

SIXTEENTH DAY

AFTERNOON SESSION

Senate Chamber, Olympia, Thursday, June 27, 2013

The Senate was called to order at 2:00 p.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Kline.

The Sergeant at Arms Color Guard consisting of Senate Assistant Sergeant at Arms Becky Gilpin and Alan Hoover, presented the Colors. Senator Padden offered the prayer.

MOTION

On motion of Senator Fain the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Fain, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

E2SHB 1306 by House Committee on Finance (originally sponsored by Representatives Wylie, Moeller, Harris, Pike, Johnson, Chandler, Sells, Pollet, Upthegrove and Moscoso)

AN ACT Relating to extending the expiration dates of the local infrastructure financing tool program; amending RCW 82.14.475, 39.102.150, and 39.102.020; reenacting and amending RCW 39.102.140; adding a new section to chapter 39.102 RCW; repealing RCW 39.102.904; and providing expiration dates.

Referred to Committee on Ways & Means.

SHB 1866 by House Committee on Appropriations (originally sponsored by Representatives Morris, Smith, Lias, Maxwell, Morrell, Habib, Ryu, Sells, Hansen and Hudgins)

AN ACT Relating to the joint center for aerospace technology innovation; and amending RCW 43.330.250, 43.131.417, and 43.131.418.

Referred to Committee on Ways & Means.

EHB 2068 by Representative Takko

AN ACT Relating to the annexation of unincorporated territory; amending RCW 35A.14.295, 35A.14.480, and 35.13.238; providing an effective date; and declaring an emergency.

Referred to Committee on Governmental Operations.

MOTION

On motion of Senator Fain, under suspension of the rules Engrossed Second Substitute House Bill No. 1306, Substitute House Bill No. 1866 and Engrossed House Bill No. 2068 were placed on the second reading calendar.

REMARKS BY THE PRESIDENT

President Owen: "Ladies and Gentlemen of the Senate, the President thought it would be kind of fun for Mr. Garrett Cooper to join us this morning and help. If you've not noticed him out in the parking area, you've not parked in the parking area. So I'm quite pleased to have him help me out today. Thank you very much. You did a great job. We appreciate all the Security staff that we have around here. It was quite a nice deal to have them do the flags this morning as well. It's great to see all of you up there and thank you for what you do for all of us. Thank you."

MOTION

At 2:08 p.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 5:04 p.m. by President Owen.

MOTION

On motion of Senator Fain, the Senate advanced to the sixth order of business.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1306, by House Committee on Finance (originally sponsored by Representatives Wylie, Moeller, Harris, Pike, Johnson, Chandler, Sells, Pollet, Upthegrove and Moscoso)

Extending the expiration dates of the local infrastructure financing tool program.

The measure was read the second time.

MOTION

On motion of Senator Hill, the rules were suspended, Engrossed Second Substitute House Bill No. 1306 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hill and Cleveland spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1306.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1306 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 2; Excused, 0.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray,

Nelson, O'Ban, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Sheldon, Shin and Tom

Voting nay: Senators Billig, Padden, Schoesler and Smith

Absent: Senators Braun and Kline

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1306, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1866, by House Committee on Appropriations (originally sponsored by Representatives Morris, Smith, Lias, Maxwell, Morrell, Habib, Ryu, Sells, Hansen and Hudgins)

Concerning the joint center for aerospace technology innovation.

The measure was read the second time.

MOTION

On motion of Senator Chase, the rules were suspended, Substitute House Bill No. 1866 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Chase spoke in favor of passage of the bill.

MOTION

On motion of Senator Billig, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1866.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1866 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, O'Ban, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Excused: Senator Kline

SUBSTITUTE HOUSE BILL NO. 1866, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

Senator Fain moved that the Senate revert to the fourth order of business.

PARLIAMENTARY INQUIRY

Senator Frockt: "Mr. President, in the fourth order I know we're receiving messages from the House. The House has passed the transportation bills, House Bill No. 1954. That is not

reflected on the message sheet and we were wondering if that message has been received from the House?"

REPLY BY THE PRESIDENT

President Owen: "Senator Frockt, the bill is in the Senate's possession. At this point it has not been read in nor do I have anything saying, asking it to be read in at this point."

PARLIAMENTARY INQUIRY

Senator Frockt: "The bill passed, we believe, about 12:30 this afternoon. Is there a normal time frame for which it has to be read in the normal procedure?"

REPLY BY THE PRESIDENT

President Owen: "The President believes that once the Senate receives it a member can make a motion to go to the fourth order and receive that message but at this point that has not been requested."

PARLIAMENTARY INQUIRY

Senator Frockt: "Mr. President, I would respectfully move that we amend the motion to the fourth order to receive the message from the House."

REPLY BY THE PRESIDENT

President Owen: "Senator Frockt, it's not, the motion to go to the fourth order is an independent motion. You would have to make that motion. Right now the motion is to go to the fourth order of business. I don't believe that we...there is a motion pending right now to go to the fourth order of business but it would not be appropriate for you to make that motion at this time."

The motion by Senator Fain to revert to the fourth order of business failed on a rising vote.

SECOND READING

ENGROSSED HOUSE BILL NO. 2068, by Representative Takko

Concerning the annexation of unincorporated territory within a code city.

The measure was read the second time.

MOTION

Senator Roach moved that the following amendment by Senator Roach be adopted:

On page 2, after line 10, insert the following:

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

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

(b) A code city proposing to annex territory shall initiate the interlocal agreement process by sending notice to the fire protection

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district representative and county representative stating the code city's interest to enter into an interlocal agreement negotiation process. The parties have forty-five days to respond in the affirmative or negative. A negative response must state the reasons the parties do not wish to participate in an interlocal agreement negotiation. A failure to respond within the forty-five day period is deemed an affirmative response and the interlocal agreement negotiation process may proceed. The interlocal agreement process may not proceed if any negative responses are received within the forty-five day period.

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

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

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

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

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

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

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

(v) Revenue sharing, if any;

(vi) Debt distribution;

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

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

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

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

(i) Roads and traffic impact mitigation;

(ii) Surface and storm water management;

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

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

(v) Annexation procedures;

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

(vii) Financial and administrative services; and

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

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

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(3) If the fire protection district, annexing code city, and county reach an agreement on the enumerated goals, ~~((the annexation ordinance may proceed and is not subject to referendum))~~ or if only the annexing code city and county reach an agreement on the enumerated goals, the code city ~~((and county))~~ may ~~((proceed with))~~ adopt an annexation ((under the interlocal agreement)) ordinance, but the annexation ordinance provided for in this section is subject to referendum for forty-five days after its passage, provided that no referendum shall be allowed for an annexation under this section if the fire protection district, annexing code city, and the county reach agreement on an annexation for which a code city has initiated the interlocal agreement process by sending notice to the fire protection district representative and county representative prior to July 28, 2013. Upon the filing of a timely and sufficient referendum petition with the legislative body of the code city, signed by qualified electors in a number not less than ten percent of the votes cast in the last general state election in the area to be annexed, the question of annexation must be submitted to the voters of the area in a general election if one is to be held within ninety days or at a special election called for that purpose according to RCW 29A.04.330. Notice of the election must be given as provided in RCW 35A.14.070, and the election must be conducted as provided in the general election laws under Title 29A RCW. The annexation must be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition to the annexation.

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

Sec. 3. RCW 35.13.238 and 2009 c 60 s 7 are each amended to read as follows:

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

(b) A city or town proposing to annex territory shall initiate the interlocal agreement process by sending notice to the fire protection district representative and county representative stating the city's or town's interest to enter into an interlocal agreement negotiation process. The parties have forty-five days to respond in the affirmative or negative. A negative response must state the reasons the parties do not wish to participate in an interlocal agreement negotiation. A failure to respond within the forty-five day period is deemed an affirmative response and the interlocal agreement negotiation process may proceed. The interlocal agreement process may not proceed if any negative responses are received within the forty-five day period.

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

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

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

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

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

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

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

(v) Revenue sharing, if any;

(vi) Debt distribution;

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

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

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

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

(i) Roads and traffic impact mitigation;

(ii) Surface and storm water management;

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

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

(v) Annexation procedures;

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

(vii) Financial and administrative services; and

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

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

(3) If the fire protection district, annexing city or town, and county reach an agreement on the enumerated goals, ~~((the annexation ordinance may proceed and is not subject to referendum))~~ or if only the annexing city or town and county reach an agreement on the enumerated goals, the city or town ~~((and county))~~ may ~~((proceed with))~~ adopt an annexation ((under the interlocal agreement)) ordinance, but the annexation ordinance provided for in this section is subject to referendum for forty-five days after its passage, provided that no referendum shall be allowed for an annexation under this section if the fire protection district, annexing city or town, and the county reach agreement on an annexation for which a city or town has initiated the interlocal agreement process by sending notice to the fire protection district representative and county representative prior to July 28, 2013. Upon the filing of a timely and sufficient referendum petition with the legislative body of the city or town, signed by qualified electors in a number not less than ten percent of the votes cast in the last general state election in the area to be annexed, the question of annexation must be submitted to the voters of the area in a general election if one is to be held within ninety days or at a special election called for that purpose according to RCW 29A.04.330. Notice of the election must be given as provided in RCW 35.13.080, and the election must be conducted as provided in the general election laws under Title 29A RCW. The annexation must be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition to the annexation.

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

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

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

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

(i) Compensation at least equal to the level of compensation at the time of transfer, unless the employee's rank and duties have been reduced as a result of the transfer. If the transferring employee is placed in a position with reduced rank and duties, the employee's compensation may be adjusted, but the adjustment may not result in a decrease of greater than fifty percent of the difference between the employee's compensation before the transfer and the compensation level for the position that the employee is transferred to;

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

(iii) Promotion and service time accrual; and

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

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

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

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

Renumber the remaining section.

The President declared the question before the Senate to be the adoption of the amendment by Senator Roach on page 2, after line 10 to Engrossed House Bill No. 2068.

The motion by Senator Roach carried and the amendment was adopted by a rising vote.

MOTION

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There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "territory" strike the remainder of the title and insert "; amending RCW 35A.14.295, 35A.14.480, and 35.13.238; providing an effective date; and declaring an emergency."

MOTION

On motion of Senator Roach, the rules were suspended, Engrossed House Bill No. 2068 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Roach, Chase and Hasegawa spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2068 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2068 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, O'Ban, Padden, Parlette, Pearson, Ranker, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Voting nay: Senators Baumgartner and Rivers

Excused: Senator Kline

ENGROSSED HOUSE BILL NO. 2068 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Fain, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

June 27, 2013

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5891 with the following amendment(s): 5891-S.E AMH HUDG REIL 085

On page 5, line 13, after "officer" strike "sufficient"

On page 7, line 19, after "model" insert "of the executive branch"

On page 7, line 25, after "legislature by" strike "September" and insert "December"

On page 7, line 31, after "legislature by" strike "September" and insert "December"

On page 8, line 15, after "be" strike "consistent with" and insert "comparable to" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hill moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5891.

Senator Hill spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hill that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5891.

The motion by Senator Hill carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5891 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5891, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5891, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kohl-Welles, Litzow, McAuliffe, Mullet, Murray, Nelson, O'Ban, Padden, Parlette, Pearson, Ranker, Rivers, Roach, Rolfes, Schlicher, Schoesler, Sheldon, Shin, Smith and Tom

Excused: Senator Kline

ENGROSSED SUBSTITUTE SENATE BILL NO. 5891, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 5:40 p.m., on motion of Senator Fain, the Senate adjourned until 10:00 a.m. Friday, June 28, 2013.

BRAD OWEN, President of the Senate

HUNTER GOODMAN, Secretary of the Senate

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