

HOUSE BILL REPORT

ESHB 1627

As Amended by the Senate

Title: An act relating to limiting the authority of boundary review boards to expand an annexation to twice the area of the proposed annexation.

Brief Description: Limiting the authority of boundary review boards.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Fitzgibbon, Maxwell, Springer, Eddy, Clibborn and Tharinger).

Brief History:

Committee Activity:

Local Government: 2/8/11, 2/15/11 [DPS].

Floor Activity:

Passed House: 2/8/12, 56-42.

Senate Amended.

Passed Senate: 2/29/12, 25-24.

Brief Summary of Engrossed Substitute Bill

- Makes changes to provisions governing the authority of boundary review boards (boards) to modify annexation proposals.
- Authorizes a board to increase by no more than 15 percent the area of annexation for proposed annexations of 100 acres or more to a city or town.
- Authorizes a board to increase no more than 100 percent the area of annexation for proposed annexations of less than 100 acres to a city or town.
- Establishes new requirements for boards that increase the area of city or town annexations.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 6 members: Representatives Takko, Chair; Fitzgibbon, Vice Chair; Asay, Assistant Ranking Minority Member; Springer, Tharinger and Upthegrove.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 3 members: Representatives Angel, Ranking Minority Member; Rodne and Smith.

Staff: Ethan Moreno (786-7386).

Background:

Boundary Review Boards.

Boundary review boards (boards) are authorized in statute to guide and control the creation and growth of municipalities in metropolitan areas. While statute provides for the establishment of boards in counties with at least 210,000 residents, a board may be created and established in any other county. Board members are appointed by the Governor and local government officials from within the applicable county.

Upon receiving a timely and sufficient request for review, and following an invocation of a board's jurisdiction, a board must review and approve, disapprove, or modify proposed actions, including actions pertaining to the creation, incorporation, or change in the boundary of any city, town, or special purpose district. In reaching decisions on proposed actions, boards must satisfy public hearing requirements and must attempt to achieve objectives prescribed in statute, including the preservation of natural neighborhoods and communities, and the use of physical boundaries. Generally, decisions on proposed actions must be made within 120 days of the board receiving a valid request for review.

Board modifications of proposed actions must adhere to legal requirements and limitations. Examples of these provisions are as follows:

1. Modifications must be based upon evidence to support a conclusion that the proposed action is inconsistent with one or more prescribed board objectives.
2. The amount of territory that boards may add to town annexation proposals is limited by the size of the original proposal.
3. Boards may not modify the proposed incorporation of a city with an estimated population of 7,500 or more by removing or adding territory from the proposal if that territory constitutes 10 percent or more of the area proposed for incorporation.

Additionally, board decisions in counties planning under the Growth Management Act (GMA) must be consistent with the planning goals of the GMA and other provisions.

Supreme Court Action.

On November 9, 2006, the Washington Supreme Court (Court) ruled in *Interlake Sporting Association, Inc. v. Washington State Boundary Review Board for King County, and City of Redmond*, 158 Wn.2d 545 (2006), that the King County Board exceeded its statutory authority when it required the City of Redmond to annex an area that was more than three times larger than the area the city intended to annex. In its ruling, the Court indicated that boards may modify or adjust boundaries of proposed actions in ways that do not increase the total acreage of the proposal.

Summary of Engrossed Substitute Bill:

For proposed annexations of less than 100 acres to a city or town, a board may increase the area to be annexed by no more than 100 percent of the total area of the proposal it is considering. However, for proposed annexations of 100 acres or more to a city or town, a board may increase the area to be annexed by no more than 15 percent of the total area of the proposal it is considering.

A board is required to hold a separate public hearing, preceded by at least 60 days notice to the registered voters and property owners residing in the area subject to the proposed increase, before increasing the area of annexation.

Additional provisions governing board expansions of city and town annexation proposals are specified. If an annexation before a board would result in additional indebtedness or excess levies, or both, for property owners in the area subject to the proposed increase, the board may not increase the area of the annexation without first obtaining written consent from at least 60 percent of the registered voters residing within the increased area. Similarly, if an annexation would result in modifications to zoning ordinances governing the area subject to the proposed increase, the board may not increase the area of the annexation without first obtaining written consent from the owners of property equaling at least 60 percent of the assessed valuation within the increased area. Lastly, if the board increases the total area of a proposed city or town annexation, property owners residing in the increased area may, after annexation, continue to own and possess pets and livestock lawfully in their possession at the time of the annexation.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment (1) broadens the authority of a board to add annexation to a proposed city or town annexation by deleting a provision specifying that boards may not modify a proposed city or town annexation of 100 or more acres by adding an amount of territory that constitutes more than 15 percent of the total area of the proposal before the board; (2) reduces the amount of notice that a board must provide to affected registered voters and property owners for a public hearing on a board proposal to increase a city or town annexation from 60 to 10 days; (3) deletes a provision obligating a board to obtain written consent from at least 60 percent of the registered voters residing within an area subject to a territorial increase proposed by the board if the annexation would result in additional indebtedness or excess tax levies, or both; (4) deletes a provision obligating a board to obtain written consent from the owners of property equaling a least 60 percent of the assessed valuation within the area subject to a territorial increase proposed by the board if the annexation would result in modifications to zoning ordinances governing the area subject to the proposed increase; and (5) deletes a provision specifying that if a board increases the total area of a proposed city or town annexation, property owners residing in the increased area may, after annexation, continue to own and possess pets and livestock lawfully in their possession at the time of annexation.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill gives boards the flexibility necessary to avoid creating islands of service. The 2006 Court decision impedes a board's ability to create logical annexations and achieve logical boundaries. For small annexations, an increase of 100 percent might mean as little as the addition of one lot. A board needs tools to deal with small areas that need services. Amending the bill to prevent 100 percent increases for large annexations would be appropriate.

(Opposed) For large annexations, allowing the board to increase the area to be annexed by up to 100 percent is excessive. For instance, one annexation that is in progress is for an area of 10 square miles. Doubling it would be problematic, but allowing the board to increase it by less than 100 percent might work. Allowing the board to modify hard-fought boundary decisions is problematic. It is unclear how this authority to increase might work when the new method of annexation is used.

Persons Testifying: (In support) Representative Fitzgibbon, prime sponsor; and Mark Beales, Carole Korelin, and John Holman, Washington State Association of Boundary Review Boards.

(Opposed) Mike Burgess, Spokane County; and Ryan Spiller, Washington Fire Commissioners Association.

Persons Signed In To Testify But Not Testifying: None.