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SENATE BILL 6404

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State of Washington

63rd Legislature

2014 Regular Session

By Senator Benton

Read first time 01/23/14. Referred to Committee on Governmental Operations.

1 AN ACT Relating to annexations by code cities in counties with four  
2 hundred thousand or more residents; and amending RCW 35A.14.297,  
3 35A.14.299, 35A.14.460, 35A.14.470, and 35A.14.480.

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

5 **Sec. 1.** RCW 35A.14.297 and 1967 ex.s. c 119 s 35A.14.297 are each  
6 amended to read as follows:

7 (1) On the date set for hearing as provided in RCW 35A.14.295,  
8 residents or property owners of the area included in the resolution for  
9 annexation shall be afforded an opportunity to be heard. The  
10 legislative body may provide by ordinance for annexation of the  
11 territory described in the resolution, but the effective date of the  
12 ordinance shall be not less than forty-five days after the passage  
13 thereof. The legislative body shall cause notice of the proposed  
14 effective date of the annexation, together with a description of the  
15 property to be annexed, to be published at least once each week for two  
16 weeks subsequent to passage of the ordinance, in one or more newspapers  
17 of general circulation within the city and in one or more newspapers of  
18 general circulation within the area to be annexed. If the annexation  
19 ordinance provides for assumption of indebtedness or adoption of a

1 proposed zoning regulation, the notice shall include a statement of  
2 such requirements. Such annexation ordinance shall be subject to  
3 referendum for forty-five days after the passage thereof. Upon the  
4 filing of a timely and sufficient referendum petition as provided in  
5 RCW 35A.14.299 below, a referendum election shall be held as provided  
6 in RCW 35A.14.299, and the annexation shall be deemed approved by the  
7 voters unless a majority of the votes cast on the proposition are in  
8 opposition thereto. Except as provided in subsection (2) of this  
9 section, after the expiration of the forty-fifth day from, but  
10 excluding the date of passage of the annexation ordinance, if no timely  
11 and sufficient referendum petition has been filed, as provided by RCW  
12 35A.14.299 below, the area annexed shall become a part of the code city  
13 upon the date fixed in the ordinance of annexation.

14 (2) For areas within a county with a population that equals or  
15 exceeds four hundred thousand and that is bordered by the Columbia  
16 river, the question of annexation must be submitted to the voters of  
17 the area, if the area contains at least one hundred voters, in a  
18 general election if one is to be held within ninety days or at a  
19 special election called for that purpose according to RCW 29A.04.330.  
20 Notice of the election must be given as provided in RCW 35A.14.070 and  
21 the election must be conducted as provided in the general election law.  
22 If the area to be annexed contains less than one hundred voters, at  
23 least a majority of the voters in the area to be annexed must give  
24 their written consent to the annexation. The annexation is deemed  
25 approved by the voters unless a majority of the votes cast on the  
26 proposition are in opposition to the annexation, or unless less than a  
27 majority of voters provide their written consent to the annexation.

28 **Sec. 2.** RCW 35A.14.299 and 2006 c 344 s 25 are each amended to  
29 read as follows:

30 (1) Such annexation ordinance as provided for in RCW 35A.14.297  
31 shall be subject to referendum for forty-five days after the passage  
32 thereof. Upon the filing of a timely and sufficient referendum  
33 petition with the legislative body, signed by qualified electors in  
34 number equal to not less than ten percent of the votes cast in the last  
35 general state election in the area to be annexed, the question of  
36 annexation shall be submitted to the voters of such area in a general  
37 election if one is to be held within ninety days or at a special

1 election called for that purpose according to RCW 29A.04.330. Notice  
2 of such election shall be given as provided in RCW 35A.14.070 and the  
3 election shall be conducted as provided in RCW 35A.29.151. The  
4 annexation shall be deemed approved by the voters unless a majority of  
5 the votes cast on the proposition are in opposition thereto.

6 Except as provided in subsection (2) of this section, after the  
7 expiration of the forty-fifth day from but excluding the date of  
8 passage of the annexation ordinance, if no timely and sufficient  
9 referendum petition has been filed, the area annexed shall become a  
10 part of the code city upon the date fixed in the ordinance of  
11 annexation. From and after such date, if the ordinance so provided,  
12 property in the annexed area shall be subject to the proposed zoning  
13 regulation prepared and filed for such area as provided in RCW  
14 35A.14.330 and 35A.14.340. If the ordinance so provided, all property  
15 within the area annexed shall be assessed and taxed at the same rate  
16 and on the same basis as the property of such annexing code city is  
17 assessed and taxed to pay for any then outstanding indebtedness of such  
18 city contracted prior to, or existing at, the date of annexation.

19 (2) For areas within a county with a population that equals or  
20 exceeds four hundred thousand and that is bordered by the Columbia  
21 river, the question of annexation must be submitted to the voters of  
22 the area, if the area contains at least one hundred voters, in a  
23 general election if one is to be held within ninety days or at a  
24 special election called for that purpose according to RCW 29A.04.330.  
25 Notice of the election must be given as provided in RCW 35A.14.070 and  
26 the election must be conducted as provided in the general election law.  
27 If the area to be annexed contains less than one hundred voters, at  
28 least a majority of the voters in the area to be annexed must give  
29 their written consent to the annexation. The annexation is deemed  
30 approved by the voters unless a majority of the votes cast on the  
31 proposition are in opposition to the annexation, or unless less than a  
32 majority of voters provide their written consent to the annexation.

33 **Sec. 3.** RCW 35A.14.460 and 2003 c 299 s 3 are each amended to read  
34 as follows:

35 (1) The legislative body of a county or code city planning under  
36 chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215  
37 may initiate an annexation process for unincorporated territory by

1 adopting a resolution commencing negotiations for an interlocal  
2 agreement as provided in chapter 39.34 RCW between a county and any  
3 code city within the county. The territory proposed for annexation  
4 must meet the following criteria: (a) Be within the code city urban  
5 growth area designated under RCW 36.70A.110, and (b) at least sixty  
6 percent of the boundaries of the territory proposed for annexation must  
7 be contiguous to the annexing code city or one or more cities or towns.

8 (2) If the territory proposed for annexation has been designated in  
9 an adopted county comprehensive plan as part of an urban growth area,  
10 urban service area, or potential annexation area for a specific city,  
11 or if the urban growth area territory proposed for annexation has been  
12 designated in a written agreement between a city and a county for  
13 annexation to a specific city or town, the designation or designations  
14 shall receive full consideration before a city or county may initiate  
15 the annexation process provided for in RCW 35A.14.470.

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

23 (4) Except as provided in subsection (5) of this section, following  
24 adoption and execution of the agreement by both legislative bodies, the  
25 city legislative body shall adopt an ordinance providing for the  
26 annexation of the territory described in the agreement. The  
27 legislative body shall cause notice of the proposed effective date of  
28 the annexation, together with a description of the property to be  
29 annexed, to be published at least once each week for two weeks  
30 subsequent to passage of the ordinance, in one or more newspapers of  
31 general circulation within the city and in one or more newspapers of  
32 general circulation within the territory to be annexed. If the  
33 annexation ordinance provides for assumption of indebtedness or  
34 adoption of a proposed zoning regulation, the notice shall include a  
35 statement of the requirements. Any territory to be annexed through an  
36 ordinance adopted under this section is annexed and becomes a part of  
37 the city upon the date fixed in the ordinance of annexation, which date  
38 may not be fewer than forty-five days after adoption of the ordinance.

1       (5) For areas within a county with a population that equals or  
2 exceeds four hundred thousand and that is bordered by the Columbia  
3 river, the question of annexation must be submitted to the voters of  
4 the area, if the area contains at least one hundred voters, in a  
5 general election if one is to be held within ninety days or at a  
6 special election called for that purpose according to RCW 29A.04.330.  
7 Notice of the election must be given as provided in RCW 35A.14.070 and  
8 the election must be conducted as provided in the general election law.  
9 If the area to be annexed contains less than one hundred voters, at  
10 least a majority of the voters in the area to be annexed must give  
11 their written consent to the annexation. The annexation is deemed  
12 approved by the voters unless a majority of the votes cast on the  
13 proposition are in opposition to the annexation, or unless less than a  
14 majority of voters provide their written consent to the annexation.

15       **Sec. 4.** RCW 35A.14.470 and 2006 c 344 s 26 are each amended to  
16 read as follows:

17       (1) The legislative body of any county planning under chapter  
18 36.70A RCW and subject to the requirements of RCW 36.70A.215 may  
19 initiate an annexation process with the legislative body of any other  
20 cities or towns that are contiguous to the territory proposed for  
21 annexation in RCW 35A.14.460 if:

22       (a) The county legislative body initiated an annexation process as  
23 provided in RCW 35A.14.460; and

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

27       (c) More than one hundred eighty days have passed since adoption of  
28 a county resolution as provided for in RCW 35A.14.460 and the parties  
29 have not adopted or executed an interlocal agreement providing for the  
30 annexation of unincorporated territory. The legislative body for  
31 either the county or an affected city may, however, pass a resolution  
32 extending the negotiation period for one or more six-month periods if  
33 a public hearing is held and findings of fact are made prior to each  
34 extension.

35       (2) Any county initiating the process provided for in subsection  
36 (1) of this section must do so by adopting a resolution commencing  
37 negotiations for an interlocal agreement as provided in chapter 39.34

1 RCW between the county and any city or town within the county. The  
2 annexation area must be within an urban growth area designated under  
3 RCW 36.70A.110 and at least sixty percent of the boundaries of the  
4 territory to be annexed must be contiguous to one or more cities or  
5 towns.

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

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

28 (5) Except as provided in subsection (8) of this section, the  
29 annexation ordinances provided for in RCW 35A.14.460(4) and subsection  
30 (4) of this section are subject to referendum for forty-five days after  
31 passage. Upon the filing of a timely and sufficient referendum  
32 petition with the legislative body, signed by registered voters in  
33 number equal to not less than fifteen percent of the votes cast in the  
34 last general state election in the area to be annexed, the question of  
35 annexation shall be submitted to the voters of the area in a general  
36 election if one is to be held within ninety days or at a special  
37 election called for that purpose according to RCW 29A.04.330. Notice  
38 of the election shall be given as provided in RCW 35A.14.070 and the

1 election shall be conducted as provided in the general election law.  
2 The annexation shall be deemed approved by the voters unless a majority  
3 of the votes cast on the proposition are in opposition thereto.

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

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

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

24 (8) For areas within a county with a population that equals or  
25 exceeds four hundred thousand and that is bordered by the Columbia  
26 river, the question of annexation must be submitted to the voters of  
27 the area, if the area contains at least one hundred voters, in a  
28 general election if one is to be held within ninety days or at a  
29 special election called for that purpose according to RCW 29A.04.330.  
30 Notice of the election must be given as provided in RCW 35A.14.070 and  
31 the election must be conducted as provided in the general election law.  
32 If the area to be annexed contains less than one hundred voters, at  
33 least a majority of the voters in the area to be annexed must give  
34 their written consent to the annexation. The annexation is deemed  
35 approved by the voters unless a majority of the votes cast on the  
36 proposition are in opposition to the annexation, or unless less than a  
37 majority of voters provide their written consent to the annexation.

1           **Sec. 5.** RCW 35A.14.480 and 2013 2nd sp.s. c 27 s 2 are each  
2 amended to read as follows:

3           (1)(a) An annexation by a code city proposing to annex territory  
4 served by one or more fire protection districts may be accomplished by  
5 ordinance after entering into an interlocal agreement as provided in  
6 chapter 39.34 RCW with the county and the fire protection district or  
7 districts that have jurisdiction over the territory proposed for  
8 annexation.

9           (b) A code city proposing to annex territory shall initiate the  
10 interlocal agreement process by sending notice to the fire protection  
11 district representative and county representative stating the code  
12 city's interest to enter into an interlocal agreement negotiation  
13 process. The parties have forty-five days to respond in the  
14 affirmative or negative. A negative response must state the reasons  
15 the parties do not wish to participate in an interlocal agreement  
16 negotiation. A failure to respond within the forty-five day period is  
17 deemed an affirmative response and the interlocal agreement negotiation  
18 process may proceed. The interlocal agreement process may not proceed  
19 if any negative responses are received within the forty-five day  
20 period.

21           (c) The interlocal agreement must describe the boundaries of the  
22 territory proposed for annexation and must be consistent with the  
23 boundaries identified in an ordinance describing the boundaries of the  
24 territory proposed for annexation and setting a date for a public  
25 hearing on the ordinance. If the boundaries of the territory proposed  
26 for annexation are agreed to by all parties, a notice of intention must  
27 be filed with the boundary review board created under RCW 36.93.030.  
28 However, the jurisdiction of the board may not be invoked as described  
29 in RCW 36.93.100 for annexations that are the subject of such  
30 agreement.

31           (2) An interlocal annexation agreement under this section must  
32 include the following:

33           (a) A statement of the goals of the agreement. Goals must include,  
34 but are not limited to:

35           (i) The transfer of revenues and assets between the fire protection  
36 district and the code city;

37           (ii) A consideration and discussion of the impact to the level of  
38 service of annexation on the unincorporated area, and an agreement that



1 the impact on the ability of fire protection and emergency medical  
2 services within the incorporated area must not be negatively impacted  
3 at least through the budget cycle in which the annexation occurs;

4 (iii) A discussion with fire protection districts regarding the  
5 division of assets and its impact to citizens inside and outside the  
6 newly annexed area;

7 (iv) Community involvement, including an agreed upon schedule of  
8 public meetings in the area or areas proposed for annexation;

9 (v) Revenue sharing, if any;

10 (vi) Debt distribution;

11 (vii) Capital facilities obligations of the code city, county, and  
12 fire protection districts;

13 (viii) An overall schedule or plan on the timing of any annexations  
14 covered under this agreement; and

15 (ix) A description of which of the annexing code cities'  
16 development regulations will apply and be enforced in the area.

17 (b) The subject areas and policies and procedures the parties agree  
18 to undertake in annexations. Subject areas may include, but are not  
19 limited to:

20 (i) Roads and traffic impact mitigation;

21 (ii) Surface and storm water management;

22 (iii) Coordination and timing of comprehensive plan and development  
23 regulation updates;

24 (iv) Outstanding bonds and special or improvement district  
25 assessments;

26 (v) Annexation procedures;

27 (vi) Distribution of debt and revenue sharing for annexation  
28 proposals, code enforcement, and inspection services;

29 (vii) Financial and administrative services; and

30 (viii) Consultation with other service providers, including water-  
31 sewer districts, if applicable.

32 (c) A term of at least five years, which may be extended by mutual  
33 agreement of the code city, the county, and the fire protection  
34 district.

35 (3) Except as provided in subsection (4) of this section, if the  
36 fire protection district, annexing code city, and county reach an  
37 agreement on the enumerated goals, or if only the annexing code city  
38 and county reach an agreement on the enumerated goals, the code city

1 may adopt an annexation ordinance, but the annexation ordinance  
2 provided for in this section is subject to referendum for forty-five  
3 days after its passage, provided that no referendum shall be allowed  
4 for an annexation under this section if the fire protection district,  
5 annexing code city, and the county reach agreement on an annexation for  
6 which a code city has initiated the interlocal agreement process by  
7 sending notice to the fire protection district representative and  
8 county representative prior to July 28, 2013. Upon the filing of a  
9 timely and sufficient referendum petition with the legislative body of  
10 the code city, signed by qualified electors in a number not less than  
11 ten percent of the votes cast in the last general state election in the  
12 area to be annexed, the question of annexation must be submitted to the  
13 voters of the area in a general election if one is to be held within  
14 ninety days or at a special election called for that purpose according  
15 to RCW 29A.04.330. Notice of the election must be given as provided in  
16 RCW 35A.14.070, and the election must be conducted as provided in the  
17 general election laws under Title 29A RCW. The annexation must be  
18 deemed approved by the voters unless a majority of the votes cast on  
19 the proposition are in opposition to the annexation.

20 After the expiration of the forty-fifth day from, but excluding,  
21 the date of passage of the annexation ordinance, if a timely and  
22 sufficient referendum petition has not been filed, the area annexed  
23 becomes a part of the code city upon the date fixed in the ordinance of  
24 annexation.

25 (4) For areas within counties with a population that equals or  
26 exceeds four hundred thousand and that is bordered by the Columbia  
27 river, the question of annexation shall be submitted to the voters of  
28 the area, if the area contains at least one hundred voters, in a  
29 general election if one is to be held within ninety days or at a  
30 special election called for that purpose according to RCW 29A.04.330.  
31 Notice of the election shall be given as provided in RCW 35A.14.070 and  
32 the election shall be conducted as provided in the general election  
33 law. If the area to be annexed contains less than one hundred voters,  
34 at least a majority of the voters in the area to be annexed must give  
35 their written consent to the annexation. The annexation shall be  
36 deemed approved by the voters unless a majority of the votes cast on

1 the proposition are in opposition to the annexation or unless less than  
2 a majority provide their written consent to the annexation.

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