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**SUBSTITUTE SENATE BILL 5409**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Land Use & Planning (originally sponsored by Senators Mulliken, T. Sheldon, Roach, Fairley, Schmidt, Kline, Swecker, Reardon, Deccio, Doumit, McCaslin, Parlette, Esser, Rasmussen and Shin)

READ FIRST TIME 02/19/03.

1       AN ACT Relating to providing a new direct petition annexation  
2 method; amending RCW 35.21.005 and 35A.01.040; adding new sections to  
3 chapter 35.13 RCW; adding new sections to chapter 35A.14 RCW; creating  
4 new sections; and declaring an emergency.

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

6       NEW SECTION.   **Sec. 1.** The legislature recognizes that on March 14,  
7 2002, the Washington state supreme court decided in *Grant County Fire*  
8 *Protection District No. 5 v. City of Moses Lake*, 145 Wn.2d 702 (2002),  
9 that the petition method of annexation authorized by RCW 35.13.125  
10 through 35.13.160 and 35A.14.120 through 35A.14.150 is  
11 unconstitutional. The legislature also recognizes that on October 11,  
12 2002, the Washington state supreme court granted a motion for  
13 reconsideration of this decision. The legislature intends to provide  
14 a new method of direct petition annexation that enables property owners  
15 and registered voters to participate in an annexation process without  
16 the constitutional defect identified by the court.

17       NEW SECTION.   **Sec. 2.** A new section is added to chapter 35.13 RCW  
18 to read as follows:

1 Proceedings for the annexation of territory pursuant to this  
2 section and section 3 of this act shall be commenced as provided in  
3 this section. Before the circulation of a petition for annexation, the  
4 initiating party or parties who, except as provided in RCW 28A.335.110,  
5 shall be either not less than ten percent of the residents of the area  
6 to be annexed or the owners of not less than ten percent of the  
7 property for which annexation is petitioned, shall notify the  
8 legislative body of the city or town in writing of their intention to  
9 commence annexation proceedings. The legislative body shall set a  
10 date, not later than sixty days after the filing of the request, for a  
11 meeting with the initiating parties to determine whether the city or  
12 town will accept, reject, or geographically modify the proposed  
13 annexation, whether it shall require the simultaneous adoption of the  
14 comprehensive plan if such plan has been prepared and filed for the  
15 area to be annexed as provided for in RCW 35.13.177 and 35.13.178, and  
16 whether it shall require the assumption of all or any portion of  
17 existing city or town indebtedness by the area to be annexed. If the  
18 legislative body requires the assumption of all or any portion of  
19 indebtedness and/or the adoption of a comprehensive plan, it shall  
20 record this action in its minutes and the petition for annexation shall  
21 be so drawn as to clearly indicate this fact. There shall be no appeal  
22 from the decision of the legislative body.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.13 RCW  
24 to read as follows:

25 (1) A petition for annexation of an area contiguous to a city or  
26 town may be made in writing addressed to and filed with the legislative  
27 body of the municipality to which annexation is desired. Except where  
28 all the property sought to be annexed is property of a school district,  
29 and the school directors thereof file the petition for annexation as in  
30 RCW 28A.335.110, the petition must be signed by the owners of a  
31 majority of the acreage for which annexation is petitioned and a  
32 majority of the registered voters residing in the area for which  
33 annexation is petitioned.

34 (2) If no residents exist within the area proposed for annexation,  
35 the petition must be signed by the owners of a majority of the acreage  
36 for which annexation is petitioned.

1 (3) The petition shall set forth a legal description of the  
2 property proposed to be annexed that complies with RCW 35.02.170, and  
3 shall be accompanied by a drawing that outlines the boundaries of the  
4 property sought to be annexed. If the legislative body has required  
5 the assumption of all or any portion of city or town indebtedness by  
6 the area annexed, and/or the adoption of a comprehensive plan for the  
7 area to be annexed, these facts, together with a quotation of the  
8 minute entry of such requirement or requirements, shall be set forth in  
9 the petition.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.13 RCW  
11 to read as follows:

12 When a petition for annexation is filed with the city or town  
13 council, or commission in those cities having a commission form of  
14 government, that meets the requirements of sections 2 and 3 of this act  
15 and RCW 35.21.005, of which fact satisfactory proof may be required by  
16 the council or commission, the council or commission may entertain the  
17 same, fix a date for a public hearing thereon and cause notice of the  
18 hearing to be published in one issue of a newspaper of general  
19 circulation in the city or town. The notice shall also be posted in  
20 three public places within the territory proposed for annexation, and  
21 shall specify the time and place of hearing and invite interested  
22 persons to appear and voice approval or disapproval of the annexation.  
23 The expense of publication and posting of the notice shall be borne by  
24 the signers of the petition.

25 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.13 RCW  
26 to read as follows:

27 Following the hearing, the council or commission shall determine by  
28 ordinance whether annexation shall be made. Subject to the provisions  
29 of sections 2 through 7 of this act and RCW 35.21.005, they may annex  
30 all or any portion of the proposed area but may not include in the  
31 annexation any property not described in the petition. Upon passage of  
32 the ordinance a certified copy shall be filed with the board of county  
33 commissioners of the county in which the annexed property is located.

34 NEW SECTION. **Sec. 6.** A new section is added to chapter 35.13 RCW  
35 to read as follows:

1       Upon the date fixed in the ordinance of annexation, the area  
2 annexed shall become part of the city or town. All property within the  
3 annexed territory shall, if the annexation petition so provided, be  
4 assessed and taxed at the same rate and on the same basis as the  
5 property of such annexing city or town is assessed and taxed to pay for  
6 all or of any portion of the then outstanding indebtedness of the city  
7 or town to which the area is annexed, approved by the voters,  
8 contracted, or incurred before, or existing at, the date of annexation.  
9 If the annexation petition so provided, all property in the annexed  
10 area is subject to and is a part of the comprehensive plan as prepared  
11 and filed as provided for in RCW 35.13.177 and 35.13.178.

12       NEW SECTION. **Sec. 7.** A new section is added to chapter 35.13 RCW  
13 to read as follows:

14       The method of annexation provided for in sections 2 through 6 of  
15 this act is an alternative method, and does not supersede any other  
16 method.

17       **Sec. 8.** RCW 35.21.005 and 1996 c 286 s 6 are each amended to read  
18 as follows:

19       Wherever in this title petitions are required to be signed and  
20 filed, the following rules shall govern the sufficiency thereof:

21       (1) A petition may include any page or group of pages containing an  
22 identical text or prayer intended by the circulators, signers or  
23 sponsors to be presented and considered as one petition and containing  
24 the following essential elements when applicable, except that the  
25 elements referred to in (d) and (e) of this subsection are essential  
26 for petitions referring or initiating legislative matters to the  
27 voters, but are directory as to other petitions:

28       (a) The text or prayer of the petition which shall be a concise  
29 statement of the action or relief sought by petitioners and shall  
30 include a reference to the applicable state statute or city ordinance,  
31 if any;

32       (b) If the petition initiates or refers an ordinance, a true copy  
33 thereof;

34       (c) If the petition seeks the annexation, incorporation,  
35 withdrawal, or reduction of an area for any purpose, an accurate legal

1 description of the area proposed for such action and if practical, a  
2 map of the area;

3 (d) Numbered lines for signatures with space provided beside each  
4 signature for the name and address of the signer and the date of  
5 signing;

6 (e) The warning statement prescribed in subsection (2) of this  
7 section.

8 (2) Petitions shall be printed or typed on single sheets of white  
9 paper of good quality and each sheet of petition paper having a space  
10 thereon for signatures shall contain the text or prayer of the petition  
11 and the following warning:

12 WARNING

13 Every person who signs this petition with any other than his or  
14 her true name, or who knowingly signs more than one of these  
15 petitions, or signs a petition seeking an election when he or  
16 she is not a legal voter, or signs a petition when he or she is  
17 otherwise not qualified to sign, or who makes herein any false  
18 statement, shall be guilty of a misdemeanor.

19 Each signature shall be executed in ink or indelible pencil and  
20 shall be followed by the name and address of the signer and the date of  
21 signing.

22 (3) The term "signer" means any person who signs his or her own  
23 name to the petition.

24 (4) To be sufficient a petition must contain valid signatures of  
25 qualified registered voters or property owners, as the case may be, in  
26 the number required by the applicable statute or ordinance. Within  
27 three working days after the filing of a petition, the officer with  
28 whom the petition is filed shall transmit the petition to the county  
29 auditor for petitions signed by registered voters, or to the county  
30 assessor for petitions signed by property owners for determination of  
31 sufficiency. The officer or officers whose duty it is to determine the  
32 sufficiency of the petition shall proceed to make such a determination  
33 with reasonable promptness and shall file with the officer receiving  
34 the petition for filing a certificate stating the date upon which such  
35 determination was begun, which date shall be referred to as the  
36 terminal date. Additional pages of one or more signatures may be added  
37 to the petition by filing the same with the appropriate filing officer

1 prior to such terminal date. Any signer of a filed petition may  
2 withdraw his or her signature by a written request for withdrawal filed  
3 with the receiving officer prior to such terminal date. Such written  
4 request shall so sufficiently describe the petition as to make  
5 identification of the person and the petition certain. The name of any  
6 person seeking to withdraw shall be signed exactly the same as  
7 contained on the petition and, after the filing of such request for  
8 withdrawal, prior to the terminal date, the signature of any person  
9 seeking such withdrawal shall be deemed withdrawn.

10 (5) Petitions containing the required number of signatures shall be  
11 accepted as prima facie valid until their invalidity has been proved.

12 (6) A variation on petitions between the signatures on the petition  
13 and that on the voter's permanent registration caused by the  
14 substitution of initials instead of the first or middle names, or both,  
15 shall not invalidate the signature on the petition if the surname and  
16 handwriting are the same.

17 (7) Signatures, including the original, of any person who has  
18 signed a petition two or more times shall be stricken.

19 (8) Signatures followed by a date of signing which is more than six  
20 months prior to the date of filing of the petition shall be stricken.

21 (9) When petitions are required to be signed by the owners of  
22 property, the determination shall be made by the county assessor.  
23 Where validation of signatures to the petition is required, the  
24 following shall apply:

25 (a) The signature of a record owner, as determined by the records  
26 of the county auditor, shall be sufficient without the signature of his  
27 or her spouse;

28 (b) In the case of mortgaged property, the signature of the  
29 mortgagor shall be sufficient, without the signature of his or her  
30 spouse;

31 (c) In the case of property purchased on contract, the signature of  
32 the contract purchaser, as shown by the records of the county auditor,  
33 shall be deemed sufficient, without the signature of his or her spouse;

34 (d) Any officer of a corporation owning land within the area  
35 involved who is duly authorized to execute deeds or encumbrances on  
36 behalf of the corporation, may sign on behalf of such corporation, and  
37 shall attach to the petition a certified excerpt from the bylaws of  
38 such corporation showing such authority;

1 (e) When property stands in the name of a deceased person or any  
2 person for whom a guardian has been appointed, the signature of the  
3 executor, administrator, or guardian, as the case may be, shall be  
4 equivalent to the signature of the owner of the property; and

5 (f) When a parcel of property is owned by multiple owners, the  
6 signature of an owner designated by the multiple owners is sufficient.

7 (10) The officer (~~who is~~) or officers responsible for determining  
8 the sufficiency of the petition shall do so in writing and transmit the  
9 written certificate to the officer with whom the petition was  
10 originally filed.

11 **Sec. 9.** RCW 35A.01.040 and 1996 c 286 s 7 are each amended to read  
12 as follows:

13 Wherever in this title petitions are required to be signed and  
14 filed, the following rules shall govern the sufficiency thereof:

15 (1) A petition may include any page or group of pages containing an  
16 identical text or prayer intended by the circulators, signers or  
17 sponsors to be presented and considered as one petition and containing  
18 the following essential elements when applicable, except that the  
19 elements referred to in (d) and (e) of this subsection are essential  
20 for petitions referring or initiating legislative matters to the  
21 voters, but are directory as to other petitions:

22 (a) The text or prayer of the petition which shall be a concise  
23 statement of the action or relief sought by petitioners and shall  
24 include a reference to the applicable state statute or city ordinance,  
25 if any;

26 (b) If the petition initiates or refers an ordinance, a true copy  
27 thereof;

28 (c) If the petition seeks the annexation, incorporation,  
29 withdrawal, or reduction of an area for any purpose, an accurate legal  
30 description of the area proposed for such action and if practical, a  
31 map of the area;

32 (d) Numbered lines for signatures with space provided beside each  
33 signature for the name and address of the signer and the date of  
34 signing;

35 (e) The warning statement prescribed in subsection (2) of this  
36 section.

1 (2) Petitions shall be printed or typed on single sheets of white  
2 paper of good quality and each sheet of petition paper having a space  
3 thereon for signatures shall contain the text or prayer of the petition  
4 and the following warning:

5 WARNING

6 Every person who signs this petition with any other than his or  
7 her true name, or who knowingly signs more than one of these  
8 petitions, or signs a petition seeking an election when he or  
9 she is not a legal voter, or signs a petition when he or she is  
10 otherwise not qualified to sign, or who makes herein any false  
11 statement, shall be guilty of a misdemeanor.

12 Each signature shall be executed in ink or indelible pencil and  
13 shall be followed by the name and address of the signer and the date of  
14 signing.

15 (3) The term "signer" means any person who signs his or her own  
16 name to the petition.

17 (4) To be sufficient a petition must contain valid signatures of  
18 qualified registered voters or property owners, as the case may be, in  
19 the number required by the applicable statute or ordinance. Within  
20 three working days after the filing of a petition, the officer with  
21 whom the petition is filed shall transmit the petition to the county  
22 auditor for petitions signed by registered voters, or to the county  
23 assessor for petitions signed by property owners for determination of  
24 sufficiency. The officer or officers whose duty it is to determine the  
25 sufficiency of the petition shall proceed to make such a determination  
26 with reasonable promptness and shall file with the officer receiving  
27 the petition for filing a certificate stating the date upon which such  
28 determination was begun, which date shall be referred to as the  
29 terminal date. Additional pages of one or more signatures may be added  
30 to the petition by filing the same with the appropriate filing officer  
31 prior to such terminal date. Any signer of a filed petition may  
32 withdraw his or her signature by a written request for withdrawal filed  
33 with the receiving officer prior to such terminal date. Such written  
34 request shall so sufficiently describe the petition as to make  
35 identification of the person and the petition certain. The name of any  
36 person seeking to withdraw shall be signed exactly the same as



1 contained on the petition and, after the filing of such request for  
2 withdrawal, prior to the terminal date, the signature of any person  
3 seeking such withdrawal shall be deemed withdrawn.

4 (5) Petitions containing the required number of signatures shall be  
5 accepted as prima facie valid until their invalidity has been proved.

6 (6) A variation on petitions between the signatures on the petition  
7 and that on the voter's permanent registration caused by the  
8 substitution of initials instead of the first or middle names, or both,  
9 shall not invalidate the signature on the petition if the surname and  
10 handwriting are the same.

11 (7) Signatures, including the original, of any person who has  
12 signed a petition two or more times shall be stricken.

13 (8) Signatures followed by a date of signing which is more than six  
14 months prior to the date of filing of the petition shall be stricken.

15 (9) When petitions are required to be signed by the owners of  
16 property, the determination shall be made by the county assessor.  
17 Where validation of signatures to the petition is required, the  
18 following shall apply:

19 (a) The signature of a record owner, as determined by the records  
20 of the county auditor, shall be sufficient without the signature of his  
21 or her spouse;

22 (b) In the case of mortgaged property, the signature of the  
23 mortgagor shall be sufficient, without the signature of his or her  
24 spouse;

25 (c) In the case of property purchased on contract, the signature of  
26 the contract purchaser, as shown by the records of the county auditor,  
27 shall be deemed sufficient, without the signature of his or her spouse;

28 (d) Any officer of a corporation owning land within the area  
29 involved who is duly authorized to execute deeds or encumbrances on  
30 behalf of the corporation, may sign on behalf of such corporation, and  
31 shall attach to the petition a certified excerpt from the bylaws of  
32 such corporation showing such authority;

33 (e) When property stands in the name of a deceased person or any  
34 person for whom a guardian has been appointed, the signature of the  
35 executor, administrator, or guardian, as the case may be, shall be  
36 equivalent to the signature of the owner of the property; and

37 (f) When a parcel of property is owned by multiple owners, the  
38 signature of an owner designated by the multiple owners is sufficient.

1 (10) The officer (~~who is~~) or officers responsible for determining  
2 the sufficiency of the petition shall do so in writing and transmit the  
3 written certificate to the officer with whom the petition was  
4 originally filed.

5 NEW SECTION. **Sec. 10.** A new section is added to chapter 35A.14  
6 RCW to read as follows:

7 (1) Proceedings for initiating annexation of unincorporated  
8 territory to a charter code city or noncharter code city may be  
9 commenced by the filing of a petition of property owners of the  
10 territory proposed to be annexed, in the following manner which is  
11 alternative to other methods provided in this chapter:

12 (a) Before the circulation of a petition for annexation, the  
13 initiating party or parties, who shall be the owners of not less than  
14 ten percent of the property for which annexation is sought, shall  
15 notify the legislative body of the code city in writing of their  
16 intention to commence annexation proceedings;

17 (b) The legislative body shall set a date, not later than sixty  
18 days after the filing of the request, for a meeting with the initiating  
19 parties to determine whether the code city will accept, reject, or  
20 geographically modify the proposed annexation, whether it shall require  
21 the simultaneous adoption of a proposed zoning regulation, if such a  
22 proposal has been prepared and filed for the area to be annexed as  
23 provided for in RCW 35A.14.330 and 35A.14.340, and whether it shall  
24 require the assumption of all or any portion of existing city  
25 indebtedness by the area to be annexed;

26 (c) If the legislative body requires the assumption of all or any  
27 portion of indebtedness and/or the adoption of a proposed zoning  
28 regulation, it shall record this action in its minutes and the petition  
29 for annexation shall be so drawn as to clearly indicate these facts;

30 (d) Approval by the legislative body shall be a condition precedent  
31 to circulation of the petition; and

32 (e) There shall be no appeal from the decision of the legislative  
33 body.

34 (2) A petition for annexation of an area contiguous to a code city  
35 may be filed with the legislative body of the municipality to which  
36 annexation is desired. The petition for annexation must be signed by

1 the owners of a majority of the acreage for which annexation is  
2 petitioned and a majority of the registered voters residing in the area  
3 for which annexation is petitioned.

4 (3) If no residents exist within the area proposed for annexation,  
5 the petition must be signed by the owners of a majority of the acreage  
6 for which annexation is petitioned.

7 (4) The petition shall set forth a legal description of the  
8 property proposed to be annexed that complies with RCW 35A.14.410, and  
9 shall be accompanied by a drawing that outlines the boundaries of the  
10 property sought to be annexed. If the legislative body has required  
11 the assumption of all or any portion of city indebtedness by the area  
12 annexed or the adoption of a proposed zoning regulation, these facts,  
13 together with a quotation of the minute entry of such requirement, or  
14 requirements, shall also be set forth in the petition.

15 NEW SECTION. **Sec. 11.** A new section is added to chapter 35A.14  
16 RCW to read as follows:

17 When a petition for annexation is filed with the legislative body  
18 of a code city, that meets the requirements of RCW 35A.01.040 and  
19 section 10 of this act and is sufficient according to the rules set  
20 forth in RCW 35A.01.040, the legislative body may entertain the same,  
21 fix a date for a public hearing thereon and cause notice of the hearing  
22 to be published in one or more issues of a newspaper of general  
23 circulation in the city. The notice shall also be posted in three  
24 public places within the territory proposed for annexation, and shall  
25 specify the time and place of hearing and invite interested persons to  
26 appear and voice approval or disapproval of the annexation.

27 NEW SECTION. **Sec. 12.** A new section is added to chapter 35A.14  
28 RCW to read as follows:

29 Following the hearing, if the legislative body determines to effect  
30 the annexation, they shall do so by ordinance. Subject to RCW  
31 35A.14.410, the ordinance may annex all or any portion of the proposed  
32 area but may not include in the annexation any property not described  
33 in the petition. Upon passage of the annexation ordinance, a certified  
34 copy shall be filed with the board of county commissioners of the  
35 county in which the annexed property is located.

1        NEW SECTION.    **Sec. 13.**    A new section is added to chapter 35A.14  
2    RCW to read as follows:

3        Upon the date fixed in the ordinance of annexation, the area  
4    annexed shall become part of the city. All property within the annexed  
5    territory shall, if the annexation petition so provided, be assessed  
6    and taxed at the same rate and on the same basis as the property of the  
7    annexing code city is assessed and taxed to pay for the portion of any  
8    then-outstanding indebtedness of the city to which the area is annexed,  
9    which indebtedness has been approved by the voters, contracted for, or  
10   incurred before, or existing at, the date of annexation and that the  
11   city has required to be assumed. If the annexation petition so  
12   provided, all property in the annexed area shall be subject to and a  
13   part of the proposed zoning regulation as prepared and filed as  
14   provided for in RCW 35A.14.330 and 35A.14.340.

15       NEW SECTION.    **Sec. 14.**    If any provision of this act or its  
16   application to any person or circumstance is held invalid, the  
17   remainder of the act or the application of the provision to other  
18   persons or circumstances is not affected.

19       NEW SECTION.    **Sec. 15.**    This act is necessary for the immediate  
20   preservation of the public peace, health, or safety, or support of the  
21   state government and its existing public institutions, and takes effect  
22   immediately.

--- END ---