

# HOUSE BILL REPORT

## SSB 5409

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### As Reported by House Committee On:

Local Government

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

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

**Sponsors:** Senate Committee on Land Use & Planning (originally sponsored by Senators Mulliken, T. Sheldon, Roach, Fairley, Schmidt, Kline, Swecker, Reardon, Deccio, Doumit, McCaslin, Parlette, Esser, Rasmussen and Shin).

### Brief History:

#### Committee Activity:

Local Government: 3/26/03, 4/3/03 [DPA].

#### Brief Summary of Substitute Bill (As Amended by House Committee)

- Establishes 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.
- Establishes 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:** Do pass as amended. 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:

#### Annexation Methods

Multiple methods for municipal annexations are currently authorized. While code and

non-code cities and towns have separate statutory requirements for governance and operation, the annexation methods employed 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 current law, 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 at least 10 percent in value of the property for which annexation is sought. In non-code cities and towns, annexation proceedings also may be commenced by approval of at least 10 percent of the residents in the proposed 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. The Court heard reconsideration arguments on March 25, 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 Amended Bill:**

A new direct petition method of annexation for code and non-code cities and towns is established, and existing statutes governing petition sufficiency 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. In code cities, the initiating party or parties must own at least 10 percent of the acreage proposed for annexation. In non-code cities and towns, the same 10 percent criteria applies with an alternative method allowing annexation proceedings to 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 residing in the area for which annexation is proposed. 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.

**Amended Bill Compared to Substitute Bill:**

One of two duplicative compliance references to RCW 35A.01.040 within the same sentence is removed. References to "property" within the petition initiation provisions are replaced with "acreage."

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

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

**Testimony For:** The direct petition ruling by the Supreme Court affected more than just the City of Moses Lake - it affected every city and county in the state as well as the business environment. Additionally, the ruling affected whether cities can grow without conducting costly annexation elections. This bill will stand up in court and will meet constitutional requirements. The bill does not address past annexations conducted under the existing direct petition method. The emergency clause of the bill will, following approval by the Governor, allow cities to proceed with annexations under the new method. Mayors and developers alike support this bill. Although the Supreme Court heard reconsideration arguments, a decision is not expected quickly. Cities, counties, the business community, and developers support this bill. The vast majority of annexations involve territory with very few inhabitants. The uncertainty that resulted from the Court's decision will be resolved with this bill. This bill could be clarified by eliminating inconsistencies between internally referenced terms.

**Testimony Against:** None.

**Testified:** Senator Mulliken, prime sponsor; Dave Williams, Association of Washington Cities; Scott Merriman, Washington State Association of Counties; Kris Tefft, Building Industry Association of Washington; Genesee Adkins, 1000 Friends of Washington; and Mike Ryherd, American Planning Association.