
SENATE BILL 5409

State of Washington

58th Legislature

2003 Regular Session

By Senators Mulliken, T. Sheldon, Roach, Fairley, Schmidt, Kline, Swecker, Reardon, Deccio, Doumit, McCaslin, Parlette, Esser, Rasmussen and Shin

Read first time 01/24/2003. Referred to Committee on Land Use & Planning.

1 AN ACT Relating to providing a new direct petition annexation
2 method; amending RCW 35.21.005 and 35A.01.040; adding new sections to
3 chapter 35.13 RCW; adding new sections to chapter 35A.14 RCW; creating
4 new sections; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes that on March 14,
7 2002, the Washington state supreme court decided in *Grant County Fire*
8 *Protection District No. 5 v. City of Moses Lake*, 145 Wn.2d 702 (2002),
9 that the petition method of annexation authorized by RCW 35.13.125
10 through 35.13.160 and 35A.14.120 through 35A.14.150 is
11 unconstitutional. The legislature also recognizes that on October 11,
12 2002, the Washington state supreme court granted a motion for
13 reconsideration of this decision. The legislature intends to provide
14 a new method of direct petition annexation that enables property owners
15 and registered voters to participate in an annexation process without
16 the constitutional defect identified by the court.

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

1 Proceedings for the annexation of territory pursuant to this
2 section and section 3 of this act shall be commenced as provided in
3 this section. Before the circulation of a petition for annexation, the
4 initiating party or parties who, except as provided in RCW 28A.335.110,
5 shall be either not less than ten percent of the residents of the area
6 to be annexed or the owners of not less than ten percent of the
7 property for which annexation is petitioned, shall notify the
8 legislative body of the city or town in writing of their intention to
9 commence annexation proceedings. The legislative body shall set a
10 date, not later than sixty days after the filing of the request, for a
11 meeting with the initiating parties to determine whether the city or
12 town will accept, reject, or geographically modify the proposed
13 annexation, whether it shall require the simultaneous adoption of the
14 comprehensive plan if such plan has been prepared and filed for the
15 area to be annexed as provided for in RCW 35.13.177 and 35.13.178, and
16 whether it shall require the assumption of all or any portion of
17 existing city or town indebtedness by the area to be annexed. If the
18 legislative body requires the assumption of all or any portion of
19 indebtedness and/or the adoption of a comprehensive plan, it shall
20 record this action in its minutes and the petition for annexation shall
21 be so drawn as to clearly indicate this fact. There shall be no appeal
22 from the decision of the legislative body.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.13 RCW
24 to read as follows:

25 (1) A petition for annexation of an area contiguous to a city or
26 town may be made in writing addressed to and filed with the legislative
27 body of the municipality to which annexation is desired. Except where
28 all the property sought to be annexed is property of a school district,
29 and the school directors thereof file the petition for annexation as in
30 RCW 28A.335.110, the petition must be signed by the owners of a
31 majority of the acreage for which annexation is petitioned and a
32 majority of the registered voters of the property for which annexation
33 is petitioned.

34 (2) If no residents exist within the area proposed for annexation,
35 the petition must be signed by the owners of a majority of the acreage
36 for which annexation is petitioned.

1 (3) The petition shall set forth a description of the property
2 according to government legal subdivisions or legal plats which is in
3 compliance with RCW 35.02.170, and shall be accompanied by a plat that
4 outlines the boundaries of the property sought to be annexed. If the
5 legislative body has required the assumption of all or any portion of
6 city or town indebtedness by the area annexed, and/or the adoption of
7 a comprehensive plan for the area to be annexed, these facts, together
8 with a quotation of the minute entry of such requirement or
9 requirements, shall be set forth in the petition.

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

12 When a petition for annexation is filed with the city or town
13 council, or commission in those cities having a commission form of
14 government, that meets the requirements of sections 2 and 3 of this act
15 and RCW 35.21.005, of which fact satisfactory proof may be required by
16 the council or commission, the council or commission may entertain the
17 same, fix a date for a public hearing thereon and cause notice of the
18 hearing to be published in one issue of a newspaper of general
19 circulation in the city or town. The notice shall also be posted in
20 three public places within the territory proposed for annexation, and
21 shall specify the time and place of hearing and invite interested
22 persons to appear and voice approval or disapproval of the annexation.
23 The expense of publication and posting of the notice shall be borne by
24 the signers of the petition.

25 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.13 RCW
26 to read as follows:

27 Following the hearing, the council or commission shall determine by
28 ordinance whether annexation shall be made. Subject to the provisions
29 of sections 2 through 7 of this act and RCW 35.21.005, they may annex
30 all or any portion of the proposed area but may not include in the
31 annexation any property not described in the petition. Upon passage of
32 the ordinance a certified copy shall be filed with the board of county
33 commissioners of the county in which the annexed property is located.

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

1 Upon the date fixed in the ordinance of annexation, the area
2 annexed shall become part of the city or town. All property within the
3 annexed territory shall, if the annexation petition so provided, be
4 assessed and taxed at the same rate and on the same basis as the
5 property of such annexing city or town is assessed and taxed to pay for
6 all or of any portion of the then outstanding indebtedness of the city
7 or town to which the area is annexed, approved by the voters,
8 contracted, or incurred before, or existing at, the date of annexation.
9 If the annexation petition so provided, all property in the annexed
10 area is subject to and is a part of the comprehensive plan as prepared
11 and filed as provided for in RCW 35.13.177 and 35.13.178.

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

14 The method of annexation provided for in sections 2 through 6 of
15 this act is an alternative method, and does not supersede any other
16 method.

17 **Sec. 8.** RCW 35.21.005 and 1996 c 286 s 6 are each amended to read
18 as follows:

19 Wherever in this title petitions are required to be signed and
20 filed, the following rules shall govern the sufficiency thereof:

21 (1) A petition may include any page or group of pages containing an
22 identical text or prayer intended by the circulators, signers or
23 sponsors to be presented and considered as one petition and containing
24 the following essential elements when applicable, except that the
25 elements referred to in (d) and (e) of this subsection are essential
26 for petitions referring or initiating legislative matters to the
27 voters, but are directory as to other petitions:

28 (a) The text or prayer of the petition which shall be a concise
29 statement of the action or relief sought by petitioners and shall
30 include a reference to the applicable state statute or city ordinance,
31 if any;

32 (b) If the petition initiates or refers an ordinance, a true copy
33 thereof;

34 (c) If the petition seeks the annexation, incorporation,
35 withdrawal, or reduction of an area for any purpose, an accurate legal

1 description of the area proposed for such action and if practical, a
2 map of the area;

3 (d) Numbered lines for signatures with space provided beside each
4 signature for the name and address of the signer and the date of
5 signing;

6 (e) The warning statement prescribed in subsection (2) of this
7 section.

8 (2) Petitions shall be printed or typed on single sheets of white
9 paper of good quality and each sheet of petition paper having a space
10 thereon for signatures shall contain the text or prayer of the petition
11 and the following warning:

12 WARNING

13 Every person who signs this petition with any other than his or
14 her true name, or who knowingly signs more than one of these
15 petitions, or signs a petition seeking an election when he or
16 she is not a legal voter, or signs a petition when he or she is
17 otherwise not qualified to sign, or who makes herein any false
18 statement, shall be guilty of a misdemeanor.

19 Each signature shall be executed in ink or indelible pencil and
20 shall be followed by the name and address of the signer and the date of
21 signing.

22 (3) The term "signer" means any person who signs his or her own
23 name to the petition.

24 (4) To be sufficient a petition must contain valid signatures of
25 qualified registered voters or property owners, as the case may be, in
26 the number required by the applicable statute or ordinance. Within
27 three working days after the filing of a petition, the officer with
28 whom the petition is filed shall transmit the petition to the county
29 auditor for petitions signed by registered voters, or to the county
30 assessor for petitions signed by property owners for determination of
31 sufficiency. The officer or officers whose duty it is to determine the
32 sufficiency of the petition shall proceed to make such a determination
33 with reasonable promptness and shall file with the officer receiving
34 the petition for filing a certificate stating the date upon which such
35 determination was begun, which date shall be referred to as the
36 terminal date. Additional pages of one or more signatures may be added
37 to the petition by filing the same with the appropriate filing officer

1 prior to such terminal date. Any signer of a filed petition may
2 withdraw his or her signature by a written request for withdrawal filed
3 with the receiving officer prior to such terminal date. Such written
4 request shall so sufficiently describe the petition as to make
5 identification of the person and the petition certain. The name of any
6 person seeking to withdraw shall be signed exactly the same as
7 contained on the petition and, after the filing of such request for
8 withdrawal, prior to the terminal date, the signature of any person
9 seeking such withdrawal shall be deemed withdrawn.

10 (5) Petitions containing the required number of signatures shall be
11 accepted as prima facie valid until their invalidity has been proved.

12 (6) A variation on petitions between the signatures on the petition
13 and that on the voter's permanent registration caused by the
14 substitution of initials instead of the first or middle names, or both,
15 shall not invalidate the signature on the petition if the surname and
16 handwriting are the same.

17 (7) Signatures, including the original, of any person who has
18 signed a petition two or more times shall be stricken.

19 (8) Signatures followed by a date of signing which is more than six
20 months prior to the date of filing of the petition shall be stricken.

21 (9) When petitions are required to be signed by the owners of
22 property, the determination shall be made by the county assessor.
23 Where validation of signatures to the petition is required, the
24 following shall apply:

25 (a) The signature of a record owner, as determined by the records
26 of the county auditor, shall be sufficient without the signature of his
27 or her spouse;

28 (b) In the case of mortgaged property, the signature of the
29 mortgagor shall be sufficient, without the signature of his or her
30 spouse;

31 (c) In the case of property purchased on contract, the signature of
32 the contract purchaser, as shown by the records of the county auditor,
33 shall be deemed sufficient, without the signature of his or her spouse;

34 (d) Any officer of a corporation owning land within the area
35 involved who is duly authorized to execute deeds or encumbrances on
36 behalf of the corporation, may sign on behalf of such corporation, and
37 shall attach to the petition a certified excerpt from the bylaws of
38 such corporation showing such authority;

1 (e) When property stands in the name of a deceased person or any
2 person for whom a guardian has been appointed, the signature of the
3 executor, administrator, or guardian, as the case may be, shall be
4 equivalent to the signature of the owner of the property; and

5 (f) When a parcel of property is owned by multiple owners, the
6 signature of an owner designated by the multiple owners is sufficient.

7 (10) The officer (~~who is~~) or officers responsible for determining
8 the sufficiency of the petition shall do so in writing and transmit the
9 written certificate to the officer with whom the petition was
10 originally filed.

11 **Sec. 9.** RCW 35A.01.040 and 1996 c 286 s 7 are each amended to read
12 as follows:

13 Wherever in this title petitions are required to be signed and
14 filed, the following rules shall govern the sufficiency thereof:

15 (1) A petition may include any page or group of pages containing an
16 identical text or prayer intended by the circulators, signers or
17 sponsors to be presented and considered as one petition and containing
18 the following essential elements when applicable, except that the
19 elements referred to in (d) and (e) of this subsection are essential
20 for petitions referring or initiating legislative matters to the
21 voters, but are directory as to other petitions:

22 (a) The text or prayer of the petition which shall be a concise
23 statement of the action or relief sought by petitioners and shall
24 include a reference to the applicable state statute or city ordinance,
25 if any;

26 (b) If the petition initiates or refers an ordinance, a true copy
27 thereof;

28 (c) If the petition seeks the annexation, incorporation,
29 withdrawal, or reduction of an area for any purpose, an accurate legal
30 description of the area proposed for such action and if practical, a
31 map of the area;

32 (d) Numbered lines for signatures with space provided beside each
33 signature for the name and address of the signer and the date of
34 signing;

35 (e) The warning statement prescribed in subsection (2) of this
36 section.

1 (2) Petitions shall be printed or typed on single sheets of white
2 paper of good quality and each sheet of petition paper having a space
3 thereon for signatures shall contain the text or prayer of the petition
4 and the following warning:

5 WARNING

6 Every person who signs this petition with any other than his or
7 her true name, or who knowingly signs more than one of these
8 petitions, or signs a petition seeking an election when he or
9 she is not a legal voter, or signs a petition when he or she is
10 otherwise not qualified to sign, or who makes herein any false
11 statement, shall be guilty of a misdemeanor.

12 Each signature shall be executed in ink or indelible pencil and
13 shall be followed by the name and address of the signer and the date of
14 signing.

15 (3) The term "signer" means any person who signs his or her own
16 name to the petition.

17 (4) To be sufficient a petition must contain valid signatures of
18 qualified registered voters or property owners, as the case may be, in
19 the number required by the applicable statute or ordinance. Within
20 three working days after the filing of a petition, the officer with
21 whom the petition is filed shall transmit the petition to the county
22 auditor for petitions signed by registered voters, or to the county
23 assessor for petitions signed by property owners for determination of
24 sufficiency. The officer or officers whose duty it is to determine the
25 sufficiency of the petition shall proceed to make such a determination
26 with reasonable promptness and shall file with the officer receiving
27 the petition for filing a certificate stating the date upon which such
28 determination was begun, which date shall be referred to as the
29 terminal date. Additional pages of one or more signatures may be added
30 to the petition by filing the same with the appropriate filing officer
31 prior to such terminal date. Any signer of a filed petition may
32 withdraw his or her signature by a written request for withdrawal filed
33 with the receiving officer prior to such terminal date. Such written
34 request shall so sufficiently describe the petition as to make
35 identification of the person and the petition certain. The name of any
36 person seeking to withdraw shall be signed exactly the same as

1 contained on the petition and, after the filing of such request for
2 withdrawal, prior to the terminal date, the signature of any person
3 seeking such withdrawal shall be deemed withdrawn.

4 (5) Petitions containing the required number of signatures shall be
5 accepted as prima facie valid until their invalidity has been proved.

6 (6) A variation on petitions between the signatures on the petition
7 and that on the voter's permanent registration caused by the
8 substitution of initials instead of the first or middle names, or both,
9 shall not invalidate the signature on the petition if the surname and
10 handwriting are the same.

11 (7) Signatures, including the original, of any person who has
12 signed a petition two or more times shall be stricken.

13 (8) Signatures followed by a date of signing which is more than six
14 months prior to the date of filing of the petition shall be stricken.

15 (9) When petitions are required to be signed by the owners of
16 property, the determination shall be made by the county assessor.
17 Where validation of signatures to the petition is required, the
18 following shall apply:

19 (a) The signature of a record owner, as determined by the records
20 of the county auditor, shall be sufficient without the signature of his
21 or her spouse;

22 (b) In the case of mortgaged property, the signature of the
23 mortgagor shall be sufficient, without the signature of his or her
24 spouse;

25 (c) In the case of property purchased on contract, the signature of
26 the contract purchaser, as shown by the records of the county auditor,
27 shall be deemed sufficient, without the signature of his or her spouse;

28 (d) Any officer of a corporation owning land within the area
29 involved who is duly authorized to execute deeds or encumbrances on
30 behalf of the corporation, may sign on behalf of such corporation, and
31 shall attach to the petition a certified excerpt from the bylaws of
32 such corporation showing such authority;

33 (e) When property stands in the name of a deceased person or any
34 person for whom a guardian has been appointed, the signature of the
35 executor, administrator, or guardian, as the case may be, shall be
36 equivalent to the signature of the owner of the property; and

37 (f) When a parcel of property is owned by multiple owners, the
38 signature of an owner designated by the multiple owners is sufficient.

1 (10) The officer (~~who is~~) or officers responsible for determining
2 the sufficiency of the petition shall do so in writing and transmit the
3 written certificate to the officer with whom the petition was
4 originally filed.

5 NEW SECTION. **Sec. 10.** A new section is added to chapter 35A.14
6 RCW to read as follows:

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

12 (a) Before the circulation of a petition for annexation, the
13 initiating party or parties, who shall be the owners of not less than
14 ten percent of the property for which annexation is sought, shall
15 notify the legislative body of the code city in writing of their
16 intention to commence annexation proceedings;

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

26 (c) If the legislative body requires the assumption of all or any
27 portion of indebtedness and/or the adoption of a proposed zoning
28 regulation, it shall record this action in its minutes and the petition
29 for annexation shall be so drawn as to clearly indicate these facts;

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

32 (e) There shall be no appeal from the decision of the legislative
33 body.

34 (2) A petition for annexation of an area contiguous to a code city
35 may be filed with the legislative body of the municipality to which
36 annexation is desired. The petition for annexation must be signed by

1 the owners of a majority of the acreage for which annexation is
2 petitioned and a majority of the registered voters of the property for
3 which annexation is petitioned.

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

7 (4) The petition shall set forth a description of the property
8 according to government legal subdivisions or legal plats which is in
9 compliance with RCW 35A.14.410, and shall be accompanied by a plat that
10 outlines the boundaries of the property sought to be annexed. If the
11 legislative body has required the assumption of all or any portion of
12 city indebtedness by the area annexed or the adoption of a proposed
13 zoning regulation, these facts, together with a quotation of the minute
14 entry of such requirement, or requirements, shall also be set forth in
15 the petition.

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

18 When a petition for annexation is filed with the legislative body
19 of a code city, that meets the requirements of RCW 35A.01.040 and
20 section 10 of this act and is sufficient according to the rules set
21 forth in RCW 35A.01.040, the legislative body may entertain the same,
22 fix a date for a public hearing thereon and cause notice of the hearing
23 to be published in one or more issues of a newspaper of general
24 circulation in the city. The notice shall also be posted in three
25 public places within the territory proposed for annexation, and shall
26 specify the time and place of hearing and invite interested persons to
27 appear and voice approval or disapproval of the annexation.

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

30 Following the hearing, if the legislative body determines to effect
31 the annexation, they shall do so by ordinance. Subject to RCW
32 35A.14.410, the ordinance may annex all or any portion of the proposed
33 area but may not include in the annexation any property not described
34 in the petition. Upon passage of the annexation ordinance, a certified
35 copy shall be filed with the board of county commissioners of the
36 county in which the annexed property is located.

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

3 Upon the date fixed in the ordinance of annexation, the area
4 annexed shall become part of the city. All property within the annexed
5 territory shall, if the annexation petition so provided, be assessed
6 and taxed at the same rate and on the same basis as the property of the
7 annexing code city is assessed and taxed to pay for the portion of any
8 then-outstanding indebtedness of the city to which the area is annexed,
9 which indebtedness has been approved by the voters, contracted for, or
10 incurred before, or existing at, the date of annexation and that the
11 city has required to be assumed. If the annexation petition so
12 provided, all property in the annexed area shall be subject to and a
13 part of the proposed zoning regulation as prepared and filed as
14 provided for in RCW 35A.14.330 and 35A.14.340.

15 NEW SECTION. **Sec. 14.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 15.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and takes effect
22 immediately.

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