
HOUSE BILL 1596

State of Washington

55th Legislature

1997 Regular Session

By Representatives D. Schmidt, Dunshee, Gardner, L. Thomas and Dunn

Read first time 01/31/97. Referred to Committee on Government Administration.

1 AN ACT Relating to state-issued solid waste collection certificates
2 in cities and towns; amending RCW 35.02.160, 35.13.280, and 35A.14.900;
3 and adding a new section to chapter 81.77 RCW.

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

5 **Sec. 1.** RCW 35.02.160 and 1986 c 234 s 24 are each amended to read
6 as follows:

7 The incorporation of any territory as a city or town shall cancel,
8 as of the effective date of such incorporation, any franchise or permit
9 theretofore granted to any person, firm or corporation by the state of
10 Washington, or by the governing body of such incorporated territory,
11 authorizing or otherwise permitting the operation of any public
12 transportation, garbage ((collection and/or)) disposal or other similar
13 public service business or facility within the limits of the
14 incorporated territory, but the holder of any such franchise or permit
15 canceled pursuant to this section shall be forthwith granted by the
16 incorporating city or town a franchise to continue such business within
17 the incorporated territory for a term of not less than the remaining
18 term of the original franchise or permit, or ((five)) seven years,
19 whichever is the shorter period, and the incorporating city or town, by

1 franchise, permit or public operation, shall not extend similar or
2 competing services to the incorporated territory except upon a proper
3 showing of the inability or refusal of such person, firm or corporation
4 to adequately service said incorporated territory at a reasonable
5 price: PROVIDED, That the provisions of this section shall not
6 preclude the purchase by the incorporating city or town of said
7 franchise, business, or facilities at an agreed or negotiated price, or
8 from acquiring the same by condemnation upon payment of damages,
9 including a reasonable amount for the loss of the franchise or permit.
10 In the event that any person, firm or corporation whose franchise or
11 permit has been canceled by the terms of this section shall suffer any
12 measurable damages as a result of any incorporation pursuant to the
13 provisions of chapter 35.02 RCW, such person, firm or corporation shall
14 have a right of action against any city or town causing such damages.

15 After the incorporation of any city or town, the utilities and
16 transportation commission shall continue to regulate solid waste
17 collection within the limits of the incorporated city or town until
18 such time as the city or town notifies the commission, in writing, of
19 its decision to contract for solid waste collection or provide solid
20 waste collection itself pursuant to RCW 81.77.020. In the event the
21 incorporating city or town at any time decides to contract for solid
22 waste collection or decides to undertake solid waste collection itself,
23 the holder of any such franchise or permit that is so canceled shall be
24 forthwith granted by the incorporating city or town a franchise to
25 continue such business within the incorporated territory for a term of
26 not less than the remaining term of the original franchise or permit,
27 or seven years, whichever is the shorter period, and the incorporating
28 city or town, by franchise, permit, or public operation, shall not
29 extend similar or competing services to the incorporated territory
30 except upon a proper showing of the inability or refusal of such
31 person, firm, or corporation to adequately service the incorporated
32 territory at a reasonable price. Upon the effective date specified by
33 the city or town council's ordinance or resolution to have the city or
34 town contract for solid waste collection or undertake solid waste
35 collection itself, the seven-year transition period specified in this
36 section begins to run. This section does not preclude the purchase by
37 the incorporating city or town of the franchise, business, or
38 facilities at an agreed or negotiated price, or from acquiring the same
39 by condemnation upon payment of damages, including a reasonable amount

1 for the loss of the franchise or permit. In the event that any person,
2 firm, or corporation whose franchise or permit has been canceled by the
3 terms of this section suffers any measurable damages as a result of any
4 incorporation pursuant to this chapter, such person, firm, or
5 corporation has a right of action against any city or town causing such
6 damages.

7 **Sec. 2.** RCW 35.13.280 and 1994 c 81 s 15 are each amended to read
8 as follows:

9 The annexation by any city or town of any territory pursuant to
10 those provisions of chapter 35.10 RCW which relate to the annexation of
11 a city or town to a city or town, or pursuant to the provisions of
12 chapter 35.13 RCW shall cancel, as of the effective date of such
13 annexation, any franchise or permit theretofore granted to any person,
14 firm or corporation by the state of Washington, or by the governing
15 body of such annexed territory, authorizing or otherwise permitting the
16 operation of any public transportation, garbage ((collection and/or))
17 disposal or other similar public service business or facility within
18 the limits of the annexed territory, but the holder of any such
19 franchise or permit canceled pursuant to this section shall be
20 forthwith granted by the annexing city or town a franchise to continue
21 such business within the annexed territory for a term of not less than
22 ((five)) seven years from the date of issuance thereof, and the
23 annexing city or town, by franchise, permit or public operation, shall
24 not extend similar or competing services to the annexed territory
25 except upon a proper showing of the inability or refusal of such
26 person, firm or corporation to adequately service said annexed
27 territory at a reasonable price: PROVIDED, That the provisions of this
28 section shall not preclude the purchase by the annexing city or town of
29 said franchise, business, or facilities at an agreed or negotiated
30 price, or from acquiring the same by condemnation upon payment of
31 damages, including a reasonable amount for the loss of the franchise or
32 permit. In the event that any person, firm or corporation whose
33 franchise or permit has been canceled by the terms of this section
34 shall suffer any measurable damages as a result of any annexation
35 pursuant to the provisions of the laws above-mentioned, such person,
36 firm or corporation shall have a right of action against any city or
37 town causing such damages.

1 After an annexation by a city or town, the utilities and
2 transportation commission shall continue to regulate solid waste
3 collection within the limits of the annexed territory until such time
4 as the city or town notifies the commission, in writing, of its
5 decision to contract for solid waste collection or provide solid waste
6 collection itself pursuant to RCW 81.77.020. In the event the annexing
7 city or town at any time decides to contract for solid waste collection
8 or decides to undertake solid waste collection itself, the holder of
9 any such franchise or permit that is so canceled shall be forthwith
10 granted by the annexing city or town a franchise to continue such
11 business within the annexed territory for a term of not less than the
12 remaining term of the original franchise or permit, or seven years,
13 whichever is the shorter period, and the city or town, by franchise,
14 permit, or public operation, shall not extend similar or competing
15 services to the annexed territory except upon a proper showing of the
16 inability or refusal of such person, firm, or corporation to adequately
17 service the annexed territory at a reasonable price. Upon the
18 effective date specified by the city or town council's ordinance or
19 resolution to have the city or town contract for solid waste collection
20 or undertake solid waste collection itself, the seven-year transition
21 period specified in this section begins to run. This section does not
22 preclude the purchase by the annexing city or town of the franchise,
23 business, or facilities at an agreed or negotiated price, or from
24 acquiring the same by condemnation upon payment of damages, including
25 a reasonable amount for the loss of the franchise or permit. In the
26 event that any person, firm, or corporation whose franchise or permit
27 has been canceled by the terms of this section suffers any measurable
28 damages as a result of any annexation pursuant to this chapter, such
29 person, firm, or corporation has a right of action against any city or
30 town causing such damages.

31 **Sec. 3.** RCW 35A.14.900 and 1967 ex.s. c 119 s 35A.14.900 are each
32 amended to read as follows:

33 The annexation by any code city of any territory pursuant to this
34 chapter shall cancel, as of the effective date of such annexation, any
35 franchise or permit theretofore granted to any person, firm or
36 corporation by the state of Washington, or by the governing body of
37 such annexed territory, authorizing or otherwise permitting the
38 operation of any public utility, including but not limited to, public

1 electric, water, transportation, garbage ((collection and/or)) disposal
2 or other similar public service business or facility within the limits
3 of the annexed territory, but the holder of any such franchise or
4 permit canceled pursuant to this section shall be forthwith granted by
5 the annexing code city a franchise to continue such business within the
6 annexed territory for a term of not less than ((five)) seven years from
7 the date of issuance thereof, and the annexing code city, by franchise,
8 permit or public operation, shall not extend similar or competing
9 services to the annexed territory except upon a proper showing of the
10 inability or refusal of such person, firm or corporation to adequately
11 service said annexed territory at a reasonable price: PROVIDED, That
12 the provisions of this section shall not preclude the purchase by the
13 annexing code city of said franchise, business, or facilities at an
14 agreed or negotiated price, or from acquiring the same by condemnation
15 upon payment of damages, including a reasonable amount for the loss of
16 the franchise or permit. In the event that any person, firm or
17 corporation whose franchise or permit has been canceled by the terms of
18 this section shall suffer any measurable damages as a result of any
19 annexation pursuant to the provisions of the laws above-mentioned, such
20 person, firm or corporation shall have a right of action against any
21 code city causing such damages.

22 After an annexation by a code city, the utilities and
23 transportation commission shall continue to regulate solid waste
24 collection within the limits of the annexed territory until such time
25 as the city notifies the commission, in writing, of its decision to
26 contract for solid waste collection or provide solid waste collection
27 itself pursuant to RCW 81.77.020. In the event the annexing city at
28 any time decides to contract for solid waste collection or decides to
29 undertake solid waste collection itself, the holder of any such
30 franchise or permit that is so canceled shall be forthwith granted by
31 the annexing city a franchise to continue such business within the
32 annexed territory for a term of not less than the remaining term of the
33 original franchise or permit, or seven years, whichever is the shorter
34 period, and the city, by franchise, permit, or public operation, shall
35 not extend similar or competing services to the annexed territory
36 except upon a proper showing of the inability or refusal of such
37 person, firm, or corporation to adequately service the annexed
38 territory at a reasonable price. Upon the effective date specified by
39 the code city council's ordinance or resolution to have the code city

1 contract for solid waste collection or undertake solid waste collection
2 itself, the seven-year transition period specified in this section
3 begins to run. This section does not preclude the purchase by the
4 annexing city of the franchise, business, or facilities at an agreed or
5 negotiated price, or from acquiring the same by condemnation upon
6 payment of damages, including a reasonable amount for the loss of the
7 franchise or permit. In the event that any person, firm, or
8 corporation whose franchise or permit has been canceled by the terms of
9 this section suffers any measurable damages as a result of any
10 annexation pursuant to this chapter, such person, firm, or corporation
11 has a right of action against any city causing such damages.

12 NEW SECTION. Sec. 4. A new section is added to chapter 81.77 RCW
13 to read as follows:

14 A city, town, or combined city-county may at any time reverse its
15 decision to exercise its authority under RCW 81.77.020. In such an
16 event, the commission shall issue a certificate to the last holder of
17 a valid commission certificate of public convenience and necessity for
18 the area reverting to commission jurisdiction. If there was no
19 certificate existing for the area, or the previous holder was
20 compensated for its certificate property right, the commission shall
21 consider applications for authority under RCW 81.77.040.

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