
HOUSE BILL 1797

State of Washington

55th Legislature

1997 Regular Session

By Representatives D. Sommers, Scott and Reams; by request of Utilities & Transportation Commission

Read first time 02/10/97. 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 years, whichever is
19 the shorter period, and the incorporating city or town, by franchise,

1 permit or public operation, shall not extend similar or competing
2 services to the incorporated territory except upon a proper showing of
3 the inability or refusal of such person, firm or corporation to
4 adequately service said incorporated territory at a reasonable price:
5 PROVIDED, That the provisions of this section shall not preclude the
6 purchase by the incorporating city or town of said franchise, business,
7 or facilities at an agreed or negotiated price, or from acquiring the
8 same by condemnation upon payment of damages, including a reasonable
9 amount for the loss of the franchise or permit. In the event that any
10 person, firm or corporation whose franchise or permit has been canceled
11 by the terms of this section shall suffer any measurable damages as a
12 result of any incorporation pursuant to the provisions of chapter 35.02
13 RCW, such person, firm or corporation shall have a right of action
14 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 incorporated 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 in whole
24 or in part shall be forthwith granted by the incorporated city or town
25 a franchise to continue such business within the incorporated territory
26 for a term of not less than the remaining term of the original
27 franchise or permit, or five years, whichever is the shorter period,
28 and the incorporated city or town, by franchise, permit, or public
29 operation, shall not extend similar or competing services to the
30 incorporated territory except upon a proper showing of the inability or
31 refusal of such person, firm, or corporation to adequately service the
32 incorporated territory at a reasonable price. Upon the effective date
33 specified by the city or town council's ordinance or resolution to have
34 the city or town contract for solid waste collection or undertake solid
35 waste collection itself, the transition period specified in this
36 section begins to run. This section does not preclude the purchase by
37 the incorporated city or town of the franchise, business, or facilities
38 at an agreed or negotiated price, or from acquiring the same by
39 condemnation upon payment of damages, including a reasonable amount for

1 the loss of the franchise or permit. In the event that any person,
2 firm, or corporation whose franchise or permit has been canceled in
3 whole or in part by the terms of this section suffers any measurable
4 damages as a result of any incorporation pursuant to this chapter, such
5 person, firm, or corporation has a right of action against any city or
6 town causing such 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 years from the date of issuance thereof, and the annexing city or
23 town, by franchise, permit or public operation, shall not extend
24 similar or competing services to the annexed territory except upon a
25 proper showing of the inability or refusal of such person, firm or
26 corporation to adequately service said annexed territory at a
27 reasonable price: PROVIDED, That the provisions of this section shall
28 not preclude the purchase by the annexing city or town of said
29 franchise, business, or facilities at an agreed or negotiated price, or
30 from acquiring the same by condemnation upon payment of damages,
31 including a reasonable amount for the loss of the franchise or permit.
32 In the event that any person, firm or corporation whose franchise or
33 permit has been canceled by the terms of this section shall suffer any
34 measurable damages as a result of any annexation pursuant to the
35 provisions of the laws above-mentioned, such person, firm or
36 corporation shall have a right of action against any city or town
37 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 in whole or in part
10 shall be forthwith granted by the annexing city or town a franchise to
11 continue such business within the annexed territory for a term of not
12 less than the remaining term of the original franchise or permit, or
13 not less than five years, whichever is the shorter period, and the city
14 or town, by franchise, permit, or public operation, shall not extend
15 similar or competing services to the annexed territory except upon a
16 proper showing of the inability or refusal of such person, firm, or
17 corporation to adequately service the annexed territory at a reasonable
18 price. Upon the effective date specified by the city or town council's
19 ordinance or resolution to have the city or town contract for solid
20 waste collection or undertake solid waste collection itself, the
21 transition period specified in this section begins to run. This
22 section does not preclude the purchase by the annexing city or town of
23 the franchise, business, or facilities at an agreed or negotiated
24 price, or from acquiring the same by condemnation upon payment of
25 damages, including a reasonable amount for the loss of the franchise or
26 permit. In the event that any person, firm, or corporation whose
27 franchise or permit has been canceled by the terms of this section
28 suffers any measurable damages as a result of any annexation pursuant
29 to this chapter, such person, firm, or corporation has a right of
30 action against any city or 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 years from the date
7 of issuance thereof, and the annexing code city, by franchise, permit
8 or public operation, shall not extend similar or competing services to
9 the annexed territory except upon a proper showing of the inability or
10 refusal of such person, firm or corporation to adequately service said
11 annexed territory at a reasonable price: PROVIDED, That the provisions
12 of this section shall not preclude the purchase by the annexing code
13 city of said franchise, business, or facilities at an agreed or
14 negotiated price, or from acquiring the same by condemnation upon
15 payment of damages, including a reasonable amount for the loss of the
16 franchise or permit. In the event that any person, firm or corporation
17 whose franchise or permit has been canceled by the terms of this
18 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 in whole or in part shall be
31 forthwith granted by the annexing city a franchise to continue such
32 business within the annexed territory for a term of not less than the
33 remaining term of the original franchise or permit, or not less than
34 five years, whichever is the shorter period, and the city, by
35 franchise, permit, or public operation, shall not extend similar or
36 competing services to the annexed territory except upon a proper
37 showing of the inability or refusal of such person, firm, or
38 corporation to adequately service the annexed territory at a reasonable
39 price. Upon the effective date specified by the code city council's

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

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

15 A city, town, or combined city-county may at any time reverse its
16 decision to exercise its authority under RCW 81.77.020. In such an
17 event, the commission shall issue a certificate to the last holder of
18 a valid commission certificate of public convenience and necessity, or
19 its successors or assigns, for the area reverting to commission
20 jurisdiction. If there was no certificate existing for the area, or
21 the previous holder was compensated for its certificate property right,
22 the commission shall consider applications for authority under RCW
23 81.77.040.

24 NEW SECTION. **Sec. 5.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

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