

# HOUSE OF REPRESENTATIVES

Olympia Washington

## BilAnalysis

Bill No. HB 1596

Transfer of solid waste regulatory authority  
Brief title

Public Arg: 2/12/97

Reps. D. Schmidt / Dunshee / Gardner  
Sponsor

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### BACKGROUND:

A person who operates a solid waste collection company in the state must have a certificate of convenience and necessity from the Utilities and Transportation Commission (UTC) if the company is operated as an unincorporated enterprise or a contract with a city or town. A city or town may also handle its own solid waste collection.

If a city or town annexes property of a new city or town incorporated under the franchise permit authorizing the operation of garbage disposal in the area that was annexed or incorporated, the franchise permit which is canceled must be granted by the city or town to continue to do business within the area that was annexed or incorporated. The term of the franchise permit must be for a term of not less than the remaining term of the original franchise or for five years, whichever is shorter.

The city or town is prohibited from extending similar or competing services to the area that was incorporated or annexed unless there is a showing of the inability or refusal of the franchise permit holder to adequately provide service to the area at a reasonable price.

The city or town may purchase the franchise business or facilities at an agreed upon price or may acquire it by condemnation. A reasonable amount for the loss of the franchise permit must be included in the price award. If the person who held the franchise permit suffers any measurable damages as a result of the incorporation or annexation, the person may file an action against the city or town for damages.

Recent incorporations and annexations by cities and towns have created confusion over who is supposed to regulate the areas subject to the garbage disposal franchise. After an incorporation or annexation occurs, when does the five-year transit period begin to run, and what happens when a city or town changes its mind about providing its own collection service? Some concerns have also been expressed about the adequacy of the five-year transit period.

Continued

**SUMMARY:**

After a city or town incorporates an annexed territory that is included in a franchise or permit issued by the Utilities and Transportation Commission (UTC) for garbage disposal, the UTC is required to continue to regulate the solid waste collection in the area annexed or incorporated until the city or town notifies the UTC in writing that it will contract for solid waste collection or undertake the collection itself.

If the city or town decides to contract for solid waste collection or undertake the collection itself, the city or town must grant the holder of the franchise or permit that is canceled a new franchise to continue the business within the area incorporated or annexed. The term of the new franchise must be for a term not less than the remaining term of the original franchise or permit or seven years, whichever is shorter.

The seven-year transit period begins to run upon the effective date specified by the city or town's ordinance or resolution to have the city or town contract for solid waste collection or undertake the collection itself.

A city or town, or combined city-county, may reverse its decision to provide its own solid waste collection service at any time. If this occurs, the UTC is required to issue a certificate to the last holder of a valid UTC certificate of public convenience and necessity for the area that will again be regulated by the UTC. If no certificate existed for the area or the previous holder was compensated for the certificate property right, the UTC will consider applications to provide service to the area.

Cities and towns are still prohibited from extending similar or competing services to the area incorporated or annexed unless there is a showing of the inability or refusal of the franchise holder to adequately serve the area. Cities and towns may still acquire the franchise business and facilities at an agreed-upon price or by condemnation. A franchise or permit holder may still bring an action against the city or town for any measurable damages as a result of the franchise or permit being canceled.

**FISCAL NOTE:** Not requested.

**EFFECTIVE DATE:** Ninety days after adjournment of session in which bills passed.