Following adoption and execution of the agreement by both
16 legislative bodies, the city or town legislative body shall adopt an
17 ordinance providing for the annexation of the territory described in
18 the agreement. The legislative body shall cause notice of the proposed
19 effective date of the annexation, together with a description of the
20 property to be annexed, to be published at least once each week for two
21 weeks subsequent to passage of the ordinance, in one or more newspapers
22 of general circulation within the city and in one or more newspapers of
23 general circulation within the territory to be annexed. If the
24 annexation ordinance provides for assumption of indebtedness or
25 adoption of a proposed zoning regulation, the notice shall include a
26 statement of the requirements. Any territory to be annexed through an
27 ordinance adopted under this section is annexed and becomes a part of
28 the city or town upon the date fixed in the ordinance of annexation,
29 which date may not be fewer than forty-five days after adoption of the
30 ordinance.

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.13 RCW
32 to read as follows:

33 (1) The legislative body of any county planning under chapter
34 36.70A RCW may initiate an annexation process with the legislative body
35 of any other cities or towns that are contiguous to the territory
36 proposed for annexation in section 1 of this act if:

1 (a) The county legislative body initiated an annexation process as
2 provided in section 1 of this act; and

3 (b) The affected city or town legislative body adopted a responsive
4 resolution rejecting the proposed annexation or declined to create the
5 requested interlocal agreement with the county; or

6 (c) More than one hundred eighty days have passed since adoption of
7 a county resolution as provided for in section 1 of this act and the
8 parties have not adopted or executed an interlocal agreement providing
9 for the annexation of unincorporated territory. The legislative body
10 for either the county or an affected city or town may, however, pass a
11 resolution extending the negotiation period for one or more six-month
12 periods if a public hearing is held and findings of fact are made prior
13 to each extension.

14 (2) Any county initiating the process provided for in subsection
15 (1) of this section must do so by adopting a resolution commencing
16 negotiations for an interlocal agreement as provided in chapter 39.34
17 RCW between the county and any city or town within the county. The
18 annexation area must be within an urban growth area designated under
19 RCW 36.70A.110 and at least sixty percent of the boundaries of the
20 territory to be annexed must be contiguous to one or more cities or
21 towns.

22 (3) The agreement shall describe the boundaries of the territory to
23 be annexed. A public hearing shall be held by each legislative body,
24 separately or jointly, before the agreement is executed. Each
25 legislative body holding a public hearing shall, separately or jointly,
26 publish the agreement at least once a week for two weeks before the
27 date of the hearing in one or more newspapers of general circulation
28 within the territory proposed for annexation.

29 (4) Following adoption and execution of the agreement by both
30 legislative bodies, the city or town legislative body shall adopt an
31 ordinance providing for the annexation. The legislative body shall
32 cause notice of the proposed effective date of the annexation, together
33 with a description of the property to be annexed, to be published at
34 least once each week for two weeks subsequent to passage of the
35 ordinance, in one or more newspapers of general circulation within the
36 city and in one or more newspapers of general circulation within the
37 territory to be annexed. If the annexation ordinance provides for
38 assumption of indebtedness or adoption of a proposed zoning regulation,

1 the notice shall include a statement of the requirements. Any area to
2 be annexed through an ordinance adopted under this section is annexed
3 and becomes a part of the city or town upon the date fixed in the
4 ordinance of annexation, which date may not be less than forty-five
5 days after adoption of the ordinance.

6 (5) The annexation ordinances provided for in section 1(4) of this
7 act and subsection (4) of this section are subject to referendum for
8 forty-five days after passage. Upon the filing of a timely and
9 sufficient referendum petition with the legislative body, signed by
10 qualified electors in number equal to not less than fifteen percent of
11 the votes cast in the last general state election in the area to be
12 annexed, the question of annexation shall be submitted to the voters of
13 the area in a general election if one is to be held within ninety days
14 or at a special election called for that purpose not less than forty-
15 five days nor more than ninety days after the filing of the referendum
16 petition. Notice of the election shall be given as provided in RCW
17 35.13.080 and the election shall be conducted as provided in the
18 general election law. The annexation shall be deemed approved by the
19 voters unless a majority of the votes cast on the proposition are in
20 opposition thereto.

21 After the expiration of the forty-fifth day from but excluding the
22 date of passage of the annexation ordinance, if no timely and
23 sufficient referendum petition has been filed, the area annexed shall
24 become a part of the city or town upon the date fixed in the ordinance
25 of annexation.

26 (6) If more than one city or town adopts interlocal agreements
27 providing for annexation of the same unincorporated territory as
28 provided by this section, an election shall be held in the area to be
29 annexed pursuant to RCW 35.13.070 and 35.13.080. In addition to the
30 provisions of RCW 35.13.070 and 35.13.080, the ballot shall also
31 contain a separate proposition allowing voters to cast votes in favor
32 of annexation to any one city or town participating in an interlocal
33 agreement as provided by this section. If a majority of voters voting
34 on the proposition vote against annexation, the proposition is
35 defeated. If, however, a majority of voters voting in the election
36 approve annexation, the area shall be annexed to the city or town
37 receiving the highest number of votes among those cast in favor of
38 annexation.

1 (7) Costs for an election required under subsection (6) of this
2 section shall be borne by the county.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 35A.14 RCW
4 to read as follows:

5 (1) The legislative body of any county or code city planning under
6 chapter 36.70A RCW may initiate an annexation process for
7 unincorporated territory by adopting a resolution commencing
8 negotiations for an interlocal agreement as provided in chapter 39.34
9 RCW between a county and any code city within the county. The
10 territory proposed for annexation must meet the following criteria:
11 (a) Be within the code city urban growth area designated under RCW
12 36.70A.110, and (b) at least sixty percent of the boundaries of the
13 territory proposed for annexation must be contiguous to the annexing
14 code city or one or more code cities.

15 (2) If the territory proposed for annexation has been designated in
16 an adopted county comprehensive plan as part of an urban growth area,
17 urban service area, or potential annexation area for a specific city,
18 or if the urban growth area territory proposed for annexation has been
19 designated in a written agreement between a city and a county for
20 annexation to a specific city or town, the designation or designations
21 shall receive full consideration before a city or county may initiate
22 the annexation process provided for in section 4 of this act.

23 (3) The agreement shall describe the boundaries of the territory to
24 be annexed. A public hearing shall be held by each legislative body,
25 separately or jointly, before the agreement is executed. Each
26 legislative body holding a public hearing shall, separately or jointly,
27 publish the agreement at least once a week for two weeks before the
28 date of the hearing in one or more newspapers of general circulation
29 within the territory proposed for annexation.

30 (4) Following adoption and execution of the agreement by both
31 legislative bodies, the city legislative body shall adopt an ordinance
32 providing for the annexation of the territory described in the
33 agreement. The legislative body shall cause notice of the proposed
34 effective date of the annexation, together with a description of the
35 property to be annexed, to be published at least once each week for two
36 weeks subsequent to passage of the ordinance, in one or more newspapers
37 of general circulation within the city and in one or more newspapers of

1 general circulation within the territory to be annexed. If the
2 annexation ordinance provides for assumption of indebtedness or
3 adoption of a proposed zoning regulation, the notice shall include a
4 statement of the requirements. Any territory to be annexed through an
5 ordinance adopted under this section is annexed and becomes a part of
6 the city upon the date fixed in the ordinance of annexation, which date
7 may not be fewer than forty-five days after adoption of the ordinance.

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 35A.14 RCW
9 to read as follows:

10 (1) The legislative body of any county planning under chapter
11 36.70A RCW may initiate an annexation process with the legislative body
12 of any other cities or towns that are contiguous to the territory
13 proposed for annexation in section 3 of this act if:

14 (a) The county legislative body initiated an annexation process as
15 provided in section 3 of this act; and

16 (b) The affected city legislative body adopted a responsive
17 resolution rejecting the proposed annexation or declined to create the
18 requested interlocal agreement with the county; or

19 (c) More than one hundred eighty days have passed since adoption of
20 a county resolution as provided for in section 3 of this act and the
21 parties have not adopted or executed an interlocal agreement providing
22 for the annexation of unincorporated territory. The legislative body
23 for either the county or an affected city may, however, pass a
24 resolution extending the negotiation period for one or more six-month
25 periods if a public hearing is held and findings of fact are made prior
26 to each extension.

27 (2) Any county initiating the process provided for in subsection
28 (1) of this section must do so by adopting a resolution commencing
29 negotiations for an interlocal agreement as provided in chapter 39.34
30 RCW between the county and any city or town within the county. The
31 annexation area must be within an urban growth area designated under
32 RCW 36.70A.110 and at least sixty percent of the boundaries of the
33 territory to be annexed must be contiguous to one or more cities or
34 towns.

35 (3) The agreement shall describe the boundaries of the territory to
36 be annexed. A public hearing shall be held by each legislative body,
37 separately or jointly, before the agreement is executed. Each

1 legislative body holding a public hearing shall, separately or jointly,
2 publish the agreement at least once a week for two weeks before the
3 date of the hearing in one or more newspapers of general circulation
4 within the territory proposed for annexation.

5 (4) Following adoption and execution of the agreement by both
6 legislative bodies, the city or town legislative body shall adopt an
7 ordinance providing for the annexation. The legislative body shall
8 cause notice of the proposed effective date of the annexation, together
9 with a description of the property to be annexed, to be published at
10 least once each week for two weeks subsequent to passage of the
11 ordinance, in one or more newspapers of general circulation within the
12 city and in one or more newspapers of general circulation within the
13 territory to be annexed. If the annexation ordinance provides for
14 assumption of indebtedness or adoption of a proposed zoning regulation,
15 the notice shall include a statement of the requirements. Any area to
16 be annexed through an ordinance adopted under this section is annexed
17 and becomes a part of the city or town upon the date fixed in the
18 ordinance of annexation, which date may not be less than forty-five
19 days after adoption of the ordinance.

20 (5) The annexation ordinances provided for in section 3(4) of this
21 act and subsection (4) of this section are subject to referendum for
22 forty-five days after passage. Upon the filing of a timely and
23 sufficient referendum petition with the legislative body, signed by
24 qualified electors in number equal to not less than fifteen percent of
25 the votes cast in the last general state election in the area to be
26 annexed, the question of annexation shall be submitted to the voters of
27 the area in a general election if one is to be held within ninety days
28 or at a special election called for that purpose not less than forty-
29 five days nor more than ninety days after the filing of the referendum
30 petition. Notice of the election shall be given as provided in RCW
31 35A.14.070 and the election shall be conducted as provided in the
32 general election law. The annexation shall be deemed approved by the
33 voters unless a majority of the votes cast on the proposition are in
34 opposition thereto.

35 After the expiration of the forty-fifth day from but excluding the
36 date of passage of the annexation ordinance, if no timely and
37 sufficient referendum petition has been filed, the area annexed shall

1 become a part of the city or town upon the date fixed in the ordinance
2 of annexation.

3 (6) If more than one city or town adopts interlocal agreements
4 providing for annexation of the same unincorporated territory as
5 provided by this section, an election shall be held in the area to be
6 annexed pursuant to RCW 35A.14.070. In addition to the provisions of
7 RCW 35A.14.070, the ballot shall also contain a separate proposition
8 allowing voters to cast votes in favor of annexation to any one city or
9 town participating in an interlocal agreement as provided by this
10 section. If a majority of voters voting on the proposition vote
11 against annexation, the proposition is defeated. If, however, a
12 majority of voters voting in the election approve annexation, the area
13 shall be annexed to the city or town receiving the highest number of
14 votes among those cast in favor of annexation.

15 (7) Costs for an election required under subsection (6) of this
16 section shall be borne by the county.

17 **Sec. 5.** RCW 36.70A.110 and 1997 c 429 s 24 are each amended to
18 read as follows:

19 (1) Each county that is required or chooses to plan under RCW
20 36.70A.040 shall designate an urban growth area or areas within which
21 urban growth shall be encouraged and outside of which growth can occur
22 only if it is not urban in nature. Each city that is located in such
23 a county shall be included within an urban growth area. An urban
24 growth area may include more than a single city. An urban growth area
25 may include territory that is located outside of a city only if such
26 territory already is characterized by urban growth whether or not the
27 urban growth area includes a city, or is adjacent to territory already
28 characterized by urban growth, or is a designated new fully contained
29 community as defined by RCW 36.70A.350.

30 (2) Based upon the growth management population projection made for
31 the county by the office of financial management, the county and each
32 city within the county shall include areas and densities sufficient to
33 permit the urban growth that is projected to occur in the county or
34 city for the succeeding twenty-year period. Each urban growth area
35 shall permit urban densities and shall include greenbelt and open space
36 areas. An urban growth area determination may include a reasonable
37 land market supply factor and shall permit a range of urban densities

1 and uses. In determining this market factor, cities and counties may
2 consider local circumstances. Cities and counties have discretion in
3 their comprehensive plans to make many choices about accommodating
4 growth.

5 Within one year of July 1, 1990, each county that as of June 1,
6 1991, was required or chose to plan under RCW 36.70A.040, shall begin
7 consulting with each city located within its boundaries and each city
8 shall propose the location of an urban growth area. Within sixty days
9 of the date the county legislative authority of a county adopts its
10 resolution of intention or of certification by the office of financial
11 management, all other counties that are required or choose to plan
12 under RCW 36.70A.040 shall begin this consultation with each city
13 located within its boundaries. The county shall attempt to reach
14 agreement with each city on the location of an urban growth area within
15 which the city is located. If such an agreement is not reached with
16 each city located within the urban growth area, the county shall
17 justify in writing why it so designated the area an urban growth area.
18 A city may object formally with the department over the designation of
19 the urban growth area within which it is located. Where appropriate,
20 the department shall attempt to resolve the conflicts, including the
21 use of mediation services.

22 (3) Urban growth should be located first in areas already
23 characterized by urban growth that have adequate existing public
24 facility and service capacities to serve such development, second in
25 areas already characterized by urban growth that will be served
26 adequately by a combination of both existing public facilities and
27 services and any additional needed public facilities and services that
28 are provided by either public or private sources, and third in the
29 remaining portions of the urban growth areas. Urban growth may also be
30 located in designated new fully contained communities as defined by RCW
31 36.70A.350.

32 (4) In general, cities are the units of local government most
33 appropriate to provide urban governmental services. In general, it is
34 not appropriate that urban governmental services be extended to or
35 expanded in rural areas except in those limited circumstances shown to
36 be necessary to protect basic public health and safety and the
37 environment and when such services are financially supportable at rural
38 densities and do not permit urban development.

1 (5) On or before October 1, 1993, each county that was initially
2 required to plan under RCW 36.70A.040(1) shall adopt development
3 regulations designating interim urban growth areas under this chapter.
4 Within three years and three months of the date the county legislative
5 authority of a county adopts its resolution of intention or of
6 certification by the office of financial management, all other counties
7 that are required or choose to plan under RCW 36.70A.040 shall adopt
8 development regulations designating interim urban growth areas under
9 this chapter. Adoption of the interim urban growth areas may only
10 occur after public notice; public hearing; and compliance with the
11 state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110.
12 Such action may be appealed to the appropriate growth management
13 hearings board under RCW 36.70A.280. Final urban growth areas shall be
14 adopted at the time of comprehensive plan adoption under this chapter.

15 (6) Each county shall include designations of urban growth areas in
16 its comprehensive plan.

17 (7) An urban growth area designated in accordance with this section
18 may include within its boundaries urban service areas or potential
19 annexation areas designated for specific cities or towns within the
20 county.

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