

SENATE BILL REPORT

SB 5138

As Reported by Senate Committee On:

Government Operations & Security, February 10, 2015

Note: Senate Resolution 8609 adopted January 27, 2015, renamed the Committee on Government Operations & State Security to Committee on Government Operations & Security

Title: An act relating to notice and review processes for annexations, deannexations, incorporations, disincorporations, consolidations, and boundary line adjustments under Titles 35 and 35A RCW.

Brief Description: Concerning notice and review processes for annexations, deannexations, incorporations, disincorporations, consolidations, and boundary line adjustments under Titles 35 and 35A RCW.

Sponsors: Senators Roach, Liias and Keiser; by request of Office of Financial Management.

Brief History:

Committee Activity: Government Operations & Security (Note: Senate Resolution 8609 adopted January 27, 2015, renamed the Committee on Government Operations & State Security to Committee on Government Operations & Security): 1/20/15, 2/10/15 [DPS].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Majority Report: That Substitute Senate Bill No. 5138 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Benton, Vice Chair; Pearson, Vice Chair; Liias, Ranking Minority Member; Habib and McCoy.

Staff: Karen Epps (786-7424)

Background: Municipal governments in Washington are classified according to their population at the time of organization – usually incorporation, or reorganization. There are a variety of classifications of cities, including code cities, first class cities, second class cities, and towns (cities).

Incorporation and Disincorporation. Under Washington law, an area can incorporate as a city if it has a minimum of 1500 inhabitants or 3000 inhabitants if the area is within five air miles of the boundaries of a city with a population of 15,000 or more. An area within a county that plans under the Growth Management Act (GMA) may incorporate only if it lies within a

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designated urban growth area. In order for an area to incorporate as a city, local voters must follow statutory processes.

Cities can disincorporate by: (1) filing a petition signed by a majority of the registered voters resident in the city with the county auditor; or (2) through a city council resolution for an election on the proposition of disincorporation. Additionally the State Auditor can petition for involuntary disincorporation of a city if it fails for two successive years to hold its regular municipal election or if the officers elected fail to qualify for two successive years.

Consolidations. Two or more adjacently located cities may consolidate into a single city. A ballot proposition authorizing the consolidation is submitted to the voters of each of the cities if a joint resolution is adopted by the legislative body of each of the cities or petitions have been filed with the cities signed by at least 10 percent of the voters in each of the cities.

Annexation and De-annexation. Cities may annex unincorporated areas through several alternative methods. Annexation methods include the following:

- *Election Methods.* These methods either require voter approval of a city resolution of those residing in the proposed annexation area or voter approval of a petition submitted by those residing in the proposed annexation area.
- *Direct Petition Methods.* These methods require approval of direct petitions signed by property owners comprising a specific percentage of land value, without voter action. An alternative direct petition method based upon signatures from property owners and registered voters was enacted into law in 2003.
- *Resolution-Only Methods.* These methods include annexations for municipal purposes that are approved by a majority of the city legislative body, or other actions that do not require voter or property owner action.
- *Interlocal Agreement Methods.* These methods include annexations conducted by ordinance if specific requirements, including the negotiation of interlocal agreements between the participating jurisdictions, are satisfied.

Property may be de-annexed from a city when a city council passes a resolution to call for an election or a property owner who wants to de-annex submits a petition that must be signed by at least 10 percent of the voters that voted in the last general municipal election. The de-annexation resolution or petition is submitted to all voters in the city and 60 percent of those voting must vote in favor of the de-annexation. The de-annexation of agricultural land from code cities only requires city council approval and does not require an election.

Boundary Adjustments. A city may adjust its boundaries to include or exclude area located within a public street, or where one parcel is located both within and outside the city's limits under a boundary adjustment.

Notification. Currently a city must provide notification of the annexed parcel numbers to the county treasurer and assessor, and to the fire district, library district, light and power businesses, and gas distribution businesses at least 60 days before the effective date of the annexation. The county treasurer must remit to the annexing city those road taxes, fire district taxes, and library district taxes collected 60 days or more after receipt of the notification of annexation. Light and power businesses and gas distribution businesses must

remit to an annexing city those utility taxes collected 60 or more days after receipt of the notification.

A city must send an annexation certificate and a copy of the complete ordinance containing the legal description and a map showing specifically the boundaries of the annexed territory within 30 days of the annexation's effective date to the Office of Financial Management (OFM). OFM must certify an annexation, after which it notifies the appropriate state agencies of the population change. The revised city boundaries and the new population are not considered by OFM in determining the population of the city until the date that OFM approves the annexation certificate submitted to it by the city.

Boundary Review Boards (BRBs). BRBs are authorized in statute to guide and control the creation and growth of municipalities in metropolitan areas. Upon receiving a timely and sufficient request for review, and following an invocation of a BRB's jurisdiction, a BRB must review and approve, disapprove, or modify proposed actions, including actions pertaining to the change in the boundary of any city, town, or special purpose district.

Summary of Bill (Recommended Substitute): Notification. The initiator of a proposed annexation, de-annexation, incorporation, disincorporation, consolidation of cities, or boundary line adjustment (boundary change) must file a notice of intention with OFM for review within three days of initial approval of the proposed boundary change by the appropriate entity; however, if the initiator is the legislative body of a government entity, the notice must be filed immediately following the legislative body's initial approval of the action. The notice of intention must include the following:

- a legal description of the proposed boundary change, which must be approved by OFM before subsequent notices regarding the proposed action are filed;
- a map showing the specific territory boundaries of the proposed boundary change;
- the proposed action or resolution, if applicable;
- parcel numbers of affected properties, if applicable; and
- street addresses of affected properties, if applicable, but without the names of owners and residents.

Within 30 days of receipt of notice, OFM must review and approve the documents, but may only deny approval of the proposed action if any of the following occur:

- except for city consolidations and boundary line adjustments, the ordinance or resolution includes any territory that is part of another city or that is already part of the city boundaries;
- the territory to be annexed, de-annexed, or incorporated, or subject to consolidation is not contiguous to existing city boundaries;
- the proposed action or resolution does not include or excludes the full right-of-way when roads are being used as part of the city boundary;
- except for municipal purpose annexations, the proposed action or resolution includes any territory that is outside of an urban growth area in counties that are required or choose to plan under GMA; or
- the map of the territory included in the boundary change is not an accurate representation of the legal description.

If OFM denies approval, it must, within three days of denial, provide written notice of the reason or reasons to the affected government unit of the incorporation initiators. The requirements of OFM approval of initiated actions do not affect the authority of the BRBs to review and approve, disapprove, or modify actions subject to review by a BRB.

OFM must post the documents included with the notice on its website and notify the Department of Transportation. OFM must produce a boundary change report 30 days prior to the commencement of each quarterly period, post the report on its website, and notify state entities, including to each state official or department responsible for making allocations or payments to cities.

A copy of the ordinance containing the legal description and a map showing the boundary change may be submitted to OFM. Within two days of receiving the ordinance, OFM must post a digital copy on the internet, or transmit digital copies to the Department of Transportation and the Department of Revenue.

Incorporation and Disincorporation. The petition for incorporation must state the number of inhabitants as determined by OFM. The petitioners must file notice, as described above, of the proposed incorporation with OFM. If the boundary review board modifies the proposed boundaries, the county legislative authority must notify OFM of the modifications. The notice of election on the question of incorporation must include the number of inhabitants as determined by OFM. Subject to approval of the incorporation by OFM, the city or town must become incorporated at least 180 days to 360 days after the date of the election. The county legislative authority must file notice with OFM that the city or town is incorporated as of the official date of incorporation.

Petitioners who submit a petition for disincorporation of a city or town must file notice, as described above, with OFM for its review and approval. If petitioners submit a petition for disincorporation of a code city, the legislative body of the code city must file notice, as described above, with OFM for its review and approval. If the city council calls for disincorporation, the council must file notice, as described above, with OFM for its review and approval. If the State Auditor petitions for involuntary disincorporation, the State Auditor must file notice, as described above, with OFM for its review and approval. The legislative body of the city must file notice of the disincorporation with OFM for its review.

Consolidation. For a consolidation of two or more contiguous cities, each city's legislative body must file notice, as described above, of the consolidation with OFM for its review and approval. Contiguous means that territory proposed to be annexed, de-annexed, incorporated, or consolidated touches or is in physical contact with a city boundary though the contact must be more than a single point. Territory connected to a city only by a public right-of-way, where the edge of the right-of-way does not constitute part of the city boundary, is not considered contiguous for purposes of this section.

Annexation and De-annexation. When a petition for annexation is filed with or approved by the legislative body of a city, the legislative body must file notice, as described above, with OFM for its review and approval. If a city votes, resolves, or adopts an ordinance to annex territory, the city's legislative body must file notice, as described above, with OFM for its review and approval. Under some interlocal agreement annexation methods, the interlocal

agreement must be submitted to OFM for review and approval. Under some annexation methods, the county must file notice, as described above, with OFM for its review and approval.

Boundary Line Adjustments. Boundary line adjustments are subject to review and approval by OFM.

EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS & SECURITY COMMITTEE (Recommended Substitute): Modifies initial notice of intention provisions to specify that within 30 days of receipt of notice of intention, OFM must review and approve the documents, but may only deny approval if specified criteria are met; Modifies the denial criteria for OFM related to contiguity requirements by removing a denial authority exception for municipal purpose annexations; Specifies that if OFM denies approval of a proposed action, it must within three days of the denial, provide written notice of the reason or reasons for denial to the affected governmental unit or units or, in the case of a city incorporation, the incorporation initiators; Specifies that the requirements for OFM approval of initiated actions do not affect the authority of BRBs to review and approve, disapprove, or modify actions subject to review by a BRB; Restores current law and deletes the amendments in the underlying bill related to the filing of petitions for annexation under the election method of annexation for non-code cities; Adds new provisions requiring OFM to review and approve annexation and related actions under the election method of annexation for non-code cities; Establishes new and modified provisions requiring OFM to review and approve actions related to county-initiated annexations of territory within urban growth areas; Adds new provisions requiring OFM to review and approve annexation proposals under the election method of annexation for code cities; Modifies review and approval provisions for code city annexations of territory served by fire districts by removing provisions requiring OFM to review and approve of related interlocal agreements, and inserting provisions requiring OFM to review and approve of the applicable annexation ordinance; and Makes technical changes.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: This is a bill that is trying to make more efficient the process by which information comes to the state about what cities are intending to annex, de-annex, and incorporate. This bill requires that cities provide information about boundary changes a little sooner, streamline the process for OFM, and hopefully save both the state and the cities money and time in the process. This bill provides a good transparency aspect to boundary changes. This bill will give the public a better idea of what cities and counties are doing in their planning process. For years there has been a problem with different versions of what the final boundaries are in different state agencies because they receive information from cities at different times in the process. Currently

OFM's certification process is at the end and if there is a mistake or an error, then the city has to start the process over. This bill will increase transparency.

CON: There is concern about the wording in the bill. Throughout the bill, there are references that OFM will review and approve certain actions pursuant to section 1 of the bill. The bill provides that OFM must review the documents within 30 days and deny approval of the proposed action if certain actions occur. There is no mention of reviewing the documents and approving the document unless one of these actions occur. The wording in the bill is awkward. The concern with the bill as drafted is that it takes away approval from the boundary review board and gives it to OFM, but it appears from testimony that this is not the intention.

Persons Testifying: PRO: David Williams, Assn. of WA Cities; Bryce Yadon, Futurewise; Mark Baldwin, OFM; Rowland Thompson, Allied Daily Newspapers.

CON: Mark Beales, Evangeline Anderson, WA State Assn. of Boundary Review Boards.