

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2176

Chapter 216, Laws of 1994

53rd Legislature
1994 Regular Session

CITIES AND TOWNS--INCORPORATIONS AND ANNEXATIONS

EFFECTIVE DATE: 4/1/94

Passed by the House March 6, 1994
Yeas 89 Nays 0

BRIAN EBERSOLE

**Speaker of the
House of Representatives**

Passed by the Senate March 3, 1994
Yeas 48 Nays 1

JOEL PRITCHARD

President of the Senate

Approved April 1, 1994

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marilyn Showalter, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2176** as passed by the House of Representatives and the Senate on the dates hereon set forth.

MARILYN SHOWALTER

Chief Clerk

FILED

April 1, 1994 - 10:11 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2176

AS AMENDED BY THE SENATE

Passed Legislature - 1994 Regular Session

State of Washington 53rd Legislature 1994 Regular Session

By House Committee on Local Government (originally sponsored by Representatives G. Cole, Edmondson, Jacobsen, Padden, Dunshee, Orr, Lemmon and Carlson)

Read first time 02/04/94.

1 AN ACT Relating to city and town incorporations and annexations;
2 amending RCW 35.02.030, 35.02.020, 35.02.001, 35.02.010, 36.93.100,
3 35.02.039, 36.93.150, 36.93.160, 35.02.070, and 35.02.078; adding new
4 sections to chapter 35.02 RCW; adding a new section to chapter 35.13
5 RCW; adding a new section to chapter 35A.14 RCW; adding new sections to
6 chapter 36.93 RCW; adding a new section to chapter 43.21C RCW; creating
7 a new section; repealing RCW 35.13.175, 35A.14.230, 36.93.115, and
8 36.93.152; and declaring an emergency.

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

10 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.02 RCW
11 to read as follows:

12 Any person proposing the incorporation of a city or town shall file
13 a notice of the proposed incorporation with the county legislative
14 authority of the county in which all or the major portion of the
15 proposed city or town is located. The notice shall include the matters
16 required to be included in the incorporation petition under RCW
17 35.02.030 and be accompanied by both a one hundred dollar filing fee
18 and an affidavit from the person stating that he or she is a registered
19 voter residing in the proposed city or town.

1 The county legislative authority shall promptly notify the boundary
2 review board of the proposed incorporation, which shall hold a public
3 meeting on the proposed incorporation within thirty days of the notice
4 being filed where persons favoring and opposing the proposed
5 incorporation may state their views. If a boundary review board does
6 not exist in the county, the county legislative authority shall provide
7 the public meeting. The public meeting shall be held at a location in
8 or near the proposed city or town. Notice of the public meeting shall
9 be published in a newspaper of general circulation in the area proposed
10 to be incorporated at least once ten days prior to the public meeting.

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

13 Within one working day after the public meeting under section 1 of
14 this act, the county auditor shall provide an identification number for
15 the incorporation effort to the person who made the notice of proposing
16 the incorporation. The identification number shall be included on the
17 petition proposing the incorporation.

18 The petition proposing the incorporation may retain the proposed
19 boundaries and other matters as described in the notice, or may alter
20 the proposed boundaries and other matters.

21 **Sec. 3.** RCW 35.02.030 and 1986 c 234 s 4 are each amended to read
22 as follows:

23 The petition for incorporation shall: (1) Indicate whether the
24 proposed city or town shall be a noncharter code city operating under
25 Title 35A RCW, or a city or town operating under Title 35 RCW; (2)
26 indicate the form or plan of government the city or town is to have;
27 (3) set forth and particularly describe the proposed boundaries of the
28 proposed city or town; (4) state the name of the proposed city or town;
29 (5) state the number of inhabitants therein, as nearly as may be; and
30 (6) pray that ~~((it may))~~ the city or town be incorporated. The
31 petition shall conform to the requirements for form prescribed in RCW
32 35A.01.040. The petition shall include the identification number
33 provided under section 2 of this act and state the last date by which
34 the petition may be filed, as determined under RCW 35.02.020.

35 If the proposed city or town is located in more than one county,
36 the petition shall be prepared in such a manner as to indicate the
37 different counties within which the signators reside.

1 A city or town operating under Title 35 RCW may have a
2 mayor/council, council/manager, or commission form of government. A
3 city operating under Title 35A RCW may have a mayor/council or
4 council/manager plan of government.

5 If the petition fails to specify the matters described in
6 subsection (1) of this section, the proposal shall be to incorporate as
7 a noncharter code city. If the petition fails to specify the matter
8 described in subsection (2) of this section, the proposal shall be to
9 incorporate with a mayor/council form or plan of government.

10 **Sec. 4.** RCW 35.02.020 and 1986 c 234 s 3 are each amended to read
11 as follows:

12 A petition for incorporation must be signed by ~~((qualified))~~
13 registered voters resident within the limits of the proposed city or
14 town equal in number to at least ten percent of the ~~((votes cast at the~~
15 ~~last state general election and presented to))~~ number of voters
16 residing within the proposed city or town and filed with the auditor of
17 the county in which all, or the largest portion of, the proposed city
18 or town is located. The petition must be filed with the auditor by no
19 later than one hundred eighty days after the date the public meeting on
20 the proposed incorporation was held under section 1 of this act, or the
21 next regular business day following the one hundred eightieth day if
22 the one hundred eightieth day is not a regular business day.

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

25 For a period of ninety days after a petition proposing the
26 incorporation of a city or town is filed with the county auditor, a
27 petition or resolution proposing the annexation of any portion of the
28 territory included in the incorporation proposal may be filed or
29 adopted and the proposed annexation may continue following the
30 applicable statutory procedures. Territory that ultimately is annexed,
31 as a result of the filing of such an annexation petition or adoption of
32 such an annexation resolution during this ninety-day period, shall be
33 withdrawn from the incorporation proposal.

34 A proposed annexation of a portion of the territory included within
35 the proposed incorporation, that is initiated by the filing of an
36 annexation petition or adoption of an annexation resolution after this
37 ninety-day period, shall be held in abeyance and may not occur unless:

1 (1) The boundary review board modifies the boundaries of the proposed
2 incorporation to remove the territory from the proposed incorporation;
3 (2) the boundary review board rejects the proposed incorporation and
4 the proposed city or town has a population of less than seven thousand
5 five hundred; or (3) voters defeat the ballot proposition authorizing
6 the proposed incorporation.

7 NEW SECTION. **Sec. 6.** Where a petition proposing the incorporation
8 of a city or town has been filed with a county auditor prior to the
9 effective date of this act, the time limitations on competing
10 annexation proposals that are provided under section 5 of this act are
11 modified as follows:

12 (1) A petition or resolution proposing the annexation of any
13 portion of the territory included in the incorporation proposal, that
14 was filed or adopted within the later of ninety days after the date the
15 incorporation petition was filed or the effective date of this act, may
16 continue following the applicable statutory procedures. A boundary
17 review board may simultaneously consider the proposed incorporation and
18 such an annexation.

19 (2) A petition or resolution proposing the annexation of any
20 portion of the territory included in the incorporation proposal, that
21 is filed or adopted within the later of ninety days after the date the
22 incorporation petition was filed or the effective date of this act,
23 shall be held in abeyance and may not occur unless: (a) The boundary
24 review board modifies the boundaries of the proposed incorporation to
25 remove the territory from the proposed incorporation; (b) the boundary
26 review board rejects the proposed incorporation and the proposed city
27 or town has a population of less than seven thousand five hundred; or
28 (c) voters defeat the ballot proposition authorizing the proposed
29 incorporation.

30 NEW SECTION. **Sec. 7.** A new section is added to chapter 35.13 RCW
31 to read as follows:

32 After a petition proposing an annexation by a city or town is filed
33 with the city or town or the governing body of the city or town, or
34 after a resolution proposing an annexation by a city or town has been
35 adopted by the city or town governing body, no territory included in
36 the proposed annexation may be annexed by another city or town or
37 incorporated into a city or town unless: (1) The boundary review board

1 modifies the boundaries of the proposed annexation and removes the
2 territory; (2) the boundary review board or review board created under
3 RCW 35.13.171 rejects the proposed annexation; or (3) the city or town
4 governing body rejects the proposed annexation or voters defeat the
5 ballot proposition authorizing the annexation.

6 NEW SECTION. **Sec. 8.** A new section is added to chapter 35A.14 RCW
7 to read as follows:

8 After a petition proposing an annexation by a code city has been
9 filed with the city or the city legislative authority, or after a
10 resolution proposing the annexation by a code city has been adopted by
11 the city legislative authority, no territory included in the proposed
12 annexation may be annexed by another city or town or incorporated into
13 a city or town unless: (1) The boundary review board or county
14 annexation review board created under RCW 35A.14.160 modifies the
15 boundaries of the proposed annexation and removes the territory; (2)
16 the boundary review board or county annexation review board created
17 under RCW 35A.14.160 rejects the proposed annexation; or (3) the city
18 legislative authority rejects the proposed annexation or voters defeat
19 the ballot proposition authorizing the annexation.

20 NEW SECTION. **Sec. 9.** A new section is added to chapter 36.93 RCW
21 to read as follows:

22 A boundary review board may simultaneously consider the proposed
23 incorporation of a city or town, and the proposed annexation of a
24 portion of the territory included in the proposed incorporation, if the
25 resolution or petition initiating the annexation is adopted or filed
26 ninety or fewer days after the petition proposing the incorporation was
27 filed.

28 NEW SECTION. **Sec. 10.** A new section is added to chapter 36.93 RCW
29 to read as follows:

30 The proposed incorporation of any city or town that includes
31 territory located in a county in which a boundary review board exists
32 shall be reviewed by the boundary review board and action taken as
33 described under RCW 36.93.150.

34 **Sec. 11.** RCW 35.02.001 and 1989 c 84 s 25 are each amended to read
35 as follows:

1 (~~Actions taken under chapter 35.02 RCW may be~~) The incorporation
2 of a city or town is subject to (~~potential~~) review by a boundary
3 review board under chapter 36.93 RCW if a boundary review board exists
4 in the county in which all or any portion of the territory proposed to
5 be incorporated is located.

6 **Sec. 12.** RCW 35.02.010 and 1986 c 234 s 2 are each amended to read
7 as follows:

8 Any contiguous area containing not less than (~~three~~) one thousand
9 five hundred inhabitants lying outside the limits of an incorporated
10 city or town may become incorporated as a city or town operating under
11 Title 35 or 35A RCW as provided in this chapter: PROVIDED, That no
12 area which lies within five air miles of the boundary of any city
13 having a population of fifteen thousand or more shall be incorporated
14 which contains less than three thousand inhabitants.

15 **Sec. 13.** RCW 36.93.100 and 1992 c 162 s 1 are each amended to read
16 as follows:

17 The board shall review and approve, disapprove, or modify any of
18 the actions set forth in RCW 36.93.090 when any of the following shall
19 occur within forty-five days of the filing of a notice of intention:

20 (1) Three members of a five-member boundary review board or five
21 members of a boundary review board in a county with a population of one
22 million or more files a request for review: PROVIDED, That the members
23 of the boundary review board shall not be authorized to file a request
24 for review of the following actions:

25 (a) The incorporation of any special district or change in the
26 boundary of any city, town, or special purpose district;

27 (b) The extension of permanent water service outside of its
28 existing corporate boundaries by a city, town, or special purpose
29 district if (i) the extension is through the installation of water
30 mains of six inches or less in diameter or (ii) the county legislative
31 authority for the county in which the proposed extension is to be built
32 is required or chooses to plan under RCW 36.70A.040 and has by a
33 majority vote waived the authority of the board to initiate review of
34 all other extensions; or

35 (c) The extension of permanent sewer service outside of its
36 existing corporate boundaries by a city, town, or special purpose
37 district if (i) the extension is through the installation of sewer

1 mains of eight inches or less in diameter or (ii) the county
2 legislative authority for the county in which the proposed extension is
3 to be built is required or chooses to plan under RCW 36.70A.040 and has
4 by a majority vote waived the authority of the board to initiate review
5 of all other extensions;

6 (2) Any governmental unit affected, including the governmental unit
7 for which the boundary change or extension of permanent water or sewer
8 service is proposed, or the county within which the area of the
9 proposed action is located, files a request for review of the specific
10 action;

11 (3) A petition requesting review is filed and is signed by:

12 (a) Five percent of the registered voters residing within the area
13 which is being considered for the proposed action (as determined by the
14 boundary review board in its discretion subject to immediate review by
15 writ of certiorari to the superior court); or

16 (b) An owner or owners of property consisting of five percent of
17 the assessed valuation within such area;

18 (4) The majority of the members of boundary review boards concur
19 with a request for review when a petition requesting the review is
20 filed by five percent of the registered voters who deem themselves
21 affected by the action and reside within one-quarter mile of the
22 proposed action but not within the jurisdiction proposing the action.

23 If a period of forty-five days shall elapse without the board's
24 jurisdiction having been invoked as set forth in this section, the
25 proposed action shall be deemed approved.

26 If a review of a proposal is requested, the board shall make a
27 finding as prescribed in RCW 36.93.150 within one hundred twenty days
28 after the filing of such a request for review. If this period of one
29 hundred twenty days shall elapse without the board making a finding as
30 prescribed in RCW 36.93.150, the proposal shall be deemed approved
31 unless the board and the person who submitted the proposal agree to an
32 extension of the one hundred twenty day period.

33 **Sec. 14.** RCW 35.02.039 and 1986 c 234 s 7 are each amended to read
34 as follows:

35 (1) The county legislative authority of the county in which the
36 proposed city or town is located shall hold a public hearing on the
37 proposed incorporation if no boundary review board exists in the
38 county(~~(, or if the boundary review board does not take jurisdiction~~

1 ~~over the proposal~~). The public hearing shall be held within sixty
2 days of when the county auditor notifies the legislative authority of
3 the sufficiency of the petition if no boundary review board exists in
4 the county, or within ninety days of when notice of the proposal is
5 filed with the boundary review board if the boundary review board fails
6 to take jurisdiction over the proposal. The public hearing may be
7 continued to other days, not extending more than sixty days beyond the
8 initial hearing date. If the boundary review board takes jurisdiction,
9 the county legislative authority shall not hold a public hearing on the
10 proposal.

11 (2) If the proposed city or town is located in more than one
12 county, a public hearing shall be held in each of the counties by the
13 county legislative authority or boundary review board. Joint public
14 hearings may be held by two or more county legislative authorities, or
15 two or more boundary review boards.

16 **Sec. 15.** RCW 36.93.150 and 1990 c 273 s 1 are each amended to read
17 as follows:

18 The board, upon review of any proposed action, shall take such of
19 the following actions as it deems necessary to best carry out the
20 intent of this chapter:

21 (1) ~~((Approval of))~~ Approve the proposal as submitted~~((;))~~.

22 (2) Subject to RCW 35.02.170, ~~((modification of))~~ modify the
23 proposal by adjusting boundaries to add or delete territory~~((; PRO-~~
24 ~~VIDED, That))~~. However, any proposal for annexation ((by the
25 board)) of territory to a town shall be subject to RCW 35.21.010 and
26 the board shall not add additional territory, the amount of which is
27 greater than that included in the original proposal((;—PROVIDED
28 FURTHER, That such)). Any modifications shall not interfere with the
29 authority of a city, town, or special purpose district to require or
30 not require preannexation agreements, covenants, or petitions((;—AND
31 PROVIDED FURTHER, That)). A board shall not modify the proposed
32 incorporation of a city with an estimated population of seven thousand
33 five hundred or more by removing territory from the proposal, or adding
34 territory to the proposal, that constitutes ten percent or more of the
35 total area included within the proposal before the board((, but)).
36 However, a board shall remove territory in the proposed incorporation
37 that is located outside of an urban growth area or is annexed by a city
38 or town, and may remove territory in the proposed incorporation if a

1 petition or resolution proposing the annexation is filed or adopted
2 that has priority over the proposed incorporation, before the area is
3 established that is subject to this ten percent restriction on removing
4 or adding territory. A board shall not modify the proposed
5 incorporation of a city with a population of seven thousand five
6 hundred or more to reduce the territory in such a manner as to reduce
7 the population below seven thousand five hundred((+)).

8 (3) (~~Determination of~~) Determine a division of assets and
9 liabilities between two or more governmental units where relevant((+)).

10 (4) (~~Determination~~) Determine whether, or the extent to which,
11 functions of a special purpose district are to be assumed by an
12 incorporated city or town, metropolitan municipal corporation, or
13 another existing special purpose district((+or)).

14 (5) (~~Disapproval of~~) Disapprove the proposal except that the
15 board shall not have jurisdiction: (a) To disapprove the dissolution
16 or disincorporation of a special purpose district which is not
17 providing services but shall have jurisdiction over the determination
18 of a division of the assets and liabilities of a dissolved or
19 disincorporated special purpose district; (b) over the division of
20 assets and liabilities of a special purpose district that is dissolved
21 or disincorporated pursuant to chapter 36.96 RCW; nor (c) to disapprove
22 the incorporation of a city with an estimated population of seven
23 thousand five hundred or more, but the board may recommend against the
24 proposed incorporation of a city with such an estimated population.

25 Unless the board (~~shall disapprove~~) disapproves a proposal, it
26 shall be presented under the appropriate statute for approval of a
27 public body and, if required, a vote of the people. A proposal that
28 has been modified shall be presented under the appropriate statute for
29 approval of a public body and if required, a vote of the people. If a
30 proposal, other than that for a city, town, or special purpose district
31 annexation, after modification does not contain enough signatures of
32 persons within the modified area, as are required by law, then the
33 initiating party, parties or governmental unit has thirty days after
34 the modification decision to secure enough signatures to satisfy the
35 legal requirement. If the signatures cannot be secured then the
36 proposal may be submitted to a vote of the people, as required by law.

37 The addition or deletion of property by the board shall not
38 invalidate a petition which had previously satisfied the sufficiency of
39 signature provisions of RCW 35.13.130 or 35A.14.120. When the board,

1 after due proceedings held, disapproves a proposed action, such
2 proposed action shall be unavailable, the proposing agency shall be
3 without power to initiate the same or substantially the same as
4 determined by the board, and any succeeding acts intended to or tending
5 to effectuate that action shall be void, but such action may be
6 reinitiated after a period of twelve months from date of disapproval
7 and shall again be subject to the same consideration.

8 The board shall not modify or deny a proposed action unless there
9 is evidence on the record to support a conclusion that the action is
10 inconsistent with one or more of the objectives under RCW 36.93.180.
11 Every such determination to modify or deny a proposed action shall be
12 made in writing pursuant to a motion, and shall be supported by
13 appropriate written findings and conclusions, based on the record.

14 **Sec. 16.** RCW 36.93.160 and 1988 c 202 s 40 are each amended to
15 read as follows:

16 (1) When the jurisdiction of the boundary review board has been
17 invoked, the board shall set the date, time and place for a public
18 hearing on the proposal. The board shall give at least thirty days'
19 advance written notice of the date, time and place of the hearing to
20 the governing body of each governmental unit having jurisdiction within
21 the boundaries of the territory proposed to be annexed, formed,
22 incorporated, disincorporated, dissolved or consolidated, or within the
23 boundaries of a special district whose assets and facilities are
24 proposed to be assumed by a city or town, and to the governing body of
25 each city within three miles of the exterior boundaries of ((~~such~~)) the
26 area and to the proponent of ((~~such~~)) the change. Notice shall also be
27 given by publication in any newspaper of general circulation in the
28 area of the proposed boundary change at least three times, the last
29 publication of which shall be not less than five days prior to the date
30 set for the public hearing. Notice shall also be posted in ten public
31 places in the area affected for five days when the area is ten acres or
32 more. When the area affected is less than ten acres, five notices
33 shall be posted in five public places for five days. Notice as
34 provided in this subsection shall include any territory which the board
35 has determined to consider adding in accordance with RCW 36.93.150(2).

36 (2) A verbatim record shall be made of all testimony presented at
37 the hearing and upon request and payment of the reasonable costs

1 thereof, a copy of the transcript of ((such)) the testimony shall be
2 provided to any person or governmental unit.

3 (3) The chairman upon majority vote of the board or a panel may
4 direct the chief clerk of the boundary review board to issue subpoenas
5 to any public officer to testify, and to compel the production by him
6 of any records, books, documents, public records or public papers.

7 (4) Within forty days after the conclusion of the final hearing on
8 the proposal, the board shall file its written decision, setting forth
9 the reasons therefor, with the board of county commissioners and the
10 clerk of each governmental unit directly affected. The written
11 decision shall indicate whether the proposed change is approved,
12 rejected or modified and, if modified, the terms of ((such)) the
13 modification. The written decision need not include specific data on
14 every factor required to be considered by the board, but shall indicate
15 that all standards were given consideration. Dissenting members of the
16 board shall have the right to have their written dissents included as
17 part of the decision.

18 (5) Unanimous decisions of the hearing panel or a decision of a
19 majority of the members of the board shall constitute the decision of
20 the board and shall not be appealable to the whole board. Any other
21 decision shall be appealable to the entire board within ten days.
22 Appeals shall be on the record, which shall be furnished by the
23 appellant, but the board may, in its sole discretion, permit the
24 introduction of additional evidence and argument. Decisions shall be
25 final and conclusive unless within ((ten)) thirty days from the date of
26 ((said)) the action a governmental unit affected by the decision or any
27 person owning real property or residing in the area affected by the
28 decision files in the superior court a notice of appeal.

29 The filing of ((such)) the notice of appeal within ((such)) the
30 time limit shall stay the effective date of the decision of the board
31 until such time as the appeal shall have been adjudicated or withdrawn.
32 On appeal the superior court shall not take any evidence other than
33 that contained in the record of the hearing before the board.

34 (6) The superior court may affirm the decision of the board or
35 remand the case for further proceedings; or it may reverse the decision
36 if any substantial rights may have been prejudiced because the
37 administrative findings, inferences, conclusions, or decisions are:

38 (a) In violation of constitutional provisions, or

1 (b) In excess of the statutory authority or jurisdiction of the
2 board, or

3 (c) Made upon unlawful procedure, or

4 (d) Affected by other error of law, or

5 (e) Unsupported by material and substantial evidence in view of the
6 entire record as submitted, or

7 (f) (~~Arbitrary or capricious~~) Clearly erroneous.

8 An aggrieved party may seek appellate review of any final judgment of
9 the superior court in the manner provided by law as in other civil
10 cases.

11 **Sec. 17.** RCW 35.02.070 and 1986 c 234 s 9 are each amended to read
12 as follows:

13 (1) If a county legislative authority holds a public hearing on a
14 proposed incorporation, it shall establish and define the boundaries of
15 the proposed city or town, being authorized to decrease (~~but not~~) or
16 increase the area proposed in the petition(~~(, except for adjusting the~~
17 ~~boundaries out to the right of way line of any portion of a public~~
18 ~~highway, street, or road pursuant to RCW 35.02.170. Any decrease shall~~
19 ~~not exceed twenty percent of the area proposed or that portion of the~~
20 ~~area located within the county: PROVIDED, That the area shall not be~~
21 ~~so decreased that the number of inhabitants therein shall be less than~~
22 ~~required by RCW 35.02.010 as now or hereafter amended)) under the same
23 restrictions that a boundary review board may modify the proposed
24 boundaries. The county legislative authority, or the boundary review
25 board if it takes jurisdiction, shall determine the number of
26 inhabitants within the boundaries it has established.~~

27 (2) A county legislative authority shall disapprove the proposed
28 incorporation if, without decreasing the area proposed in the petition,
29 it does not conform with RCW 35.02.010. A county legislative authority
30 may not otherwise disapprove a proposed incorporation.

31 (3) A county legislative authority or boundary review board has
32 jurisdiction only over that portion of a proposed city or town located
33 within the boundaries of the county.

34 **Sec. 18.** RCW 35.02.078 and 1986 c 234 s 10 are each amended to
35 read as follows:

36 An election shall be held in the area proposed to be incorporated
37 to determine whether the proposed city or town shall be incorporated

1 ((if)) when the boundary review board (~~(approves or modifies and~~
2 ~~approves)~~) takes action on the proposal other than disapproving the
3 proposal, or if the county legislative authority does not disapprove
4 the proposal as provided in RCW 35.02.070. Voters at this election
5 shall determine if the area is to be incorporated.

6 The initial election on the question of incorporation shall be held
7 at the next special election date specified in RCW 29.13.020 that
8 occurs sixty or more days after the final public hearing by the county
9 legislative authority or authorities, or (~~the approval or modification~~
10 ~~and approval~~) action by the boundary review board or boards. The
11 county legislative authority or authorities shall call for this
12 election and, if the incorporation is approved, shall call for other
13 elections to elect the elected officials as provided in this section.
14 If the vote in favor of the incorporation receives forty percent or
15 less of the total vote on the question of incorporation, no new
16 election on the question of incorporation for the area or any portion
17 of the area proposed to be incorporated may be held for a period of
18 three years from the date of the election in which the incorporation
19 failed.

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

31 NEW SECTION. Sec. 19. A new section is added to chapter 43.21C
32 RCW to read as follows:

33 Annexation of territory by a city or town is exempted from
34 compliance with this chapter.

35 NEW SECTION. Sec. 20. The following acts or parts of acts are
36 each repealed:

1 (1) RCW 35.13.175 and 1973 1st ex.s. c 164 s 18 & 1965 c 7 s
2 35.13.175;

3 (2) RCW 35A.14.230 and 1967 ex.s. c 119 s 35A.14.230;

4 (3) RCW 36.93.115 and 1982 c 220 s 5; and

5 (4) RCW 36.93.152 and 1990 c 273 s 2.

6 NEW SECTION. **Sec. 21.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of the
8 state government and its existing public institutions, and shall take
9 effect immediately.

Passed the House March 6, 1994.

Passed the Senate March 3, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.