

HOUSE BILL REPORT

ESSB 5522

As Passed House:
March 3, 2020

Title: An act relating to providing code cities with the ability to annex unincorporated areas pursuant to a jointly approved interlocal agreement with the county.

Brief Description: Providing code cities with the ability to annex unincorporated areas pursuant to a jointly approved interlocal agreement with the county.

Sponsors: Senate Committee on Local Government (originally sponsored by Senator Takko).

Brief History:

Committee Activity:

Local Government: 2/26/20, 2/28/20 [DP].

Floor Activity:

Passed House: 3/3/20, 68-28.

Brief Summary of Engrossed Substitute Bill

- Allows counties and code cities to jointly initiate an annexation process for unincorporated territory by jointly agreeing and adopting an interlocal agreement.
- Requires a public hearing to be held by the county's and code city's legislative bodies, separately or jointly, before the agreement is executed.
- Requires a code city proposing to annex territory to give notice of the annexation to an adjacent city if its transportation network provides a majority of the access to the territory proposed for annexation and to certain special purpose districts that include areas proposed for annexation, and allows an adjacent city or special purpose district that has been provided notice to prevent the proposed annexation.
- Requires that areas zoned for residential use within the annexed area maintain a zoning designation that allows residential development for five years after the annexation.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 6 members: Representatives Pollet, Chair; Duerr, Vice Chair; Griffey, Assistant Ranking Minority Member; Appleton, Goehner and Senn.

Minority Report: Do not pass. Signed by 1 member: Representative Kraft, Ranking Minority Member.

Staff: Kellen Wright (786-7134).

Background:

Code cities are those cities with a population of 1,500 or more that operate under the Optional Municipal Code, which grants broad home rule powers.

Current law authorizes multiple methods for code cities to annex unincorporated territory.

Election Method.

This method of annexation can be initiated by voters or by the city council. The city council can initiate the process by adopting a resolution calling for the annexation by election. Voters can initiate this process by filing a petition signed by 10 percent of voters in the area to be annexed, that voted in the last general election. The annexation is approved by a majority vote.

Direct Petition Methods.

Sixty Percent Petition Method. This annexation method is initiated by filing a petition signed by either 10 percent of the residents in the area to be annexed, or the owners of the area to be annexed that represent 10 percent of the assessed value. After the city agrees to the annexation, a petition must be signed by the owners of the property representing 60 percent of the assessed valuation of the proposal area. The petition is then filed with the city and transmitted to the county. The annexation is finalized by the adoption of an ordinance by the city council.

Alternative Petition Method. This annexation method is initiated in the same manner as the 60 percent petition method. After the city agrees to the annexation, a second petition is then prepared and must be signed by at least 50 percent of the registered voters in the area, and by the owners of at least 50 percent of the acreage in the proposed annexation. If the city decides to annex, it adopts an ordinance. After adopting the ordinance, a copy is filed with the county. The annexation is effective on the date the ordinance is adopted.

Unincorporated Islands Method.

A code city may annex unincorporated "islands" of territory within the city using certain procedures. The city council may initiate annexation proceedings by resolution if the area of the proposed annexation:

- contains less than 175 acres and all of its boundaries are contiguous to the city; or
- is of any size, contains residential property owners, and at least 80 percent of its boundaries are contiguous to the city. Annexations conducted under this provision must be within the same county and urban growth area as the city, and the city must be planning under the Growth Management Act.

The resolution must describe the boundaries of the area to be annexed, state the number of voters within the subject area, and set a date for a public hearing on the annexation resolution. Notice of the hearing must be given by publication at least once a week for two weeks prior to the date of the hearing in one or more newspapers of general circulation within the code city and within the area to be annexed. At the hearing, residents or property owners of the area to be annexed must be afforded an opportunity to be heard. The city legislative body may then adopt an ordinance annexing the territory; the effective date of this ordinance may not be less than 45 days after its passage. During the 45 days after passage of the ordinance, it is subject to a referendum. If no referendum petition is filed within 45 days after passage of the ordinance, the area annexed becomes part of the city.

Interlocal Cooperation Act.

Washington's Interlocal Cooperation Act authorizes public agencies to contract with other public agencies via interlocal agreements that enable cooperation among the agencies to perform governmental activities and deliver public services. The purpose of such agreements is to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby providing the services and facilities that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities. Local governments engage in a wide array of cooperative efforts with each other, state agencies, and other governmental entities, and intergovernmental cooperation can take many forms.

Special Purpose Districts.

A special purpose district is a limited purpose local government separate from a city, town, or county government.

A fire protection district is a special purpose district that can provide fire protection, fire suppression, and emergency medical services within its boundaries. A regional fire protection service authority is formed from two or more fire protection districts.

A water-sewer district is a special purpose district that provides water, sewer, and/or related services to areas within the district.

A transportation benefit district is a special purpose district that can raise revenue for transportation projects or improvements within the district.

Summary of Bill:

As an alternative method of annexation, a code city may annex unincorporated territory pursuant to an interlocal agreement between the city and the county.

The legislative bodies of the county and city may jointly initiate an annexation process for unincorporated territory by jointly agreeing and adopting an interlocal agreement. The interlocal agreement must describe the agreed upon boundaries, the effective date of the area to be annexed, and set a date for a public hearing on the annexation. The interlocal agreement must ensure that parcels zoned for residential development within the annexed area maintain a zoning designation that allows for residential development at a minimum

gross residential density at least equal to that provided before annexation for five years after the annexation. The interlocal agreement may also include phased annexation of territory, and may be amended following the same process as initial approval, including additional territory. If the annexation agreement includes phased annexation of territory, the legislative body must adopt a separate ordinance at the time of annexation of each phase.

The code city must provide notice of the proposed annexation to any fire protection district, regional fire service authority, water-sewer district, or transportation benefit district that includes within its district an area that the code city is proposing to annex. The code city must also provide notice to a city adjacent to the area that the code city is proposing to annex, if the transportation network of the adjacent city provides a majority of the egress and ingress to the territory that is proposed to be annexed. Once provided notice, the district or adjacent city has 30 days to provide the code city with written notice of its interest to become a party to the interlocal agreement. If notice is provided by the district or adjacent city, then it becomes a party to the agreement. If a district or adjacent city becomes a part of the agreement and does not approve it, then the proposed annexation cannot proceed.

A public hearing must be held by each legislative body, separately or jointly, before the agreement is executed. Notice of the hearing must be given by publication at least once a week for four weeks prior to the date of the hearing in one or more newspapers of general circulation within the code city and within the area to be annexed, as well as on the legislative body's website (if the legislative body has the ability to do so). At the hearing, residents or property owners of the area to be annexed must be afforded an opportunity to be heard. Following the hearing, if the legislative body determines to effect the annexation, the legislative body may then adopt an ordinance annexing the territory and must subsequently file a copy of the certified ordinance with the board of county commissioners where the annexed property is located.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Unincorporated islands and illogical city boundaries created problems for providing services. Annexations, however, can be difficult, and the current methods all have problems. Because of issues with current law, useful annexations do not occur. This bill offers a way to facilitate orderly annexations through cities' and counties' mutual understanding and cooperation. The bill provides protections for the public, for special purpose districts, and for adjacent communities. The city and county must both hold public hearings on the annexation before it can occur, and requires ample notice to the public. These annexations generally occur in urban growth areas, and the designation of an urban growth area involves the public and property owners throughout the process.

(Opposed) This law, while perhaps well-intentioned, is offensive and pernicious to property owners. It removes citizens' self-determination in favor of municipal oligarchs. It eliminates citizens' right to vote on annexations and allows the violation of the will of the majority of property owners in annexed areas. Properties owners have had the ability to vote for decades, and this removes it. It addresses the needs of the cities and counties, but leaves out the consent of the majority. Unincorporated landowners don't have lobbyists and their rights are being trampled on.

Persons Testifying: (In support) Senator Takko, prime sponsor; Carl Schroeder, Association of Washington Cities; Rick Walk, City of Lacey; John Hutchings, Thurston County Board of Commissioners; and Paul Jewell, Washington State Association of Counties.

(Opposed) Arthur West.

Persons Signed In To Testify But Not Testifying: None.