

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1755

Chapter 299, Laws of 2003

58th Legislature
2003 Regular Session

UNINCORPORATED TERRITORY--ANNEXATION

EFFECTIVE DATE: 7/27/03

Passed by the House April 22, 2003
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 17, 2003
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved May 14, 2003.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1755** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

May 14, 2003 - 3:29 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1755

AS AMENDED BY THE SENATE

Passed Legislature - 2003 Regular Session

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 a county, city, or town planning under
9 chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215
10 may initiate an annexation process for unincorporated territory by
11 adopting a resolution commencing negotiations for an interlocal
12 agreement as provided in chapter 39.34 RCW between a county and any
13 city or town within the county. The territory proposed for annexation
14 must meet the following criteria: (a) Be within the city or town urban
15 growth area designated under RCW 36.70A.110, and (b) at least sixty
16 percent of the boundaries of the territory proposed for annexation must
17 be contiguous to the annexing city or town or one or more cities or
18 towns.

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

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

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

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

35 (1) The legislative body of any county planning under chapter
36 36.70A RCW and subject to the requirements of RCW 36.70A.215 may

1 initiate an annexation process with the legislative body of any other
2 cities or towns that are contiguous to the territory proposed for
3 annexation in section 1 of this act if:

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

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

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

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

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

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

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

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

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

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

1 approve annexation, the area shall be annexed to the city or town
2 receiving the highest number of votes among those cast in favor of
3 annexation.

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

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

8 (1) The legislative body of a county or code city planning under
9 chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215
10 may initiate an annexation process for unincorporated territory by
11 adopting a resolution commencing negotiations for an interlocal
12 agreement as provided in chapter 39.34 RCW between a county and any
13 code city within the county. The territory proposed for annexation
14 must meet the following criteria: (a) Be within the code city urban
15 growth area designated under RCW 36.70A.110, and (b) at least sixty
16 percent of the boundaries of the territory proposed for annexation must
17 be contiguous to the annexing code city 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,
20 urban service area, or potential annexation area for a specific city,
21 or if the urban growth area territory proposed for annexation has been
22 designated in a written agreement between a city and a county for
23 annexation to a specific city or town, the designation or designations
24 shall receive full consideration before a city or county may initiate
25 the annexation process provided for in section 4 of this act.

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

33 (4) Following adoption and execution of the agreement by both
34 legislative bodies, the city legislative body shall adopt an ordinance
35 providing for the annexation of the territory described in the
36 agreement. The legislative body shall cause notice of the proposed
37 effective date of the annexation, together with a description of the

1 property to be annexed, to be published at least once each week for two
2 weeks subsequent to passage of the ordinance, in one or more newspapers
3 of general circulation within the city and in one or more newspapers of
4 general circulation within the territory to be annexed. If the
5 annexation ordinance provides for assumption of indebtedness or
6 adoption of a proposed zoning regulation, the notice shall include a
7 statement of the requirements. Any territory to be annexed through an
8 ordinance adopted under this section is annexed and becomes a part of
9 the city upon the date fixed in the ordinance of annexation, which date
10 may not be fewer than forty-five days after adoption of the ordinance.

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

13 (1) The legislative body of any county planning under chapter
14 36.70A RCW and subject to the requirements of RCW 36.70A.215 may
15 initiate an annexation process with the legislative body of any other
16 cities or towns that are contiguous to the territory proposed for
17 annexation in section 3 of this act if:

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

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

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

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

1 territory to be annexed must be contiguous to one or more cities or
2 towns.

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

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

25 (5) The annexation ordinances provided for in section 3(4) of this
26 act and subsection (4) of this section are subject to referendum for
27 forty-five days after passage. Upon the filing of a timely and
28 sufficient referendum petition with the legislative body, signed by
29 registered voters in number equal to not less than fifteen percent of
30 the votes cast in the last general state election in the area to be
31 annexed, the question of annexation shall be submitted to the voters of
32 the area in a general election if one is to be held within ninety days
33 or at a special election called for that purpose not less than forty-
34 five days nor more than ninety days after the filing of the referendum
35 petition. Notice of the election shall be given as provided in RCW
36 35A.14.070 and the election shall be conducted as provided in the
37 general election law. The annexation shall be deemed approved by the

1 voters unless a majority of the votes cast on the proposition are in
2 opposition thereto.

3 After the expiration of the forty-fifth day from but excluding the
4 date of passage of the annexation ordinance, if no timely and
5 sufficient referendum petition has been filed, the area annexed shall
6 become a part of the city or town upon the date fixed in the ordinance
7 of annexation.

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

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

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

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

35 (2) Based upon the growth management population projection made for
36 the county by the office of financial management, the county and each
37 city within the county shall include areas and densities sufficient to

1 permit the urban growth that is projected to occur in the county or
2 city for the succeeding twenty-year period. Each urban growth area
3 shall permit urban densities and shall include greenbelt and open space
4 areas. An urban growth area determination may include a reasonable
5 land market supply factor and shall permit a range of urban densities
6 and uses. In determining this market factor, cities and counties may
7 consider local circumstances. Cities and counties have discretion in
8 their comprehensive plans to make many choices about accommodating
9 growth.

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

27 (3) Urban growth should be located first in areas already
28 characterized by urban growth that have adequate existing public
29 facility and service capacities to serve such development, second in
30 areas already characterized by urban growth that will be served
31 adequately by a combination of both existing public facilities and
32 services and any additional needed public facilities and services that
33 are provided by either public or private sources, and third in the
34 remaining portions of the urban growth areas. Urban growth may also be
35 located in designated new fully contained communities as defined by RCW
36 36.70A.350.

37 (4) In general, cities are the units of local government most
38 appropriate to provide urban governmental services. In general, it is

1 not appropriate that urban governmental services be extended to or
2 expanded in rural areas except in those limited circumstances shown to
3 be necessary to protect basic public health and safety and the
4 environment and when such services are financially supportable at rural
5 densities and do not permit urban development.

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

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

22 (7) An urban growth area designated in accordance with this section
23 may include within its boundaries urban service areas or potential
24 annexation areas designated for specific cities or towns within the
25 county.

Passed by the House April 22, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.