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**SUBSTITUTE SENATE BILL 5325**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on State & Local Government (originally sponsored by Senators Haugen, McCaslin, Rasmussen, Stevens, Goings, Winsley, Patterson, Spanel and Roach)

Read first time 03/03/1999.

1       AN ACT Relating to unincorporated area councils; amending RCW  
2 36.70.040; adding new sections to chapter 36.105 RCW; and repealing RCW  
3 36.105.010, 36.105.020, 36.105.030, 36.105.040, 36.105.050, 36.105.060,  
4 36.105.070, 36.105.080, 36.105.090, and 36.105.100.

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

6       NEW SECTION.   **Sec. 1.** Voters of the unincorporated areas of the  
7 state are authorized to establish unincorporated area councils as  
8 provided in this chapter.

9       It is the purpose of this chapter to provide residents of  
10 unincorporated areas with direct input in the preparation of a  
11 comprehensive plan for their community by establishing a governmental  
12 mechanism to develop a proposed subarea plan for a community that is  
13 consistent with the county's comprehensive plan. In addition, it is  
14 the purpose of this chapter to have unincorporated area councils serve  
15 as forums for the discussion of local issues.

16       NEW SECTION.   **Sec. 2.** Unincorporated area councils may be  
17 established in the unincorporated area of a county that is planning  
18 under chapter 36.70A RCW. A community for which an unincorporated area

1 council is created in a county with a population of less than one  
2 million must have at least one thousand residents when the  
3 unincorporated area council is created. A community for which an  
4 unincorporated area council is created in a county with a population of  
5 one million or more must have at least five thousand residents when the  
6 unincorporated area council is created.

7 NEW SECTION. **Sec. 3.** (1) The process to create an unincorporated  
8 area council shall be initiated by the filing of petitions with the  
9 county auditor of the county in which the community is located which:  
10 (a) Call for the creation of an unincorporated area council; (b) set  
11 forth proposed boundaries for the community; (c) indicate the number of  
12 members on the unincorporated area council, which shall be five, seven,  
13 or nine; and (d) contain signatures of voters residing within the  
14 community equal in number to at least ten percent of the voters  
15 residing in the community who voted at the last state general election.  
16 The county auditor shall determine if the petitions contain a  
17 sufficient number of valid signatures and certify to the county  
18 legislative authority the sufficiency of the petitions within fifteen  
19 days of when the petitions were filed.

20 (2) If the petitions are certified as having sufficient valid  
21 signatures, the county legislative authority shall hold a public  
22 hearing within the community on the creation of the proposed  
23 unincorporated area council no later than sixty days after the  
24 certification. Notice of the public hearing shall be published in a  
25 newspaper of general circulation in the community for at least once a  
26 week for two consecutive weeks, with the last date of publication no  
27 more than ten days prior to the date of the public hearing. At least  
28 ten days before the public hearing, additional notice shall be posted  
29 conspicuously in at least five places within the community in a manner  
30 designed to attract public attention.

31 (3) After receiving testimony on the creation of the proposed  
32 unincorporated area council, the county legislative authority must  
33 remove any area from the proposed community that may not be included  
34 within a community and may otherwise alter the boundaries of the  
35 proposed community, but such an alteration may not reduce the number of  
36 persons living within the community by more than ten percent or below  
37 the minimum number of residents who must reside within the community at  
38 the time of the creation of the unincorporated area council. If

1 territory is added to the community, another public hearing on the  
2 proposal shall be held.

3 (4) The county legislative authority shall call a special election  
4 within the community to determine whether the proposed unincorporated  
5 area council shall be created, and to elect the initial unincorporated  
6 area councilmembers, at the next state general election occurring  
7 seventy-five or more days after the initial public hearing on the  
8 creation of the proposed unincorporated area council. The  
9 unincorporated area council shall be created if the ballot proposition  
10 authorizing the creation of the unincorporated area council is approved  
11 by a simple majority vote of the voters of the community voting on the  
12 proposition.

13 NEW SECTION. **Sec. 4.** The initial members of an unincorporated  
14 area council shall be elected at the same election as the ballot  
15 proposition is submitted authorizing the creation of the unincorporated  
16 area council. However, the election of the initial councilmembers  
17 shall be null and void if the ballot proposition authorizing the  
18 creation of the unincorporated area council is not approved by a simple  
19 majority vote of the voters of the community voting on the proposition.

20 No primary election shall be held to nominate candidates for  
21 initial council positions. Candidates shall run for specific council  
22 positions. The person receiving the greatest number of votes for each  
23 council position shall be elected as an initial councilmember.  
24 Staggering of terms of office shall be accomplished by having the  
25 simple majority of the persons who are elected receiving the greatest  
26 number of votes being elected to four-year terms of office, and the  
27 remaining persons who are elected being elected to two-year terms of  
28 office, if the election was held in the same year as the year in which  
29 members of the county legislative authority normally are elected, or  
30 the simple majority of the persons who are elected receiving the  
31 greatest number of votes being elected to three-year terms of office,  
32 and the remaining persons who are elected being elected to one-year  
33 terms of office, if the election was held in a year in which members of  
34 the county legislative authority normally are not elected, with the  
35 terms of office being computed from the first day of January in the  
36 year following the election. Initial councilmembers shall take office  
37 immediately when qualified in accordance with RCW 29.01.135.

1        NEW SECTION.    **Sec. 5.** Unincorporated area councilmembers shall be  
2 elected to staggered four-year terms of office until their successors  
3 are elected and qualified. Each council position shall be numbered  
4 separately. Candidates shall run for specific council positions. The  
5 number of council positions shall be five, seven, or nine, as specified  
6 in the petition calling for the creation of the unincorporated area  
7 council. At every other general election when councilmembers are  
8 elected, the number of councilmembers who are normally elected shall  
9 vary by one.

10        Except as provided in this chapter, unincorporated area  
11 councilmembers shall be nominated and elected at nonpartisan elections  
12 pursuant to general election laws. The county shall pay for the costs  
13 of all elections associated with unincorporated area councils and the  
14 election of councilmembers.

15        The terms of office of each councilmember shall be reduced by one  
16 year if the voters of the county approve a county charter or an  
17 amendment to a county charter altering the year in which members of the  
18 county legislative authority normally are elected.

19        The provisions of this section apply to the election and terms of  
20 office of the initial unincorporated area councilmembers, except as  
21 provided in section 4 of this act.

22        Vacancies on an unincorporated area council occur as provided in  
23 RCW 42.12.010 and shall be filled as provided in RCW 42.12.070.

24        NEW SECTION.    **Sec. 6.** An unincorporated area council may develop  
25 and transmit a proposed subarea plan to the county legislative  
26 authority for its review. The proposed subarea plan must be consistent  
27 with the county's comprehensive plan and the county shoreline master  
28 program. An unincorporated area council shall have the same powers and  
29 duties within its boundaries as a planning commission established under  
30 RCW 36.70.030. In assisting the county planning agency in the  
31 preparation or revision of a subarea plan and development regulations  
32 for the area within its boundaries, the unincorporated area council  
33 shall address all of the required elements of a comprehensive plan and  
34 any optional elements selected by the county. The proposed subarea  
35 plan must be based on the growth management population projection made  
36 for the county by the office of financial management, as allocated to  
37 the area served by the unincorporated area council by the county  
38 planning agency. Within ninety days of transmittal of the subarea plan

1 to the county legislative authority, the county legislative authority  
2 or planning commission shall hold a public hearing. The subarea plan  
3 shall be the only agenda item at the public hearing. The hearing shall  
4 be conducted by the county legislative authority unless such hearing is  
5 specifically delegated to the planning commission. To the extent  
6 possible, the county legislative authority or planning commission shall  
7 hold any hearings on the subarea plan within the boundaries of the  
8 unincorporated area council.

9 NEW SECTION. **Sec. 7.** Unincorporated area councils shall not have  
10 the authority to take quasi-judicial actions nor to decide permit  
11 applications. Unincorporated area councils shall serve as forums for  
12 the discussion of local issues. The county may provide administrative  
13 and staff support for each unincorporated area council within its  
14 boundaries.

15 Among other general laws, unincorporated area councils are subject  
16 to chapter 42.30 RCW, the open public meetings act, and chapter 42.17  
17 RCW, the public disclosure act.

18 NEW SECTION. **Sec. 8.** An unincorporated area council may provide  
19 for the annexation of adjacent unincorporated areas in the same county  
20 to the community that legally may be included within the community that  
21 are not included within another community for which an unincorporated  
22 area council has been established.

23 Annexations shall be initiated by either resolution of the  
24 unincorporated area council proposing the annexation or petition of  
25 voters residing in the adjacent area, which petition: (1) Requests the  
26 annexation; (2) sets forth the boundaries of the area proposed to be  
27 annexed; and (3) contains signatures of voters residing within the area  
28 that is proposed to be annexed equal in number to at least ten percent  
29 of the voters residing in that area who voted at the last state general  
30 election. Annexation petitions shall be filed with the county auditor  
31 who shall determine if the petitions contain a sufficient number of  
32 valid signatures, certify the sufficiency of the petitions, and notify  
33 the unincorporated area council of the sufficiency of the petitions  
34 within fifteen days of when the petitions are submitted.

35 A ballot proposition authorizing the annexation shall be submitted  
36 to the voters of the area that is proposed to be annexed at a primary  
37 or general election in either an odd-numbered or even-numbered year, if

1 the unincorporated area council initiated the annexation by resolution  
2 or if the unincorporated area council concurs in an annexation that was  
3 initiated by the submission of annexation petitions containing  
4 sufficient valid signatures. The annexation shall occur if the ballot  
5 proposition authorizing the annexation is approved by a simple majority  
6 vote of the voters of the area proposed to be annexed voting on the  
7 proposition.

8 NEW SECTION. **Sec. 9.** An unincorporated area council that is  
9 located in a county with a population of less than one million shall be  
10 dissolved if the population of the community is reduced to less than  
11 five hundred persons. An unincorporated area council that is located  
12 in a county with a population of one million or more shall be dissolved  
13 if the population of the community is reduced to less than two thousand  
14 five hundred persons.

15 The question of whether an unincorporated area council should be  
16 retained shall be submitted to the voters of a community at the next  
17 general election at which unincorporated area councilmembers would be  
18 elected that occur at least twelve years after the creation or latest  
19 affirmative vote to retain the unincorporated area council. The  
20 unincorporated area council shall be retained if the proposition to  
21 retain the unincorporated area council is approved by a simple majority  
22 vote of the voters of the community voting on the proposition. The  
23 election for council positions shall be held as if the ballot  
24 proposition on retaining the unincorporated area council were not  
25 submitted. If the unincorporated area council is retained, the persons  
26 who are newly elected members of the council and the other members of  
27 the council whose terms have not expired shall constitute the members  
28 of the unincorporated area council. If the unincorporated area council  
29 is not retained, the election of the new councilmembers is null and  
30 void, and the unincorporated area council shall be dissolved.

31 **Sec. 10.** RCW 36.70.040 and 1963 c 4 s 36.70.040 are each amended  
32 to read as follows:

33 By ordinance a board may, as an alternative to and in lieu of the  
34 creation of a planning commission as provided in RCW 36.70.030, create  
35 a planning department which shall be organized and function as any  
36 other department of the county. When such department is created, the  
37 board shall also create a planning commission which shall assist the

1 planning department in carrying out its duties, including assistance in  
2 the preparation and execution of the comprehensive plan and  
3 recommendations to the department for the adoption of official controls  
4 and/or amendments thereto. To this end, the planning commission shall  
5 conduct such hearings as are required by this chapter and shall make  
6 findings and conclusions therefrom which shall be transmitted to the  
7 department which shall transmit the same on to the board with such  
8 comments and recommendations it deems necessary. However, hearings  
9 concerning a subarea plan proposed by an unincorporated area council  
10 shall be conducted by the board unless such hearings are specifically  
11 delegated to the planning commission.

12 NEW SECTION. **Sec. 11.** The following acts or parts of acts are  
13 each repealed:

- 14 (1) RCW 36.105.010 (Purpose) and 1991 c 363 s 99;
- 15 (2) RCW 36.105.020 (Definitions) and 1991 c 363 s 100;
- 16 (3) RCW 36.105.030 (Minimum requirements) and 1991 c 363 s 101;
- 17 (4) RCW 36.105.040 (Creation) and 1991 c 363 s 102;
- 18 (5) RCW 36.105.050 (Election of initial community councilmembers)  
19 and 1991 c 363 s 103;
- 20 (6) RCW 36.105.060 (Community councilmembers--Election--Terms) and  
21 1991 c 363 s 104;
- 22 (7) RCW 36.105.070 (Responsibility of county legislative authority)  
23 and 1991 c 363 s 105;
- 24 (8) RCW 36.105.080 (Powers) and 1991 c 363 s 106;
- 25 (9) RCW 36.105.090 (Annexation) and 1991 c 363 s 107; and
- 26 (10) RCW 36.105.100 (Dissolution) and 1991 c 363 s 108.

27 NEW SECTION. **Sec. 12.** Sections 1 through 9 of this act are each  
28 added to chapter 36.105 RCW.

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