

FINAL BILL REPORT

SHB 2176

C 216 L 94
Synopsis as Enacted

Brief Description: Incorporating and annexing cities and towns.

By House Committee on Local Government (originally sponsored by Representatives G. Cole, Edmondson, Jacobsen, Padden, Dunshee, Orr, Lemmon and Carlson).

House Committee on Local Government
Senate Committee on Government Operations

Background: The incorporation of a city or town involves several steps over an extended period of time. The steps are as follows: (1) A petition, signed by a specified percentage of voters residing in the area proposed for incorporation, is filed with the appropriate county legislative authority; (2) a ballot proposition authorizing the incorporation is submitted to voters residing in the area proposed for incorporation; (3) if the ballot proposition is approved, special elections are held to nominate candidates for the elected offices, if needed, and to elect the initial elected officials; (4) the initial elected officials assume office with limited powers and provide for transition of the area into a city or town; and (5) the city or town is officially incorporated after the transition period, and the initial elected officials obtain full powers. The minimum population for an area to incorporate as a city or town is 300.

The proposed incorporation of a city or town is subject to review by a boundary review board, if one exists in the county in which the proposed city or town is to be located and if the jurisdiction of the boundary review board has been invoked. A boundary review board may approve or modify any proposed incorporation and may disapprove the proposed incorporation of a city or town with a population of less than 7,500. A boundary review board may not disapprove the proposed incorporation of a city with a population of 7,500 or more but may recommend against the proposed incorporation. Further, a boundary review board may not modify a proposal for incorporation of a city with a population of 7,500 or more to reduce the population below 7,500 or to delete or add territory constituting 10 percent or more of the total area originally proposed for incorporation.

A decision of a boundary review board may be appealed to superior court if the appeal is filed within 10 days of the date of the board's decision. The superior court reviews a board's actions under an "arbitrary and capricious" standard of review.

Any proposed annexation by an existing city or town of an area which is also proposed for incorporation as a new city or town takes priority over the proposed incorporation. The priority of a proposed annexation over any proposed incorporation is absolute, without regard to which action was proposed first.

Petitions have been filed proposing the incorporation of Shoreline north of Seattle that would surround the city of Lake Forest Park, except for the portion of Lake Forest Park that abuts Lake Washington. An agreement has been reached between incorporation proponents and officials of Lake Forest Park that territory adjacent to Lake Forest Park should be removed from the proposed incorporation, but this area constitutes more than 10 percent of the total area described in the incorporation petition.

Summary: The minimum population for an area to incorporate as a city or town is increased from 300 to 1,500. A person proposing the incorporation of a city or town must file a notice with the county legislative authority, together with a \$100 filing fee. The jurisdiction of a local boundary review board is invoked automatically to consider the proposed incorporation. The boundary review board holds a public meeting on the incorporation proposal within 30 days of the notice being filed.

After the public meeting, a petition authorizing the incorporation is circulated for signatures. This petition must be submitted to the county auditor within 180 days after the public meeting. The petition may describe boundaries and other matters differing from the descriptions included in the notice originally filed. The signature requirement for the incorporation petition is increased from a number equal to at least 10 percent of the resident voters who voted in the last state general election to a number equal to at least 10 percent of the number of voters residing in the proposed city or town.

When reviewing a proposal for incorporation, the boundary review board must remove any territory from the proposed area that is located outside of an urban growth area or that is annexed by a city or town. The boundary review board may remove territory that is proposed for annexation by a city or town if a petition or resolution initiating the annexation was filed or adopted within 90 days of the filing

of the incorporation petition. The restriction on a boundary review board's ability to modify the boundaries of an area proposed for incorporation applies after any of these territories are removed from the proposal. Provisions are included to apply these changes in the authority of a boundary review board to current incorporation efforts that were indicated by the filing of an incorporation petition prior to the effective date of this act.

Where a local boundary review board does not exist, the county legislative authority may modify the boundaries of a proposed incorporation under the same stipulations as a boundary review board.

An appeal of a decision of a boundary review board must be filed within 30 days, rather than 10 days, of the board's decision. The "arbitrary or capricious" standard of review for a board decision is changed to a "clearly erroneous" standard of review.

The priority of a proposed annexation over a proposed incorporation no longer applies if the resolution or petition initiating the annexation was adopted or filed more than 90 days after the filing of the petition initiating the incorporation. A boundary review board may simultaneously consider a proposed incorporation and annexation if the resolution or petition initiating the annexation was adopted or filed within 90 or fewer days of the filing of the petition for incorporation.

The date for submittal to voters of the ballot measure authorizing the incorporation of a city or town is clarified.

A proposed annexation of territory by a city or town is exempted from compliance with the State Environmental Policy Act.

Votes on Final Passage:

House	92	0	
Senate	48	1	(Senate amended)
House	89	0	(House concurred)

Effective: April 1, 1994