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**SENATE BILL 5325**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senators Haugen, McCaslin, Rasmussen, Stevens, Goings, Winsley, Patterson, Spanel and Roach

Read first time 01/20/1999. Referred to Committee on State & Local Government.

1 AN ACT Relating to unincorporated area councils; adding new  
2 sections to chapter 36.105 RCW; and repealing RCW 36.105.010,  
3 36.105.020, 36.105.030, 36.105.040, 36.105.050, 36.105.060, 36.105.070,  
4 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 voters of  
10 unincorporated areas with direct input on the zoning of their community  
11 by establishing a governmental mechanism to develop a proposed  
12 community zoning ordinance for a community that is consistent with the  
13 county's comprehensive plan and an ordinance adopted by the county  
14 legislative authority establishing a guide and framework for community  
15 zoning ordinances. In addition, it is the purpose of this chapter to  
16 have unincorporated area councils serve as forums for the discussion of  
17 local issues.

1        NEW SECTION.        **Sec. 2.**        Unless the context clearly requires  
2 otherwise, the definitions in this section apply throughout this  
3 chapter.

4        (1) "Community" means a portion of the unincorporated area for  
5 which an unincorporated area council has been established.

6        (2) "Community zoning ordinance" means the zoning ordinance that is  
7 developed and endorsed by an unincorporated area council, and approved  
8 and adopted by the county legislative authority as implementing and  
9 consistent with the county's comprehensive plan and the county  
10 ordinance adopted under section 7(1) of this act.

11        (3) "Unincorporated area council" means the governing body  
12 established under this chapter to develop and endorse a proposed  
13 community zoning ordinance for a community.

14        NEW SECTION.        **Sec. 3.**        Unincorporated area councils may be  
15 established only in the unincorporated area of a county that is  
16 planning under chapter 36.70A RCW.        A community for which an  
17 unincorporated area council is created in a county with a population of  
18 less than one million must have at least one thousand residents when  
19 the unincorporated area council is created or, where the community only  
20 includes an entire island, at least three hundred residents when the  
21 unincorporated area council is created.        A community for which an  
22 unincorporated area council is created in a county with a population of  
23 one million or more must have at least five thousand residents when the  
24 unincorporated area council is created.        Any portion of such a  
25 community that is annexed by a city or town, or is incorporated as a  
26 city or town, shall be removed from the community upon the effective  
27 date of the annexation or the official date of the incorporation.

28        NEW SECTION.        **Sec. 4.**        (1) The process to create an unincorporated  
29 area council shall be initiated by the filing of petitions with the  
30 county auditor of the county in which the community is located which:  
31 (a) Call for the creation of an unincorporated area council; (b) set  
32 forth proposed boundaries for the community; (c) indicate the number of  
33 members on the unincorporated area council, which shall be five, seven,  
34 nine, or eleven; and (d) contain signatures of voters residing within  
35 the community equal in number to at least ten percent of the voters  
36 residing in the community who voted at the last state general election.  
37 The county auditor shall determine if the petitions contain a

1 sufficient number of valid signatures and certify to the county  
2 legislative authority the sufficiency of the petitions within fifteen  
3 days of when the petitions were filed.

4 (2) If the petitions are certified as having sufficient valid  
5 signatures, the county legislative authority shall hold a public  
6 hearing within the community on the creation of the proposed  
7 unincorporated area council no later than sixty days after the  
8 certification. Notice of the public hearing shall be published in a  
9 newspaper of general circulation in the community for at least once a  
10 week for two consecutive weeks, with the last date of publication no  
11 more than ten days prior to the date of the public hearing. At least  
12 ten days before the public hearing, additional notice shall be posted  
13 conspicuously in at least five places within the community in a manner  
14 designed to attract public attention.

15 (3) After receiving testimony on the creation of the proposed  
16 unincorporated area council, the county legislative authority must  
17 remove any area from the proposed community that may not be included  
18 within a community and may otherwise alter the boundaries of the  
19 proposed community, but such an alteration may not reduce the number of  
20 persons living within the community by more than ten percent or below  
21 the minimum number of residents who must reside within the community at  
22 the time of the creation of the unincorporated area council. If  
23 territory is added to the community, another public hearing on the  
24 proposal shall be held.

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

35 NEW SECTION. **Sec. 5.** The initial members of an unincorporated  
36 area council shall be elected at the same election as the ballot  
37 proposition is submitted authorizing the creation of the unincorporated  
38 area council. However, the election of the initial councilmembers

1 shall be null and void if the ballot proposition authorizing the  
2 creation of the unincorporated area council is not approved by a simple  
3 majority vote of the voters of the community voting on the proposition.  
4 No primary election shall be held to nominate candidates for  
5 initial council positions. Candidates shall run for specific council  
6 positions. The person receiving the greatest number of votes for each  
7 council position shall be elected as an initial councilmember.  
8 Staggering of terms of office shall be accomplished by having the  
9 simple majority of the persons who are elected receiving the greatest  
10 number of votes being elected to four-year terms of office, and the  
11 remaining persons who are elected being elected to two-year terms of  
12 office, if the election was held in the same year as the year in which  
13 members of the county legislative authority normally are elected, or  
14 the simple majority of the persons who are elected receiving the  
15 greatest number of votes being elected to three-year terms of office,  
16 and the remaining persons who are elected being elected to one-year  
17 terms of office, if the election was held in a year in which members of  
18 the county legislative authority normally are not elected, with the  
19 terms of office being computed from the first day of January in the  
20 year following the election. Initial councilmembers shall take office  
21 immediately when qualified in accordance with RCW 29.01.135.

22 NEW SECTION. **Sec. 6.** Unincorporated area councilmembers shall be  
23 elected to staggered four-year terms of office until their successors  
24 are elected and qualified. Each council position shall be numbered  
25 separately. Candidates shall run for specific council positions. The  
26 number of council positions shall be five, seven, nine, or eleven, as  
27 specified in the petition calling for the creation of the  
28 unincorporated area council. At every other general election when  
29 councilmembers are elected, the number of councilmembers who are  
30 normally elected shall vary by one.

31 Except as provided in this chapter, unincorporated area  
32 councilmembers shall be nominated and elected at nonpartisan elections  
33 pursuant to general election laws. The county shall pay for the costs  
34 of all elections associated with unincorporated area councils and the  
35 election of councilmembers.

36 The terms of office of each councilmember shall be reduced by one  
37 year if the voters of the county approve a county charter or an

1 amendment to a county charter altering the year in which members of the  
2 county legislative authority normally are elected.

3 The provisions of this section apply to the election and terms of  
4 office of the initial unincorporated area councilmembers, except as  
5 provided in section 5 of this act.

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

8 NEW SECTION. **Sec. 7.** (1) A community zoning ordinance shall be  
9 developed and adopted as follows:

10 (a) Within one hundred twenty days after the election at which an  
11 initial unincorporated area council is elected, the county legislative  
12 authority shall adopt an ordinance establishing policies and conditions  
13 serving as an overall guide and framework for the development of  
14 proposed community zoning ordinances. The ordinance may include  
15 factors and provisions of general importance that must be included in  
16 a proposed community zoning ordinance for a particular community.

17 (b) An unincorporated area council shall develop and endorse a  
18 proposed community zoning ordinance to the county legislative authority  
19 for its review and approval or rejection that implements and is  
20 consistent with the general county ordinance adopted under (a) of this  
21 subsection and the county's comprehensive plan. Where applicable, the  
22 county's comprehensive plan includes, but is not limited to, designated  
23 lands and areas under RCW 36.70A.170, conserving lands and protecting  
24 areas under RCW 36.70A.060, retaining the urban nature of urban growth  
25 areas and interim urban growth areas designated under RCW 36.70A.110  
26 and the nonurban nature of areas outside of designated urban growth  
27 areas and interim urban growth areas, and other actions taken by the  
28 county legislative authority under chapter 36.70A RCW. A proposed  
29 community zoning ordinance may not alter the county's shoreline master  
30 program.

31 The county legislative authority shall either approve the proposed  
32 community zoning ordinance and adopt the proposed community zoning  
33 ordinance as submitted, or refer the proposed community zoning  
34 ordinance back to the unincorporated area council with written findings  
35 specifying the inconsistencies, within ninety days after it is  
36 submitted. The county zoning ordinance shall remain in effect in the  
37 community until a proposed community zoning ordinance has been approved  
38 by the county legislative authority using this procedure.

1 An approved community zoning ordinance in a county that is required  
2 or chooses to plan under RCW 36.70A.040 is subject to potential appeal  
3 to a growth planning hearings board under chapter 36.70A RCW. Such an  
4 appeal must be filed within sixty days after the publication by the  
5 county.

6 (c) An unincorporated area council may develop and endorse proposed  
7 amendments to an approved community zoning ordinance, that implement  
8 and are consistent with the general county ordinance adopted under (a)  
9 of this subsection and the county comprehensive plan, and submit the  
10 proposed amendments to the county legislative authority for its review  
11 and approval or rejection under the same procedure and conditions  
12 specified under (b) of this subsection for the review of a proposed  
13 community zoning ordinance. The approved community zoning ordinance  
14 shall remain in effect in the community until the proposed amendments  
15 have been approved and adopted by the county legislative authority  
16 using this procedure.

17 An approved amendment to a community zoning ordinance in a county  
18 that is required or chooses to plan under RCW 36.70A.040 is subject to  
19 potential appeal to a growth planning hearings board under chapter  
20 36.70A RCW. Such an appeal must be filed within sixty days after  
21 publication by the county.

22 (d) If the county legislative authority amends the county's  
23 comprehensive plan or the general county ordinance it adopted under (a)  
24 of this subsection, each unincorporated area council shall develop and  
25 endorse proposed amendments to its approved community zoning ordinance  
26 that are consistent with and implement the amended county comprehensive  
27 plan or amended county ordinance following the procedure specified  
28 under (c) of this subsection. The county legislative authority may  
29 directly amend a community zoning ordinance to achieve consistency with  
30 the amended county comprehensive plan or amended general county  
31 ordinance to be in effect until adequate proposed amendments to the  
32 community zoning ordinance that are developed and endorsed by the  
33 unincorporated area council have been approved and adopted by the  
34 county legislative authority. Nothing in this subsection (1)(d)  
35 precludes an unincorporated area council from subsequently obtaining  
36 approval of its proposed amendments to the community zoning ordinance  
37 that is so altered by the county legislative authority.

38 (2) The county legislative authority shall enforce a community  
39 zoning ordinance that it approves and adopts. An unincorporated area

1 council shall not have authority to take quasi-judicial actions or to  
2 decide permit applications. All quasi-judicial actions and permits  
3 relating to a community zoning ordinance shall be made and decided by  
4 the county legislative authority or otherwise as provided by the county  
5 legislative authority.

6 The county shall provide administrative and staff support for each  
7 unincorporated area council within its boundaries and shall defend each  
8 unincorporated area council in any lawsuit over the actions taken by  
9 the unincorporated area council under this chapter.

10 NEW SECTION. **Sec. 8.** Unincorporated area councils shall not have  
11 the authority to take quasi-judicial actions nor to decide permit  
12 applications. Unincorporated area councils shall serve as forums for  
13 the discussion of local issues.

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

17 NEW SECTION. **Sec. 9.** An unincorporated area council may provide  
18 for the annexation of adjacent unincorporated areas in the same county  
19 to the community that legally may be included within the community that  
20 are not included within another community for which an unincorporated  
21 area council has been established.

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

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

1 or if the unincorporated area council concurs in an annexation that was  
2 initiated by the submission of annexation petitions containing  
3 sufficient valid signatures. The annexation shall occur if the ballot  
4 proposition authorizing the annexation is approved by a simple majority  
5 vote of the voters of the area proposed to be annexed voting on the  
6 proposition. The county's zoning ordinances shall continue in effect  
7 in the annexed area until proposed amendments to the approved community  
8 zoning ordinance have been approved and adopted by the county  
9 legislative authority that apply to the annexed area.

10 NEW SECTION. **Sec. 10.** An unincorporated area council that is  
11 located in a county with a population of less than one million shall be  
12 dissolved if the population of the community is reduced to less than  
13 five hundred persons, or to less than two hundred persons if the  
14 community only included an entire island at the time of creation of the  
15 unincorporated area council. An unincorporated area council that is  
16 located in a county with a population of one million or more shall be  
17 dissolved if the population of the community is reduced to less than  
18 two thousand five hundred persons.

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

35 Whenever an unincorporated area council is dissolved, the approved  
36 community zoning ordinance remains in effect until altered by the  
37 county legislative authority.



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

- 3        (1) RCW 36.105.010 and 1991 c 363 s 99;
- 4        (2) RCW 36.105.020 and 1991 c 363 s 100;
- 5        (3) RCW 36.105.030 and 1991 c 363 s 101;
- 6        (4) RCW 36.105.040 and 1991 c 363 s 102;
- 7        (5) RCW 36.105.050 and 1991 c 363 s 103;
- 8        (6) RCW 36.105.060 and 1991 c 363 s 104;
- 9        (7) RCW 36.105.070 and 1991 c 363 s 105;
- 10       (8) RCW 36.105.080 and 1991 c 363 s 106;
- 11       (9) RCW 36.105.090 and 1991 c 363 s 107; and
- 12       (10) RCW 36.105.100 and 1991 c 363 s 108.

13       NEW SECTION.    **Sec. 12.**    Sections 1 through 10 of this act are each  
14 added to chapter 36.105 RCW.

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