

HOUSE BILL REPORT

HB 2938

As Reported by House Committee On:
Local Government

Title: An act relating to clarifying annexation procedures between cities and fire districts.

Brief Description: Clarifying annexation procedures between cities and fire districts.

Sponsors: Representatives Simpson, Schindler, Wood, Hankins and VanDeWege.

Brief History:

Committee Activity:

Local Government: 1/29/08, 2/5/08 [DPS].

Brief Summary of Substitute Bill

- Repeals all general provisions governing the incorporation or annexation of territory within fire protection districts (fire districts).
- Obligates cities and towns that incorporate or annex territory within a fire district to enter into a service agreement that addresses revenue, asset, and employee transfers with the affected district.
- Modifies tax collection provisions applying to annexations of territory within a fire district.
- Modifies the Growth Management Act and other provisions to specify that cities and fire districts are the most appropriate providers of urban governmental services.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Simpson, Chair; Takko, Vice Chair; Warnick, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Eddy, Nelson and Schmick.

Staff: Ethan Moreno (786-7386).

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.

Background:

City Governance - General Organization

Cities are classified according to their population at the time of organization or reorganization. In addition to first class, second class, and town classifications, cities and towns may also organize under the optional municipal code, an alternative form of classification that provides "code" cities with broad authority over matters of local control.

Special Purpose Districts

Statute provides for the establishment, management, operation, and funding of numerous special purpose districts. Examples include fire protection districts, districts charged with providing fire prevention, suppression, and emergency medical services to protect life and property within jurisdictional boundaries.

Annexation or Incorporation of Fire Districts - 60 Percent or More of Assessed Value

If a code city annexes or incorporates 60 percent or more of the assessed value of a fire protection district (fire district or district), ownership of all district assets must be vested in the city. A payment from the city for fire protection services based upon the real property value in the district remaining outside the incorporated or annexed area is a condition for the transfer of assets.

The fire district may require, by a majority vote of voters residing outside the annexed area, the annexing city to assume fire protection, operation, and maintenance responsibilities in exchange for a reasonable fee from the city.

While the laws governing fire district annexations for non-code cities and towns are generally similar, non-code statutes include provisions permitting:

- a city or town to be annexed by another fire district (with a corresponding transfer of assets);
- voters residing outside the incorporated city or town area to vote on the assumption of fire protection, operation, and maintenance responsibilities;
- the partial transfer of fire district liabilities when more than 60 percent, but less than 100 percent, is annexed or incorporated into a city or town; and
- delays in the transfer of district assets when agreed to by a city or town and a board of fire commissioners.

Additionally, if the entire fire district is in an area that incorporates or is annexed to a fire district or non-code city or town, all district assets and liabilities must be transferred to the newly incorporated city or town, annexing city, or annexing fire district on the date the district ceases to provide fire protection services.

Annexation or Incorporation of Fire Districts - Less Than 60 Percent of Assessed Value

If less than 60 percent of the assessed value of a fire district is annexed or incorporated into a non-code city or town, or annexed into another fire district, district assets are not transferred. The district from which territory is annexed, however, must pay the annexing city, town, or fire district for fire protection services. The payment is based upon the real property value in

the district lying within the incorporated or annexed area. "Assets," with respect to these payments, are total district assets reduced by liabilities, including bonded indebtedness. Additionally, statute permits delaying asset transfers when agreed to by a city or town and a board of fire commissioners.

If the annexed or incorporated territory comprises less than 5 percent of the district's area, no district payment for services or transfer of assets must be made unless:

- an annexing city or town adopts a resolution finding that the annexation or incorporation will impose a significant increase in the fire suppression responsibilities of the city or town with a corresponding reduction in responsibilities for the district; and
- the district concurs with the city or town finding.

If no agreement is reached between the annexing city or town and the fire protection district, the parties must enter into binding arbitration.

Code city provisions for asset transfers resulting from incorporations of less than 60 percent of a district are largely similar, but exclude provisions for district annexations by other fire districts, and provides for asset transfer delays agreed upon between newly formed cities, towns, and fire district commissioners.

Tax Collection and Transfer Provisions for Annexations

Tax collection requirements for annexed properties are specified in statute. Among other provisions, when part of a fire district is annexed to a city or town, the fire district taxes on annexed property that were levied, but not collected nor delinquent at the time of the annexation, must be paid to the annexing city or town at times required by the county. These county-required times must be no less frequently than by July 10 for collections through June 30, and by January 10 for collections through December 31 following the annexation.

At the option of a newly incorporated city or town's governing body, any fire district or library district serving any part of the newly incorporated area must continue to provide services to the area until the city or town receives its own property tax receipts.

Growth Management/Urban Growth Areas

The Growth Management Act (GMA), the comprehensive land use planning framework for the state's county and city governments, includes numerous requirements relating to the use or development of land in urban and rural areas. Among other planning requirements, counties that fully plan under the GMA (planning counties) must designate urban growth areas (UGAs) or areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature.

Policy directives pertaining to the provision of urban governmental services are specified in requirements for UGAs. These directives provide that:

- in general, it is not appropriate that urban governmental services be extended to or expanded in rural areas; and

- in general, cities are the units of local government most appropriate to provide urban governmental services.

"Urban governmental services" or "urban services," as defined in the GMA, include public services and public facilities at an intensity historically and typically provided in cities. Examples include: storm and sanitary sewer systems; domestic water systems; fire and police protection services; and other public utilities associated with urban areas and normally not associated with rural areas.

Service Agreements

Counties, cities, and special purpose districts may enter into service agreements for the financing and provision of governmental services and facilities.

A service agreement must describe:

- the governmental service or services addressed by the agreement;
- the geographic area covered by the agreement;
- which local government or governments are to provide each of the services addressed by the agreement within the subject area; and
- the term of the agreement, if any.

Service agreements become effective when public hearing and approval requirements are met.

Legislative intent language enacted when service agreements were authorized specifies that, in general, cities are the units of local government most appropriate to provide urban governmental services, and that counties are the units of local government most appropriate to provide regional governmental services.

Summary of Substitute Bill:

Annexation or Incorporation of Fire Districts

All general provisions governing the annexation or incorporation of territory within fire districts are repealed.

Service Agreements and other Provisions Pertaining to Incorporations and Annexations

New provisions pertaining to incorporations of non-code cities and towns are specified. A non-code city or town must, prior to the effective date of the incorporation, enter into a service agreement with each fire district whose boundaries will be changed by the incorporation. The service agreement must address the transfer of revenues and assets between the district and the city or town. In addressing these transfers, the agreement must consider:

- the impact of the incorporation on the ability of the fire district to maintain existing levels of service in the portions of the district outside the incorporation; and
- the impact on the provision of fire protection and emergency medical services within the incorporation area.

Service agreements must also include provisions for transferring district employees to the incorporating city or town on a pro rata basis that is determined by the number of district employees prior to the incorporation and the percentage of the district's assessed value affected by the incorporation. The employee transfer requests must be made in writing by the district to the incorporating city or town and must be honored by the city or town in order of employee seniority.

If an agreement is not entered into prior to the effective date of the incorporation, the following apply until an agreement is finalized:

- The fire district must continue to provide service to the annexed area;
- The tax levy transfer provisions obligating qualifying fire district levy proceeds to be paid to the annexing city or town are suspended; and
- At the time the city or town property taxes are levied on the annexed properties, the city or town must pay the district an amount equaling what the fire district would have received in tax and/or benefit charge revenues if the property had not been removed from the district.

In addition to applying to qualifying incorporation proceedings, the service agreement requirements apply to annexations of unincorporated areas by code cities and non-code cities and towns.

A provision allowing a newly incorporated city or town to compel a fire district to continue providing services to the incorporated area until the city or town receives its own property tax receipts is deleted.

Intended Provider of Services - GMA and Service Agreement Intent Language

A provision in the GMA specifying that, in general, cities are the most appropriate units of local government to provide urban governmental services is amended to specify that cities and fire districts are the most appropriate providers of these services.

Similarly, the statutory intent language for service agreements is amended to specify that, in general, cities and fire districts are the units of local government that are most appropriate to provide urban governmental services.

Substitute Bill Compared to Original Bill:

The substitute bill includes new language specifying that service agreements between fire districts and cities or towns that are annexing or incorporating part of a district must include provisions for transferring district employees to the annexing or incorporating entity on a pro rata basis. Specifies that employee transfer requests must be made in writing by districts and honored by the applicable city or town in order of employee seniority.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) Fire districts have been working with cities to develop fair annexation outcomes. Cities and districts need to discuss the provision of fire services that affect the annexed and non-annexed areas. This bill is an attempt to ensure that cities and fire districts are on an equal footing during annexation discussions. Once the footing has been equalized, this bill requires cities and districts to negotiate service agreements for territory within and outside of the annexation. If an agreement is not reached, this bill requires the financial and service provisions that preceded the annexation to continue. This bill protects citizens equally, protects jobs, and provides other benefits. In some cases, districts can provide better fire protection services than cities.

(Opposed) Cities are willing to discuss governance transition issues with counties and special purpose districts. Cities are very concerned about the amendment to the GMA's urban service provision language that is in the bill. Service agreements are not always attainable. As proposed, this bill would decrease fire protection services. Response times in recently-annexed areas have decreased. Volunteer departments are staffed by good people, but they have slower response times. This bill would not be favorable to district residents that have been financing the accumulation of district assets.

Persons Testifying: (In support) Ryan Spiller, Washington Fire Commissioners; and Ed Widdis, Snohomish County Fire District.

(Opposed) Dave Williams, Association of Washington Cities; and Dave Zabell, City of Yakima.

Persons Signed In To Testify But Not Testifying: Mike Matlock, City of Tumwater; and Michael Morales, City of Yakima.