

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 1013**

Chapter 360, Laws of 1991  
(partial veto)

52nd Legislature  
1991 Regular Session

CITIES AND TOWNS--INCORPORATION PROCEEDINGS

EFFECTIVE DATE: 5/21/91

Passed by the House February 8, 1991  
Yeas 92 Nays 0

JOE KING  
**Speaker of the  
House of Representatives**

Passed by the Senate April 8, 1991  
Yeas 48 Nays 0

JOEL PRITCHARD  
**President of the Senate**

Approved May 21, 1991, with  
the exception of section 1,  
which is vetoed.

BOOTH GARDNER  
**Governor of the State of Washington**

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1013** as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON  
**Chief Clerk**

FILED

May 21, 1991 - 11:35 a.m.

Secretary of State  
State of Washington



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HOUSE BILL 1013

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AS AMENDED BY THE SENATE

Passed Legislature - 1991 Regular Session

State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Zellinsky, Ferguson, Haugen, Horn, Roland, Wood and Mitchell.

Read first time January 14, 1991. Referred to Committee on Local Government.

1            AN ACT Relating to cities and towns; amending RCW 35.02.078,  
2 35.02.130, 35.02.210, 35.02.220, and 52.02.020; adding new sections to  
3 chapter 35.02 RCW; and declaring an emergency.

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

5            *\*Sec. 1. RCW 35.02.078 and 1986 c 234 s 10 are each amended to read*  
6 *as follows:*

7            *An election shall be held in the area proposed to be incorporated*  
8 *to determine whether the proposed city or town shall be incorporated if*  
9 *the boundary review board approves or modifies and approves the*  
10 *proposal, or if the county legislative authority does not disapprove*  
11 *the proposal as provided in RCW 35.02.070. Voters at this election*  
12 *shall determine if the area is to be incorporated.*

13            *The initial election on the question of incorporation shall be held*  
14 *at the next special election date specified in RCW 29.13.020 that*  
15

1 occurs sixty or more days after the final public hearing by the county  
2 legislative authority or authorities, or the approval or modification  
3 and approval by the boundary review board or boards. The county  
4 legislative authority or authorities shall call for this election and,  
5 if the incorporation is approved, shall call for other elections to  
6 elect the elected officials as provided in this section. If the vote  
7 in favor of the incorporation receives (~~forty~~) thirty percent or less  
8 of the total vote on the question of incorporation, no new election on  
9 the question of incorporation for the area or any portion of the area  
10 proposed to be incorporated may be held for a period of three years  
11 from the date of the election in which the incorporation failed. This  
12 three-year prohibition shall not apply to any proposed city or town in  
13 which such election was held before the effective date of this act and  
14 the vote in favor of the incorporation received thirty percent or more  
15 of the total on the question of incorporation.

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

1 \*Sec. 1 was vetoed, see message at end of chapter.

2 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.02 RCW  
3 to read as follows:

4 A newly incorporated city or town shall be liable for its  
5 proportionate share of the costs of all elections, after the election  
6 on whether the area should be incorporated, at which an issue relating  
7 to the city or town is placed before the voters, as if the city or town  
8 was in existence after the election at which voters authorized the area  
9 to incorporate.

10 **Sec. 3.** RCW 35.02.130 and 1986 c 234 s 16 are each amended to read  
11 as follows:

12 The city or town officially shall become incorporated at a date  
13 from one hundred eighty days to three hundred sixty days after the date  
14 of the election on the question of incorporation. An interim period  
15 shall exist between the time the newly elected officials have been  
16 elected and qualified and this official date of incorporation. During  
17 this interim period, the newly elected officials are authorized to  
18 adopt ordinances and resolutions which shall become effective on or  
19 after the official date of incorporation, and to enter into contracts  
20 and agreements to facilitate the transition to becoming a city or town  
21 and to ensure a continuation of governmental services after the  
22 official date of incorporation. Periods of time that would be required  
23 to elapse between the enactment and effective date of such ordinances,  
24 including but not limited to times for publication or for filing  
25 referendums, shall commence upon the date of such enactment as though  
26 the city or town were officially incorporated.

27 During this interim period, the city or town governing body may  
28 adopt rules establishing policies and procedures under the state

1 environmental policy act, chapter 43.21C RCW, and may use these rules  
2 and procedures in making determinations under the state environmental  
3 policy act, chapter 43.21C RCW.

4 During this interim period, the newly formed city or town and its  
5 governing body shall be subject to the following as though the city or  
6 town were officially incorporated: RCW 4.24.470 relating to immunity;  
7 chapter 42.17 RCW relating to open government; chapter 40.14 RCW  
8 relating to the preservation and disposition of public records;  
9 chapters 42.20, 42.22, and 42.23 RCW relating to ethics and conflicts  
10 of interest; chapters 42.30 and 42.32 RCW relating to open public  
11 meetings and minutes; RCW 35.22.288, 35.23.310, 35.24.220, 35.27.300,  
12 35A.12.160, as appropriate, and chapter 35A.65 RCW relating to the  
13 publication of notices and ordinances; RCW 35.21.875 and 35A.21.230  
14 relating to the designation of an official newspaper; RCW 36.16.138  
15 relating to liability insurance; RCW 35.22.620, 35.23.352, and  
16 35A.40.210, as appropriate, and statutes referenced therein relating to  
17 public contracts and bidding; and chapter 39.34 RCW relating to  
18 interlocal cooperation. Tax anticipation or revenue anticipation notes  
19 or warrants and other short-term obligations may be issued and funds  
20 may be borrowed on the security of these instruments during this  
21 interim period, as provided in chapter 39.50 RCW. Funds also may be  
22 borrowed from federal, state, and other governmental agencies in the  
23 same manner as if the city or town were officially incorporated.

24 RCW 84.52.020 and 84.52.070 shall apply to the extent that they may  
25 be applicable, and the governing body of such city or town may take  
26 appropriate action by ordinance during the interim period to adopt the  
27 property tax levy for its first full calendar year following the  
28 interim period.

29 The governing body of the new city or town may acquire needed  
30 facilities, supplies, equipment, insurance, and staff during this

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

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

22 The newly elected officials shall take office immediately upon  
23 their election and qualification with limited powers during this  
24 interim period as provided in this section. They shall acquire their  
25 full powers as of the official date of incorporation and shall continue  
26 in office until their successors are elected and qualified at the next  
27 general municipal election after the official date of incorporation:  
28 PROVIDED, That if the date of the next general municipal election is  
29 less than ~~((seventy-five days))~~ twelve months after the ~~((official))~~  
30 date ~~((of incorporation, the))~~ of the first election of councilmembers,

1 those initially elected (~~officials~~) councilmembers shall (~~hold~~  
2 ~~office~~) serve until their successors are elected and qualified at the  
3 next following general municipal election (~~next following~~) as  
4 provided in RCW 29.04.170. For purposes of this section, the general  
5 municipal election shall be the date on which city and town general  
6 elections are held throughout the state of Washington, pursuant to RCW  
7 29.13.020.

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

25       NEW SECTION. **Sec. 4.** A new section is added to chapter 35.02 RCW  
26 to read as follows:

27       The newly elected officials shall adopt an interim budget for the  
28 interim period or until January 1 of the following year, whichever  
29 occurs first. A second interim budget shall be adopted for any period



1 between January 1 and the official date of incorporation. These interim  
2 budgets shall be adopted in consultation with the office of the state  
3 auditor, division of municipal corporations.

4 The governing body shall adopt a budget for the newly incorporated  
5 city or town for the period between the official date of incorporation  
6 and January 1 of the following year. The mayor or governing body,  
7 whichever is appropriate shall prepare or the governing body may direct  
8 the interim city manager to prepare a preliminary budget in detail to  
9 be made public at least sixty days before the official date of  
10 incorporation as a recommendation for the final budget. The mayor,  
11 governing body, or the interim city manager shall submit as a part of  
12 the preliminary budget a budget message that contains an explanation of  
13 the budget document, an outline of the recommended financial policies  
14 and programs of the city or town for the ensuing fiscal year, and a  
15 statement of the relation of the recommended appropriation to such  
16 policies and programs. Immediately following the release of the  
17 preliminary budget, the governing body shall cause to be published a  
18 notice once each week for two consecutive weeks of a public hearing to  
19 be held at least twenty days before the official date of incorporation  
20 on the fixing of the final budget. Any taxpayer may appear and be  
21 heard for or against any part of the budget. The governing body may  
22 make such adjustments and changes as it deems necessary and may adopt  
23 the final budget at the conclusion of the public hearing or at any time  
24 before the official date of incorporation.

25 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.02 RCW  
26 to read as follows:

27 Upon the certification of election of officers, the governing body  
28 may by resolution borrow money from the municipal sales and use tax  
29 equalization account, up to one hundred thousand dollars or five

1 dollars per capita based on the population estimate required by RCW  
2 35.02.030, whichever is less.

3 The loan authorized by this section shall be repaid over a three-  
4 year period. The state treasurer shall withhold moneys from the funds  
5 otherwise payable to the city or town that has obtained such a loan,  
6 either from the municipal sales and use tax equalization account or  
7 from sales and use tax entitlements otherwise distributable to such  
8 city or town, so that the account is fully reimbursed over the three-  
9 year period. The state treasurer shall adopt by rule procedures to  
10 accomplish the purpose of this section on a reasonable and equitable  
11 basis over the three-year period.

12 NEW SECTION. **Sec. 6.** A new section is added to chapter 35.02 RCW  
13 to read as follows:

14 The department of community development shall identify federal,  
15 state, and local agencies that should receive notification that a new  
16 city or town is about to incorporate and shall assist newly formed  
17 cities and towns during the interim period before the official date of  
18 incorporation in providing such notification to the identified  
19 agencies.

20 NEW SECTION. **Sec. 7.** A new section is added to chapter 35.02 RCW  
21 to read as follows:

22 During the interim period, the governing body of the newly formed  
23 city or town and the board of fire commissioners may by written  
24 agreement delay the transfer of the district's assets and liabilities,  
25 and the city's or town's responsibility for the provision of fire  
26 protection, that would otherwise occur under RCW 35.02.190 or 35.02.200  
27 for up to one year after the official date of incorporation. During the  
28 one-year period, the fire protection district may annex the city or

1 town pursuant to chapter 52.04 RCW and retain the responsibility for  
2 fire protection.

3 **Sec. 8.** RCW 35.02.210 and 1986 c 234 s 21 are each amended to read  
4 as follows:

5 At the option of the governing body of a newly incorporated city or  
6 town, any fire protection district or library district serving any part  
7 of the area so incorporated shall continue to provide services to such  
8 area until the city or town (~~receives distributions of property tax~~  
9 ~~receipts from these special districts pursuant to RCW 35.02.140, or the~~  
10 ~~city or town~~) receives its own property tax receipts(~~(, whichever is~~  
11 ~~earlier)~~).

12 **Sec. 9.** RCW 35.02.220 and 1986 c 234 s 22 are each amended to read  
13 as follows:

14 The approval of an incorporation by the voters of a proposed city  
15 or town, and the existence of a transition period to become a city or  
16 town, shall not remove the responsibility of any county, road district,  
17 library district, or fire district, within which the area is located,  
18 to continue providing services to the area until the official date of  
19 the incorporation.

20 A county shall continue to provide the following services to a  
21 newly incorporated city or town, or that portion of the county within  
22 which the newly incorporated city or town is located, at the  
23 preincorporation level as follows:

24 (1) Law enforcement services shall be provided for a period not to  
25 exceed sixty days from the official date of the incorporation or until  
26 the city or town is receiving or could have begun receiving sales tax  
27 distributions under RCW 82.14.030(1), whichever is the shortest time  
28 period.

1 (2) Road maintenance shall be for a period not to exceed sixty days  
2 from the official date of the incorporation or until (~~any~~) forty  
3 percent of the anticipated annual tax distribution from the road  
4 district tax levy is made to the newly incorporated city or town  
5 pursuant to RCW 35.02.140, whichever is the shorter time period.

6 **Sec. 10.** RCW 52.02.020 and 1984 c 230 s 1 are each amended to read  
7 as follows:

8 Fire protection districts for the provision of fire prevention  
9 services, fire suppression services, emergency medical services, and  
10 for the protection of life and property in areas outside of cities and  
11 towns, except where the cities and towns have been annexed into a fire  
12 protection district or where the district is continuing service  
13 pursuant to section 7 of this act, are authorized to be established as  
14 provided in this title.

15 NEW SECTION. **Sec. 11.** A new section is added to chapter 35.02 RCW  
16 to read as follows:

17 During the interim period, the governing body of the newly formed  
18 city or town may adopt resolutions establishing moratoria during the  
19 interim transition period on the filing of applications with the county  
20 for development permits or approvals, including, but not limited,  
21 subdivision approvals, short subdivision approvals, and building  
22 permits.

23 NEW SECTION. **Sec. 12.** A new section is added to chapter 35.02 RCW  
24 to read as follows:

25 Cities, towns, counties, and other local government agencies and  
26 state agencies may make loans of staff and equipment, and technical and  
27 financial assistance to the newly formed city or town during the

1 interim period to facilitate the transition to an incorporated city or  
2 town. Such loans and assistance may be without compensation.

3 NEW SECTION. **Sec. 13.** This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and shall take  
6 effect immediately.

Passed the House February 8, 1991.

Passed the Senate April 8, 1991.

Approved by the Governor May 21, 1991, with the exception of  
certain items which were vetoed.

Filed in Office of Secretary of State May 21, 1991.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 1,  
3 House Bill No. 1013 entitled:

4 "AN ACT Relating to cities and towns."

5 Current law states that where a vote on incorporation is held, if  
6 the vote in favor of incorporation is forty percent or less of the  
7 total vote, another election on the same issue cannot be held for three  
8 years. Section 1 of this bill seeks to change the forty percent  
9 requirement to thirty percent and to make this change applicable to  
10 elections held before the effective date of this Act.

11 Making the change retroactive shifts the rules on the electorate  
12 after the game. Voters have a right to vote for a governing structure  
13 according to laws existing at the time of the election. Retroactively  
14 redefining the rules in this manner will only serve to frustrate the  
15 electorate and undermine our democratic process. For this reason, I  
16 have vetoed section 1.

17 With the exception of section 1, House Bill No. 1013 is approved."