

# SENATE BILL REPORT

## ESSB 5522

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As Passed Senate, February 14, 2020

**Title:** An act relating to providing code cities with the ability to annex unincorporated areas pursuant to a jointly approved interlocal agreement with the county.

**Brief Description:** Providing code cities with the ability to annex unincorporated areas pursuant to a jointly approved interlocal agreement with the county.

**Sponsors:** Senate Committee on Local Government (originally sponsored by Senator Takko).

**Brief History:**

**Committee Activity:** Local Government: 2/07/19, 2/14/19 [DPS, DNP].

**Floor Activity:**

Passed Senate: 2/14/20, 25-22.

**Brief Summary of Engrossed First Substitute Bill**

- Allows a code city to annex unincorporated territory pursuant to an interlocal agreement between the code city and the county.

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### SENATE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** That Substitute Senate Bill No. 5522 be substituted therefor, and the substitute bill do pass.

Signed by Senators Takko, Chair; Salomon, Vice Chair; Lovelett.

**Minority Report:** Do not pass.

Signed by Senators Short, Ranking Member; Honeyford.

**Staff:** Greg Vogel (786-7413)

**Background:** Code cities are those cities with a population of 1500 or more that operate under the Optional Municipal Code, which grants broad home rule powers.

Current law authorizes multiple methods for code cities to annex unincorporated territory.

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*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.*

Election Method. This method of annexation can be initiated by voters or by the city council. The city council can initiate the process by adopting a resolution calling for the annexation by election. Voters can initiate this process by filing a petition signed by 10 percent of voters in the area to be annexed, that voted in the last general election. The annexation is approved by a majority vote.

Direct Petition Methods. *Sixty Percent Petition Method.* This annexation method is initiated by filing a petition signed by either 10 percent of the residents in the area to be annexed, or the owners of the area to be annexed that represent 10 percent of the assessed value. After the city agrees to the annexation, a petition must be signed by the owners of the property representing 60 percent of the assessed valuation of the proposal area. The petition is then filed with the city and transmitted to the county. The annexation is finalized by the ordinance adopted by the city council.

*Alternative Petition Method.* This annexation method is initiated in the same manner as the 60 percent petition method. After the city agrees to the annexation, a second petition is then prepared and must be signed by at least 50 percent of the registered voters in the area, and by the owners of at least 50 percent of the acreage in the proposed annexation. If the city decides to annex, it adopts an ordinance. After adopting the ordinance, a copy is filed with the county. The annexation is effective on the date the ordinance is adopted.

Unincorporated Islands Method. A code city may annex unincorporated islands of territory within the city using certain procedures. The city council may initiate annexation proceedings by resolution if the area of the proposed annexation:

- contains less than 175 acres and all of its boundaries are contiguous to the city; or
- is of any size, contains residential property owners, and at least 80 percent of its boundaries are contiguous to the city. Annexations conducted under this provision must be within the same county and urban growth area as the city, and the city must be planning under the Growth Management Act.

The resolution must describe the boundaries of the area to be annexed, state the number of voters within the subject area, and set a date for a public hearing on the annexation resolution. Notice of the hearing must be published at least once a week for two weeks prior to the date of the hearing in one or more newspapers of general circulation within the code city and within the area to be annexed. At the hearing, residents or property owners of the area to be annexed must be afforded an opportunity to be heard. The city legislative body may then adopt an ordinance annexing the territory; the effective date of this ordinance may not be less than 45 days after its passage. During the 45 days after passage of the ordinance, it is subject to a referendum. If no referendum petition is filed within 45 days after passage of the ordinance, the area annexed becomes part of the city.

Interlocal Cooperation Act. Washington's Interlocal Cooperation Act authorizes public agencies to contract with other public agencies via interlocal agreements that enable cooperation among the agencies to perform governmental activities and deliver public services. The purpose of such agreements is to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby providing services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic,

economic, population and other factors influencing the needs and development of local communities. Local governments engage in a wide array of cooperative efforts with each other, state agencies, and other governmental entities, and intergovernmental cooperation can take many forms.

**Summary of Engrossed First Substitute Bill:** A code city may annex unincorporated territory pursuant to an interlocal agreement between the city and the county.

The legislative bodies of the county and city may jointly initiate an annexation process for unincorporated territory by jointly agreeing and adopting an interlocal agreement. If the annexation will include areas in a fire protection district, regional fire protection service authority, water-sewer district, transportation benefit district, or a city adjacent to the area where the sole access or majority of egress and ingress of the area is served by the transportation network of the city, notice must be provided, and approval may be required, if the district or city provides notice of its interest in being a party to the agreement. The interlocal agreement must describe the agreed upon boundaries of the area to be annexed and set a date for a public hearing on the annexation. An interlocal agreement may include phased annexation of territory, and may be amended following the same process as initial approval, including adding additional territory.

A public hearing must be held by each legislative body, separately or jointly, before the agreement is executed. Notice of availability of the agreement must be published at least once a week for four weeks prior to the date of the hearing in one or more newspapers of general circulation within the code city and within the area to be annexed, and on the legislative body's website if available. At the hearing, members of the public must be afforded an opportunity to be heard. Following the hearing, if the legislative body determines to effect the annexation, the legislative body may then adopt an ordinance annexing the territory and must subsequently file a copy of the certified ordinance with the board of county commissioners where the annexed property is located.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Proposed Substitute:** *The committee recommended a different version of the bill than what was heard.* PRO: The point of this bill is to avoid the creation of new islands because of annexations. It requires an agreement between the city, the county, and special purpose districts on how annexation proposals will be drawn in the UGA. This would alleviate many of the disagreements between local governments on annexations. Jurisdictions have unique needs and this is a voluntary tool to alleviate concerns on annexation boundaries to prevent illogical boundaries and unincorporated islands.

Residents who live in such an environment expect an urban level of services but counties are ill-equipped to provide that. The GMA always intended that during the 20-year growth period, annexation of an area for a city would be developed. Getting both parties to the table is helpful and provides an opportunity to discuss concerns in a productive way. UGAs were produced after a robust public process and the process and hearings included here provide the same level of adequate notice. Keeping the referendum in place increases risks to cities and prevents annexations that should be occurring. A lot of counties thought these annexations would be a foregone conclusion when the GMA was adopted.

One of the benefits of the bill is ensuring there is an elected body that has a responsibility to consider the needs and interests of all parties, including the community at large. The ILA process would compel appropriate and fair resolution of processes relating to borders and revenue implications.

CON: There is a simple solution to address concerns here. Master builders are facing the same issue and struggle of providing affordable housing at all income levels. Part of the problem is land availability and supply. When annexation occurs, it is assumed that jurisdictions are creating more urban densities. What ends up happening is that the land is downzoned, which reduces opportunities to provide homes for families. There should be a provision to ensure that the land could not be downzoned from current zoning in place in the county. Upzoning should be allowed, but not downzoning.

OTHER: There is the issue of what the boundary review board's role is in this. With the interlocal agreement between county and city, it is assumed that someone would invoke jurisdiction and bring the board in. The board is a quasi-judicial group and hears both sides. It includes a lengthy process for hearing communications of the public and approximately 39 factors to consider for each annexation request. It also includes an appeals process. The board considers not only the property owners in the area, but also the people outside of the area who are concerned with the annexation request. The language should be changed to include any interested party and make sure that all authorities are in sync together on this.

**Persons Testifying:** PRO: Senator Dean Takko, Prime Sponsor; Jeremy Davis, Thurston County; Paul Jewell, Washington State Association of Counties; Carl Schroeder, Association of Washington Cities.

CON: Scott Hazlegrove, Master Builders Association of King and Snohomish counties.

OTHER: Robbie Myers, Boundary Review Board.

**Persons Signed In To Testify But Not Testifying:** No one.