
ENGROSSED SUBSTITUTE SENATE BILL 6505

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Government Operations (originally sponsored by Senators Hale and Haugen)

Read first time 02/02/96.

1 AN ACT Relating to clarifying and harmonizing provisions in Titles
2 35 and 41 RCW; amending RCW 35.02.130, 35.02.180, 35.07.040,
3 35.13A.070, 35.13A.080, 35.27.070, and 41.04.190; adding a new section
4 to chapter 35.23 RCW; adding a new section to chapter 35.13A RCW; and
5 repealing RCW 35.07.030, 35.17.160, 35.23.390, and 35.23.400.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.23 RCW
8 to read as follows:

9 No person shall be eligible to or hold an elective office in a city
10 unless the person is a resident and registered voter therein.

11 **Sec. 2.** RCW 35.02.130 and 1994 c 154 s 308 are each amended to
12 read as follows:

13 The city or town officially shall become incorporated at a date
14 from one hundred eighty days to three hundred sixty days after the date
15 of the election on the question of incorporation. An interim period
16 shall exist between the time the newly elected officials have been
17 elected and qualified and this official date of incorporation. During
18 this interim period, the newly elected officials are authorized to

1 adopt ordinances and resolutions which shall become effective on or
2 after the official date of incorporation, and to enter into contracts
3 and agreements to facilitate the transition to becoming a city or town
4 and to ensure a continuation of governmental services after the
5 official date of incorporation. Periods of time that would be required
6 to elapse between the enactment and effective date of such ordinances,
7 including but not limited to times for publication or for filing
8 referendums, shall commence upon the date of such enactment as though
9 the city or town were officially incorporated.

10 During this interim period, the city or town governing body may
11 adopt rules establishing policies and procedures under the state
12 environmental policy act, chapter 43.21C RCW, and may use these rules
13 and procedures in making determinations under the state environmental
14 policy act, chapter 43.21C RCW.

15 During this interim period, the newly formed city or town and its
16 governing body shall be subject to the following as though the city or
17 town were officially incorporated: RCW 4.24.470 relating to immunity;
18 chapter 42.17 RCW relating to open government; chapter 40.14 RCW
19 relating to the preservation and disposition of public records;
20 chapters 42.20 and 42.23 RCW relating to ethics and conflicts of
21 interest; chapters 42.30 and 42.32 RCW relating to open public meetings
22 and minutes; RCW 35.22.288, (~~(35.23.310, 35.24.220)~~) 35.23.221,
23 35.27.300, 35A.12.160, as appropriate, and chapter 35A.65 RCW relating
24 to the publication of notices and ordinances; RCW 35.21.875 and
25 35A.21.230 relating to the designation of an official newspaper; RCW
26 36.16.138 relating to liability insurance; RCW 35.22.620, 35.23.352,
27 and 35A.40.210, as appropriate, and statutes referenced therein
28 relating to public contracts and bidding; and chapter 39.34 RCW
29 relating to interlocal cooperation. Tax anticipation or revenue
30 anticipation notes or warrants and other short-term obligations may be
31 issued and funds may be borrowed on the security of these instruments
32 during this interim period, as provided in chapter 39.50 RCW. Funds
33 also may be borrowed from federal, state, and other governmental
34 agencies in the same manner as if the city or town were officially
35 incorporated.

36 RCW 84.52.020 and 84.52.070 shall apply to the extent that they may
37 be applicable, and the governing body of such city or town may take
38 appropriate action by ordinance during the interim period to adopt the

1 property tax levy for its first full calendar year following the
2 interim period.

3 The governing body of the new city or town may acquire needed
4 facilities, supplies, equipment, insurance, and staff during this
5 interim period as if the city or town were in existence. An interim
6 city manager or administrator, who shall have such administrative
7 powers and duties as are delegated by the governing body, may be
8 appointed to serve only until the official date of incorporation.
9 After the official date of incorporation the governing body of such a
10 new city organized under the council manager form of government may
11 extend the appointment of such an interim manager or administrator with
12 such limited powers as the governing body determines, for up to ninety
13 days. This governing body may submit ballot propositions to the voters
14 of the city or town to authorize taxes to be collected on or after the
15 official date of incorporation, or authorize an annexation of the city
16 or town by a fire protection district or library district to be
17 effective immediately upon the effective date of the incorporation as
18 a city or town.

19 The boundaries of a newly incorporated city or town shall be deemed
20 to be established for purposes of RCW 84.09.030 on the date that the
21 results of the initial election on the question of incorporation are
22 certified or the first day of January following the date of this
23 election if the newly incorporated city or town does not impose
24 property taxes in the same year that the voters approve the
25 incorporation.

26 The newly elected officials shall take office immediately upon
27 their election and qualification with limited powers during this
28 interim period as provided in this section. They shall acquire their
29 full powers as of the official date of incorporation and shall continue
30 in office until their successors are elected and qualified at the next
31 general municipal election after the official date of incorporation:
32 PROVIDED, That if the date of the next general municipal election is
33 less than twelve months after the date of the first election of
34 councilmembers, those initially elected councilmembers shall serve
35 until their successors are elected and qualified at the next following
36 general municipal election as provided in RCW 29.04.170. For purposes
37 of this section, the general municipal election shall be the date on
38 which city and town general elections are held throughout the state of
39 Washington, pursuant to RCW 29.13.020.

1 In any newly incorporated city that has adopted the council-manager
2 form of government, the term of office of the mayor, during the interim
3 period only, shall be set by the council, and thereafter shall be as
4 provided by law.

5 The official date of incorporation shall be on a date from one
6 hundred eighty to three hundred sixty days after the date of the
7 election on the question of incorporation, as specified in a resolution
8 adopted by the governing body during this interim period. A copy of
9 the resolution shall be filed with the county legislative authority of
10 the county in which all or the major portion of the newly incorporated
11 city or town is located. If the governing body fails to adopt such a
12 resolution, the official date of incorporation shall be three hundred
13 sixty days after the date of the election on the question of
14 incorporation. The county legislative authority of the county in which
15 all or the major portion of the newly incorporated city or town is
16 located shall file a notice with the county assessor that the city or
17 town has been authorized to be incorporated immediately after the
18 favorable results of the election on the question of incorporation have
19 been certified. The county legislative authority shall file a notice
20 with the secretary of state that the city or town is incorporated as of
21 the official date of incorporation.

22 **Sec. 3.** RCW 35.02.180 and 1986 c 234 s 17 are each amended to read
23 as follows:

24 The ownership of all county roads located within the boundaries of
25 a newly incorporated city or town shall revert to the city or town and
26 become streets as of the official date of incorporation. However, any
27 special assessments attributable to these county roads shall continue
28 to exist and be collected as if the incorporation had not occurred.
29 Property within the newly incorporated city or town shall continue to
30 be subject to any indebtedness attributable to these roads and any
31 related property tax levies.

32 The territory included within the newly incorporated city or town
33 shall be removed from the road district as of the official date of
34 incorporation. The territory included within the newly incorporated
35 city or town shall be removed from a fire protection district or
36 districts or library district or districts in which it was located, as
37 of the official date of incorporation, unless the fire protection
38 district or districts have annexed the city or town during the interim

1 period as provided in RCW (~~52.04.160 through 52.04.200~~) 52.04.061
2 through 52.04.101, or the library district or districts have annexed
3 the city or town during the interim period as provided in RCW
4 (~~27.12.260 through 27.12.290~~) 27.12.360 through 27.12.395.

5 The ownership of all assets and liabilities of any park and
6 recreation district created and governed under the provisions of
7 chapter 36.69 RCW that is located wholly within the newly incorporated
8 city or town shall, upon adoption of a resolution by the council of the
9 newly incorporated city or town, revert to the city or town and become
10 assets and liabilities of the city or town as of the official date of
11 incorporation. However, any special assessments attributable to the
12 park and recreation district shall continue to exist and be collected
13 as if the incorporation had not occurred. Property that was within the
14 boundaries of the park and recreation district shall continue to be
15 subject to any indebtedness attributable to the park and recreation
16 district and any related property tax levies.

17 **Sec. 4.** RCW 35.07.040 and 1965 c 7 s 35.07.040 are each amended to
18 read as follows:

19 (~~If the applicable census shows a population of less than four~~
20 ~~thousand~~) Upon receipt of a valid petition for disincorporation, the
21 council shall cause an election to be called upon the proposition of
22 disincorporation. If the city or town has any indebtedness or
23 outstanding liabilities, it shall order the election of a receiver at
24 the same time.

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

27 Whenever the board of commissioners of a water district or sewer
28 district has determined by resolution that it is in the best interests
29 of the district for a city to assume jurisdiction of the district,
30 whether or not any of the territory or assessed valuation of the
31 district is included within the corporate boundaries of the city, and
32 the city legislative body has determined to assume jurisdiction of the
33 district, the district and the city shall enter into a contract
34 pursuant to RCW 35.13A.070, acceptable to both the district and the
35 city, to carry out such assumption. The contract shall provide for the
36 transfer to the city of all real and personal property, franchises,
37 rights, assets, taxes levied but not collected for the district for

1 other than indebtedness, water and sewer lines, and all other
2 facilities and equipment of the district, which transfers shall be
3 subject to all financial, statutory, or contractual obligations of the
4 district for the security or performance of which such property may
5 have been pledged. Such city in addition to its other powers, shall
6 have the power to manage, control, maintain, and operate such property,
7 facilities, and equipment and to fix and collect service and other
8 charges from owners and occupants of properties so served by the city,
9 subject, however, to any outstanding indebtedness, bonded or otherwise,
10 of the district payable from taxes, assessments, or revenues of any
11 kind or nature and to any other contractual obligations of the district
12 including but not limited to the provisions of the contract entered
13 into by such city and the district pursuant to RCW 35.13A.070.

14 Pursuant to such contract, the city may assume the obligation of
15 paying such district indebtedness and of levying and of collecting or
16 causing to be collected such district taxes, assessments, and utility
17 rates and charges of any kind or nature to pay and secure the payment
18 of such indebtedness, according to all of the terms, conditions, and
19 covenants incident to such indebtedness, and shall assume and perform
20 all other outstanding contractual obligations of the district in
21 accordance with all of its terms, conditions, and covenants. No such
22 assumption shall be deemed to impair the obligation of any indebtedness
23 or other contractual obligation entered into after the effective date
24 of this act. During the period until the outstanding indebtedness of
25 the district has been discharged, the territory of the district and the
26 owners and occupants of property therein, shall continue to be liable
27 for its and their proportionate share of such indebtedness, including
28 any outstanding assessments levied within any local improvement
29 district or utility local improvement district thereof. The city shall
30 assume the obligation of causing the payment of such indebtedness,
31 collecting such taxes, assessments, and charges, and observing and
32 performing the other district contractual obligations. The legislative
33 body of the city shall act as the officers of the district for the
34 purpose of certifying the amount of any property tax to be levied and
35 collected therein, and causing service and other charges and
36 assessments to be collected from such property or owners or occupants
37 thereof, enforcing such collection, and performing all other acts
38 necessary to ensure performance of the district's contractual
39 obligations.

1 When a city assumes the obligation of paying the outstanding
2 indebtedness, and if property taxes or assessments have been levied and
3 service and other charges have accrued for such purpose but have not
4 been collected by the district prior to such assumption, the property
5 taxes or assessments when collected shall belong and be paid to the
6 city and be used by such city so far as necessary for payment of the
7 indebtedness of the district existing and unpaid on the date such city
8 elects to assume the indebtedness. Any funds received by the city that
9 have been collected for the purpose of paying any bonded or other
10 indebtedness of the district, shall be used for the purpose for which
11 they were collected and for no other purpose. Any outstanding
12 indebtedness shall be paid as provided in the bond covenants. All
13 funds of the district on deposit with the county treasurer at the time
14 of title transfer shall be used by the city solely for the benefit of
15 the utility and shall not be transferred to or used for the benefit of
16 the city's general fund.

17 **Sec. 6.** RCW 35.13A.070 and 1971 ex.s. c 95 s 7 are each amended to
18 read as follows:

19 Notwithstanding any provision of this chapter to the contrary, one
20 or more cities and one or more water districts or sewer districts may,
21 through their legislative authorities, authorize a contract with
22 respect to the rights, powers, duties, and obligation of such cities,
23 or districts with regard to the use and ownership of property, the
24 providing of services, the maintenance and operation of facilities,
25 allocation of cost, financing, and construction of new facilities,
26 application and use of assets, disposition of liabilities and debts,
27 the performance of contractual obligations, and any other matters
28 arising out of the inclusion, in whole or in part, of the district or
29 districts within any city or cities or the assumption by a city of
30 jurisdiction of a district pursuant to section 5 of this act. The
31 contract may provide for the furnishing of services by any party
32 thereto and the use of city or district facilities or real estate for
33 such purpose, and may also provide for the time during which such
34 district or districts may continue to exercise any rights, privileges,
35 powers, and functions provided by law for such district or districts as
36 if the district or districts or portions thereof were not included
37 within a city or subject to an assumption of jurisdiction pursuant to
38 section 5 of this act, including but not by way of limitation, the

1 right to promulgate rules and regulations, to levy and collect special
2 assessments, rates, charges, service charges, and connection fees,
3 ((and)) to adopt and carry out the provisions of a comprehensive plan,
4 and amendments thereto, for a system of improvements, and to issue
5 general obligation bonds or revenue bonds in the manner provided by
6 law. The contract may provide for the transfer to a city of district
7 facilities, property, rights, and powers as provided in RCW 35.13A.030
8 ((and)), 35.13A.050, and section 5 of this act, whether or not sixty
9 percent or any of the area or assessed valuation of real estate lying
10 within the district or districts is included within such city. The
11 contract may provide that any party thereto may authorize, issue, and
12 sell revenue bonds to provide funds for new water or sewer improvements
13 or to refund any water revenue, sewer revenue, or combined water and
14 sewer revenue bonds outstanding of any city((7)) or district ((which))
15 that is a party to such contract if such refunding is deemed necessary,
16 providing such refunding will not increase interest costs. The
17 contract may provide that any party thereto may authorize and issue, in
18 the manner provided by law, general obligation or revenue bonds of like
19 amounts, terms, conditions, and covenants as the outstanding bonds of
20 any other party to the contract, and such new bonds may be substituted
21 or exchanged for such outstanding bonds: PROVIDED, That no such
22 exchange or substitution shall be effected in such a manner as to
23 impair the obligation or security of any such outstanding bonds.

24 **Sec. 7.** RCW 35.13A.080 and 1971 ex.s. c 95 s 8 are each amended to
25 read as follows:

26 In any of the cases provided for in RCW 35.13A.020, 35.13A.030,
27 ((and)) 35.13A.050, and section 5 of this act, and notwithstanding any
28 other method of dissolution provided by law, dissolution proceedings
29 may be initiated by either the city or the district, or both, when the
30 legislative body of the city and the governing body of the district
31 agree to, and petition for, dissolution of the district.

32 The petition for dissolution shall be signed by the chief
33 administrative officer of the city and the district, upon authorization
34 of the legislative body of the city and the governing body of the
35 district((7)) respectively, and such petition shall be presented to the
36 superior court of the county in which the city is situated.

37 If the petition is thus authorized by both the city and district,
38 and title to the property, facilities, and equipment of the district

1 has passed to the city pursuant to action taken under this chapter, all
2 indebtedness and local improvement district or utility local
3 improvement district assessments of the district have been discharged
4 or assumed by and transferred to the city, and the petition contains a
5 statement of the distribution of assets and liabilities mutually agreed
6 upon by the city and the district and a copy of the agreement between
7 such city and the district is attached thereto, a hearing shall not be
8 required and the court shall, if the interests of all interested
9 parties have been protected, enter an order dissolving the district.

10 In any of the cases provided for in RCW 35.13A.020 (~~and~~),
11 35.13A.030, and section 5 of this act, if the petition for an order of
12 dissolution is signed on behalf of the city alone or the district
13 alone, or there is no mutual agreement on the distribution of assets
14 and liabilities, the superior court shall enter an order fixing a
15 hearing date not less than sixty days from the day the petition is
16 filed, and the clerk of the court of the county shall give notice of
17 such hearing by publication in a newspaper of general circulation in
18 the district once a week for three successive weeks and by posting in
19 three public places in the district at least twenty-one days before the
20 hearing. The notice shall set forth the filing of the petition, its
21 purposes, and the date and place of hearing thereon.

22 After the hearing the court shall enter its order with respect to
23 the dissolution of the district. If the court finds that such district
24 should be dissolved and the functions performed by the city, the court
25 shall provide for the transfer of assets and liabilities to the city.
26 The court may provide for the dissolution of the district upon such
27 conditions as the court may deem appropriate. A certified copy of the
28 court order dissolving the district shall be filed with the county
29 auditor. If the court does not dissolve the district, it shall state
30 the reasons for declining to do so.

31 **Sec. 8.** RCW 35.27.070 and 1993 c 47 s 2 are each amended to read
32 as follows:

33 The government of a town shall be vested in a mayor and a council
34 consisting of five members and a treasurer, all elective; the mayor
35 shall appoint a clerk and a marshal; and may appoint a town attorney,
36 pound master, street superintendent, a civil engineer, and such police
37 and other subordinate officers and employees as may be provided for by
38 ordinance. All appointive officers and employees shall hold office at

1 the pleasure of the mayor, subject to any applicable law, rule, or
2 regulation relating to civil service, and shall not be subject to
3 confirmation by the town council.

4 **Sec. 9.** RCW 41.04.190 and 1992 c 146 s 13 are each amended to read
5 as follows:

6 The cost of a policy or plan to a public agency or body is not
7 additional compensation to the employees or elected officials covered
8 thereby. The elected officials to whom this section applies include
9 but are not limited to commissioners elected under chapters 28A.315,
10 52.14, 53.12, 54.12, 56.12, 57.12, 70.44, and 87.03 RCW, as well as any
11 county elected officials who are provided insurance coverage under RCW
12 41.04.180 and those city officials elected under chapters 35.22, 35.23,
13 35.27, 35A.12, and 35A.13 RCW. Any officer authorized to disburse such
14 funds may pay in whole or in part to an insurance carrier or health
15 care service contractor the amount of the premiums due under the
16 contract.

17 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
18 each repealed:

- 19 (1) RCW 35.07.030 and 1965 c 7 s 35.07.030;
20 (2) RCW 35.17.160 and 1965 c 7 s 35.17.160;
21 (3) RCW 35.23.390 and 1965 c 7 s 35.23.390; and
22 (4) RCW 35.23.400 and 1965 c 7 s 35.23.400.

--- END ---