
HOUSE BILL 2789

State of Washington 65th Legislature 2018 Regular Session

By Representatives Kraft, Haler, and Pike

Read first time 01/16/18. Referred to Committee on Local Government.

1 AN ACT Relating to requiring support by a majority of the people
2 before annexation of a city, town, or unincorporated area; amending
3 RCW 35.13.040, 35.13.060, 35.13.090, 35.13.174, 35.13.410, 35.13.420,
4 35A.14.040, 35A.14.050, 35A.14.220, 35A.14.420, and 35.10.217; adding
5 new sections to chapter 35.13 RCW; adding a new section to chapter
6 35.21 RCW; adding a new section to chapter 35A.14 RCW; adding a new
7 section to chapter 35A.21 RCW; and repealing RCW 35.13.125,
8 35.13.130, 35.13.140, 35A.14.120, 35A.14.130, 35A.14.140, and
9 35A.14.150.

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

11 **PART I**

12 **ANNEXATION BY CLASSIFIED CITIES AND TOWNS**

13 **Sec. 1.** RCW 35.13.040 and 1973 1st ex.s. c 164 s 4 are each
14 amended to read as follows:

15 Upon the filing of approval by the review board of a twenty
16 percent annexation petition under the election method to call an
17 annexation election, the board of county commissioners at its next
18 meeting shall fix a date for a public hearing thereon to be held not
19 less than two weeks nor more than four weeks thereafter, of which
20 hearing the petitioners must give notice by publication once each

1 week at least two weeks prior thereto in some newspaper of general
2 circulation in the area proposed to be annexed. Upon the day fixed,
3 the board shall hear the petition, and if it complies with the
4 requirements of law and has been approved by the review board, shall
5 grant it. The hearing may be continued from time to time for an
6 aggregate period not exceeding two weeks. The public hearing must
7 occur no less than ninety days prior to the date of the general
8 election that is set pursuant to RCW 35.13.060.

9 **Sec. 2.** RCW 35.13.060 and 2015 c 53 s 24 are each amended to
10 read as follows:

11 Upon granting the petition under the twenty percent annexation
12 petition under the election method, and after the auditor has
13 certified the petition as being sufficient, the (~~legislative body of~~
14 ~~the city or town shall indicate to the county auditor its preference~~
15 ~~for the date of the election on the annexation to be held, which~~
16 ~~shall be one of the dates for special elections provided under RCW~~
17 ~~29A.04.330 that is sixty or more days after the date the preference~~
18 ~~is indicated. The county auditor shall call the special election at~~
19 ~~the special election date indicated by the city or town)) election on
20 the annexation must be held at the next general election date
21 according to RCW 29A.04.321 that is at least ninety days after the
22 public hearing required by RCW 35.13.040.~~

23 **Sec. 3.** RCW 35.13.090 and 2015 c 53 s 26 are each amended to
24 read as follows:

25 (1) The proposition for or against annexation or for or against
26 annexation and adoption of the comprehensive plan, or for or against
27 creation of a community municipal corporation, or any combination
28 thereof, as the case may be, shall be deemed approved if a majority
29 of the votes cast on that proposition are cast in favor of annexation
30 or in favor of annexation and adoption of the comprehensive plan, or
31 for creation of the community municipal corporation, or any
32 combination thereof, as the case may be.

33 (2) If a proposition for or against assumption of all or any
34 portion of indebtedness was submitted to the registered voters, it
35 shall be deemed approved if a majority (~~of~~) equal to at least
36 three-fifths of the registered voters of the territory proposed to be
37 annexed voting on such proposition vote in favor thereof, and the
38 number of registered voters voting on such proposition constitutes

1 not less than forty percent of the total number of votes cast in such
2 territory at the last preceding general election.

3 (3) If either or both propositions were approved by the qualified
4 numbers of registered voters, the county auditor shall on completion
5 of the canvassing of the returns transmit to the county legislative
6 authority and to the clerk of the city or town to which annexation is
7 proposed a certificate of the election results, together with a
8 certified abstract of the vote showing the whole number who voted at
9 the election, the number of votes cast for annexation and the number
10 cast against annexation or for annexation and adoption of the
11 comprehensive plan and the number cast against annexation and
12 adoption of the comprehensive plan or for creation of a community
13 municipal corporation and the number cast against creation of a
14 community municipal corporation, or any combination thereof, as the
15 case may be.

16 (4) If a proposition for assumption of all or of any portion of
17 indebtedness was submitted to the registered voters, the abstract
18 shall include the number of votes cast for assumption of indebtedness
19 and the number of votes cast against assumption of indebtedness,
20 together with a statement of the total number of votes cast in such
21 territory at the last preceding general election.

22 (5) If the proposition for creation of a community municipal
23 corporation was submitted and approved, the abstract shall include
24 the number of votes cast for the candidates for community council
25 positions and certificates of election shall be issued pursuant to
26 RCW 29A.52.360 to the successful candidates who shall assume office
27 as soon as qualified.

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.13
29 RCW to read as follows:

30 Upon the filing of a resolution initiating an election by a city
31 or town pursuant to RCW 35.13.015, the board of county commissioners
32 of the county in which the territory to be annexed is located must
33 fix a date for a public hearing on the question of the proposed
34 annexation. Notice of the public hearing must be published once each
35 week for at least two weeks prior to the hearing in a newspaper of
36 general circulation in the area to be annexed. The public hearing
37 must occur no less than ninety days prior to the date of the general
38 election that is set pursuant to RCW 35.13.174.

1 **Sec. 5.** RCW 35.13.174 and 1997 c 429 s 38 are each amended to
2 read as follows:

3 Upon receipt by the board of county commissioners of a
4 determination by a majority of the review board favoring annexation
5 of the proposed area that has been initiated by resolution pursuant
6 to RCW 35.13.015 by the city or town legislative body, the board of
7 county commissioners, or the city or town legislative body for any
8 city or town within an urban growth area designated under RCW
9 36.70A.110, shall fix a date on which an annexation election shall be
10 held, which date will be (~~not less than thirty days nor more than~~
11 ~~sixty days thereafter~~) the next general election date according to
12 RCW 29A.04.321 that is at least ninety days after the public hearing
13 required by section 4 of this act.

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

16 Local voters' pamphlets authorized by RCW 29A.32.210, including
17 any online versions, must contain the information required by RCW
18 29A.32.241 regarding annexation ballot measures. If no local voters'
19 pamphlet has been authorized in the local jurisdiction from which
20 territory is proposed to be annexed by a ballot measure, the auditor
21 of the county from which the territory is proposed to be annexed must
22 submit the information required by RCW 29A.32.241 regarding the
23 annexation ballot measure to the secretary of state by May 25th of
24 the year in which the annexation election will occur. The secretary
25 of state must include such information in the state voters'
26 pamphlets, including any online versions.

27 **Sec. 7.** RCW 35.13.410 and 2003 c 331 s 2 are each amended to
28 read as follows:

29 Proceedings for the annexation of territory pursuant to this
30 section and RCW 35.13.420 shall be commenced as provided in this
31 section. Before the circulation of a petition for annexation, the
32 initiating party or parties who, except as provided in RCW
33 28A.335.110, shall be either not less than (~~ten~~) thirty percent of
34 the (~~residents~~) homeowners of the area to be annexed or the owners
35 of not less than (~~ten~~) thirty percent (~~of the acreage~~) in value
36 according to the assessed valuation for general taxation of the
37 property for which annexation is petitioned, shall notify the
38 legislative body of the city or town in writing of their intention to

1 commence annexation proceedings. The legislative body shall set a
2 date, not later than sixty days after the filing of the request, for
3 a meeting with the initiating parties to determine whether the city
4 or town will accept, reject, or geographically modify the proposed
5 annexation, whether it shall require the simultaneous adoption of the
6 comprehensive plan if such plan has been prepared and filed for the
7 area to be annexed as provided for in RCW 35.13.177 and 35.13.178,
8 and whether it shall require the assumption of all or any portion of
9 existing city or town indebtedness by the area to be annexed. If the
10 legislative body requires the assumption of all or any portion of
11 indebtedness and/or the adoption of a comprehensive plan, it shall
12 record this action in its minutes and the petition for annexation
13 shall be so drawn as to clearly indicate this fact. There shall be no
14 appeal from the decision of the legislative body.

15 **Sec. 8.** RCW 35.13.420 and 2003 c 331 s 3 are each amended to
16 read as follows:

17 (1) A petition for annexation of an area contiguous to a city or
18 town may be made in writing addressed to and filed with the
19 legislative body of the municipality to which annexation is desired.
20 Except where all the property sought to be annexed is property of a
21 school district, and the school directors thereof file the petition
22 for annexation as in RCW 28A.335.110, the petition must be signed by
23 ~~((the owners of))~~ a majority of the ~~((acreage))~~ homeowners in the
24 territory for which annexation is petitioned ~~((and))~~ or a majority of
25 the ~~((registered voters residing in the area))~~ owners of not less
26 than fifty percent in value according to the assessed valuation for
27 general taxation of the property for which annexation is petitioned.

28 ~~((If no residents exist within the area proposed for~~
29 ~~annexation, the petition must be signed by the owners of a majority~~
30 ~~of the acreage for which annexation is petitioned.~~

31 ~~(3))~~ The petition shall set forth a legal description of the
32 property proposed to be annexed that complies with RCW 35.02.170, and
33 shall be accompanied by a drawing that outlines the boundaries of the
34 property sought to be annexed. If the legislative body has required
35 the assumption of all or any portion of city or town indebtedness by
36 the area annexed, and/or the adoption of a comprehensive plan for the
37 area to be annexed, these facts, together with a quotation of the
38 minute entry of such requirement or requirements, shall be set forth
39 in the petition.

1 a hearing upon the petition or resolution, at which hearing a
2 representative of the city shall make a brief presentation to the
3 board in explanation of the annexation and the benefits to be derived
4 therefrom, and the petitioners and any resident of the city or the
5 area proposed to be annexed shall be afforded a reasonable
6 opportunity to be heard. The hearing may be adjourned from time to
7 time in the board's discretion, not to exceed thirty days in all from
8 the commencement of the hearing. The public hearing must occur no
9 less than ninety days prior to the date of the general election that
10 is set pursuant to RCW 35A.14.050.

11 **Sec. 11.** RCW 35A.14.050 and 2015 c 53 s 54 are each amended to
12 read as follows:

13 After consideration of the proposed annexation as provided in RCW
14 35A.14.200, the county annexation review board, within thirty days
15 after the final day of hearing, shall take one of the following
16 actions:

17 (1) Approval of the proposal as submitted.

18 (2) Subject to RCW 35.02.170, modification of the proposal by
19 adjusting boundaries to include or exclude territory; except that any
20 such inclusion of territory shall not increase the total area of
21 territory proposed for annexation by an amount exceeding the original
22 proposal by more than five percent: PROVIDED, That the county
23 annexation review board shall not adjust boundaries to include
24 territory not included in the original proposal without first
25 affording to residents and property owners of the area affected by
26 such adjustment of boundaries an opportunity to be heard as to the
27 proposal.

28 (3) Disapproval of the proposal.

29 The written decision of the county annexation review board shall
30 be filed with the board of county commissioners and with the
31 legislative body of the city concerned. If the annexation proposal is
32 modified by the county annexation review board, such modification
33 shall be fully set forth in the written decision. If the decision of
34 the boundary review board or the county annexation review board is
35 favorable to the annexation proposal, or the proposal as modified by
36 the review board, the ~~((legislative body of the city at its next~~
37 ~~regular meeting if to be held within thirty days after receipt of the~~
38 ~~decision of the boundary review board or the county annexation review~~
39 ~~board, or at a special meeting to be held within that period, shall~~

1 ~~indicate to the county auditor its preference for a special election~~
2 ~~date for submission of such annexation proposal, with any~~
3 ~~modifications made by the review board, to the voters of the~~
4 ~~territory proposed to be annexed. The special election date that is~~
5 ~~so indicated shall be one of the dates for special elections provided~~
6 ~~under RCW 29A.04.330 that is sixty or more days after the date the~~
7 ~~preference is indicated. The county legislative authority shall call~~
8 ~~the special election at the special election date so indicated by the~~
9 ~~city)) election on the annexation must be held at the next general~~
10 ~~election date according to RCW 29A.04.321 that is at least ninety~~
11 ~~days after the public hearing required by RCW 35A.14.040. If the~~
12 ~~boundary review board or the county annexation review board~~
13 ~~disapproves the annexation proposal, no further action shall be taken~~
14 ~~thereon, and no proposal for annexation of the same territory, or~~
15 ~~substantially the same as determined by the board, shall be initiated~~
16 ~~or considered for twelve months thereafter.~~

17 **Sec. 12.** RCW 35A.14.220 and 1979 ex.s. c 18 s 27 are each
18 amended to read as follows:

19 Annexations under the provisions of RCW 35A.14.295, 35A.14.297,
20 35A.14.300, and 35A.14.310 shall not be subject to review by the
21 annexation review board: PROVIDED, That in any county in which a
22 boundary review board is established under chapter 36.93 RCW all
23 annexations shall be subject to review except as provided for in RCW
24 36.93.110. When the area proposed for annexation in a petition or
25 resolution, initiated and filed under any of the methods of
26 initiating annexation authorized by this chapter, is less than fifty
27 acres or less than two million dollars in assessed valuation, review
28 procedures shall not be required as to such annexation proposal,
29 except as provided in chapter 36.93 RCW in those counties with a
30 review board established pursuant to chapter 36.93 RCW(~~:-PROVIDED,~~
31 ~~That when an annexation proposal is initiated by the direct petition~~
32 ~~method authorized by RCW 35A.14.120, review procedures shall not be~~
33 ~~required without regard to acreage or assessed valuation, except as~~
34 ~~provided in chapter 36.93 RCW in those counties with a boundary~~
35 ~~review board established pursuant to chapter 36.93 RCW)).~~

36 NEW SECTION. **Sec. 13.** A new section is added to chapter 35A.14
37 RCW to read as follows:

1 Local voters' pamphlets authorized by RCW 29A.32.210, including
2 any online versions, must contain the information required by RCW
3 29A.32.241 regarding annexation ballot measures. If no local voters'
4 pamphlet has been authorized in the local jurisdiction from which the
5 territory is proposed to be annexed by a ballot measure, the auditor
6 of the county from which the territory is proposed to be annexed must
7 submit the information required by RCW 29A.32.241 regarding the
8 annexation ballot measure to the secretary of state by May 25th of
9 the year in which the annexation election will occur. The secretary
10 of state must include such information in the state voters'
11 pamphlets, including any online versions.

12 **Sec. 14.** RCW 35A.14.420 and 2003 c 331 s 10 are each amended to
13 read as follows:

14 (1) Proceedings for initiating annexation of unincorporated
15 territory to a charter code city or noncharter code city may be
16 commenced by the filing of a petition of property owners of the
17 territory proposed to be annexed, in the following manner which is
18 alternative to other methods provided in this chapter:

19 (a) Before the circulation of a petition for annexation, the
20 initiating party or parties, who shall be (~~the owners of not less~~
21 ~~than ten percent of the acreage~~) either not less than thirty percent
22 of the homeowners of the area to be annexed or the owners of not less
23 than thirty percent in value according to assessed valuation for
24 general taxation of the property for which annexation is sought,
25 shall notify the legislative body of the code city in writing of
26 their intention to commence annexation proceedings;

27 (b) The legislative body shall set a date, not later than sixty
28 days after the filing of the request, for a meeting with the
29 initiating parties to determine whether the code city will accept,
30 reject, or geographically modify the proposed annexation, whether it
31 shall require the simultaneous adoption of a proposed zoning
32 regulation, if such a proposal has been prepared and filed for the
33 area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340,
34 and whether it shall require the assumption of all or any portion of
35 existing city indebtedness by the area to be annexed;

36 (c) If the legislative body requires the assumption of all or any
37 portion of indebtedness and/or the adoption of a proposed zoning
38 regulation, it shall record this action in its minutes and the

1 petition for annexation shall be so drawn as to clearly indicate
2 these facts;

3 (d) Approval by the legislative body shall be a condition
4 precedent to circulation of the petition; and

5 (e) There shall be no appeal from the decision of the legislative
6 body.

7 (2) A petition for annexation of an area contiguous to a code
8 city may be filed with the legislative body of the municipality to
9 which annexation is desired. The petition for annexation must be
10 signed by ~~((the owners of))~~ a majority of the ~~((acreage))~~ homeowners
11 in the territory for which annexation is petitioned and a majority of
12 the ~~((registered voters residing in the area))~~ owners of not less
13 than fifty percent in value according to the assessed valuation for
14 general taxation of the property for which annexation is petitioned.

15 (3) ~~((If no residents exist within the area proposed for~~
16 ~~annexation, the petition must be signed by the owners of a majority~~
17 ~~of the acreage for which annexation is petitioned.~~

18 ~~(4))~~ The petition shall set forth a legal description of the
19 property proposed to be annexed that complies with RCW 35A.14.410,
20 and shall be accompanied by a drawing that outlines the boundaries of
21 the property sought to be annexed. If the legislative body has
22 required the assumption of all or any portion of city indebtedness by
23 the area annexed or the adoption of a proposed zoning regulation,
24 these facts, together with a quotation of the minute entry of such
25 requirement, or requirements, shall also be set forth in the
26 petition.

27 NEW SECTION. Sec. 15. A new section is added to chapter 35A.21
28 RCW to read as follows:

29 (1) A city may not require the owner of a property located
30 outside its corporate limits to enter into a utility service
31 annexation covenant as a condition of extending utilities to such
32 property.

33 (2) Nothing in this section should be interpreted as requiring a
34 city to extend utilities to property outside its corporate limits.

35 (3) Nothing in RCW 35.84.010, 35.91.020, 35.21.210, 35.67.310, or
36 other applicable laws granting contracting authority to a city allows
37 a city to require the owner of a property located outside its
38 corporate limits to enter into a utility service annexation covenant
39 as a condition of extending utilities to such property.

1 (4) For purposes of this section, a "utility service annexation
2 covenant" means a contract between a city and a property owner
3 located in another city, town, or unincorporated area wherein the
4 city agrees to provide utility service or services to the property in
5 exchange for a promise that the property owner or owners, whenever
6 requested, sign any letter, notice, petition, or other instrument
7 under applicable laws of the state of Washington initiating,
8 furthering, or accomplishing annexation of the property into the
9 city.

10 **PART III**

11 **ANNEXATION OF ALL OR A PART OF A CITY OR TOWN**

12 **Sec. 16.** RCW 35.10.217 and 1986 c 253 s 1 are each amended to
13 read as follows:

14 The following methods are available for the annexation of all or
15 a part of a city or town to another city or town:

16 (1) A petition for an election to vote upon the annexation, which
17 proposed annexation is approved by the legislative body of the city
18 or town from which the territory will be taken, may be submitted to
19 the legislative body of the city or town to which annexation is
20 proposed. An annexation under this subsection shall otherwise conform
21 with the requirements for and procedures of a petition and election
22 method of annexing unincorporated territory under chapter 35.13 RCW,
23 except for the requirement for the approval of the annexation by the
24 city or town from which the territory would be taken.

25 ~~(2) ((The legislative body of a city or town may on its own~~
26 ~~initiative by resolution indicate its desire to be annexed to a city~~
27 ~~or town either in whole or in part, or the legislative body of a city~~
28 ~~or town proposing to annex all or part of another city or town may~~
29 ~~initiate the annexation by adopting a resolution indicating that~~
30 ~~desire. In case such resolution is passed, such resolution shall be~~
31 ~~transmitted to the other affected city or town. The annexation is~~
32 ~~effective if the other city or town adopts a resolution concurring in~~
33 ~~the annexation, unless the owners of property in the area proposed to~~
34 ~~be annexed, equal in value to sixty percent or more of the assessed~~
35 ~~valuation of the property in the area, protest the proposed~~
36 ~~annexation in writing to the legislative body of the city or town~~
37 ~~proposing to annex the area, within thirty days of the adoption of~~
38 ~~the second resolution accepting the annexation. Notices of the public~~

1 ~~hearing at which the second resolution is adopted shall be mailed to~~
2 ~~the owners of the property within the area proposed to be annexed in~~
3 ~~the same manner that notices of a hearing on a proposed local~~
4 ~~improvement district are required to be mailed by a city or town as~~
5 ~~provided in chapter 35.43 RCW. An annexation under this subsection~~
6 ~~shall be potentially subject to review by a boundary review board or~~
7 ~~other annexation review board after the adoption of the initial~~
8 ~~resolution, and the second resolution may not be adopted until the~~
9 ~~proposed annexation has been approved by the board.~~

10 ~~(3))~~) The owners of property located in a city or town may
11 petition for annexation to another city or town. An annexation under
12 this subsection shall conform with the requirements for and
13 procedures of ((a)) the alternative direct petition method of
14 annexing unincorporated territory, except that the legislative body
15 of the city or town from which the territory would be taken must
16 approve the annexation before it may proceed.

17 ~~((4))~~) (3) All annexations under this section are subject to
18 potential review by the local boundary review board or annexation
19 review board.

20 NEW SECTION. **Sec. 17.** The following acts or parts of acts are
21 each repealed:

22 (1) RCW 35.13.125 (Direct petition method—Commencement of
23 proceedings—Notice to legislative body—Meeting—Assumption of
24 indebtedness—Comprehensive plan) and 1990 c 33 s 565, 1989 c 351 s 3,
25 1973 1st ex.s. c 164 s 11, 1971 c 69 s 1, 1965 ex.s. c 88 s 10, &
26 1965 c 7 s 35.13.125;

27 (2) RCW 35.13.130 (Direct petition method—Petition—Signers—
28 Content) and 2009 c 60 s 3, 1990 c 33 s 566, 1981 c 66 s 1, 1975 1st
29 ex.s. c 220 s 8, 1973 1st ex.s. c 164 s 12, 1971 c 69 s 2, 1965 ex.s.
30 c 88 s 11, & 1965 c 7 s 35.13.130;

31 (3) RCW 35.13.140 (Direct petition method—Notice of hearing) and
32 1965 c 7 s 35.13.140;

33 (4) RCW 35A.14.120 (Direct petition method—Notice to legislative
34 body—Meeting—Assumption of indebtedness—Proposed zoning regulation—
35 Contents of petition) and 1989 c 351 s 6, 1979 ex.s. c 124 s 8, &
36 1967 ex.s. c 119 s 35A.14.120;

37 (5) RCW 35A.14.130 (Direct petition method—Notice of hearing) and
38 1967 ex.s. c 119 s 35A.14.130;

1 (6) RCW 35A.14.140 (Direct petition method—Ordinance providing
2 for annexation) and 1986 c 234 s 31, 1975 1st ex.s. c 220 s 16, &
3 1967 ex.s. c 119 s 35A.14.140; and

4 (7) RCW 35A.14.150 (Direct petition method—Effective date of
5 annexation) and 1979 ex.s. c 124 s 9 & 1967 ex.s. c 119 s 35A.14.150.

--- END ---