

SENATE BILL REPORT

ESSB 5808

As Passed Senate, March 6, 2009

Title: An act relating to the annexation of unincorporated areas served by fire protection districts.

Brief Description: Concerning the annexation of unincorporated areas served by fire protection districts.

Sponsors: Senate Committee on Government Operations & Elections (originally sponsored by Senator Fairley).

Brief History:

Committee Activity: Government Operations & Elections: 2/12/09, 2/19/09 [DPS, w/oRec].

Passed Senate: 3/06/09, 43-2.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5808 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach, Ranking Minority Member; McDermott and Pridemore.

Minority Report: That it be referred without recommendation.

Signed by Senator Benton.

Staff: Sharon Swanson (786-7447)

Background: When a fire protection district is annexed or incorporated, an employee of the fire protection district may transfer employment to the civil service system of the city or town fire department when three conditions exist. First, the employee worked exclusively in performing the duties, powers, and functions of the fire department at the time the annexation or incorporation occurred. Second, the employee is separated from employment with the district as a result of the annexation or incorporation. And third, the employee is able to perform the duties and meets the qualifications of the position to be filled.

Once the Civil Service Commission receives an employee's written request to transfer employment the transfer must be made. Transferred employees are placed on probation for

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the same period as new employees of the fire department of the annexing city or town. An employee on probation can be removed from his or her position for virtually any reason unless the individual has already completed a probationary period as a firefighter prior to the transfer, in such case termination must be for cause.

During this probationary period the employee is eligible for promotion before the probationary period ends; receives a salary at least equal to that received by new employees; and will have the rights, benefits, and privileges that the employee would be entitled to as a member of the city or town fire department from the beginning of employment with the district. Accrued benefits are transferable so long as the receiving agency offers comparable benefits.

Only transferring employees that are needed will be placed on the payroll. The fire department determines the need and employees are taken in order of seniority. Employees who are not transferred and were not needed are placed on a re-employment list, in order of seniority, for future employment in the civil service system. Employees placed on the re-employment list remain on that list for a period no longer than three years unless there is an agreement providing otherwise.

Classified cities are organized under RCW Title 35. Classified cities have multiple processes to annex territory, including a resolution/election method, a petition/election method, and a direct petition method. Each method of annexation must follow different processes set forth in statute.

Under the direct petition method of annexation, the petition for annexation must be signed by owners of not less than 75 percent of the assessed value of the property subject to the annexation.

Summary of Engrossed Substitute Bill: If any portion of a fire protection district is proposed for annexation to or incorporation into a city, code city, or town, both the fire protection district and the city, code city, or town, must jointly inform the employees of the fire protection district about hires, separations, terminations, and any other changes in employment that are a direct consequence of annexation or incorporation at the earliest reasonable opportunity.

Upon transfer, unless an agreement for different terms of transfer is reached between the collective bargaining representatives of the transferring employees and the participating fire protection jurisdictions, an employee is entitled to the employee rights, benefits, and privileges to which that employee would have been entitled as an employee of the fire protection district, including rights to:

- compensation at least equal to the level of compensation at the time of transfer, unless the employee's rank and duties have been reduced as a result of the transfer;
- retirement, vacation, sick leave, and any other accrued benefit;
- promotion and service time accrual; and
- the length of terms of probationary periods, including no requirement for an additional probationary period if one had been completed before the transfer date.

Benefits, rights, and privileges received by a transferring employee, unless an agreement for different terms of transfer are reached, are subject to collective bargaining at the end of the current bargaining period for the jurisdiction to which the employee has transferred. Such bargaining must take into account the years of service the transferring employee accumulated before the transfer and must be treated as if those years of service occurred in the jurisdiction to which the employee has transferred.

Upon the written request of a fire protection district, cities and towns annexing territory must, prior to completing the annexation, issue a report regarding the likely effects that the annexation and any associated asset transfers may have upon the safety of residents within and outside the proposed annexation area. The report must address, but is not limited to, the provisions of fire protection and emergency medical services within and outside of the proposed annexation area. At least 5 percent of the assessed valuation of a fire protection district must be annexed for a report to be requested.

An annexation by a city or town that is proposing to annex territory served by one or more fire protection districts may be accomplished by ordinance after entering into an interlocal agreement (ILA) with the county and the fire protection district or districts that have jurisdiction over the territory proposed for annexation. The ILA must describe the boundaries of the territory proposed for annexation.

A supplemental ILA may be negotiated to address issues for a specific annexation if the issues are not sufficiently addressed in a general ILA. An interlocal annexation agreement must include a statement of the goals of the agreement. Goals must include, but are not limited to:

- the transfer of revenues and assets between the fire protection districts and the city or town;
- a consideration and discussion of the impact to the level of service of annexation on the unincorporated area and an agreement that the impact on the ability of the fire protection and emergency medical services within the incorporated area must not be negatively impacted at least through the budget cycle in which the annexation occurs;
- a discussion with fire protection districts regarding the division of assets and its impacts to citizens inside and outside the newly annexed area;
- community involvement, including an agreed upon schedule of public meetings in the area proposed for annexation; and
- revenue sharing, if any.

If the fire protection district, annexing city or town, and county reach an agreement on the enumerated goals, the annexation ordinance may proceed and is not subject to referendum. If only the annexing city or town and county reach an agreement on the enumerated goals, the city or town and county may proceed with annexation under the ILA, but the annexation ordinance is subject to referendum for 45 days after its passage.

Cities and towns conducting annexations of all or part of fire protection districts are required, at least through the budget cycle in which the annexation occurs, or the following budget cycle if the annexation occurs in the last half of the current budget cycle in which the annexation occurs, maintain existing fire protection and emergency services response times in the newly annexed areas consistent with response times recorded prior to the annexation

as defined in the previous annual report for the fire protection district and as reported in statute.

The property ownership signature requirement for annexation petitions under the direct petition method of annexation for classified cities is reduced from 75 percent to 60 percent.

Language is added to the ILA process to require a response to a request to enter an ILA within 45 days. A party must respond in the affirmative or negative and a negative response must state the reasons the party does not want to enter an ILA process.

A failure to respond within the 45 days will be treated as an affirmative response and the ILA process will proceed. Additional technical changes are made.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The sticking point right now is over language in the ILA portion of the bill. This is a good bill; but we think this gets us to a cooperative way to approach annexations. The bill accomplishes quite a bit of policy changes. The level of service test in the bill gets us closer to where we want to be – protection of people. What does maintenance of level of service mean? We need to do some more work on this bill but the details are coming together.

CON: The bill from last year was a bill we supported. I am opposed to the bill as written but the conversation continues. Fire districts are concerned that we aren't a necessary signatory to an agreement. We don't want the citizens left in a fire district to be overlooked by an agreement.

Persons Testifying: PRO: Dave Williams, Association of Washington Cities; Mike Brown, Washington Fire Chiefs; Mark Brown, City of Vancouver; Bud Sizemore, Washington State Council of Fire Fighters; Bill Walkup, Spokane County Fire Districts; Bruce Holloway, Spokane County Fire Districts.

CON: Ryan Spiller, Washington Fire Commissioners Association.