

HOUSE BILL REPORT

SHB 1457

As Passed House:

March 5, 2009

Title: An act relating to limiting the authority of boundary review boards to expand an annexation to twice the area of the proposed annexation.

Brief Description: Limiting the authority of boundary review boards.

Sponsors: House Committee on Local Government & Housing (originally sponsored by Representatives Nelson and Simpson).

Brief History:

Committee Activity:

Local Government & Housing: 2/2/09, 2/11/09 [DPS].

Floor Activity

Passed House: 3/5/09, 63-34.

Brief Summary of Substitute Bill

- Makes changes to provisions governing the authority of Boundary Review Boards (Boards) to modify proposals before them.
- Prohibits Boards from adding an amount of territory to proposed city or town annexations that exceeds 100 percent of the area within the proposal before a Board.
- Establishes new public hearing and notice requirements for Boards that increase the area of city or town annexations.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Simpson, Chair; Nelson, Vice Chair; Ericksen, Assistant Ranking Minority Member; Miloscia, Springer and White.

Minority Report: Do not pass. Signed by 3 members: Representatives Angel, Ranking Minority Member; Cox and Short.

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.

Staff: Ethan Moreno (786-7386)

Background:

Boundary Review Boards.

Boundary Review Boards (Boards) are authorized in statute to guide and control the creation and growth of municipalities in metropolitan areas. While statute provides for the establishment of Boards in counties with at least 210,000 residents, a Board may be created and established in any other county. Board members are appointed by the Governor and by local government officials from within the applicable county.

Upon receiving a timely and sufficient request for review, and following an invocation of a Board's jurisdiction, a Board must review and approve, disapprove, or modify proposed actions, including actions pertaining to the creation, incorporation, or change in the boundary of any city, town, or special purpose district. In reaching decisions on proposed actions, Boards must satisfy public hearing requirements and must attempt to achieve objectives prescribed in statute, including the preservation of natural neighborhoods and communities, and the use of physical boundaries. Generally, decisions on proposed actions must be made within 120 days of the Board receiving a valid request for review.

Board modifications of proposed actions must adhere to legal requirements and limitations. Examples of these provisions are as follows:

- modifications must be based upon evidence to support a conclusion that the proposed action is inconsistent with one or more prescribed objectives;
- the amount of territory that Boards may add to town annexation proposals is limited by the size of the original proposal; and
- Boards may not modify the proposed incorporation of a city with an estimated population of 7,500 or more by removing or adding territory from the proposal if that territory constitutes 10 percent or more of the area proposed for incorporation.

Additionally, Board decisions in counties planning under the Growth Management Act (GMA) must be consistent with the planning goals of the GMA and other provisions.

Supreme Court Action.

On November 9, 2006, the Washington Supreme Court (Court) ruled in *Interlake Sporting Association, Inc. v. Washington State Boundary Review Board for King County, and City of Redmond*, 158 Wn.2d 545 (2006), that the King County Board exceeded its statutory authority when it required the City of Redmond to annex an area that was more than three times larger than the area the city intended to annex. In its ruling, the Court indicated that Boards may modify or adjust boundaries of proposed actions in ways that do not increase the total acreage of the proposal.

Summary of Substitute Bill:

Boards, subject to certain requirements, may modify proposals by adding territory that would increase a proposal's total area. A provision prohibiting Boards from adding an amount of

territory to proposed town annexations that is greater than the original proposal is replaced with a provision prohibiting Boards from adding an amount of territory to proposed city or town annexations that constitutes more than 100 percent of the area within the proposal before the Board. A Board may not increase the area of a city or town annexation unless it holds a separate public hearing on the proposed increase and provides at least 10 days notice of the hearing to the registered voters and property owners residing within the area subject to the proposed increase.

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) This is a response to a 2006 decision of the Washington Supreme Court. Currently, Boards can modify annexation proposals, but they cannot increase the total acreage of a proposal. This bill allows Boards to double the size of an annexation proposal. This bill will restore powers that Boards had before the 2006 decision. Boards play an important role in boundary change proposals. Boards usually modify annexation proposals at the requests of cities and fire districts. Boards are interpreting the Supreme Court decision narrowly, and this bill will allow them to meet their statutory obligations.

(With concerns) Allowing Boards to increase annexation proposals by 100 percent is questionable. The City of Spokane is considering an annexation of 10 square miles. Under this bill a Board could expand that annexation to 20 square miles.

(Opposed) Annexations require a public process. Allowing a Board to double the size of an annexation proposal is contrary to that public process.

Persons Testifying: (In support) Representative Nelson, prime sponsor; and Art Shotwell and Michael Marciand, Washington Association of Boundary Review Boards.

(With concerns) Mike Burgess, Spokane County.

(Opposed) Ryan Spiller, Washington Fire Commissioners.

Persons Signed In To Testify But Not Testifying: None.