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HOUSE BILL 1856

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State of Washington

62nd Legislature

2011 Regular Session

By Representatives Asay, Zeiger, Schmick, Rivers, Johnson, Miloscia,  
and McCune

Read first time 02/07/11. Referred to Committee on Local Government.

1 AN ACT Relating to requiring certain annexation ordinances be  
2 subject to referendum; and amending RCW 35.13.238 and 35A.14.480.

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

4 **Sec. 1.** RCW 35.13.238 and 2009 c 60 s 7 are each amended to read  
5 as follows:

6 (1)(a) An annexation by a city or town that is proposing to annex  
7 territory served by one or more fire protection districts may be  
8 accomplished by ordinance after entering into an interlocal agreement  
9 as provided in chapter 39.34 RCW with the county and the fire  
10 protection district or districts that have jurisdiction over the  
11 territory proposed for annexation.

12 (b) A city or town proposing to annex territory shall initiate the  
13 interlocal agreement process by sending notice to the fire protection  
14 district representative and county representative stating the city's or  
15 town's interest to enter into an interlocal agreement negotiation  
16 process. The parties have forty-five days to respond in the  
17 affirmative or negative. A negative response must state the reasons  
18 the parties do not wish to participate in an interlocal agreement  
19 negotiation. A failure to respond within the forty-five day period is

1 deemed an affirmative response and the interlocal agreement negotiation  
2 process may proceed. The interlocal agreement process may not proceed  
3 if any negative responses are received within the forty-five day  
4 period.

5 (c) The interlocal agreement must describe the boundaries of the  
6 territory proposed for annexation and must be consistent with the  
7 boundaries identified in an ordinance describing the boundaries of the  
8 territory proposed for annexation and setting a date for a public  
9 hearing on the ordinance. If the boundaries of the territory proposed  
10 for annexation are agreed to by all parties, a notice of intention must  
11 be filed with the boundary review board created under RCW 36.93.030.  
12 However, the jurisdiction of the board may not be invoked as described  
13 in RCW 36.93.100 for annexations that are the subject of such  
14 agreement.

15 (2) An interlocal annexation agreement under this section must  
16 include the following:

17 (a) A statement of the goals of the agreement. Goals must include,  
18 but are not limited to:

19 (i) The transfer of revenues and assets between the fire protection  
20 districts and the city or town;

21 (ii) A consideration and discussion of the impact to the level of  
22 service of annexation on the unincorporated area, and an agreement that  
23 the impact on the ability of fire protection and emergency medical  
24 services within the incorporated area must not be negatively impacted  
25 at least through the budget cycle in which the annexation occurs;

26 (iii) A discussion with fire protection districts regarding the  
27 division of assets and its impact to citizens inside and outside the  
28 newly annexed area;

29 (iv) Community involvement, including an agreed upon schedule of  
30 public meetings in the area or areas proposed for annexation;

31 (v) Revenue sharing, if any;

32 (vi) Debt distribution;

33 (vii) Capital facilities obligations of the city, county, and fire  
34 protection districts;

35 (viii) An overall schedule or plan on the timing of any annexations  
36 covered under this agreement; and

37 (ix) A description of which of the annexing cities' development  
38 regulations will apply and be enforced in the area.

1 (b) The subject areas and policies and procedures the parties agree  
2 to undertake in annexations. Subject areas may include, but are not  
3 limited to:

4 (i) Roads and traffic impact mitigation;

5 (ii) Surface and storm water management;

6 (iii) Coordination and timing of comprehensive plan and development  
7 regulation updates;

8 (iv) Outstanding bonds and special or improvement district  
9 assessments;

10 (v) Annexation procedures;

11 (vi) Distribution of debt and revenue sharing for annexation  
12 proposals, code enforcement, and inspection services;

13 (vii) Financial and administrative services; and

14 (viii) Consultation with other service providers, including water-  
15 sewer districts, if applicable.

16 (c) A term of at least five years, which may be extended by mutual  
17 agreement of the city or town, the county, and the fire protection  
18 district.

19 ~~(3) ((If the fire protection district, annexing city or town, and~~  
20 ~~county reach an agreement on the enumerated goals, the annexation~~  
21 ~~ordinance may proceed and is not subject to referendum. If only the~~  
22 ~~annexing city or town and county reach an agreement on the enumerated~~  
23 ~~goals, the city or town and county may proceed with annexation under~~  
24 ~~the interlocal agreement, but))~~ (a) If an agreement is reached on the  
25 enumerated goals either (i) among the fire protection district,  
26 annexing city or town, and the county; or (ii) between the annexing  
27 city or town and the county, then the annexation may proceed under the  
28 interlocal agreement, and, in either case, the annexation ordinance is  
29 subject to referendum.

30 (b) The annexation ordinance provided for in this section is  
31 subject to referendum for forty-five days after its passage. Upon the  
32 filing of a timely and sufficient referendum petition with the  
33 legislative body of the city or town, signed by qualified electors in  
34 a number not less than ten percent of the votes cast in the last  
35 general state election in the area to be annexed, the question of  
36 annexation must be submitted to the voters of the area in a general  
37 election if one is to be held within ninety days or at a special  
38 election called for that purpose according to RCW 29A.04.330. Notice

1 of the election must be given as provided in RCW 35.13.080, and the  
2 election must be conducted as provided in the general election laws  
3 under Title 29A RCW. The annexation must be deemed approved by the  
4 voters unless a majority of the votes cast on the proposition are in  
5 opposition to the annexation.

6 After the expiration of the forty-fifth day from, but excluding,  
7 the date of passage of the annexation ordinance, if a timely and  
8 sufficient referendum petition has not been filed, the area annexed  
9 becomes a part of the city or town upon the date fixed in the ordinance  
10 of annexation.

11 (4) If any portion of a fire protection district is proposed for  
12 annexation to or incorporation into a city or town, both the fire  
13 protection district and the city or town shall jointly inform the  
14 employees of the fire protection district about hires, separations,  
15 terminations, and any other changes in employment that are a direct  
16 consequence of annexation or incorporation at the earliest reasonable  
17 opportunity.

18 (5) The needed employees shall be taken in order of seniority and  
19 the remaining employees who transfer as provided in this section and  
20 RCW 35.10.360 and 35.10.370 shall head the list for employment in the  
21 civil service system in order of their seniority, to the end that they  
22 shall be the first to be reemployed in the city or town fire department  
23 when appropriate positions become available. Employees who are not  
24 immediately hired by the city or town shall be placed on a reemployment  
25 list for a period not to exceed thirty-six months unless a longer  
26 period is authorized by an agreement reached between the collective  
27 bargaining representatives of the employees of the annexing and annexed  
28 fire agencies and the annexing and annexed fire agencies.

29 (6)(a) Upon transfer, an employee is entitled to the employee  
30 rights, benefits, and privileges to which he or she would have been  
31 entitled as an employee of the fire protection district, including  
32 rights to:

33 (i) Compensation at least equal to the level of compensation at the  
34 time of transfer, unless the employee's rank and duties have been  
35 reduced as a result of the transfer. If the transferring employee is  
36 placed in a position with reduced rank and duties, the employee's  
37 compensation may be adjusted, but the adjustment may not result in a

1 decrease of greater than fifty percent of the difference between the  
2 employee's compensation before the transfer and the compensation level  
3 for the position that the employee is transferred to;

4 (ii) Retirement, vacation, sick leave, and any other accrued  
5 benefit;

6 (iii) Promotion and service time accrual; and

7 (iv) The length or terms of probationary periods, including no  
8 requirement for an additional probationary period if one had been  
9 completed before the transfer date.

10 (b) (a) of this subsection does not apply if upon transfer an  
11 agreement for different terms of transfer is reached between the  
12 collective bargaining representatives of the transferring employees and  
13 the participating fire protection jurisdictions.

14 (7) If upon transfer, the transferring employee receives the  
15 rights, benefits, and privileges established under subsection (6)(a)(i)  
16 through (iv) of this section, those rights, benefits, and privileges  
17 are subject to collective bargaining at the end of the current  
18 bargaining period for the jurisdiction to which the employee has  
19 transferred.

20 (8) Such bargaining must take into account the years of service the  
21 transferring employee accumulated before the transfer and must be  
22 treated as if those years of service occurred in the jurisdiction to  
23 which the employee has transferred.

24 **Sec. 2.** RCW 35A.14.480 and 2009 c 60 s 9 are each amended to read  
25 as follows:

26 (1)(a) An annexation by a code city proposing to annex territory  
27 served by one or more fire protection districts may be accomplished by  
28 ordinance after entering into an interlocal agreement as provided in  
29 chapter 39.34 RCW with the county and the fire protection district or  
30 districts that have jurisdiction over the territory proposed for  
31 annexation.

32 (b) A code city proposing to annex territory shall initiate the  
33 interlocal agreement process by sending notice to the fire protection  
34 district representative and county representative stating the code  
35 city's interest to enter into an interlocal agreement negotiation  
36 process. The parties have forty-five days to respond in the  
37 affirmative or negative. A negative response must state the reasons

1 the parties do not wish to participate in an interlocal agreement  
2 negotiation. A failure to respond within the forty-five day period is  
3 deemed an affirmative response and the interlocal agreement negotiation  
4 process may proceed. The interlocal agreement process may not proceed  
5 if any negative responses are received within the forty-five day  
6 period.

7 (c) The interlocal agreement must describe the boundaries of the  
8 territory proposed for annexation and must be consistent with the  
9 boundaries identified in an ordinance describing the boundaries of the  
10 territory proposed for annexation and setting a date for a public  
11 hearing on the ordinance. If the boundaries of the territory proposed  
12 for annexation are agreed to by all parties, a notice of intention must  
13 be filed with the boundary review board created under RCW 36.93.030.  
14 However, the jurisdiction of the board may not be invoked as described  
15 in RCW 36.93.100 for annexations that are the subject of such  
16 agreement.

17 (2) An interlocal annexation agreement under this section must  
18 include the following:

19 (a) A statement of the goals of the agreement. Goals must include,  
20 but are not limited to:

21 (i) The transfer of revenues and assets between the fire protection  
22 district and the code city;

23 (ii) A consideration and discussion of the impact to the level of  
24 service of annexation on the unincorporated area, and an agreement that  
25 the impact on the ability of fire protection and emergency medical  
26 services within the incorporated area must not be negatively impacted  
27 at least through the budget cycle in which the annexation occurs;

28 (iii) A discussion with fire protection districts regarding the  
29 division of assets and its impact to citizens inside and outside the  
30 newly annexed area;

31 (iv) Community involvement, including an agreed upon schedule of  
32 public meetings in the area or areas proposed for annexation;

33 (v) Revenue sharing, if any;

34 (vi) Debt distribution;

35 (vii) Capital facilities obligations of the code city, county, and  
36 fire protection districts;

37 (viii) An overall schedule or plan on the timing of any annexations  
38 covered under this agreement; and

1 (ix) A description of which of the annexing code cities'  
2 development regulations will apply and be enforced in the area.

3 (b) The subject areas and policies and procedures the parties agree  
4 to undertake in annexations. Subject areas may include, but are not  
5 limited to:

6 (i) Roads and traffic impact mitigation;

7 (ii) Surface and storm water management;

8 (iii) Coordination and timing of comprehensive plan and development  
9 regulation updates;

10 (iv) Outstanding bonds and special or improvement district  
11 assessments;

12 (v) Annexation procedures;

13 (vi) Distribution of debt and revenue sharing for annexation  
14 proposals, code enforcement, and inspection services;

15 (vii) Financial and administrative services; and

16 (viii) Consultation with other service providers, including water-  
17 sewer districts, if applicable.

18 (c) A term of at least five years, which may be extended by mutual  
19 agreement of the code city, the county, and the fire protection  
20 district.

21 ~~(3) ((If the fire protection district, annexing code city, and~~  
22 ~~county reach an agreement on the enumerated goals, the annexation~~  
23 ~~ordinance may proceed and is not subject to referendum. If only the~~  
24 ~~annexing code city and county reach an agreement on the enumerated~~  
25 ~~goals, the code city and county may proceed with annexation under the~~  
26 ~~interlocal agreement, but))~~ (a) If an agreement is reached on the  
27 enumerated goals either (i) among the fire protection district,  
28 annexing code city, and the county; or (ii) between the annexing code  
29 city and the county, then the annexation may proceed under the  
30 interlocal agreement, and, in either case, the annexation ordinance is  
31 subject to referendum.

32 (b) The annexation ordinance provided for in this section is  
33 subject to referendum for forty-five days after its passage. Upon the  
34 filing of a timely and sufficient referendum petition with the  
35 legislative body of the code city, signed by qualified electors in a  
36 number not less than ten percent of the votes cast in the last general  
37 state election in the area to be annexed, the question of annexation  
38 must be submitted to the voters of the area in a general election if

1 one is to be held within ninety days or at a special election called  
2 for that purpose according to RCW 29A.04.330. Notice of the election  
3 must be given as provided in RCW 35A.14.070, and the election must be  
4 conducted as provided in the general election laws under Title 29A RCW.  
5 The annexation must be deemed approved by the voters unless a majority  
6 of the votes cast on the proposition are in opposition to the  
7 annexation.

8 After the expiration of the forty-fifth day from, but excluding,  
9 the date of passage of the annexation ordinance, if a timely and  
10 sufficient referendum petition has not been filed, the area annexed  
11 becomes a part of the code city upon the date fixed in the ordinance of  
12 annexation.

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