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SENATE BILL 5143

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State of Washington

62nd Legislature

2011 Regular Session

By Senators McAuliffe and Shin

Read first time 01/17/11. Referred to Committee on Government Operations, Tribal Relations & Elections.

1 AN ACT Relating to the annexation of unincorporated areas served by  
2 fire protection districts; and amending RCW 35.13.238, 35A.14.480, and  
3 36.93.105.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 35.13.238 and 2009 c 60 s 7 are each amended to read  
6 as follows:

7 (1)(a) An annexation by a city or town that is proposing to annex  
8 territory served by one or more fire protection districts may be  
9 accomplished by ordinance after entering into an interlocal agreement  
10 as provided in chapter 39.34 RCW with the county and the fire  
11 protection district or districts that have jurisdiction over the  
12 territory proposed for annexation.

13 (b) A city or town proposing to annex territory shall initiate the  
14 interlocal agreement process by sending notice to the fire protection  
15 district representative and county representative stating the city's or  
16 town's interest to enter into an interlocal agreement negotiation  
17 process. The parties have forty-five days to respond in the  
18 affirmative or negative. A negative response must state the reasons  
19 the parties do not wish to participate in an interlocal agreement

1 negotiation. A failure to respond within the forty-five day period is  
2 deemed an affirmative response and the interlocal agreement negotiation  
3 process may proceed. The interlocal agreement process may not proceed  
4 if any negative responses are received within the forty-five day  
5 period.

6 (c) The interlocal agreement must describe the boundaries of the  
7 territory proposed for annexation and must be consistent with the  
8 boundaries identified in an ordinance describing the boundaries of the  
9 territory proposed for annexation and setting a date for a public  
10 hearing on the ordinance. ~~((If the boundaries of the territory  
11 proposed for annexation are agreed to by all parties, a notice of  
12 intention must be filed with the boundary review board created under  
13 RCW 36.93.030. However, the jurisdiction of the board may not be  
14 invoked as described in RCW 36.93.100 for annexations that are the  
15 subject of such agreement.))~~

16 (2) An interlocal annexation agreement under this section must  
17 include the following:

18 (a) A statement of the goals of the agreement. Goals must include,  
19 but are not limited to:

20 (i) The transfer of revenues and assets between the fire protection  
21 districts and the city or town;

22 (ii) A consideration and discussion of the impact to the level of  
23 service of annexation on the unincorporated area, and an agreement that  
24 the impact on the ability of fire protection and emergency medical  
25 services within the incorporated area must not be negatively impacted  
26 at least through the budget cycle in which the annexation occurs;

27 (iii) A discussion with fire protection districts regarding the  
28 division of assets and its impact to citizens inside and outside the  
29 newly annexed area;

30 (iv) Community involvement, including an agreed upon schedule of  
31 public meetings in the area or areas proposed for annexation;

32 (v) Revenue sharing, if any;

33 (vi) Debt distribution;

34 (vii) Capital facilities obligations of the city, county, and fire  
35 protection districts;

36 (viii) An overall schedule or plan on the timing of any annexations  
37 covered under this agreement; and

1 (ix) A description of which of the annexing cities' development  
2 regulations will apply and be enforced in the area.

3 (b) The subject areas and policies and procedures the parties agree  
4 to undertake in annexations. Subject areas may include, but are not  
5 limited to:

6 (i) Roads and traffic impact mitigation;

7 (ii) Surface and storm water management;

8 (iii) Coordination and timing of comprehensive plan and development  
9 regulation updates;

10 (iv) Outstanding bonds and special or improvement district  
11 assessments;

12 (v) Annexation procedures;

13 (vi) Distribution of debt and revenue sharing for annexation  
14 proposals, code enforcement, and inspection services;

15 (vii) Financial and administrative services; and

16 (viii) Consultation with other service providers, including water-  
17 sewer districts, if applicable.

18 (c) A term of at least five years, which may be extended by mutual  
19 agreement of the city or town, the county, and the fire protection  
20 district.

21 (3) If the fire protection district, annexing city or town, and  
22 county reach an agreement on the enumerated goals, the annexation  
23 ordinance may proceed and is not subject to referendum. If only the  
24 annexing city or town and county reach an agreement on the enumerated  
25 goals, the city or town and county may proceed with annexation under  
26 the interlocal agreement, but the annexation ordinance provided for in  
27 this section is subject to referendum for forty-five days after its  
28 passage. Upon the filing of a timely and sufficient referendum  
29 petition with the legislative body of the city or town, signed by  
30 qualified electors in a number not less than ten percent of the votes  
31 cast in the last general state election in the area to be annexed, the  
32 question of annexation must be submitted to the voters of the area in  
33 a general election if one is to be held within ninety days or at a  
34 special election called for that purpose according to RCW 29A.04.330.  
35 Notice of the election must be given as provided in RCW 35.13.080, and  
36 the election must be conducted as provided in the general election laws  
37 under Title 29A RCW. The annexation must be deemed approved by the

1 voters unless a majority of the votes cast on the proposition are in  
2 opposition to the annexation.

3 After the expiration of the forty-fifth day from, but excluding,  
4 the date of passage of the annexation ordinance, if a timely and  
5 sufficient referendum petition has not been filed, the area annexed  
6 becomes a part of the city or town upon the date fixed in the ordinance  
7 of annexation.

8 (4) If any portion of a fire protection district is proposed for  
9 annexation to or incorporation into a city or town, both the fire  
10 protection district and the city or town shall jointly inform the  
11 employees of the fire protection district about hires, separations,  
12 terminations, and any other changes in employment that are a direct  
13 consequence of annexation or incorporation at the earliest reasonable  
14 opportunity.

15 (5) The needed employees shall be taken in order of seniority and  
16 the remaining employees who transfer as provided in this section and  
17 RCW 35.10.360 and 35.10.370 shall head the list for employment in the  
18 civil service system in order of their seniority, to the end that they  
19 shall be the first to be reemployed in the city or town fire department  
20 when appropriate positions become available. Employees who are not  
21 immediately hired by the city or town shall be placed on a reemployment  
22 list for a period not to exceed thirty-six months unless a longer  
23 period is authorized by an agreement reached between the collective  
24 bargaining representatives of the employees of the annexing and annexed  
25 fire agencies and the annexing and annexed fire agencies.

26 (6)(a) Upon transfer, an employee is entitled to the employee  
27 rights, benefits, and privileges to which he or she would have been  
28 entitled as an employee of the fire protection district, including  
29 rights to:

30 (i) Compensation at least equal to the level of compensation at the  
31 time of transfer, unless the employee's rank and duties have been  
32 reduced as a result of the transfer. If the transferring employee is  
33 placed in a position with reduced rank and duties, the employee's  
34 compensation may be adjusted, but the adjustment may not result in a  
35 decrease of greater than fifty percent of the difference between the  
36 employee's compensation before the transfer and the compensation level  
37 for the position that the employee is transferred to;

1 (ii) Retirement, vacation, sick leave, and any other accrued  
2 benefit;

3 (iii) Promotion and service time accrual; and

4 (iv) The length or terms of probationary periods, including no  
5 requirement for an additional probationary period if one had been  
6 completed before the transfer date.

7 (b) (a) of this subsection does not apply if upon transfer an  
8 agreement for different terms of transfer is reached between the  
9 collective bargaining representatives of the transferring employees and  
10 the participating fire protection jurisdictions.

11 (7) If upon transfer, the transferring employee receives the  
12 rights, benefits, and privileges established under subsection (6)(a)(i)  
13 through (iv) of this section, those rights, benefits, and privileges  
14 are subject to collective bargaining at the end of the current  
15 bargaining period for the jurisdiction to which the employee has  
16 transferred.

17 (8) Such bargaining must take into account the years of service the  
18 transferring employee accumulated before the transfer and must be  
19 treated as if those years of service occurred in the jurisdiction to  
20 which the employee has transferred.

21 **Sec. 2.** RCW 35A.14.480 and 2009 c 60 s 9 are each amended to read  
22 as follows:

23 (1)(a) An annexation by a code city proposing to annex territory  
24 served by one or more fire protection districts may be accomplished by  
25 ordinance after entering into an interlocal agreement as provided in  
26 chapter 39.34 RCW with the county and the fire protection district or  
27 districts that have jurisdiction over the territory proposed for  
28 annexation.

29 (b) A code city proposing to annex territory shall initiate the  
30 interlocal agreement process by sending notice to the fire protection  
31 district representative and county representative stating the code  
32 city's interest to enter into an interlocal agreement negotiation  
33 process. The parties have forty-five days to respond in the  
34 affirmative or negative. A negative response must state the reasons  
35 the parties do not wish to participate in an interlocal agreement  
36 negotiation. A failure to respond within the forty-five day period is  
37 deemed an affirmative response and the interlocal agreement negotiation

1 process may proceed. The interlocal agreement process may not proceed  
2 if any negative responses are received within the forty-five day  
3 period.

4 (c) The interlocal agreement must describe the boundaries of the  
5 territory proposed for annexation and must be consistent with the  
6 boundaries identified in an ordinance describing the boundaries of the  
7 territory proposed for annexation and setting a date for a public  
8 hearing on the ordinance. ~~((If the boundaries of the territory  
9 proposed for annexation are agreed to by all parties, a notice of  
10 intention must be filed with the boundary review board created under  
11 RCW 36.93.030. However, the jurisdiction of the board may not be  
12 invoked as described in RCW 36.93.100 for annexations that are the  
13 subject of such agreement.))~~

14 (2) An interlocal annexation agreement under this section must  
15 include the following:

16 (a) A statement of the goals of the agreement. Goals must include,  
17 but are not limited to:

18 (i) The transfer of revenues and assets between the fire protection  
19 district and the code city;

20 (ii) A consideration and discussion of the impact to the level of  
21 service of annexation on the unincorporated area, and an agreement that  
22 the impact on the ability of fire protection and emergency medical  
23 services within the incorporated area must not be negatively impacted  
24 at least through the budget cycle in which the annexation occurs;

25 (iii) A discussion with fire protection districts regarding the  
26 division of assets and its impact to citizens inside and outside the  
27 newly annexed area;

28 (iv) Community involvement, including an agreed upon schedule of  
29 public meetings in the area or areas proposed for annexation;

30 (v) Revenue sharing, if any;

31 (vi) Debt distribution;

32 (vii) Capital facilities obligations of the code city, county, and  
33 fire protection districts;

34 (viii) An overall schedule or plan on the timing of any annexations  
35 covered under this agreement; and

36 (ix) A description of which of the annexing code cities'  
37 development regulations will apply and be enforced in the area.

1 (b) The subject areas and policies and procedures the parties agree  
2 to undertake in annexations. Subject areas may include, but are not  
3 limited to:

4 (i) Roads and traffic impact mitigation;

5 (ii) Surface and storm water management;

6 (iii) Coordination and timing of comprehensive plan and development  
7 regulation updates;

8 (iv) Outstanding bonds and special or improvement district  
9 assessments;

10 (v) Annexation procedures;

11 (vi) Distribution of debt and revenue sharing for annexation  
12 proposals, code enforcement, and inspection services;

13 (vii) Financial and administrative services; and

14 (viii) Consultation with other service providers, including water-  
15 sewer districts, if applicable.

16 (c) A term of at least five years, which may be extended by mutual  
17 agreement of the code city, the county, and the fire protection  
18 district.

19 (3) If the fire protection district, annexing code city, and county  
20 reach an agreement on the enumerated goals, the annexation ordinance  
21 may proceed and is not subject to referendum. If only the annexing  
22 code city and county reach an agreement on the enumerated goals, the  
23 code city and county may proceed with annexation under the interlocal  
24 agreement, but the annexation ordinance provided for in this section is  
25 subject to referendum for forty-five days after its passage. Upon the  
26 filing of a timely and sufficient referendum petition with the  
27 legislative body of the code city, signed by qualified electors in a  
28 number not less than ten percent of the votes cast in the last general  
29 state election in the area to be annexed, the question of annexation  
30 must be submitted to the voters of the area in a general election if  
31 one is to be held within ninety days or at a special election called  
32 for that purpose according to RCW 29A.04.330. Notice of the election  
33 must be given as provided in RCW 35A.14.070, and the election must be  
34 conducted as provided in the general election laws under Title 29A RCW.  
35 The annexation must be deemed approved by the voters unless a majority  
36 of the votes cast on the proposition are in opposition to the  
37 annexation.

1       After the expiration of the forty-fifth day from, but excluding,  
2 the date of passage of the annexation ordinance, if a timely and  
3 sufficient referendum petition has not been filed, the area annexed  
4 becomes a part of the code city upon the date fixed in the ordinance of  
5 annexation.

6       **Sec. 3.** RCW 36.93.105 and 1999 c 153 s 46 are each amended to read  
7 as follows:

8       The following actions shall not be subject to potential review by  
9 a boundary review board:

10       (1) Annexations of territory to a water-sewer district pursuant to  
11 RCW 36.94.410 through 36.94.440;

12       (2) Revisions of city or town boundaries pursuant to RCW 35.21.790  
13 or 35A.21.210;

14       (3) Adjustments to city or town boundaries pursuant to RCW  
15 35.13.340; (~~and~~)

16       (4) Adjustments to city and town boundaries pursuant to RCW  
17 35.13.300 through 35.13.330; and

18       (5) Annexations of territory within a fire protection district  
19 pursuant to RCW 35.13.238 or 35A.14.480.

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