

**SENATE BILL REPORT**

**SSB 6028**

**AS PASSED SENATE, FEBRUARY 7, 1994**

**Brief Description:** Changing provisions relating to local option elections within cities, towns, and counties.

**SPONSORS:** Senate Committee on Government Operations (originally sponsored by Senators Winsley and Haugen)

**SENATE COMMITTEE ON GOVERNMENT OPERATIONS**

**Majority Report:** That Substitute Senate Bill No. 6028 be substituted therefor, and the substitute bill do pass.

Signed by Senators Haugen, Chairman; Drew, Vice Chairman; Loveland, McCaslin, Oke, Owen and Winsley.

**Staff:** Diane Smith (786-7410)

**Hearing Dates:** January 20, 1994; January 26, 1994

**BACKGROUND:**

Cities and counties are preempted by the state from licensing the sale of liquor. Cities and counties do, however, have authority over the issue of whether liquor can be sold at all within their boundaries. This is done by a vote of the population in a local option election unit. These units are defined by the geographical boundaries of the city or all that portion of any county not included within the limits of incorporated cities and towns.

Additionally, cities and counties may rule by a similar vote on the narrower question of whether to allow the sale of liquor under class H licenses within the local option election unit.

By holding elections such as these, the local option election unit declares its "local option status" colloquially known as becoming "wet" or "dry" within the boundaries of the unit. If the election is held on the class H license issue, the result determines whether the sale of "liquor by the drink" is allowed within the boundaries of the unit.

When a city annexes territory in a county, the question arises as to the "wet" or "dry" status of the territory so annexed, or in the case of the class H licenses, whether liquor may be sold by the drink. Because a city is a separate legal entity from a local option election unit, annexation does not affect the local option status either of the city or the annexed territory. Local option status, once adopted, is usually considered to attach to the territory which was originally bound by the vote and does not change unless lawfully changed.

The right to change the local option status in a local option election unit belongs only to the people of such unit.

Be this as it may, the effect of annexation on class H liquor licensees is perceived to be murky. The consequent uncertainty has led to, perhaps, unnecessary difficulties in annexation campaigns.

**SUMMARY:**

It is clarified that annexation by a city does not extend that city's prohibition against the sale of liquor under class H liquor licenses to the territory of the county so annexed. Only another election held by the expanded election unit can decide the question of whether liquor by the drink may be sold within the new election unit.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

This bill fosters cooperation among local governments, amid stress of growth management pressures.

**TESTIMONY AGAINST:** None

**TESTIFIED:** PRO: Senator Winsley; David Viafore, Fircrest Council/Mayor; Forrest Simon, Fircrest Golf Club; Jill Monly