

HOUSE BILL REPORT

HB 2880

As Reported by House Committee On:
Local Government

Title: An act relating to the redevelopment of an area overlapping the boundary between two adjacent cities.

Brief Description: Concerning the redevelopment of an area overlapping the boundary between two adjacent cities.

Sponsors: Representatives Fey, Jinkins, Kirby, Griffey and Sawyer.

Brief History:

Committee Activity:

Local Government: 1/25/18, 2/1/18 [DP].

Brief Summary of Bill

- Allows property owners located in a city or town to petition for annexation into another city or town without the approval of the city or town from which the territory would be taken, prior to June 30, 2021, if certain conditions are met.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 5 members: Representatives Appleton, Chair; McBride, Vice Chair; Gregerson, Peterson and Taylor.

Minority Report: Do not pass. Signed by 1 member: Representative Griffey, Ranking Minority Member.

Staff: Cassie Jones (786-7303).

Background:

Direct Petition Method of Annexation.

Statutes authorize multiple methods for municipal annexations. Separate sets of statutes detail the annexation procedures for classified cities and code cities. The procedures are

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similar, but vary in detail. Among other annexation methods, cities (including code cities, non-code cities, and towns) may conduct annexations through a petition-based process involving direct petitions signed by property owners comprising a specific percentage of land value (direct petition method).

The direct petition method is initiated by written notice to the city council of the intention to commence annexation proceedings. The written notice must be signed by a specified number of residents or property owners (for classified cities, not less than 10 percent of the residents in the area to be annexed or the owners of not less than 10 percent of the value of the property for which annexation is petitioned). After being notified of the proposed annexation, the city council must set a date for a meeting with the initiating parties to determine whether the city council will:

- accept, reject, or geographically modify the proposed annexation;
- require the simultaneous adoption of the comprehensive plan; and
- require the assumption of all or of any portion of the existing city indebtedness by the area to be annexed.

There is no ability to appeal the city council's decision on these matters and these decisions must be reflected on the petition if the city council approves or modifies the proposed annexation.

A petition for annexation is then circulated. It must ultimately be signed by owners of at least 60 percent of the assessed valuation of the property to be annexed. Upon the filing of a sufficient petition with the city council, the council may consider it and hold a public hearing for that purpose. Following the hearing, if one is held, the city council may annex all or a part of the proposed area by ordinance. If the annexing city is located in a county with a boundary review board, the city needs the boundary review board's approval in order to approve the annexation. Thus, an ordinance passed by the city to annex the territory is not effective until boundary review board approval is obtained, unless the board determines that review is not necessary or the board's jurisdiction is not invoked.

The owners of property located in a city or town may petition for annexation to another city or town using the direct petition method; however, the legislative body of the city or town from which the territory would be taken must approve the annexation before it may proceed.

Environmental Impact Statement.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. Government decisions that are identified as having significant adverse environmental impacts must then undergo a more comprehensive environmental analysis in the form of an environmental impact statement (EIS). Under SEPA, a government agency is designated as the lead agency and in that role has responsibility for complying with SEPA's procedural requirements, including preparing the EIS when one is required. If the SEPA review process identifies significant adverse environmental impacts, the lead agency may deny a government decision or may condition a proposal by requiring mitigation for identified environmental impacts.

Superfund.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, is a federal law that provides broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. It also establishes liability for the parties responsible for the contamination. Responsible parties can be required to perform cleanups or reimburse the government for cleanup work performed by the Environmental Protection Agency.

Local Improvement District.

Local improvement districts (LID) are special assessment districts that finance improvements to benefit property owners within the district. Local improvement districts are generally paid for by assessments on the benefiting properties. Subject to certain exceptions, both the city and affected property owners must approve the creation of a LID. Local improvement district financing involves the sale of bonds to investors and the retirement of those bonds via annual payments by the property owners within a LID.

Summary of Bill:

Property owners located in a city or town may petition for annexation into another city or town using the direct petition method without the approval of the city or town from which the territory would be taken if certain conditions are met with respect to: (1) the area to be annexed; and (2) the city to which the area would be annexed. Annexations under this method may only be conducted prior to June 30, 2021, and are not subject to potential review by a boundary review board.

The area to be annexed must meet the following conditions:

- is 50 or fewer acres;
- is part of a master development project for which an EIS has been issued under SEPA;
- is less than 50 percent of the total area of the master planned development project, as described in the final EIS;
- includes 200 or more lineal feet of shorelines of the state; and
- is designated, in whole or in part, as a Superfund site or is subject to remediation under the Model Toxics Control Act.

The city to which the territory would be annexed must meet the following conditions:

- was incorporated as a first class city and has a population of 150,000 or more;
- has more than 50 percent of the total area of the master planned development project within its corporate boundaries;
- acted as the lead agency in conducting the environmental review of the master planned development project;
- issued one or more development permits for the master planned development project that is consistent with the final EIS; and
- formed a LID that includes, in whole or in part, the property comprising the master planned development project and has issued bonds to fund the construction of the

local improvements that benefit the entirety or a portion of the property for which annexation is proposed.

Additional requirements apply to annexations meeting the above criteria:

1. If the annexing city adopts any land use regulations for the annexed area, the regulations regarding building height limits must be consistent with those that applied to the territory to be annexed prior to the annexation.
2. The annexing city must maintain the master development plan in the annexed area that existed prior to the annexation.
3. All property owners in the annexed area that owe taxes to the city from which territory will be annexed must become current on all unpaid property taxes before the annexation can be finalized.
4. The annexing city must continue providing utility services to the city from which the territory is annexed in the same manner that they were provided prior to the annexation.
5. After a petition for annexation is approved by the annexing city by ordinance, the annexing city and the city from which territory is annexed must submit to binding arbitration on the following issues:
 - a. what portion of tax revenues generated by the territory to be annexed will be remitted by the annexing city to the city from which the territory was annexed on an ongoing basis after the annexation is complete. The amount must be sufficient to maintain the city from which the territory is annexed as an economically viable city;
 - b. how the city from which territory is annexed will be compensated for unpaid permit and inspection fees incurred through development in the annexed area; and
 - c. any other disputes arising from the 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 involves the proposed annexation of the former site of the Asarco smelter, a polluted Superfund site, now known as Point Ruston. The site includes territory in both the cities of Tacoma and Ruston. Tacoma created a LID on the site and the entire infrastructure was developed by Tacoma without Ruston contributing. Point Ruston has developed into a vibrant mixed-use neighborhood, but it is not complete. This bill is needed to ensure that the vision of Point Ruston is completed. The bill is narrow in scope and only impacts the Tacoma-Ruston situation. Tacoma sees itself as obligated to realize the vision planned for the Superfund site and its taxpayers who invested millions in the site.

There are delays with processing permits on the Ruston side. The delays are frustrating because of the impact on economic development. The Tacoma side of Point Ruston is a wonderful place, but the Ruston side is a concrete blight. Tacoma has worked diligently and fairly on the development. An urban village environment was promised to residents of Point Ruston, but there has been no progress by the city of Ruston.

The interlocal agreement process has failed. Ruston voted down the negotiated interlocal agreement and has refused assistance from Tacoma's planning department. There are a number of strong mitigation measures in the bill that are there to protect Ruston and address residents' concerns. Tacoma taxpayers need this bill to go forward so development can continue in order to pay for bonds issued by Tacoma for this project.

The situation is now urgent. This is about business certainty. Developers need certainty, and the city of Ruston has delayed in issuing permits for development for multiple years. Jobs are at stake. The economic development of the project should not be restrained by a small town administration.

There are public safety concerns on the horizon. Tacoma provides advanced life support and other services to Ruston. In this site, there are a variety of safety challenges to address. Currently Ruston pays nothing for fire service. Other jurisdictions pay for these services by contract. It is important to have a professional city deploying adequate resources for community safety.

(Opposed) The city of Ruston is committed Point Ruston's success. Ruston has wonderful services and a long-term plan. The community should not be torn apart by the annexation. This is a money-grabbing initiative that would denigrate the master plan of the community. This bill pits city against city. The move to annex part of Ruston to Tacoma and take the tax revenue is a power play. It is unjust and unethical to take away the revenue stream that Ruston needs. This bill would jeopardize Ruston's investment in Point Ruston and the ability for Ruston to have a strong commercial center. Ruston will not survive without the lucrative commercial space at issue in this bill. The bill is unprecedented and would cause Ruston to violate the Growth Management Act.

Ruston residents, rather than the state, should make the annexation decision. This bill concerns a local dispute that should be solved by the parties to the dispute and not by the state. The state should not support a hostile takeover of one city by another. This is a terrible precedent.

Ruston is committed to the development. The city is moving permits in a timely manner. The claims of permitting delays are unsubstantiated. The developer is responsible for the delays. The bill puts the interests of the developer over the interests of the citizens and rewards the developer for noncompliance with Ruston's permitting processes. The developer and the city of Tacoma are making an effort to skirt local plans and make a land grab. Tacoma may not hold the developer to safety and accessibility standards. Ruston will make sure the developer meets its commitments.

This bill defies the democratic process and our state's annexation policies. Under the annexation method in this bill, the citizens of Ruston would not get a vote, the Ruston city

council would not get a vote, and there would be no review by a boundary review board. Ruston residents are disenfranchised and their voices are not heard.

This bill removes boundary review board jurisdiction. The boundary review board process considers a number of statutory factors when making decisions on annexations, and the process is fair to all sides. All sides are given an opportunity to be heard. The bill makes the annexing city the final decision maker and a number of unintended consequences, usually considered by a boundary review board, may go unaddressed.

Persons Testifying: (In support) Representative Fey, prime sponsor; Denny Eliason; Sharon Coleman; Latasha Wortham, Office of the Lieutenant Governor; Marilyn Strickland; Ryan Mello, City of Tacoma; Tom Pierson, Pierce County Chamber of Commerce; Margo Haas Kline; Tara Doyle Enneking; Tim Thompson, Development Point Ruston; Anders Isben, Tacoma City Council; and Ryan Mudie, International Association of Fire Fighters Local 31.

(Opposed) Bruce Hopkins and Jennifer Robinson, City of Ruston; Bob Ecklund; Susan Gourley; Tom Poole; Jennifer Jensen; Michael Murphy; Kathleen Hewitt; Calvin Hewitt; and Robbie Meyers, Washington State Boundary Review Board.

Persons Signed In To Testify But Not Testifying: None.