

# HOUSE BILL REPORT

## SHB 1231

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**As Passed House:**

February 14, 2003

**Title:** An act relating to providing a new direct petition annexation method.

**Brief Description:** Providing for direct petition annexations.

**Sponsors:** By House Committee on Local Government (originally sponsored by Representatives Romero, Schindler, Upthegrove, Jarrett, Clibborn, Armstrong, Hatfield, Clements, Moeller, Mielke, Morris, Ericksen, Berkey, Roach, Simpson, Linville, Fromhold, Dunshee, Kirby, Ruderman, Hunt, Nixon, McDermott, Holmquist, Anderson, Chase and Condotta).

**Brief History:**

**Committee Activity:**

Local Government: 1/30/03, 2/6/03 [DPS].

**Floor Activity:**

Passed House: 2/14/03, 95-2.

**Brief Summary of Substitute Bill**

- Provides a new direct petition annexation method for municipal annexations of inhabited land based on signatures of owners of a majority of the acreage and a majority of registered voters.
- Provides a new direct petition annexation method for municipal annexations of uninhabited land based on signatures of owners of a majority of the acreage.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Romero, Chair; Upthegrove, Vice Chair; Schindler, Ranking Minority Member; Jarrett, Assistant Ranking Minority Member; Ahern, Berkey, Clibborn, Edwards, Ericksen, Mielke and Moeller.

**Staff:** Ethan Moreno (786-7386).

**Background:**

Cities may be classified as code cities or non-code cities and towns. Code cities have broad statutory home rule authority in matters of local concern. Code cities and non-code cities and towns have separate statutory requirements for governance and operation.

### Annexation Methods

Present statute provides multiple methods for municipal annexations by code and non-code cities and towns. While requirements vary, the annexation methods employed by code and non-code cities and towns are generally similar. A summary of the methods is as follows:

- Resolution/election method - requires approval of city or town resolutions by voters residing in the proposed annexation area;
- Petition/election method - includes initiatives petitioned by and approved by the voters residing in the proposed annexation area;
- Resolution only method - includes annexations for municipal purposes approved by a majority of the city or town legislative body, or other actions not requiring voter or property owner action; and
- Direct petition method - requires approval of direct petitions signed by property owners comprising a specific percentage of land value, without voter action.

Under the direct petition method, annexation proceedings are commenced by filing a written notice of initiation to the city or town legislative body. The notice, which indicates an intent to begin the annexation process, must be signed by the owners of not less than 10 percent in value of the area proposed for annexation. In non-code cities and towns, annexation proceedings may also be commenced by approval of at least 10 percent of the residents in the annexation area.

Prior to the circulation of annexation petitions, the legislative body of the city or town is required to meet with the initiating parties and determine, among other issues, whether the city or town will accept, reject, or modify the proposed annexation. There is no appeal from the decision of the legislative body.

The signature requirements for direct petition annexations differ for code and non-code cities and towns. Generally, direct petitions for annexation by code cities must be signed by the owners of at least 60 percent of the land value of the property proposed for annexation. By comparison, direct petitions for annexation by non-code cities generally must be signed by the owners of at least 75 percent of the land value of the property proposed for annexation.

Following the filing of the required number of signatures with the petitioned city or town, the city or town legislative body may set a date for a public hearing on the annexation proposal. Notification of the hearing must be published in a local newspaper of general

circulation and posted in the proposed annexation territory. If the city or town legislative body decides to annex any or all of the territory described in the petition, it must do so by adopting an ordinance that also establishes the annexation effective date.

### Supreme Court Action

On March 14, 2002, the Washington Supreme Court ruled in *Grant County Fire Protection District No. 5 v. City of Moses Lake*, 145 Wn.2d 702 (2002), that the direct petition method of annexation provided for in statute violates the Privileges and Immunities Clause, Article I, Section 12 of the Washington Constitution. The Court reasoned that basing petitions on signatures of the owners of a certain land value granted owners of highly valued property a privilege not afforded to other similarly situated parties.

On October 11, 2002, the Court granted a motion for reconsideration of its earlier decision. Reconsideration arguments are scheduled for March 2003.

### Petition Sufficiency

Present statutes for code and non-code cities and towns specify rules governing petition sufficiency, including provisions for petition text, signature authentication, and eligibility criteria.

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### **Summary of Substitute Bill:**

A new direct petition method of annexation for code and non-code cities and towns is established, and existing statutes governing the sufficiency of petitions are amended. The new annexation method is established as an alternative to existing statutory provisions for annexations by cities and towns. The direct petition statutes associated with the *Grant County Fire Protection District No. 5 v. City of Moses Lake*, 145 Wn.2d 702 (2002), decision are not repealed or amended.

Within this new method, direct petition annexation proceedings are commenced by filing written notice to the legislative body of the city or town. The owners of at least 10 percent of the proposed annexation area may commence petition initiations in code cities. In non-code cities and towns, annexation proceedings may also be commenced by approval of at least 10 percent of the residents in the annexation area. The legislative body of the city or town must meet with the initiating parties and decide whether to accept, reject, or modify the proposed annexation. Approval by the legislative body is required prior to petition circulation and cannot be appealed.

Direct petition annexations of inhabited land must be signed by the owners of a majority of the acreage and a majority of the registered voters in the proposed annexation area.

Direct petitions for annexation of uninhabited land must be signed by the owners of a majority of the acreage in the proposed annexation area.

The new method also provides that, upon filing the required number of signatures with the petitioned city or town, the city or town legislative body may set a date for a public hearing for the annexation. Hearing notifications must be published in a newspaper of general circulation and posted in the annexation territory. If the city or town legislative body decides to annex any or all of the territory, it must do so by adopting an ordinance that also establishes the annexation effective date.

Existing statutes governing the petition sufficiency requirements are amended to allow for sufficiency determinations to be made by more than one officer and to specify petition signing eligibility requirements for multiple owners of a single parcel.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** Annexations are important to cities of all sizes. Counties are reluctant to provide infrastructure to unincorporated areas if they know that they will lose their investments. Presently, there is no way to annex uninhabited lands. A "fix" is urgently needed. This modified procedure respects the decision of the Supreme Court. Support exists for an amendment to prevent losses of fire protection district assets resulting from annexations.

**Testimony Against:** None.

**Testified:** Dave Williams, Association of Washington Cities; Chuck Mosher, City of Bellevue and Association of Washington Cities; Gary McLean, City of Puyallup; Ryan Spiller, Washington Fire Commissioners Association; Kristen Sawin, Association of Washington Business; Genesee Atkins, 1000 Friends of Washington; Scott Merriman, Washington State Association of Counties; and Lloyd Baker, Washington State Boundary Review Board.