

1 1275-S AAS 4/19/91

2 **SHB 1275** - S COMM AMD

3 By Committee on Government Operations

4 ADOPTED AS AMENDED 4/19/91 - Voice Vote

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 29.18.022 and 1987 c 110 s 1 are each amended to read
8 as follows:

9 The names of all candidates for partisan office, for the office of
10 superintendent of public instruction, for public utility district
11 office, and for all judicial offices shall be rotated in each precinct
12 in the manner specified by RCW 29.30.040, 29.30.340, and 29.30.440.
13 The order of names of candidates for such offices on sample ballots and
14 on absentee ballots in primaries shall be determined in the following
15 manner:

16 (1) After the close of business on the last day for candidates to
17 file for office, the officer with whom declarations of candidacy are
18 filed shall, from among those filings made in person and by mail in
19 accordance with RCW 29.18.045(2), determine by lot the order in which
20 the names of those candidates shall appear on the sample and absentee
21 ballots under the appropriate office heading. The determination shall
22 be done publicly, and may be witnessed by the media and by any
23 candidate desiring to do so.

24 (2) For the purposes of this section and RCW 29.18.045, "filing
25 officer" means the officer with whom declarations of candidacy for an
26 office must be filed."

1 **"Sec. 2.** RCW 29.30.025 and 1990 c 59 s 80 are each amended to read
2 as follows:

3 After the close of business on the last day for candidates to file
4 for office, the filing officer shall, from among those filings made in
5 person and by mail, determine by lot the order in which the names of
6 those candidates will appear on all sample and absentee ballots. In
7 the case of candidates for city, town, and district office, except for
8 public utility district office, this procedure shall also determine the
9 order for candidate names on the official primary ballot used at the
10 polling place. The determination shall be done publicly and may be
11 witnessed by the media and by any candidate. If no primary is required
12 for any nonpartisan office under RCW 29.15.150 or 29.21.015, the names
13 shall appear on the general election ballot in the order determined by
14 lot."

15 **"Sec. 3.** RCW 29.21.010 and 1977 c 53 s 3 are each amended to read
16 as follows:

17 All cities and towns shall hold primary elections irrespective of
18 type or form of government which shall be nonpartisan and held as
19 provided in RCW 29.13.070, as now or hereafter amended. All districts,
20 except those districts which require ownership of property within
21 (~~said~~) the districts as a prerequisite to voting, shall hold primary
22 elections which shall be nonpartisan and held as provided in RCW
23 29.13.070 as now or hereafter amended.

24 All names of candidates to be voted upon at city, town, and such
25 district primary elections, except for public utility district primary
26 elections, shall be printed upon the official primary ballot
27 alphabetically in groups under the designation of the respective titles
28 of the offices for which they are candidates. The name of the person
29 who receives the greatest number of votes and of the person who

1 receives the next greatest number of votes for each position, shall
2 appear in that order on the city, town, or district general election
3 ballot concerned under the designation for each respective office. In
4 the event there are two or more offices to be filled for the same
5 position, then names of candidates receiving the highest number of
6 votes equal in number to twice the offices to be filled shall appear on
7 the city, town, or district general election ballot so that the voter
8 shall have a choice of two candidates for each position: PROVIDED,
9 That no name of any candidate shall appear on the city, town, or
10 district general election ballot unless said candidate shall receive at
11 least five percent of the total votes cast for that office. The
12 sequence of names of candidates printed on the city, town, or district
13 general election ballot shall be in relation to the number of votes
14 each candidate received at the primary. Names of candidates printed
15 upon the city, town, or district primary and general election ballot
16 need not be rotated.

17 The purpose of this section is to establish the holding of a
18 primary election, subject to the exemptions as contained in RCW
19 29.21.015 as now or hereafter amended, as a uniform procedural
20 requirement to the holding of city, town, and district elections and
21 such provisions shall supersede any and all other statutes, whether
22 general or special in nature, having different election requirements."

23 "Sec. 4. RCW 29.30.040 and 1990 c 59 s 94 are each amended to read
24 as follows:

25 At primaries, the names of candidates for federal, state, and
26 county partisan offices, for the office of superintendent of public
27 instruction, for public utility district office, and for judicial
28 offices shall, for each office or position, be arranged initially in
29 the order determined under RCW 29.30.025. Additional sets of ballots

1 shall be prepared in which the positions of the names of all candidates
2 for each office or position shall be changed as many times as there are
3 candidates in the office or position in which there are the greatest
4 number of names. As nearly as possible an equal number of ballots
5 shall be prepared after each change. In making the changes of position
6 between each set of ballots, the candidates for each such office in the
7 first position under the office heading shall be moved to the last
8 position under that office heading, and each other name shall be moved
9 up to the position immediately above its previous position under that
10 office heading. The effect of this rotation of the order of the names
11 shall be that the name of each candidate for an office or position
12 shall appear first, second, and so forth for that office or position on
13 the ballots of a nearly equal number of registered voters in that
14 jurisdiction. In a precinct using voting devices, the names of the
15 candidates for each office shall appear in only one sequence in that
16 precinct. The names of candidates for city, town, and district office
17 on the ballot at the primary shall not be rotated."

18 "Sec. 5. RCW 35.02.020 and 1986 c 234 s 3 are each amended to read
19 as follows:

20 A petition for incorporation must be signed by ((qualified))
21 registered voters resident within the limits of the proposed city or
22 town equal in number to ten percent of the ((votes cast)) number of
23 voters who voted at the last ((state)) general municipal election and
24 presented to the auditor of the county in which all, or the largest
25 portion of, the proposed city or town is located."

26 "Sec. 6. RCW 35.02.090 and 1986 c 234 s 12 are each amended to
27 read as follows:

1 The elections on the proposed incorporation and for the nomination
2 and election of the initial elected officials shall be conducted in
3 accordance with the general election laws of the state, except as
4 provided in this chapter. No person is entitled to vote (~~thereat~~)
5 unless he or she is a (~~qualified elector~~) registered voter of the
6 county, or any of the counties in which the proposed city or town is
7 located, and has resided within the limits of the proposed city or town
8 for at least thirty days next preceding the date of election."

9 "**Sec. 7.** RCW 35.06.020 and 1965 c 7 s 35.06.020 are each amended
10 to read as follows:

11 When a petition is filed signed by (~~electors~~) registered voters
12 of a city or town, in number equal to not less than one-fifth of the
13 votes cast at the last general municipal election, seeking
14 reorganization thereof as a city of a higher class than that indicated
15 by the last preceding federal or state census, the city or town council
16 to which the petition is presented shall forthwith cause a census to be
17 taken by one or more suitable persons of all the inhabitants of such
18 town or city in which census the full name of each person shall be
19 plainly written, and the names alphabetically arranged and regularly
20 numbered in complete series. The census shall be verified before an
21 officer authorized to administer oaths and filed with the city or town
22 clerk.

23 If the census shows such city or town qualified for the class named
24 in the petition, the same proceedings shall be had as if the census
25 were a federal or state census.

26 If the census shows such city or town not qualified for the class
27 named in the petition, no further proceedings shall be had: PROVIDED,
28 That the city or town may be reorganized as a city or town of the class
29 indicated by the census, upon a proper petition filed within six months

1 from the filing of such census with the clerk, without other or further
2 census."

3 "Sec. 8. RCW 35.06.030 and 1965 c 7 s 35.06.030 are each amended
4 to read as follows:

5 If the census prescribed in RCW 35.06.020 shows that the city or
6 town belongs to the class named in the petition, the city or town
7 council shall cause notice to be given as in other cases, that at the
8 ((the)) next general election of the city or town, or at a special
9 election to be called for that purpose, the ((electors)) voters may
10 vote for or against the advancement, their ballots to contain the words
11 "for advancement" and the words "against advancement."

12 "Sec. 9. RCW 35.06.050 and 1965 c 7 s 35.06.050 are each amended
13 to read as follows:

14 The clerk shall lay the certificate of election and census before
15 the council at its next regular meeting after the same has been filed
16 in his or her office, and if ((it appear that all the votes cast for
17 the advancement are not a majority of the votes cast at the election))
18 a majority of those voting on the advancement are not in favor of
19 advancement, no further proceedings shall be had on that petition; but
20 this shall not bar any new proceedings for such purpose."

21 "Sec. 10. RCW 35.24.020 and 1987 c 3 s 9 are each amended to read
22 as follows:

23 The government of a third class city shall be vested in a mayor, a
24 city council of seven members, a city attorney, a clerk, a treasurer,
25 all elective; and a chief of police, municipal judge, city engineer,
26 street superintendent, health officer and such other appointive
27 officers as may be provided for by statute or ordinance: PROVIDED,

1 That the council may enact an ordinance providing for the appointment
2 of the city clerk, city attorney, and treasurer by the mayor, which
3 appointment shall be subject to confirmation by a majority vote of the
4 city council. Such ordinance shall be enacted and become effective not
5 later than thirty days prior to the first day allowed for filing
6 declarations of candidacy for such offices when such offices are
7 subject to an approaching city primary election. Elective incumbent
8 city clerks, city attorneys, and city treasurers shall serve for the
9 remainder of their unexpired term notwithstanding any appointment made
10 pursuant to RCW 35.24.020 and 35.24.050. If a free public library and
11 reading room is established, five library trustees shall be appointed.
12 The city council by ordinance shall prescribe the duties and fix the
13 compensation of all officers and employees: PROVIDED, That the
14 provisions of any such ordinance shall not be inconsistent with any
15 statute: PROVIDED FURTHER, That where the city council finds that the
16 appointment of a full time city engineer is unnecessary, it may in lieu
17 of such appointment, by resolution provide for the performance of
18 necessary engineering services on either a part time, temporary or
19 periodic basis by a qualified engineering firm, pursuant to any
20 reasonable contract.

21 The mayor shall appoint and at his or her pleasure may remove all
22 appointive officers except as otherwise provided herein: PROVIDED,
23 That municipal judges shall be removed only upon conviction of
24 misconduct or malfeasance in office, or because of physical or mental
25 disability rendering ((him)) the judge incapable of performing the
26 duties of his or her office. Every appointment or removal must be in
27 writing signed by the mayor and filed with the city clerk."

28 "Sec. 11. RCW 35.24.180 and 1965 c 7 s 35.24.180 are each amended
29 to read as follows:

1 The city council and mayor shall meet on the first Tuesday in
2 January next succeeding the date of each general municipal election,
3 and shall take the oath of office, and shall hold regular meetings at
4 least once during each month but not to exceed one regular meeting in
5 each week, at such times as may be fixed by ordinance.

6 Special meetings may be called by the mayor by written notice
7 (~~delivered to each member of the council at least three hours before~~
8 ~~the time specified for the proposed meeting~~) as provided in RCW
9 42.30.080. No ordinances shall be passed or contract let or entered
10 into, or bill for the payment of money allowed at any special meeting.

11 All meetings of the city council shall be held within the corporate
12 limits of the city at such place as may be designated by ordinance.
13 All meetings of the city council must be public."

14 "**Sec. 12.** RCW 35.24.190 and 1969 c 101 s 3 are each amended to
15 read as follows:

16 The members of the city council at their first meeting after each
17 general municipal election and thereafter whenever a vacancy occurs,
18 shall elect from among their number a mayor pro tempore, who shall hold
19 office at the pleasure of the council and in case of the absence of the
20 mayor, perform the duties of mayor except that he or she shall not have
21 the power to appoint or remove any officer or to veto any ordinance.
22 If a vacancy occurs in the office of mayor, the city council at their
23 next regular meeting shall elect from among their number a mayor, who
24 shall serve until a mayor is elected and certified at the next
25 municipal election.

26 In the event of the extended excused absence or disability of a
27 councilmember, the remaining members by majority vote may appoint a
28 councilmember pro tempore to serve during the absence or disability.

1 The mayor and the mayor pro tempore shall have power to administer
2 oaths and affirmations, take affidavits and certify them. The mayor or
3 the mayor pro tempore when acting as mayor, shall sign all conveyances
4 made by the city and all instruments which require the seal of the
5 city."

6 **"Sec. 13.** RCW 35.27.010 and 1965 c 7 s 35.27.010 are each amended
7 to read as follows:

8 Every municipal corporation of the fourth class shall be entitled
9 the "Town of" (naming it), and by such name shall have
10 perpetual succession, may sue, and be sued in all courts and places,
11 and in all proceedings whatever; shall have and use a common seal,
12 alterable at the pleasure of the town authorities, and may purchase,
13 lease, receive, hold, and enjoy real and personal property and control
14 (~~and~~), lease, sublease, convey, or otherwise dispose of the same for
15 the common benefit."

16 **"Sec. 14.** RCW 35.27.070 and 1987 c 3 s 12 are each amended to read
17 as follows:

18 The government of a town shall be vested in a mayor and a council
19 consisting of five members and a treasurer, all elective; the mayor
20 shall appoint a clerk and a marshal; and may appoint a town attorney,
21 pound master, street superintendent, a civil engineer, and such police
22 and other subordinate officers and employees as may be provided for by
23 ordinance. All appointive officers and employees shall hold office at
24 the pleasure of the mayor and shall not be subject to confirmation by
25 the town council."

26 **"Sec. 15.** RCW 35.27.130 and 1990 c 212 s 2 are each amended to
27 read as follows:

1 The mayor and members of the town council may be reimbursed for
2 actual expenses incurred in the discharge of their official duties upon
3 presentation of a claim therefor and its allowance and approval by
4 resolution of the town council. The mayor and members of the council
5 may also receive such salary as the council may fix by ordinance.

6 The treasurer and treasurer-clerk shall severally receive at stated
7 times a compensation to be fixed by ordinance.

8 The compensation of all other officers and employees shall be fixed
9 from time to time by the council.

10 Any town that provides a pension for any of its employees under a
11 plan not administered by the state must notify the state auditor of the
12 existence of the plan at the time of an audit of the town by the
13 auditor. No town may establish a pension plan for its employees that
14 is not administered by the state, except that any defined contribution
15 plan in existence as of January 1, 1990, is deemed to have been
16 authorized. No town that provides a defined contribution plan for its
17 employees as authorized by this section may make any material changes
18 in the terms or conditions of the plan after June 7, 1990."

19 "**Sec. 16.** RCW 35.27.270 and 1965 c 7 s 35.27.270 are each amended
20 to read as follows:

21 The town council shall meet on the second Tuesday in January
22 succeeding the date of the general municipal election, shall take the
23 oath of office, and shall hold regular meetings at least once each
24 month at such times as may be fixed by ordinance. Special meetings may
25 be called at any time by the mayor or by three ~~((councilmen))~~
26 councilmembers, by written notice ~~((delivered to each member at least~~
27 ~~three hours before the time specified for the proposed meeting))~~ as
28 provided in RCW 42.30.080. No resolution or order for the payment of
29 money shall be passed at any other than a regular meeting. No such

1 resolution or order shall be valid unless passed by the votes of at
2 least three ((~~councilmen~~)) councilmembers.

3 All meetings of the council shall be held within the corporate
4 limits of the town, at such places as may be designated by ordinance
5 and shall be public."

6 "Sec. 17. RCW 35.27.280 and 1965 c 107 s 2 are each amended to
7 read as follows:

8 A majority of the ((~~councilmen~~)) councilmembers shall constitute a
9 quorum for the transaction of business, but a lesser number may adjourn
10 from time to time and may compel the attendance of absent members in
11 such manner and under such penalties as may be prescribed by ordinance.

12 In the event of the extended excused absence or disability of a
13 councilmember, the remaining members by majority vote may appoint a
14 councilmember pro tempore to serve during the absence or disability.

15 The mayor shall preside at all meetings of the council. The mayor
16 shall have a vote only in case of a tie in the votes of the
17 ((~~councilmen~~)) councilmembers. In the absence of the mayor the council
18 may appoint a president pro tempore; in the absence of the clerk, the
19 mayor, or president pro tempore, shall appoint one of the
20 councilmembers as clerk pro tempore. The council may establish rules
21 for the conduct of its proceedings and punish any members or other
22 person for disorderly behavior at any meeting. At the desire of any
23 member, the ayes and noes shall be taken on any question and entered in
24 the journal."

25 "NEW SECTION. **Sec. 18.** A new section is added to chapter 35.21
26 RCW to read as follows:

27 (1) It is the purpose of this section to provide a means whereby
28 all cities and towns may obtain, through a single source, information

1 regarding ordinances of other cities and towns that may be of
2 assistance to them in enacting appropriate local legislation.

3 (2) For the purposes of this section, (a) "clerk" means the city or
4 town clerk or other person who is lawfully designated to perform the
5 recordkeeping function of that office, and (b) "municipal research
6 council" means the municipal research council created by chapter 43.110
7 RCW.

8 (3) The clerk of every city and town is directed to provide to the
9 municipal research council or its designee, promptly after adoption, a
10 copy of each of its regulatory ordinances and such other ordinances or
11 kinds of ordinances as may be described in a list or lists promulgated
12 by the municipal research council or its designee from time to time,
13 and may provide such copies without charge. The municipal research
14 council may provide that information to the entity with which it
15 contracts for the provision of municipal research and services, in
16 order to provide a pool of information for all cities and towns in the
17 state of Washington.

18 (4) This section is intended to be directory and not mandatory."

19 "Sec. 19. RCW 35A.12.010 and 1985 c 106 s 1 are each amended to
20 read as follows:

21 The government of any noncharter code city or charter code city
22 electing to adopt the mayor-council plan of government authorized by
23 this chapter shall be vested in an elected mayor and an elected
24 council. The council of a noncharter code city having less than
25 twenty-five hundred inhabitants shall consist of five members; when
26 there are twenty-five hundred or more inhabitants, the council shall
27 consist of seven members: PROVIDED, That if the population of a city
28 after having become a code city decreases from twenty-five hundred or
29 more to less than twenty-five hundred, it shall continue to have a

1 seven member council. If, after a city has become a mayor-council code
2 city, its population increases to twenty-five hundred or more
3 inhabitants, the number of councilmanic offices in such city may
4 increase from five to seven members upon the affirmative vote of a
5 majority of the existing council to increase the number of councilmanic
6 offices in the city. When the population of a mayor-council code city
7 having five councilmanic offices increases to five thousand or more
8 inhabitants, the number of councilmanic offices in the city shall
9 increase from five to seven members. In the event of an increase in
10 the number of councilmanic offices, the city council shall, by majority
11 vote, pursuant to RCW 35A.12.050, appoint two persons to serve in these
12 offices until the next municipal general election, at which election
13 one person shall be elected for a two-year term and one person shall be
14 elected for a four-year term: PROVIDED, That both persons shall be
15 elected to a two-year term when (a) the city council has divided the
16 city into wards pursuant to RCW 35A.12.180, and (b) the terms of office
17 of a majority of the other councilmanic offices expire at such
18 election. The number of inhabitants shall be determined by the most
19 recent official state or federal census or determination by the state
20 office of financial management. A charter adopted under the provisions
21 of this title, incorporating the mayor-council plan of government set
22 forth in this chapter, may provide for an uneven number of councilmen
23 not exceeding eleven.

24 A noncharter code city of less than five thousand inhabitants which
25 has elected the mayor-council plan of government and which has seven
26 councilmanic offices may establish a five-member council in accordance
27 with the following procedure. At least six months prior to a municipal
28 general election, the city council shall adopt an ordinance providing
29 for reduction in the number of councilmanic offices to five. The
30 ordinance shall specify which two councilmanic offices, the terms of

1 which expire at the next general election, are to be terminated. The
2 ordinance shall provide for the renumbering of council positions and
3 shall also provide for a two-year extension of the term of office of a
4 retained councilmanic office, if necessary, in order to comply with RCW
5 35A.12.040."

6 "Sec. 20. RCW 35A.39.010 and 1967 ex.s. c 119 s 35A.39.010 are
7 each amended to read as follows:

8 Every code city shall keep a journal of minutes of its legislative
9 meetings with orders, resolutions and ordinances passed, and records of
10 the proceedings of any city department, division or commission
11 performing quasi judicial functions as required by ordinances of the
12 city and general laws of the state and shall keep such records open to
13 the public as required by RCW 42.32.030 and shall keep and preserve all
14 public records and publications or reproduce and destroy the same as
15 provided by Title 40 RCW. Each code city (~~shall provide three copies~~
16 ~~of each of its ordinances of general application to the association of~~
17 ~~Washington cities without charge and~~) may duplicate and sell copies of
18 its ordinances at fees reasonably calculated to defray the cost of such
19 duplication and handling."

20 "Sec. 21. RCW 41.08.040 and 1973 1st ex.s. c 154 s 60 are each
21 amended to read as follows:

22 Immediately after appointment the commission shall organize by
23 electing one of its members (~~chairman~~) chair and hold regular
24 meetings at least once a month, and such additional meetings as may be
25 required for the proper discharge of their duties.

26 They shall appoint a secretary and chief examiner, who shall keep
27 the records of the commission, preserve all reports made to it,
28 superintend and keep a record of all examinations held under its

1 direction, and perform such other duties as the commission may
2 prescribe.

3 The secretary and chief examiner shall be appointed as a result of
4 competitive examination which examination may be either original and
5 open to all properly qualified citizens of the city, town or
6 municipality, or promotional and limited to persons already in the
7 service of the fire department or of the fire department and other
8 departments of said city, town or municipality, as the commission may
9 decide. The secretary and chief examiner may be subject to suspension,
10 reduction or discharge in the same manner and subject to the same
11 limitations as are provided in the case of members of the fire
12 department. It shall be the duty of the civil service commission:

13 (1) To make suitable rules and regulations not inconsistent with
14 the provisions of this chapter. Such rules and regulations shall
15 provide in detail the manner in which examinations may be held, and
16 appointments, promotions, transfers, reinstatements, demotions,
17 suspensions and discharges shall be made, and may also provide for any
18 other matters connected with the general subject of personnel
19 administration, and which may be considered desirable to further carry
20 out the general purposes of this chapter, or which may be found to be
21 in the interest of good personnel administration. Such rules and
22 regulations may be changed from time to time. The rules and
23 regulations and any amendments thereof shall be printed, mimeographed
24 or multigraphed for free public distribution. Such rules and
25 regulations may be changed from time to time.

26 (2) All tests shall be practical, and shall consist only of
27 subjects which will fairly determine the capacity of persons examined
28 to perform duties of the position to which appointment is to be made,
29 and may include tests of physical fitness and/or of manual skill.

1 (3) The rules and regulations adopted by the commission shall
2 provide for a credit (~~(of ten percent)~~) in accordance with RCW
3 41.04.010 in favor of all applicants for appointment under civil
4 service, who, in time of war, or in any expedition of the armed forces
5 of the United States, have served in and been honorably discharged from
6 the armed forces of the United States, including the army, navy, and
7 marine corps and the American Red Cross. These credits apply to
8 entrance examinations only.

9 (4) The commission shall make investigations concerning and report
10 upon all matters touching the enforcement and effect of the provisions
11 of this chapter, and the rules and regulations prescribed hereunder;
12 inspect all institutions, departments, offices, places, positions and
13 employments affected by this chapter, and ascertain whether this
14 chapter and all such rules and regulations are being obeyed. Such
15 investigations may be made by the commission or by any commissioner
16 designated by the commission for that purpose. Not only must these
17 investigations be made by the commission as aforesaid, but the
18 commission must make like investigation on petition of a citizen, duly
19 verified, stating that irregularities or abuses exist, or setting forth
20 in concise language, in writing, the necessity for such investigation.
21 In the course of such investigation the commission or designated
22 commissioner, or chief examiner, shall have the power to administer
23 oaths, subpoena and require the attendance of witnesses and the
24 production by them of books, papers, documents and accounts
25 appertaining to the investigation and also to cause the deposition of
26 witnesses residing within or without the state to be taken in the
27 manner prescribed by law for like depositions in civil actions in the
28 superior court; and the oaths administered hereunder and the subpoenas
29 issued hereunder shall have the same force and effect as the oaths
30 administered by a superior court judge in his or her judicial capacity;

1 and the failure upon the part of any person so subpoenaed to comply
2 with the provisions of this section shall be deemed a violation of this
3 chapter, and punishable as such.

4 (5) All hearings and investigations before the commission, or
5 designated commissioner, or chief examiner, shall be governed by this
6 chapter and by rules of practice and procedure to be adopted by the
7 commission, and in the conduct thereof neither the commission, nor
8 designated commissioner shall be bound by the technical rules of
9 evidence. No informality in any proceedings or hearing, or in the
10 manner of taking testimony before the commission or designated
11 commissioner, shall invalidate any order, decision, rule or regulation
12 made, approved or confirmed by the commission: PROVIDED, HOWEVER, That
13 no order, decision, rule or regulation made by any designated
14 commissioner conducting any hearing or investigation alone shall be of
15 any force or effect whatsoever unless and until concurred in by at
16 least one of the other two members.

17 (6) To hear and determine appeals or complaints respecting the
18 administrative work of the personnel department; appeals upon the
19 allocation of positions; the rejection of an examination, and such
20 other matters as may be referred to the commission.

21 (7) Establish and maintain in card or other suitable form a roster
22 of officers and employees.

23 (8) Provide for, formulate and hold competitive tests to determine
24 the relative qualifications of persons who seek employment in any class
25 or position and as a result thereof establish eligible lists for the
26 various classes of positions, and to provide that persons laid off
27 because of curtailment of expenditures, reduction in force, and for
28 like causes, head the list in the order of their seniority, to the end
29 that they shall be the first to be reemployed.

1 (9) When a vacant position is to be filled, to certify to the
2 appointing authority, on written request, the name of the person
3 highest on the eligible list for the class. If there are no such
4 lists, to authorize provisional or temporary appointment list of such
5 class. Such temporary or provisional appointment shall not continue
6 for a period longer than four months; nor shall any person receive more
7 than one provisional appointment or serve more than four months as a
8 provisional appointee in any one fiscal year.

9 (10) Keep such records as may be necessary for the proper
10 administration of this chapter."

11 "Sec. 22. RCW 41.12.040 and 1937 c 13 s 5 are each amended to read
12 as follows:

13 Immediately after appointment the commission shall organize by
14 electing one of its members ((~~chairman~~)) chair and hold regular
15 meetings at least once a month, and such additional meetings as may be
16 required for the proper discharge of their duties.

17 They shall appoint a secretary and chief examiner, who shall keep
18 the records for the commission, preserve all reports made to it,
19 superintend and keep a record of all examinations held under its
20 direction, and perform such other duties as the commission may
21 prescribe.

22 The secretary and chief examiner shall be appointed as a result of
23 competitive examination which examination may be either original and
24 open to all properly qualified citizens of the city, town, or
25 municipality, or promotional and limited to persons already in the
26 service of the police department or of the police department and other
27 departments of said city, town, or municipality, as the commission may
28 decide. The secretary and chief examiner may be subject to suspension,
29 reduction, or discharge in the same manner and subject to the same

1 limitations as are provided in the case of members of the police
2 department. It shall be the duty of the civil service commission:

3 (1) To make suitable rules and regulations not inconsistent with
4 the provisions of this chapter. Such rules and regulations shall
5 provide in detail the manner in which examinations may be held, and
6 appointments, promotions, transfers, reinstatements, demotions,
7 suspensions, and discharges shall be made, and may also provide for any
8 other matters connected with the general subject of personnel
9 administration, and which may be considered desirable to further carry
10 out the general purposes of this chapter, or which may be found to be
11 in the interest of good personnel administration. Such rules and
12 regulations may be changed from time to time. The rules and
13 regulations and any amendments thereof shall be printed, mimeographed,
14 or multigraphed for free public distribution. Such rules and
15 regulations may be changed from time to time;

16 (2) All tests shall be practical, and shall consist only of
17 subjects which will fairly determine the capacity of persons examined
18 to perform duties of the position to which appointment is to be made,
19 and may include tests of physical fitness and/or of manual skill;

20 (3) The rules and regulations adopted by the commission shall
21 provide for a credit (~~of ten percent~~) in accordance with RCW
22 41.04.010 in favor of all applicants for appointment under civil
23 service, who, in time of war, or in any expedition of the armed forces
24 of the United States, have served in and been honorably discharged from
25 the armed forces of the United States, including the army, navy, and
26 marine corps and the American Red Cross. These credits apply to
27 entrance examinations only;

28 (4) The commission shall make investigations concerning and report
29 upon all matters touching the enforcement and effect of the provisions
30 of this chapter, and the rules and regulations prescribed hereunder;

1 inspect all institutions, departments, offices, places, positions, and
2 employments affected by this chapter, and ascertain whether this
3 chapter and all such rules and regulations are being obeyed. Such
4 investigations may be made by the commission or by any commissioner
5 designated by the commission for that purpose. Not only must these
6 investigations be made by the commission as aforesaid, but the
7 commission must make like investigation on petition of a citizen, duly
8 verified, stating that irregularities or abuses exist, or setting forth
9 in concise language, in writing, the necessity for such investigation.
10 In the course of such investigation the commission or designated
11 commissioner, or chief examiner, shall have the power to administer
12 oaths, subpoena and require the attendance of witnesses and the
13 production by them of books, papers, documents, and accounts
14 appertaining to the investigation, and also to cause the deposition of
15 witnesses residing within or without the state to be taken in the
16 manner prescribed by law for like depositions in civil actions in the
17 superior court; and the oaths administered hereunder and the subpoenas
18 issued hereunder shall have the same force and effect as the oaths
19 administered by a superior court judge in his or her judicial capacity;
20 and the failure upon the part of any person so subpoenaed to comply
21 with the provisions of this section shall be deemed a violation of this
22 chapter, and punishable as such;

23 (5) Hearings and Investigations: How conducted. All hearings and
24 investigations before the commission, or designated commissioner, or
25 chief examiner, shall be governed by this chapter and by rules of
26 practice and procedure to be adopted by the commission, and in the
27 conduct thereof neither the commission, nor designated commissioner
28 shall be bound by the technical rules of evidence. No informality in
29 any proceedings or hearing, or in the manner of taking testimony before
30 the commission or designated commissioner, shall invalidate any order,

1 decision, rule or regulation made, approved or confirmed by the
2 commission: PROVIDED, HOWEVER, That no order, decision, rule or
3 regulation made by any designated commissioner conducting any hearing
4 or investigation alone shall be of any force or effect whatsoever
5 unless and until concurred in by at least one of the other two members;

6 (6) To hear and determine appeals or complaints respecting the
7 administrative work of the personnel department; appeals upon the
8 allocation of positions; the rejection of an examination, and such
9 other matters as may be referred to the commission;

10 (7) Establish and maintain in card or other suitable form a roster
11 of officers and employees;

12 (8) Provide for, formulate and hold competitive tests to determine
13 the relative qualifications of persons who seek employment in any class
14 or position and as a result thereof establish eligible lists for the
15 various classes of positions, and to provide that (~~men~~) persons laid
16 off because of curtailment of expenditures, reduction in force, and for
17 like causes, head the list in the order of their seniority, to the end
18 that they shall be the first to be reemployed;

19 (9) When a vacant position is to be filled, to certify to the
20 appointing authority, on written request, the name of the person
21 highest on the eligible list for the class. If there are no such
22 lists, to authorize provisional or temporary appointment list of such
23 class. Such temporary or provisional appointment shall not continue
24 for a period longer than four months; nor shall any person receive more
25 than one provisional appointment or serve more than four months as
26 provisional appointee in any one fiscal year;

27 (10) Keep such records as may be necessary for the proper
28 administration of this chapter."

1 **"Sec. 23.** RCW 42.17.310 and 1991 c 1 s 1 are each amended to read
2 as follows:

3 (1) The following are exempt from public inspection and copying:

4 (a) Personal information in any files maintained for students in
5 public schools, patients or clients of public institutions or public
6 health agencies, or welfare recipients.

7 (b) Personal information in files maintained for employees,
8 appointees, or elected officials of any public agency to the extent
9 that disclosure would violate their right to privacy.

10 (c) Information required of any taxpayer in connection with the
11 assessment or collection of any tax if the disclosure of the
12 information to other persons would (i) be prohibited to such persons by
13 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result
14 in unfair competitive disadvantage to the taxpayer.

15 (d) Specific intelligence information and specific investigative
16 records compiled by investigative, law enforcement, and penology
17 agencies, and state agencies vested with the responsibility to
18 discipline members of any profession, the nondisclosure of which is
19 essential to effective law enforcement or for the protection of any
20 person's right to privacy.

21 (e) Information revealing the identity of persons who file
22 complaints with investigative, law enforcement, or penology agencies,
23 other than the public disclosure commission, if disclosure would
24 endanger any person's life, physical safety, or property. If at the
25 time the complaint is filed the complainant indicates a desire for
26 disclosure or nondisclosure, such desire shall govern. However, all
27 complaints filed with the public disclosure commission about any
28 elected official or candidate for public office must be made in writing
29 and signed by the complainant under oath.

1 (f) Test questions, scoring keys, and other examination data used
2 to administer a license, employment, or academic examination.

3 (g) Except as provided by chapter 8.26 RCW, the contents of real
4 estate appraisals, made for or by any agency relative to the
5 acquisition or sale of property, until the project or prospective sale
6 is abandoned or until such time as all of the property has been
7 acquired or the property to which the sale appraisal relates is sold,
8 but in no event shall disclosure be denied for more than three years
9 after the appraisal.

10 (h) Valuable formulae, designs, drawings, and research data
11 obtained by any agency within five years of the request for disclosure
12 when disclosure would produce private gain and public loss.

13 (i) Preliminary drafts, notes, recommendations, and intra-agency
14 memorandums in which opinions are expressed or policies formulated or
15 recommended except that a specific record shall not be exempt when
16 publicly cited by an agency in connection with any agency action.

17 (j) Records which are relevant to a controversy to which an agency
18 is a party but which records would not be available to another party
19 under the rules of pretrial discovery for causes pending in the
20 superior courts.

21 (k) Records, maps, or other information identifying the location of
22 archaeological sites in order to avoid the looting or depredation of
23 such sites.

24 (l) Any library record, the primary purpose of which is to maintain
25 control of library materials, or to gain access to information, which
26 discloses or could be used to disclose the identity of a library user.

27 (m) Financial information supplied by or on behalf of a person,
28 firm, or corporation for the purpose of qualifying to submit a bid or
29 proposal for (a) a ferry system construction or repair contract as

1 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
2 or improvement as required by RCW 47.28.070.

3 (n) Railroad company contracts filed with the utilities and
4 transportation commission under RCW 81.34.070, except that the
5 summaries of the contracts are open to public inspection and copying as
6 otherwise provided by this chapter.

7 (o) Financial and commercial information and records supplied by
8 private persons pertaining to export services provided pursuant to
9 chapters 43.163 ((RCW)) and ((chapter)) 53.31 RCW.

10 (p) Financial disclosures filed by private vocational schools under
11 chapter 28C.10 RCW.

12 (q) Records filed with the utilities and transportation commission
13 or attorney general under RCW 80.04.095 that a court has determined are
14 confidential under RCW 80.04.095.

15 (r) Financial and commercial information and records supplied by
16 businesses during application for loans or program services provided by
17 chapters 43.163 ((RCW and chapters)), 43.31, 43.63A, and 43.168 RCW.

18 (s) Membership lists or lists of members or owners of interests of
19 units in timeshare projects, subdivisions, camping resorts,
20 condominiums, land developments, or common-interest communities
21 affiliated with such projects, regulated by the department of
22 licensing, in the files or possession of the department.

23 (t) All applications for public employment, including the names of
24 applicants, resumes, and other related materials submitted with respect
25 to an applicant.

26 (u) The residential addresses and residential telephone numbers of
27 employees or volunteers of a public agency which are held by the agency
28 in personnel records, employment or volunteer rosters, or mailing lists
29 of employees or volunteers.

1 (v) The residential addresses and residential telephone numbers of
2 the customers of a public utility contained in the records or lists
3 held by the public utility of which they are customers.

4 (w) Information obtained by the board of pharmacy as provided in
5 RCW 69.45.090.

6 (x) Information obtained by the board of pharmacy and its
7 representatives as provided in RCW 69.41.044 and 69.41.280.

8 (y) Financial information, business plans, examination reports, and
9 any information produced or obtained in evaluating or examining a
10 business and industrial development corporation organized or seeking
11 certification under chapter 31.24 RCW.

12 (z) Financial and commercial information supplied to the state
13 investment board by any person when the information relates to the
14 investment of public trust or retirement funds and when disclosure
15 would result in loss to such funds or in private loss to the providers
16 of this information.

17 (aa) Financial and valuable trade information under RCW 51.36.120.

18 (bb) Effective April 19, 1991, the work and home addresses, other
19 than the city of residence, of a person shall remain undisclosed or be
20 omitted from all documents made available for public review if that
21 person requests in writing, under oath, that these addresses be kept
22 private because disclosure would endanger his or her life, physical
23 safety, or property. This provision does not in any way restrict the
24 sharing or collection of information by state and local governmental
25 agencies required for the daily administration of their duties. The
26 secretary of state shall administer this provision and establish the
27 procedures and rules that are necessary for its operation. An agency
28 that has not been furnished with a request for confidentiality of
29 address information is not liable for damages resulting from its
30 disclosure of the information. For purpose of service of process, the

1 secretary of state shall serve as agent for each person who submits a
2 request under this subsection. A request shall be of no force or
3 effect if the requester does not include a statement, along with or
4 part of the request, designating the secretary of state as agent of the
5 requester for purposes of service of process.

6 (cc) Personal information in files maintained for patients or
7 clients who have been provided emergency medical services by a publicly
8 operated emergency medical service provider.

9 (2) Except for information described in subsection (1)(c)(i) of
10 this section and confidential income data exempted from public
11 inspection pursuant to RCW 84.40.020, the exemptions of this section
12 are inapplicable to the extent that information, the disclosure of
13 which would violate personal privacy or vital governmental interests,
14 can be deleted from the specific records sought. No exemption may be
15 construed to permit the nondisclosure of statistical information not
16 descriptive of any readily identifiable person or persons.

17 (3) Inspection or copying of any specific records exempt under the
18 provisions of this section may be permitted if the superior court in
19 the county in which the record is maintained finds, after a hearing
20 with notice thereof to every person in interest and the agency, that
21 the exemption of such records is clearly unnecessary to protect any
22 individual's right of privacy or any vital governmental function.

23 (4) Agency responses refusing, in whole or in part, inspection of
24 any public record shall include a statement of the specific exemption
25 authorizing the withholding of the record (or part) and a brief
26 explanation of how the exemption applies to the record withheld."

27 "Sec. 24. RCW 54.08.010 and 1985 c 469 s 55 are each amended to
28 read as follows:

1 At any general election held in an even-numbered year, the county
2 legislative authority of any county in this state may, or, on petition
3 of ten percent of the (~~qualified electors~~) registered voters of the
4 county based on the total vote cast in the last general county election
5 held in an even-numbered year, shall, by resolution, submit to the
6 voters of the county the proposition of creating a public utility
7 district which shall be coextensive with the limits of the county as
8 now or hereafter established. A form of petition for the creation of
9 a public utility district shall be submitted to the county auditor
10 within ten months prior to the election at which the proposition is to
11 be submitted to the voters. Petitions shall be filed with the county
12 auditor not less than four months before the election and the county
13 auditor shall within thirty days examine the signatures thereof and
14 certify to the sufficiency or insufficiency thereof. If the petition
15 be found to be insufficient, it shall be returned to the persons filing
16 the same, who may amend or add names thereto for ten days, when the
17 same shall be returned to the county auditor, who shall have an
18 additional fifteen days to examine the same and attach his or her
19 certificate thereto. No person having signed the petition shall be
20 allowed to withdraw his or her name therefrom after the filing of the
21 same with the county auditor: PROVIDED, That each signature shall be
22 dated and that no signature dated prior to the date on which the form
23 of petition was submitted to the county auditor shall be valid.
24 Whenever the petition shall be certified to as sufficient, the county
25 auditor shall forthwith transmit the same, together with his or her
26 certificate of sufficiency attached thereto, to the county legislative
27 authority which shall submit the proposition to the voters of the
28 county at the next general election in an even-numbered year occurring
29 forty-five days after submission of the proposition to the legislative
30 authority. The notice of the election shall state the boundaries of

1 the proposed public utility district and the object of such election,
2 and shall in other respects conform to the requirements of the general
3 laws of the state of Washington, governing the time and manner of
4 holding elections. In submitting the question to the voters for their
5 approval or rejection, the proposition shall be expressed on the ballot
6 substantially in the following terms:

7 Public Utility District No. YES ()

8 Public Utility District No. NO ()

9 Any petition for the formation of a public utility district may
10 describe a less area than the entire county in which the petition is
11 filed, the boundaries of which shall follow the then existing precinct
12 boundaries and not divide any voting precinct; and in the event that
13 such a petition is filed the county legislative authority shall fix a
14 date for a hearing on such petition, and shall publish the petition,
15 without the signatures thereto appended, for two weeks prior to the
16 date of the hearing, together with a notice stating the time of the
17 meeting when the petition will be heard. The publication, and all
18 other publications required by this act, shall be in a newspaper of
19 general circulation in the county in which the district is situated.
20 The hearing on the petition may be adjourned from time to time, not
21 exceeding four weeks in all. If upon the final hearing the county
22 legislative authority shall find that any lands have been unjustly or
23 improperly included within the proposed public utility district and
24 will not be benefited by inclusion therein, it shall change and fix the
25 boundary lines in such manner as it shall deem reasonable and just and
26 conducive to the public welfare and convenience, and make and enter an
27 order establishing and defining the boundary lines of the proposed
28 public utility district: PROVIDED, That no lands shall be included

1 within the boundaries so fixed lying outside the boundaries described
2 in the petition, except upon the written request of the owners of those
3 lands. Thereafter the same procedure shall be followed as prescribed
4 in this chapter for the formation of a public utility district
5 including an entire county, except that the petition and election shall
6 be confined solely to the lesser public utility district.

7 No public utility district created after September 1, 1979, shall
8 include any other public utility district within its boundaries:
9 PROVIDED, That this paragraph shall not alter, amend, or modify
10 provisions of chapter 54.32 RCW."

11 "Sec. 25. RCW 54.08.070 and 1979 ex.s. c 240 s 2 are each amended
12 to read as follows:

13 Any district which does not own or operate electric facilities for
14 the generation, transmission or distribution of electric power on March
15 25, 1969, or any district which hereafter does not construct or acquire
16 such electric facilities within ten years of its creation, shall not
17 construct or acquire any such electric facilities without the approval
18 of such proposal by the voters of such district: PROVIDED, That a
19 district shall have the power to construct or acquire electric
20 facilities within ten years following its creation by action of its
21 commission without voter approval of such action.

22 At any general election held in an even-numbered year, the proposal
23 to construct or acquire electric facilities may be submitted to the
24 voters of the district by resolution of the public utility district
25 commission or shall be submitted to the voters of the district by the
26 county legislative authority on petition of ten percent of the
27 (~~qualified electors~~) registered voters of (~~such~~) the district,
28 based on the total vote cast in the last general county election held
29 in an even-numbered year. A form of petition for the construction or

1 acquisition of electric facilities by the public utility district shall
2 be submitted to the county auditor within ten months prior to the
3 election at which such proposition is to be submitted to the voters.
4 Petitions shall be filed with the county auditor not less than four
5 months before such election and the county auditor shall within thirty
6 days examine the signatures thereof and certify to the sufficiency or
7 insufficiency thereof. If such petition is found to be insufficient,
8 it shall be returned to the persons filing the same, who may amend and
9 add names thereto for ten days, when the same shall be returned to the
10 county auditor, who shall have an additional fifteen days to examine
11 the same and attach his or her certificate thereto. No person having
12 signed such petition shall be allowed to withdraw his or her name
13 therefrom after the filing of the same with the county auditor:
14 PROVIDED, That each signature shall be dated and that no signature
15 dated prior to the date on which the form of petition was submitted to
16 the county auditor shall be valid. Whenever such petition shall be
17 certified to as sufficient, the county auditor shall forthwith transmit
18 the same, together with his or her certificate of sufficiency attached
19 thereto, to the county legislative authority which shall submit such
20 proposition to the voters of ((said)) the district at the next general
21 election in an even-numbered year occurring forty-five days after
22 submission of the proposition to ((said)) the legislative authority.
23 The notice of the election shall state the object of such election, and
24 shall in other respects conform to the requirements of the general laws
25 of Washington, governing the time and manner of holding elections.
26 The proposal submitted to the voters for their approval or
27 rejection, shall be expressed on the ballot substantially in the
28 following terms:

1 or if such district at the time of the submission of such proposition
2 is actually engaged in the operation of any utility properties.

3 If a majority of the (~~votes cast~~) registered voters voting on the
4 dissolution at the election favor dissolution, the commission of the
5 district shall petition, without any filing fee, the superior court of
6 the county in which such district is located for an order authorizing
7 the payment of all indebtedness of the district and directing the
8 transfer of any surplus funds or property to the general fund of the
9 county in which such district is organized."

10 "NEW SECTION. Sec. 27. Sections 1 and 3 of this act shall
11 expire July 1, 1992."

12 "NEW SECTION. Sec. 28. Sections 2 and 4 of this act shall take
13 effect July 1, 1992."

14 "**Sec. 29.** RCW 35.02.078 and 1986 c 234 s 10 are each amended to
15 read as follows:

16 An election shall be held in the area proposed to be incorporated
17 to determine whether the proposed city or town shall be incorporated if
18 the boundary review board approves or modifies and approves the
19 proposal, or if the county legislative authority does not disapprove
20 the proposal as provided in RCW 35.02.070. Voters at this election
21 shall determine if the area is to be incorporated.

22 The initial election on the question of incorporation shall be held
23 at the next special election date specified in RCW 29.13.020 that
24 occurs sixty or more days after the final public hearing by the county
25 legislative authority or authorities, or the approval or modification
26 and approval by the boundary review board or boards. The county
27 legislative authority or authorities shall call for this election and,

1 if the incorporation is approved, shall call for other elections to
2 elect the elected officials as provided in this section. If the vote
3 in favor of the incorporation receives (~~forty~~) thirty percent or less
4 of the total vote on the question of incorporation, no new election on
5 the question of incorporation for the area or any portion of the area
6 proposed to be incorporated may be held for a period of three years
7 from the date of the election in which the incorporation failed. This
8 three-year prohibition shall not apply to any proposed city or town in
9 which such election was held after September 1, 1990, but before the
10 effective date of this section and the vote in favor of the
11 incorporation received thirty percent or more of the total on the
12 question of incorporation.

13 If the incorporation is authorized as provided by RCW 35.02.120,
14 separate elections shall be held to nominate and elect persons to fill
15 the various elective offices prescribed by law for the population and
16 type of city or town, and to which it will belong. The primary
17 election to nominate candidates for these elective positions shall be
18 held at the next special election date, as specified in RCW 29.13.020,
19 that occurs sixty or more days after the election on the question of
20 incorporation or, if the incorporation election was held in April or
21 May, at a special election by mail ballots to be held on the third
22 Tuesday in July. The election to fill these elective positions shall be
23 held at the next special election date, as specified in RCW 29.13.020,
24 that occurs thirty or more days after certification of the results of
25 the primary election or, if the primary election was held in April or
26 May, at a special election by mail ballots to be held on the third
27 Tuesday in July."

28 "Sec. 30. RCW 35.14.010 and 1985 c 281 s 24 are each amended to
29 read as follows:

1 Whenever unincorporated territory is annexed by a city or town
2 pursuant to the provisions of chapter 35.13 RCW, or whenever
3 unincorporated territory is annexed to a code city pursuant to the
4 provisions of chapter 35A.14 RCW, community municipal corporations may
5 be organized (~~(in the manner provided for in this 1967 amendatory act)~~)
6 for the territory comprised of all or a part of an unincorporated area
7 annexed to a city or town pursuant to chapter 35.13 or 35A.14 RCW, if:
8 (1) The service area is such as would be eligible for incorporation as
9 a city or town; or (2) the service area has a minimum population of not
10 less than three hundred inhabitants and ten percent of the population
11 of the annexing city or town; or (3) the service area has a minimum
12 population of not less than one thousand inhabitants.

13 Whenever two or more cities are consolidated pursuant to the
14 provisions of chapter 35.10 RCW, a community municipal corporation may
15 be organized within one or more of the consolidating cities.

16 No territory shall be included in the service area of more than one
17 community municipal corporation. Whenever a new community municipal
18 corporation is formed embracing all of the territory of an existing
19 community municipal corporation, the prior existing community municipal
20 corporation shall be deemed to be dissolved on the effective date of
21 the new corporation."

22 "NEW SECTION. Sec. 31. A new section is added to chapter 35.10
23 RCW to read as follows:

24 Voters of one or more of the cities that are proposed to be
25 consolidated may have a ballot proposition submitted to them
26 authorizing the simultaneous creation of a community municipal
27 corporation and election of community council members as provided for
28 under chapter 35.14 RCW. The joint resolution that initiates a
29 consolidation under RCW 35.10.410 may provide for the question of

1 whether a community municipal corporation shall be created to be
2 submitted to the voters of one or more of the cities that are proposed
3 to be consolidated as a separate ballot measure from the ballot measure
4 authorizing the consolidation or as part of the same ballot measure
5 authorizing the consolidation. The petitions that are signed by the
6 voters of each of the cities that are proposed to be consolidated under
7 RCW 35.10.420 may provide for the question of whether to create a
8 community municipal corporation to be submitted to the voters of that
9 city as a separate ballot measure from the ballot measure authorizing
10 the consolidation or as part of the same ballot measure authorizing the
11 consolidation.

12 The ballots shall contain the words "For consolidation and creation
13 of community municipal corporation" and "Against consolidation and
14 creation of community municipal corporation," or "For creation of
15 community municipal corporation" and "Against creation of community
16 municipal corporation," as the case may be. Approval of either
17 optional ballot proposition shall be by simple majority vote of the
18 voters voting on the proposition, but the consolidation must be
19 authorized by the voters of each city proposed to be consolidated
20 before a community municipal corporation is created."

21 "NEW SECTION. Sec. 32. A new section is added to chapter 35A.14
22 RCW to read as follows:

23 The resolution initiating the annexation of territory under RCW
24 35A.14.015, and the petition initiating the annexation of territory
25 under RCW 35A.14.020, may provide for the simultaneous creation of a
26 community municipal corporation and election of community council
27 members as provided for in chapter 35.14 RCW, as separate ballot
28 measures or as part of the same ballot measure authorizing the
29 annexation, or for the simultaneous inclusion of the annexed area into

1 a named existing community municipal corporation operating under
2 chapter 35.14 RCW, as separate ballot measures or as part of the same
3 ballot measure authorizing the annexation. If the petition so provides
4 for the creation of a community municipal corporation and election of
5 community council members, the petition shall describe the boundaries
6 of the proposed service area, state the number of voters residing
7 therein as nearly as may be, and pray for the election of community
8 council members by the voters residing in the service area.

9 The ballots shall contain the words "For annexation and creation of
10 community municipal corporation" and "Against annexation and creation
11 of community municipal corporation," or "For creation of community
12 municipal corporation" and "Against creation of community municipal
13 corporation," as the case may be. Approval of either optional ballot
14 proposition shall be by simple majority vote of the voters voting on
15 the proposition, but the annexation must be authorized before a
16 community municipal corporation is created."

17 "**Sec. 33.** RCW 70.44.040 and 1990 c 259 s 39 are each amended to
18 read as follows:

19 The provisions of Title 29 RCW relating to elections shall govern
20 public hospital districts, except that: (1) The total vote cast upon
21 the proposition to form a hospital district shall exceed forty percent
22 of the total number of votes cast in the precincts comprising the
23 proposed district at the preceding general and county election; and (2)
24 in public hospital districts encompassing portions of more than one
25 county, the total vote cast upon the proposition to form the district
26 shall exceed forty percent of the total number of votes cast in each
27 portion of each county lying within the proposed district at the next
28 preceding general and county election. If the public hospital district
29 is coextensive with the limits of a county and if the county is not

1 operating under a home rule charter, then, at the first election of
2 commissioners and until any change is made in the boundaries of the
3 public hospital district commissioner districts in accordance with RCW
4 29.70.100, one public hospital district commissioner shall be chosen
5 from each of the three county commissioner districts of the county in
6 which the public hospital district is located. If the public hospital
7 district comprises only a portion of a county or encompasses portions
8 of more than one county, or if the public hospital district is located
9 in a county operating under a home rule charter, then the petition for
10 the formation of the public hospital district shall describe three
11 public hospital district commissioner districts, numbered
12 consecutively, having approximately equal population and boundaries,
13 following ward and precinct lines, as far as practicable, and, at the
14 first election of commissioners and until any change is made in the
15 boundaries of the public hospital district commissioner districts in
16 accordance with RCW 29.70.100, one commissioner shall be elected from
17 each of the public hospital district commissioner districts described
18 in the petition. If the boundaries described in the petition for the
19 formation of a public hospital district are changed prior to the
20 election on the proposition for the formation of the public hospital
21 district, then the auditor of the county in which the public hospital
22 district is located or, if the public hospital district encompasses
23 portions of more than one county, the auditor of the county in which
24 the largest portion of the public hospital district is located shall
25 redetermine the boundaries of the commissioner districts in accordance
26 with the above provisions. Any candidate for a particular public
27 hospital district commissioner district position must be a registered
28 voter of that commissioner district. Public hospital district
29 commissioners shall hold office for the term of six years and until
30 their successors are elected and qualified, each term to commence on

1 the first day in January following the election. At the election at
2 which the proposition is submitted to the voters as to whether a
3 district shall be formed, three commissioners shall be elected to hold
4 office, respectively, for the terms of two, four, and six years. All
5 candidates shall be voted upon by the entire district, and the
6 candidate residing in commissioner district No. 1 receiving the highest
7 number of votes in the hospital district shall hold office for the term
8 of six years; the candidate residing in commissioner district No. 2
9 receiving the highest number of votes in the hospital district shall
10 hold office for the term of four years; and the candidate residing in
11 commissioner district No. 3 receiving the highest number of votes in
12 the hospital district shall hold office for the term of two years. The
13 first commissioners to be elected shall take office immediately when
14 qualified in accordance with RCW 29.01.135. Each term of the initial
15 commissioners shall date from the time above specified following the
16 organizational election, but shall also include the period intervening
17 between the organizational election and the first day of January
18 following the next district general election: PROVIDED, That in public
19 hospital districts (~~encompassing portions of more than one county, the~~
20 ~~total vote cast upon the proposition to form the district shall exceed~~
21 ~~forty percent of the total number of votes cast in each portion of each~~
22 ~~county lying within the proposed district at the next preceding general~~
23 ~~county election. The portion of the proposed district located within~~
24 ~~each county shall constitute a separate commissioner district. There~~
25 ~~shall be three district commissioners whose terms shall be six years.~~
26 ~~Each district shall be designated by the name of the county in which it~~
27 ~~is located. All candidates for commissioners shall be voted upon by~~
28 ~~the entire district. Not more than one commissioner shall reside in~~
29 ~~any one district: PROVIDED FURTHER, That in the event there are only~~
30 ~~two districts then two commissioners may reside in one district. The~~

1 term of each commissioner shall commence on the first day in January in
2 each year following his election. At the election at which the
3 proposition is submitted to the voters as to whether a district shall
4 be formed, three commissioners shall be elected to hold office,
5 respectively, for the terms of two, four, and six years. The candidate
6 receiving the highest number of votes within the district, as
7 constituted by the election, shall serve a term of six years; the
8 candidate receiving the next highest number of votes shall hold office
9 for a term of four years; and the candidate receiving the next highest
10 number of votes shall hold office for a term of two years: PROVIDED
11 FURTHER, That the holding of each such term of office shall be subject
12 to the residential requirements for district commissioners hereinbefore
13 set forth in this section)) created with five or seven commissioners
14 pursuant to RCW 70.44.051 the commissioners shall be elected and the
15 initial terms of office shall be determined as provided in RCW
16 70.44.055 and 70.44.057."

17 "NEW SECTION. Sec. 34. This act shall not be construed as
18 affecting any public hospital district created prior to the effective
19 date of this act."

20 "NEW SECTION. Sec. 35. A new section is added to chapter 36.32
21 RCW to read as follows:

22 A county when calling for competitive bids for the procurement of
23 road maintenance materials may award to multiple bidders for the same
24 commodity when the bid specifications provide for the factors of haul
25 distance to be included in the determination of which vendor is truly
26 the lowest price to the county. The county may readvertise for
27 additional bidders and vendors if it deems it necessary in the public
28 interest."

1 "NEW SECTION. Sec. 36. Tax levies authorized by voter approval
2 of a ballot proposition submitted by a city under RCW 84.55.050 at an
3 election held prior to 1988 for the purpose of funding the cost of
4 library improvements, plus the costs of borrowing such amount for up to
5 twenty years, may be levied in the amounts and in the years authorized
6 by the voters in addition to the levies otherwise allowed by this
7 chapter until the expiration of the limited period or satisfaction of
8 the limited purpose so authorized, whichever comes first,
9 notwithstanding the provisions of RCW 84.55.050(2). This act is
10 curative and shall apply retroactively to all limited ballot
11 propositions described herein. The elections at which any such ballot
12 propositions were submitted, and the tax levies authorized thereby,
13 shall be valid and effective in all respects. This act shall not be
14 construed to adversely affect the validity or reduce the amount of any
15 tax levies authorized by any other ballot proposition heretofore or
16 hereafter submitted under RCW 84.55.050."

17 "NEW SECTION. Sec. 37. It is the purpose of this chapter to
18 regulate certain adult entertainment businesses to promote the health,
19 safety, and welfare of the citizens of the state of Washington. The
20 legislature finds that these businesses, when unregulated, promote
21 illegal activities including obscenity, pornography, assaults, drug
22 offenses, sexual offenses, and prostitution."

23 "NEW SECTION. Sec. 38. Unless the context clearly requires
24 otherwise, the definitions in this section apply throughout this
25 chapter.

26 (1) "Adult entertainment business" means a nightclub, bar,
27 restaurant, theater, concert hall, auditorium, or similar commercial

1 establishment that regularly features live performances by nude or
2 seminude persons.

3 (2) "Applicant" means a person or persons applying for a license
4 under this chapter.

5 (3) "Business license" means a license issued by the department
6 under this chapter to an adult entertainment business.

7 (4) "Department" means the department of licensing.

8 (5) "Director" means the director of licensing.

9 (6) "Licensee" means a person or persons in whose name a license
10 has been issued under this chapter.

11 (7) "Nude" means a state of dress that exposes a person's bare
12 buttock, anus, genital, or breast, or a state of dress which fails to
13 cover opaquely a person's buttock, anus, genital, or areola of the
14 breast.

15 (8) "Own or operate" means a person has a substantial interest in
16 an adult entertainment business.

17 (9) "Performer's license" means a license issued by the department
18 under this chapter to a performer in an adult entertainment business.

19 (10) "Seminude" means a state of dress other than nude that, with
20 respect to a person's torso, opaquely covers only the buttocks, anus,
21 genitals, and areolae of the breasts, as well as portions of the body
22 covered by supporting straps or devices.

23 (11) "Substantial interest" means the interest possessed by a
24 person when:

25 (a) With respect to a sole proprietorship, the person, or his or
26 her marital community, owns, operates, manages, or conducts, directly
27 or indirectly, the business, or any part of it; or

28 (b) With respect to a partnership, the person or his or her marital
29 community, shares in any of the profits, or potential profits, of the
30 business; or

1 (c) With respect to a corporation, the person or his or her spouse,
2 is an officer, or director, or the person or his or her marital
3 community is a holder, directly or beneficially, of ten percent or more
4 of any class of stock of the business; or

5 (d) With respect to an organization not covered in (a), (b), or (c)
6 of this subsection, the person or his or her spouse, is an officer or
7 manages the business affairs, or the person or his or her marital
8 community is owner of or otherwise controls ten percent or more of the
9 assets of the business; or

10 (e) The person, or his or her marital community, furnishes ten
11 percent or more of the capital, whether in cash, goods, or services,
12 for the operation of the business during any calendar year."

13 "NEW SECTION. Sec. 39. (1) It is a gross misdemeanor for a
14 person to own, operate, or manage, or act as the agent for one who
15 owns, operates, or manages, an adult entertainment business in the
16 state of Washington unless the person has obtained a business license
17 pursuant to this chapter.

18 (2) It is a gross misdemeanor for a performer to appear nude or
19 seminude in an adult entertainment business unless the performer has
20 obtained a performer's license pursuant to this chapter."

21 "NEW SECTION. Sec. 40. (1) Each owner, operator, manager, or
22 agent of a business must obtain and maintain a separate business
23 license.

24 (2) An application for a business license must be made on a form
25 provided by the department. The applicant shall provide: (a) The
26 name, address, phone number, and date of birth of the applicant; (b)
27 two passport-size color photographs of the applicant; (c) the
28 applicant's principal occupation; (d) a description of the proposed

1 establishment; (e) the nature of the proposed business; (f) the trade
2 name of the proposed business; (g) location of the proposed business;
3 (h) a list of all prior business license numbers; (i) a record of all
4 prior criminal convictions for any offense listed under section 57(1)
5 of this act; and (j) such other information as the department may
6 require by rule.

7 (3) The department shall require the applicant to submit to
8 fingerprinting to assist the Washington state patrol in conducting a
9 background check under section 65 of this act.

10 (4) At the time of applying, the applicant shall post notice of the
11 application at the proposed business location in a form and manner as
12 required by the department by rule."

13 "NEW SECTION. Sec. 41. (1) The department shall grant or refuse
14 a business license in accordance with this chapter.

15 (2) Every business license shall be issued in the name of the
16 applicant or applicants, and the holder of a license shall not allow
17 any other person to use it.

18 (3) No business license may be issued to:

19 (a) An individual, partnership, or corporation, unless qualified to
20 obtain a business license, as provided in this chapter;

21 (b) An applicant whose business is conducted by a manager or agent,
22 unless the manager or agent possesses the same qualifications as are
23 required of the business licensee;

24 (c) A corporation, unless it was created under the laws of the
25 state of Washington or holds a certificate of authority to transact
26 business in the state of Washington;

27 (d) An applicant who is under eighteen years of age;

28 (e) An applicant who has failed to provide information reasonably
29 necessary for issuance of the business license or who has falsely

1 answered a question or request for information on the application form;
2 or

3 (f) An applicant who has proposed the location of the business
4 within a zone where such use is prohibited by state or local authority.

5 (4) Upon receipt of an application for a business license, the
6 department shall give notice of the application to the chief executive
7 officer of the incorporated city or town, if the application is for a
8 business license within an incorporated city or town, or to the county
9 legislative authority, if the application is for a business license
10 outside the boundaries of incorporated cities or towns, or to all the
11 appropriate executive officers in the case of a regional adult
12 entertainment business plan. Upon the granting of a business license
13 under this chapter the department shall send a duplicate of the license
14 or written notification to the chief executive officer of the
15 incorporated city or town in which the license is granted, or to the
16 county legislative authority if the license is granted outside the
17 boundaries of incorporated cities or towns, or to all chief executive
18 officers of impacted cities, towns, or counties participating in a
19 regional adult entertainment business plan.

20 (5)(a) Except as set forth in (b) of this subsection, the
21 department shall not issue an initial business license covering any
22 premises, if at the time the initial license is to be issued the
23 premises are within a buffer zone of one thousand feet surrounding any
24 residential zone, single or multifamily dwelling, church, park,
25 playground, day care center, or elementary or secondary school. The
26 one thousand feet shall be measured on a straight line between the
27 closest points of the property on which the premises are located and
28 the property of the residential zone, dwelling, church, park,
29 playground, day care center, or school. For the purpose of this
30 section, church means a building erected for and used exclusively for

1 religious worship and schooling or other activity in connection with
2 the worship and schooling. The department may rely on the measurements
3 of the relevant local jurisdictions in determining the boundaries of a
4 buffer zone.

5 (b) The legislative authority of a city, town, or county:

6 (i) May establish a buffer zone less than that established in (a)
7 of this subsection if the legislative authority finds (A) that the
8 adverse secondary effects of adult entertainment businesses on public
9 health, safety, or welfare would not be greater as a result of the
10 smaller buffer zone or (B) that failure to establish a smaller buffer
11 zone will effectively prohibit any adult entertainment business in the
12 city, town, or county and there is no regional agreement with
13 neighboring cities, towns, or counties that provides adequate
14 opportunities for such businesses; or

15 (ii) May establish a buffer zone greater than that established in
16 (a) of this subsection if the legislative authority finds (A) that the
17 adverse secondary effects of adult entertainment businesses on public
18 health, safety, or welfare would not be reasonably and effectively
19 mitigated without the larger buffer zone and (B) that establishing a
20 larger buffer zone will not effectively prohibit any adult
21 entertainment business in the city, town, or county, or that there is
22 a regional agreement with neighboring cities, towns, or counties that
23 provides adequate opportunities for such businesses.

24 (c) If the location requirements established pursuant to this
25 chapter effectively preclude location of adult entertainment businesses
26 within a city, town, or county, such city, town, or county shall join
27 with neighboring cities, towns, or counties in a regional adult
28 entertainment business location plan in order to provide reasonable
29 opportunity for location of adult entertainment businesses in the
30 regional area."

1 "NEW SECTION. **Sec. 42.** (1) The department may, subject to the
2 provisions of this chapter and as provided by rule, suspend or cancel
3 a business license; and all rights of the licensee under this chapter
4 shall be suspended or terminated, as the case may be.

5 (2) Upon receipt of notice of the suspension or cancellation of a
6 business license, the licensee shall forthwith deliver the license to
7 the department. Where the business license has been suspended only,
8 the department shall return the license to the licensee at the
9 expiration or termination of the period of suspension."

10 "NEW SECTION. **Sec. 43.** (1) Every business license issued under
11 this chapter is subject to all conditions and restrictions imposed by
12 this chapter. All conditions and restrictions imposed by the
13 department in the issuance of an individual business license shall be
14 listed on the face of the individual license along with the trade name,
15 address, and expiration date.

16 (2) Every business licensee shall post and keep posted its license
17 in a conspicuous place on the premises."

18 "NEW SECTION. **Sec. 44.** The department shall not issue a
19 business license to a transferee until the transferee has applied for
20 and received a business license under this chapter."

21 "NEW SECTION. **Sec. 45.** (1)(a) At the time of the original
22 issuance of a business license, the department shall prorate the
23 license fee charged to the new licensee according to the number of
24 calendar quarters, or portion thereof, remaining until the first
25 renewal of that license is required.

26 (b) Unless canceled sooner, every business license issued by the
27 department shall expire at midnight of the thirtieth day of June of the

1 fiscal year for which it was issued. However, if the department deems
2 it feasible and desirable to do so, it may establish, by rule pursuant
3 to chapter 34.05 RCW, a system for staggering the annual renewal dates
4 for business licenses. If such a system of staggered annual renewal
5 dates is established by the department, the business license fees
6 provided by this chapter shall be appropriately prorated during the
7 first year that the system is in effect.

8 (2) The adult entertainment business license fee shall be
9 established under RCW 43.24.086, but shall be at least seven hundred
10 fifty dollars per annum, and shall be paid at the time of application.
11 One-half of the fee shall be refunded if the application is withdrawn
12 prior to a denial of the license by the department."

13 "NEW SECTION. Sec. 46. (1) The holder of a business license may
14 not assign or transfer the license, except that a transfer may be made
15 to the surviving spouse of a deceased licensee if the transferor and
16 transferee were maintaining a marital community and the license was
17 issued in the name of one or both of them.

18 (2) A change in an owner or operator of a licensed business or a
19 change in the manager or agent of a business must be reported to the
20 department within thirty days, and any new owner, operator, manager, or
21 agent must meet the requirements of section 41 of this act. The
22 department shall charge a fee established under RCW 43.24.086 that is
23 at least seventy-five dollars for the processing of a change in an
24 owner, operator, manager, or agent."

25 "NEW SECTION. Sec. 47. The department in suspending a business
26 license may further provide in the order of suspension that such
27 suspension shall be vacated upon payment to the department by the

1 licensee of a monetary penalty in an amount fixed by the department but
2 not to exceed ten thousand dollars."

3 "NEW SECTION. **Sec. 48.** (1)(a) An application for a performer's
4 license must be made on a form provided by the department. The
5 performer shall provide the following: (i) The performer's name,
6 including all aliases, address, phone number, and date of birth; (ii)
7 two passport-size color photographs of the performer; (iii) principal
8 occupation; (iv) the name and address of any business, if known, at
9 which the performer will perform; (v) a list of all prior performer's
10 license numbers; (vi) a record of all prior criminal convictions for
11 any offense listed under section 57(1) of this act; and (v) such other
12 information as the department may require by rule.

13 (b) The department shall require the applicant to submit to
14 fingerprinting to assist the Washington state patrol in conducting a
15 background check under section 65 of this act.

16 (c) Identifying information provided by an applicant under this
17 subsection is exempt from public disclosure, and the department shall
18 not disclose such information except to the extent necessary to carry
19 out its responsibilities under this chapter, or to comply with a
20 request from another governmental entity, or to comply with a court
21 order.

22 (2) No performer's license may be issued to:

23 (a) A performer who is under eighteen years of age;

24 (b) A performer who has failed to provide information reasonably
25 necessary for issuance of the license or has falsely answered a
26 question or request for information on the application form.

27 (3) The performer's license fee shall be established under RCW
28 43.24.086, but shall be at least seventy-five dollars per annum and
29 shall be paid at the time of application. One-half of the fee shall be

1 refunded if the application is withdrawn prior to denial of the license
2 by the department.

3 (4) Every performer shall keep his or her performer's license on
4 the premises while performing."

5 "NEW SECTION. Sec. 49. Every business licensed under section 41
6 of this act shall file monthly reports with the department pursuant to
7 rule. The reports shall include the following: (1) The name, address,
8 date of birth, and the performer's license number for all performers
9 appearing nude or seminude during the month; and (2) such further
10 information as the department may require."

11 "NEW SECTION. Sec. 50. An action, order, or decision of the
12 department as to a denial of an application for the issuance or renewal
13 of a business or performer's license or as to a revocation, suspension,
14 or modification of a license is subject to the applicable provisions of
15 chapter 34.05 RCW.

16 (1) An opportunity for a hearing must be provided a licensee prior
17 to a revocation or modification of a business or performer's license
18 and, except as provided in subsection (3) of this section, prior to the
19 suspension of a license.

20 (2) No hearing shall be required until demanded by the applicant or
21 licensee.

22 (3) The department may summarily suspend a business or performer's
23 license for a period of up to thirty days without a prior hearing if it
24 finds that public health, safety, or welfare imperatively requires
25 emergency action, and incorporates a finding to that effect in its
26 order; and proceedings for revocation or other action must be promptly
27 instituted and determined."

1 "NEW SECTION. **Sec. 51.** No provision in this chapter limits the
2 authority of cities, towns, and counties from further regulating adult
3 entertainment businesses as to hours of operation, location of
4 premises, or manner of operation.

5 The provisions of this chapter relating to the licensing of any
6 adult entertainment business shall not be exclusive and any city, town,
7 or county within whose jurisdiction the adult entertainment business is
8 located may require any registrations or licenses, or charge any fee
9 for the same or similar purpose; and nothing in this chapter shall
10 limit or abridge the authority of any city, town, or county to levy and
11 collect a general and nondiscriminatory license fee levied upon all
12 businesses, or to levy a tax based upon gross business conducted by any
13 firm within the city, town, or county."

14 "NEW SECTION. **Sec. 52.** The director has the following
15 authority:

16 (1) To adopt, amend, or repeal such rules as are deemed necessary
17 to carry out this chapter;

18 (2) To investigate all complaints or reports of conduct in
19 violation of this chapter and to hold hearings as provided in this
20 chapter;

21 (3) To issue subpoenas and administer oaths in connection with any
22 investigation, hearing, or proceeding held under this chapter;

23 (4) To take or cause depositions to be taken and use other
24 discovery procedures as needed in any investigation, hearing, or
25 proceeding held under this chapter;

26 (5) To compel attendance of witnesses at hearings;

27 (6) To take emergency action ordering summary suspension of a
28 business or performer's license, or restriction or limitation of the

1 licensee's practice pending further disciplinary action under section
2 57 of this act;

3 (7) To use the office of administrative hearings as authorized in
4 chapter 34.12 RCW to conduct hearings. However, the director or the
5 director's designee shall make the final decision in the hearing;

6 (8) To enter into contracts for professional services determined to
7 be necessary for adequate enforcement of this chapter;

8 (9) To grant or deny business or performer's license applications,
9 and to impose any sanction against a license applicant or license
10 holder provided by this chapter;

11 (10) To establish or increase in accordance with RCW 43.24.086
12 business and performer's license fees above the minimum set by this
13 chapter;

14 (11) To enter into an assurance of discontinuance in lieu of
15 issuing a statement of charges or conducting a hearing. The assurance
16 shall consist of a statement of the law in question and an agreement
17 not to violate the stated provision. The applicant or license holder
18 shall not be required to admit to any violation of the law, nor shall
19 the assurance be construed as such an admission. Violation of an
20 assurance under this subsection is grounds for disciplinary action;

21 (12) To designate individuals authorized to sign subpoenas and
22 statements of charges; and

23 (13) To employ such investigative, administrative, and clerical
24 staff as necessary for the enforcement of this chapter."

25 "NEW SECTION. Sec. 53. A person, including but not limited to
26 a customer, licensee, corporation, organization, or state or local
27 governmental agency, may submit a written complaint to the department
28 charging a business or performer's license holder or applicant with a
29 violation of this chapter. If the department determines that the

1 complaint merits investigation, or if the department has reason to
2 believe, without a formal complaint, that a license holder or applicant
3 may have violated this chapter, the department may investigate to
4 determine whether there has been a violation. A person who files a
5 complaint under this section in good faith is immune from suit in any
6 civil action related to the filing or contents of the complaint."

7 "NEW SECTION. Sec. 54. (1) If the department determines, upon
8 investigation pursuant to section 53 of this act, that there is reason
9 to believe a violation of this chapter has occurred, a statement of
10 charge or charges may be prepared and served upon the business or
11 performer's license holder or applicant. The statement of charge or
12 charges shall be accompanied by a notice that the license holder or
13 applicant may request a hearing to contest the charge or charges. The
14 license holder or applicant must file a request for hearing with the
15 department within twenty days after being served the statement of
16 charges. The failure to request a hearing constitutes a default, upon
17 which the director or the director's designee may enter an order
18 pursuant to RCW 34.05.440(1).

19 (2) If a hearing is requested, the time of the hearing shall be
20 scheduled but the hearing shall not be held earlier than thirty days
21 after service of the charges upon the license holder or applicant. A
22 notice of hearing shall be issued at least twenty days prior to the
23 hearing, specifying the time, date, and place of the hearing."

24 "NEW SECTION. Sec. 55. The procedures governing adjudicative
25 proceedings before agencies under chapter 34.05 RCW, the administrative
26 procedure act, govern all hearings requested under section 54 of this
27 act."

1 "NEW SECTION. Sec. 56. (1) Upon a finding that a business or
2 performer's license holder or applicant has engaged in conduct or
3 violated conditions that are grounds for denial of a license or for
4 disciplinary action under section 57 of this act, the director may
5 issue an order providing for one or any combination of the following:

6 (a) Revocation of the license;

7 (b) Suspension of the license for a fixed or indefinite term;

8 (c) Censure or reprimand;

9 (d) Compliance with conditions of probation for a designated period
10 of time;

11 (e) Payment of a fine for each violation of this chapter, not to
12 exceed one thousand dollars per violation, which shall be paid to the
13 department;

14 (f) Denial of the license request.

15 (2) Any of the actions under this section may be totally or partly
16 stayed by the director. All costs associated with compliance with
17 orders issued under this section are the obligation of the license
18 holder or applicant."

19 "NEW SECTION. Sec. 57. The following conduct, acts, or
20 conditions, constitute grounds for denial of a license or for
21 disciplinary action against any business or performer's license holder
22 or applicant under the jurisdiction of this chapter:

23 (1) With respect to a license holder, commission of an act that
24 constitutes an obscenity or pornography offense under chapter 9.68 RCW,
25 a sexual exploitation of children offense under chapter 9.68A RCW, an
26 assault under chapter 9A.36 RCW, a sexual offense under chapter 9A.44
27 RCW, a prostitution or indecent exposure offense under chapter 9A.88
28 RCW, a drug offense under chapter 69.41, 69.50, 69.52, or 69.53 RCW, or
29 a substantially similar ordinance adopted by the legislative authority

1 of a city, town, or county or other state statute. Conviction in a
2 criminal proceeding is not a condition precedent to disciplinary action
3 under this section. Upon a conviction, however, the judgment and
4 sentence is conclusive evidence at an ensuing disciplinary hearing of
5 the guilt of the license holder or applicant of the crime described in
6 the indictment or information, and of the person's violation of the
7 statute on which it is based. For the purposes of this section,
8 conviction includes a plea of guilty or nolo contendere and also
9 includes all sentence deferrals or suspensions;

10 (2) Misrepresentation or concealment of a material fact in
11 obtaining a license or in license reinstatement;

12 (3) All advertising that is false, fraudulent, or misleading;

13 (4) Failure to cooperate with the department in the conduct of an
14 investigation by:

15 (a) Not furnishing any requested papers or documents;

16 (b) Not furnishing in writing a full and complete explanation
17 regarding the matter under investigation; or

18 (c) Not responding to subpoenas issued by the director, whether or
19 not the recipient of the subpoena is the subject of the investigation;

20 (5) Failure to comply with an order issued by the director or an
21 assurance of discontinuance entered into with the director;

22 (6) Aiding and abetting an unlicensed person to own or operate a
23 business or to perform when a license is required;

24 (7) Interference with an investigation or disciplinary proceeding
25 by willful misrepresentation of facts before the director or the
26 director's authorized representative, or by the use of threats or
27 harassment against any witness to prevent him or her from providing
28 evidence in a disciplinary proceeding or any other legal action;

29 (8) Violating this chapter or any rule adopted pursuant to this
30 chapter."

1 "NEW SECTION. Sec. 58. (1) The director shall investigate
2 complaints under this chapter concerning ownership or operation of a
3 business without a license or performing without a license. In the
4 investigation of the complaints, the director shall have the same
5 authority as provided the director under section 52 of this act. The
6 director shall issue a cease and desist order to a person after notice
7 and hearing and upon a determination that the person has owned or
8 operated a business without a license, or has performed without a
9 license, in violation of this chapter. If the director makes a written
10 finding of fact that the public interest will be irreparably harmed by
11 delay in issuing an order, the director may issue a temporary cease and
12 desist order before the notice and hearing. A cease and desist order
13 does not relieve the person so owning or operating a business or
14 performing without a license from criminal prosecution. The remedy of
15 a cease and desist order is in addition to any criminal liability. A
16 cease and desist order is conclusive proof of unlicensed practice and
17 may be enforced through remedial sanctions under chapter 7.21 RCW.
18 Enforcement of the cease and desist order under chapter 7.21 RCW may be
19 used in addition to, or as an alternative to, any provisions for
20 enforcement of agency orders set out in chapter 34.05 RCW.

21 (2) The attorney general, a county prosecuting attorney, the
22 department, or any person may, in accordance with the law of this state
23 governing injunctions, maintain an action to enjoin any person owning
24 or operating a business, or performing, without a license required by
25 this chapter from continuing such ownership, operation, or performing
26 until the required license is secured. However, an injunction does not
27 relieve a person from criminal prosecution and the remedy by injunction
28 is in addition to any criminal liability."

1 "NEW SECTION. Sec. 59. A person or business that violates an
2 injunction issued under this chapter shall pay a civil penalty, as
3 determined by the court, of not more than twenty-five thousand dollars,
4 which shall be paid to the department. For the purpose of this
5 section, the superior court issuing any injunction shall retain
6 jurisdiction and the cause shall be continued, and in such cases the
7 attorney general acting in the name of the state may petition for the
8 recovery of civil penalties."

9 "NEW SECTION. Sec. 60. (1) The director or individuals acting
10 on the director's behalf are immune from suit in any civil or criminal
11 action based on any disciplinary proceedings or other official acts
12 performed in the course of their duties in the administration and
13 enforcement of this chapter.

14 (2) Legislative authorities of cities, towns, and counties are
15 immune from suit in any civil or criminal action based on any official
16 acts performed in the course of their duties in the administration or
17 enforcement of this chapter.

18 In any challenge to location, distance, or conduct requirements
19 imposed by the legislative authority of a city, town, or county
20 pursuant to this chapter, the legislative authority may request that
21 the state assume some or all of the obligation to defend the
22 constitutionality of this chapter. The attorney general may grant or
23 deny the request. Nothing in this chapter creates any state liability
24 for actions of a city, town, or county."

25 "NEW SECTION. Sec. 61. Existing adult entertainment businesses
26 are exempt from any location restrictions imposed by this chapter until
27 January 1, 1995."

1 "NEW SECTION. **Sec. 62.** It is a gross misdemeanor for any person
2 to permit any person under the age of eighteen on the premises of any
3 adult entertainment business under his or her control."

4 "NEW SECTION. **Sec. 63.** It is a class C felony for any person to
5 employ or permit any person under the age of eighteen to appear nude or
6 seminude on the premises of any adult entertainment business under his
7 or her control."

8 "NEW SECTION. **Sec. 64.** Sections 37 through 63 of this act shall
9 constitute a new chapter in Title 18 RCW."

10 "NEW SECTION. **Sec. 65.** A new section is added to chapter 43.43
11 RCW to read as follows:

12 The department of licensing may request information from the
13 Washington state patrol criminal identification system regarding the
14 conviction of offenses listed under section 57(1) of this act for any
15 applicant or for a license holder who is the subject of an
16 investigation under section 53 of this act."

17 "**Sec. 66.** RCW 7.48A.040 and 1985 c 235 s 1 are each amended to
18 read as follows:

19 (1) No person shall with knowledge maintain a moral nuisance.

20 (2) Upon a determination that a defendant has with knowledge
21 maintained a moral nuisance, the court shall impose a civil fine and
22 judgment of an amount as the court shall determine to be appropriate.
23 In imposing the civil fine, the court shall consider the wilfulness of
24 the defendant's conduct and the profits made by the defendant
25 attributable to the lewd matter, lewdness, or prostitution, whichever

1 is applicable. In no event shall the civil fine exceed the greater of
2 (~~twenty-five~~) fifty thousand dollars or these profits."

3 "NEW SECTION. Sec. 67. If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected."

7 "NEW SECTION. Sec. 68. Sections 37 through 70 of this act shall
8 take effect January 1, 1992. The department of licensing may take such
9 steps before then, including the adoption of rules, as are necessary to
10 ensure that sections 37 through 70 of this act are implemented on
11 January 1, 1992."

12 "NEW SECTION. Sec. 69. The municipal research council, created
13 under chapter 43.110 RCW, in conjunction with the association of
14 Washington cities, shall report to the legislature by January 1, 1993,
15 regarding the implementation of the regulation of certain adult
16 entertainment businesses as provided in sections 37 through 68 of this
17 act. The report shall also examine the effectiveness of these
18 provisions in reducing illegal activity on or near the adult
19 entertainment businesses, and contain further suggested legislative
20 enactments designed to reduce illegal activities associated with these
21 businesses, including, but not limited to, obscenity, pornography,
22 assaults, drug offenses, sexual offenses, and prostitution."

23 "NEW SECTION. Sec. 70. The provisions of the open public
24 meetings act, contained in chapter 42.30 RCW, shall apply to all
25 meetings conducted by the governing body of a public agency regarding

1 the regulation of adult entertainment businesses pursuant to sections
2 37 through 69 of this act."

3 "NEW SECTION. Sec. 71. PURPOSE. Voters of the unincorporated
4 areas of the state are authorized to establish community councils as
5 provided in this chapter.

6 It is the purpose of this chapter to provide voters of
7 unincorporated areas with direct input on the planning and zoning of
8 their community by establishing a governmental mechanism to adopt
9 community comprehensive plans and community zoning ordinances that are
10 consistent with components or portions of the county comprehensive plan
11 that the county legislative authority designates as having area-wide
12 applicability and importance. Community comprehensive plans shall
13 replace components or portions of the county comprehensive plan that
14 are not designated as having area-wide applicability and importance,
15 and the subarea plan that the county legislative authority may have
16 adopted for the community. In addition, it is the purpose of this
17 chapter to have community councils serve as forums for the discussion
18 of local issues."

19 "NEW SECTION. Sec. 72. DEFINITIONS. Unless the context clearly
20 requires otherwise, the definitions in this section apply throughout
21 this chapter.

22 (1) "Community" means a portion of the unincorporated area of a
23 county for which a community council has been established.

24 (2) "Community comprehensive plan" means a comprehensive plan
25 adopted by a community council.

26 (3) "Community council" means the governing body established under
27 this chapter to adopt community comprehensive plans and community
28 zoning ordinances for a community.

1 (4) "Community zoning ordinances" means the zoning ordinances
2 adopted by a community council to implement a community comprehensive
3 plan."

4 "NEW SECTION. Sec. 73. MINIMUM REQUIREMENTS FOR A COMMUNITY
5 COUNCIL. A community for which a community council is created may
6 include only unincorporated territory located in a single county and
7 not included within a city or town. A community council must have at
8 least one thousand persons residing within the community when the
9 community council is created or, where the community only includes an
10 entire island, at least three hundred persons must reside on the island
11 when the community council is created. Any portion of such a community
12 that is annexed by a city or town, or is incorporated as a city or
13 town, shall be removed from the community upon the effective date of
14 the annexation or the official date of the incorporation."

15 "NEW SECTION. Sec. 74. CREATION. (1) The process to create a
16 community council shall be initiated by the filing of petitions with
17 the county auditor of the county in which the community is located
18 which: (a) Call for the creation of a community council; (b) set forth
19 the boundaries for the community; (c) indicate the number of community
20 councilmembers, which shall be five, seven, nine, or eleven; and (d)
21 contain signatures of voters residing within the community equal in
22 number to at least ten percent of the voters residing in the community
23 who voted at the last state general election. The county auditor shall
24 determine if the petitions contain a sufficient number of valid
25 signatures and certify the sufficiency of the petitions within fifteen
26 days of when the petitions were filed. If the petitions are certified
27 as having sufficient valid signatures, the county auditor shall

1 transmit the petitions and certificate to the county legislative
2 authority.

3 (2) The county legislative authority shall hold a public hearing
4 within the community on the creation of the proposed community council
5 no later than sixty days after the petitions and certificate of
6 sufficiency were transmitted to the county legislative authority.
7 Notice of the public hearing shall be published in a newspaper of
8 general circulation in the community for at least once a week for two
9 consecutive weeks, with the last date of publication no more than ten
10 days prior to the date of the public hearing. At least ten days before
11 the public hearing, additional notice shall be posted conspicuously in
12 at least five places within the proposed community in a manner designed
13 to attract public attention.

14 (3) After receiving testimony on the creation of the proposed
15 community council, the county legislative authority may alter the
16 boundaries of the community, but the boundaries may not be altered to
17 reduce the number of persons living within the community by more than
18 ten percent or below the minimum number of residents who must reside
19 within the community at the time of the creation of the community
20 council. If territory is added to the community, another public
21 hearing on the proposal shall be held.

22 (4) The county legislative authority shall call a special election
23 within the community to determine whether the proposed community
24 council shall be created, and to elect the initial community
25 councilmembers, at the next state general election occurring seventy-
26 five or more days after the initial public hearing on the creation of
27 the proposed community council. The community council shall be created
28 if the ballot proposition authorizing the creation of the community is
29 approved by a simple majority vote of the voters voting on the
30 proposition."

1 "NEW SECTION. Sec. 75. ELECTION OF INITIAL COMMUNITY

2 COUNCILMEMBERS. The initial members of the community council shall be
3 elected at the same election as the ballot proposition is submitted
4 authorizing the creation of the community council. However, the
5 election of the initial community councilmembers shall be null and void
6 if the ballot proposition authorizing the creation of the community
7 council is not approved.

8 No primary election shall be held to nominate candidates for
9 initial council positions. The initial community council shall consist
10 of the candidate for each council position who receives the greatest
11 number of votes for that council position. Staggering of terms of
12 office shall be accomplished by having the majority of the winning
13 candidates who receive the greatest number of votes being elected to
14 four-year terms of office, and the remaining winning candidates being
15 elected to two-year terms of office, if the election was held in an
16 even-numbered year, or the majority of the winning candidates who
17 receive the greatest number of votes being elected to three-year terms
18 of office, and the remaining winning candidates being elected to one-
19 year terms of office, if the election was held in an odd-numbered year,
20 with the term computed from the first day of January in the year
21 following the election. Initial councilmembers shall take office
22 immediately when qualified in accordance with RCW 29.01.135.

23 However, where the county operates under a charter providing for
24 the election of members of the county legislative authority in odd-
25 numbered years, the terms of office of the initial councilmembers shall
26 be four years and two years, if the election of the initial
27 councilmembers was held on an odd-numbered year, or three years and one
28 year, if the election of the initial councilmembers was held on an
29 even-numbered year."

1 "NEW SECTION. Sec. 76. COMMUNITY COUNCILMEMBERS. Community
2 councilmembers shall be elected to staggered four-year terms until
3 their successors are elected and qualified. Each council position
4 shall be numbered separately. Candidates shall run for specific
5 council positions. The number of council positions shall be five,
6 seven, nine, or eleven, as specified in the petition calling for the
7 creation of the community council.

8 Community councilmembers shall be nominated and elected at
9 nonpartisan elections pursuant to general election laws, except the
10 elections shall be held in even-numbered years, unless the county
11 operates under a charter and members of the county legislative
12 authority are elected in odd-numbered years, in which case, community
13 councilmembers shall be elected in odd-numbered years.

14 The provisions of this section apply to the election and terms of
15 office of the initial community councilmembers, except as provided in
16 section 75 of this act.

17 A councilmember shall lose his or her council position if his or
18 her primary residence no longer is located within the community.
19 Vacancies on a community council shall be filled by action of the
20 remaining councilmembers."

21 "NEW SECTION. Sec. 77. RESPONSIBILITY OF COUNTY LEGISLATIVE
22 AUTHORITY. (1) Within ninety days of the election at which a community
23 council is created, the county legislative authority shall adopt an
24 ordinance designating those portions or components of the county
25 comprehensive plan having area-wide applicability and importance
26 throughout the unincorporated area of the county that shall serve as an
27 overall guide for the development of community comprehensive plans and
28 community zoning ordinances.

1 (2) Community comprehensive plans and community zoning ordinances
2 that are adopted by a community council shall be submitted to the
3 county legislative authority for its review of the consistency of these
4 plans and ordinances with the portions or components of the county
5 comprehensive plan designated as having area-wide applicability and
6 importance under subsection (1) of this section. The county
7 legislative authority shall either approve the plans and ordinances as
8 adopted, or refer the plans and ordinances back to the community
9 council with written findings of noncompliance specifying the reasons
10 for noncompliance, within ninety days after they are submitted. The
11 county comprehensive plan, or subarea plan and comprehensive plan, and
12 zoning ordinances shall remain in effect in the community until the
13 community comprehensive plans and community zoning ordinances have been
14 approved.

15 (3) Each amendment to community comprehensive plans or community
16 zoning ordinances that is adopted by a community council shall be
17 submitted to the county legislative authority for its review of the
18 consistency of the amendment with the portions or components of the
19 county comprehensive plan designated as having area-wide applicability
20 and importance under subsection (1) of this section. The county
21 legislative authority shall either approve the amendment as adopted or
22 refer the amendment back to the community council with written findings
23 of noncompliance specifying the reasons for noncompliance within ninety
24 days after it is submitted. The unamended community comprehensive
25 plans and unamended community zoning ordinances shall remain in effect
26 in the community until the amendment has been approved.

27 (4) A community council shall be given at least one hundred twenty
28 days to amend its community comprehensive plans and community zoning
29 ordinances after the county legislative authority amends the ordinance
30 it adopted under subsection (1) of this section designating those

1 portions or components of the county comprehensive plan having area-
2 wide applicability and importance throughout the unincorporated area of
3 the county that shall serve as an overall guide for the development of
4 community comprehensive plans and community zoning ordinances. The
5 county legislative authority may amend the community comprehensive
6 plans and community zoning ordinances to achieve consistency with this
7 amended ordinance if the community council fails to obtain approval of
8 the community comprehensive plans and community zoning ordinances
9 within this time period. Nothing in this subsection shall preclude a
10 community council from subsequently obtaining approval of its community
11 comprehensive plans and community zoning ordinances.

12 (5) Approved community comprehensive plans and community zoning
13 ordinances shall be enforced by the county as if they had been adopted
14 by the county legislative authority. All quasi-judicial actions and
15 permits relating to these plans and ordinances shall be made and
16 decided by the county legislative authority or otherwise as provided by
17 the county legislative authority.

18 (6) The county shall be responsible for financing the activities
19 of, and providing administrative and staff support for, each community
20 council within its boundaries."

21 "NEW SECTION. Sec. 78. POWERS OF A COMMUNITY COUNCIL. A
22 community council shall adopt community comprehensive plans and
23 community zoning ordinances as provided in section 77 of this act.
24 Community councils shall not have the authority to take quasi-judicial
25 actions or to decide permit applications. In addition, a community
26 council shall serve as a forum for the discussion of local issues.

27 Community councils are subject to chapter 42.30 RCW, the open
28 public meetings act."

1 "NEW SECTION. Sec. 79. ANNEXATION. A community council may
2 provide for the annexation of adjacent unincorporated areas to the
3 community that are not included within another community for which a
4 community council has been established. Annexations shall be initiated
5 by either resolution of the community council proposing the annexation
6 or petition of voters residing in the adjacent area, which petition:
7 (a) Requests the annexation; (b) sets forth the boundaries of the area
8 proposed to be annexed; and (c) contains signatures of voters residing
9 within the area that is proposed to be annexed equal in number to at
10 least ten percent of the voters residing in that area who voted at the
11 last state general election. Annexation petitions shall be filed with
12 the county auditor who shall determine if the petitions contain a
13 sufficient number of valid signatures, certify the sufficiency of the
14 petitions, and notify the community council of the sufficiency of the
15 petitions within fifteen days of when the petitions are submitted.

16 A ballot proposition authorizing the annexation shall be submitted
17 to the voters of the area that is proposed to be annexed at a primary
18 or general election in either an odd-numbered or even-numbered year, if
19 the community council initiated the annexation by resolution or if the
20 community council concurs in an annexation that was initiated by the
21 submission of annexation petitions containing sufficient valid
22 signatures. The annexation shall occur if the ballot proposition
23 authorizing the creation of the community is approved by a simple
24 majority vote of the voters voting on the proposition. The county's
25 comprehensive plan, and where applicable to the county's subarea plan,
26 and zoning ordinances shall continue in effect in the annexed area
27 until amendments to the community comprehensive plans and community
28 zoning ordinance have been approved that apply to the annexed area."

1 "NEW SECTION. Sec. 80. DISSOLUTION. A community council shall
2 be dissolved if the population of the community is reduced to less than
3 five hundred persons, or less than two hundred persons if the community
4 only includes an entire island.

5 In addition, a community council shall be dissolved by voters of
6 the community approving a ballot proposition to dissolve the community
7 council that has been placed upon the ballot in a primary or general
8 election held in either an odd-numbered or even-numbered year as the
9 result of the community council adopting a resolution placing this
10 matter on the ballot or by petition calling for the dissolution of the
11 community council that has been certified by the county auditor as
12 having valid signatures of voters residing within the community equal
13 in number to at least ten percent of the voters residing in the
14 community who voted at the last state general election. Petitions
15 calling for the dissolution of a community council shall be filed with
16 the county auditor and their sufficiency certified by the county
17 auditor in the same manner as an annexation petition. The community
18 council shall be dissolved if the ballot proposition dissolving the
19 community council is approved by a simple majority vote of the voters
20 voting on the proposition."

21 "NEW SECTION. Sec. 81. The following acts or parts of acts are
22 each repealed:

23 (1) RCW 36.32.500 and 1984 c 203 s 6; and

24 (2) RCW 36.32.505 and 1984 c 203 s 7."

25 "NEW SECTION. Sec. 82. Sections 71 through 80 of this act shall
26 constitute a new chapter in Title 36 RCW."

