

mit the commencement of another action thereon. If action to enforce a lien is not prosecuted to judgment within two years after its commencement, the court may dismiss it for want of prosecution, and the dismissal or judgment that no lien exists, shall constitute a cancellation of the lien.

SEC. 6. Nothing contained in this act shall affect or lessen any existing rights. Existing rights unaffected.

Passed the Senate March 3, 1955.

Passed the House March 8, 1955.

Approved by the Governor March 21, 1955.

CHAPTER 337.

[S. B. 282.]

CITIES AND TOWNS—COUNCIL-MANAGER PLAN—FINANCES.

AN ACT relating to the council-manager plan for municipal corporations; and amending sections 4, 6, 8, 12 and 17, chapter 271, Laws of 1943 and RCW 35.18.010, 35.18.020, 35.18.040, 35.18.050, 35.18.060, 35.18.090, 35.18.100, 35.18.190, 35.18.200, 35.18.210 and 35.18.270; section 19, chapter 271, Laws of 1943 and RCW 35.18.110 and 35.18.150; section 14, chapter 271, Laws of 1943 and RCW 35.18.120 through 35.18.140; section 7, chapter 271, Laws of 1943 and RCW 35.18.170; sections 2 and 5, chapter 271, Laws of 1943 and RCW 35.18.240 and 35.18.250; sections 1 and 5, chapter 61, Laws of 1929 and section 1, chapter 27, Laws of 1941 and RCW 35.27.420, 35.27.450, 35.27.460, 35.27.470 and 35.27.480; section 6, chapter 158, Laws of 1923 and RCW 35.33.080, 35.33.090, 35.33.100 and 35.33.150; and adding a new section to chapter 35.18 RCW.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Sections 4, 6, 8, 12 and 17, chapter 271, Laws of 1943, and sections 1, 2 and 3, chapter 84, Laws of 1949 (heretofore divided, combined and codified as RCW 35.18.010, 35.18.020, 35.18.040, 35.18.050, 35.18.060, 35.18.090, 35.18.100, 35.18.190, 35-

Amendment.

.18.200, 35.18.210 and 35.18.270) are amended to read as set forth in sections 2 through 12 of this act.

Enacted without amendment. Councilmen only elected officials.

"City manager" appointed.

SEC. 2. (RCW 35.18.010) Under the council-manager plan of city government, the councilmen shall be the only elective officials. The council shall appoint an officer whose title shall be "city manager" who shall be the chief executive officer and head of the administrative branch of city or town government. The city manager shall be responsible to the council for the proper administration of all affairs of the city or town.

Determination of number of councilmen.

SEC. 3. (RCW 35.18.020) The number of councilmen shall be in proportion to the population of the city or town as determined by the last preceding federal census as follows:

(1) A city or town having not more than two thousand inhabitants, five councilmen;

(2) A city having more than two thousand, but not more than twenty thousand inhabitants, seven councilmen.

Election and terms.

All councilmen shall be elected at large or from such wards or districts as may be established by ordinance, and shall serve for a term of four years and until their successors are elected and qualified:

First election.

Provided, however, That at the first election, the following shall apply:

(a) At the first election, one councilman shall be nominated and elected from each ward or such other existing district of said city as may have been established for the election of members of the legislative body of the city and the remaining councilmen shall be elected at large; but if there are no such wards or districts in the city, or at an initial election for the incorporation of a community, the councilmen shall be elected at large.

Terms determined.

(b) In cities electing five councilmen, the candidates having the three highest number of votes shall be elected for a four year term and the other

two for a two year term and until their successors are elected and qualified.

(c) In cities electing seven councilmen, the candidates having the four highest number of votes shall be elected for a four year term and the other three for a two year term and until their successors are elected and qualified.

(d) In determining the candidates receiving the highest number of votes, only the candidate receiving the highest number of votes in each ward, as well as the councilman-at-large or councilmen-at-large, are to be considered. When a municipality has qualified for an increase in the number of councilmen from five to seven by virtue of the next succeeding federal census after the majority of the voters thereof have approved operation under the council-manager plan, at the first election when two additional councilmen are to be elected, one of the two additional councilmen receiving the highest number of votes shall be elected for a four year term and the other additional councilman shall be elected for a two year term.

Determining candidates votes.

Procedure when city qualifies for increase in number of councilmen.

If a vacancy in the council occurs, the remaining members shall appoint a person to fill such office only until the next regular general municipal election at which a person shall be elected to serve for the remainder of the unexpired term.

Council vacancy; filling of.

SEC. 4. (RCW 35.18.040) The city manager need not be a resident. He shall be chosen by the council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office. No person elected to membership on the council shall be eligible for appointment as city manager until one year has elapsed following the expiration of the term for which he was elected.

Enacted without amendment. City manager; may be non-resident; basis for choice.

Enacted
without
amendment.

City manager;
official oath
and execution
of bond.

SEC. 5. (RCW 35.18.050) Before entering upon the duties of his office the city manager shall take the official oath for the support of the government and the faithful performance of his duties and shall execute and file with the clerk of the council a bond in favor of the city or town in such sum as may be fixed by the council.

Powers and
duties of the
city manager.

SEC. 6. (RCW 35.18.060) The powers and duties of the city manager shall be:

(1) To have general supervision over the administrative affairs of the municipality;

(2) To appoint and remove at any time all department heads, officers, and employees of the city or town, except members of the council, and subject to the provisions of any applicable law, rule, or regulation relating to civil service: *Provided*, That the council may provide for the appointment by the mayor, subject to confirmation by the council, of the city planning commission, and other advisory citizens' committees, commissions and boards advisory to the city council: *Provided further*, That the city manager shall appoint the police judge, subject to confirmation by the council. The council may cause an audit to be made of any department or office of the city or town government and may select the persons to make it, without the advice or consent of the city manager;

(3) To attend all meetings of the council at which his attendance may be required by that body;

(4) To see that all laws and ordinances are faithfully executed, subject to the authority which the council may grant the mayor to maintain law and order in times of emergency;

(5) To recommend for adoption by the council such measures as he may deem necessary or expedient;

(6) To prepare and submit to the council such

reports as may be required by that body or as he may deem it advisable to submit;

(7) To keep the council fully advised of the financial condition of the city or town and its future needs;

(8) To prepare and submit to the council a tentative budget for the fiscal year;

(9) To perform such other duties as the council may determine by ordinance or resolution.

SEC. 7. (RCW 35.18.090) The city manager may authorize the head of a department or office responsible to him to appoint and remove subordinates in such department or office. Any officer or employee who may be appointed by the city manager, or by the head of a department or office, except one who holds his position subject to civil service, may be removed by the manager or other such appointing officer at any time. Subject to the provisions of RCW 35.18.060, the decision of the manager or other appointing officer, shall be final and there shall be no appeal therefrom to any other office, body, or court whatsoever.

Enacted without amendment.

Delegation by city manager of right of appointment or removal.

SEC. 8. (RCW 35.18.100) Appointments made by or under the authority of the city manager shall be on the basis of executive and administrative ability and of the training and experience of the appointees in the work which they are to perform. Residence within the city or town shall not be a requirement. All such appointments shall be without definite term.

Enacted without amendment.

Basis of appointments.

SEC. 9. (RCW 35.18.190) Biennially at the first meeting of the new council the members thereof shall choose a chairman from among their number who shall have the title of mayor. In addition to the powers conferred upon him as mayor, he shall continue to have all the rights, privileges and immunities of a member of the council.

Enacted without amendment.

Council members choose chairman titled mayor.

Enacted without amendment.

Duties of mayor.

SEC. 10. (RCW 35.18.200) The mayor shall preside at meetings of the council, and be recognized as the head of the city or town for all ceremonial purposes and by the governor for purposes of military law.

He shall have no regular administrative duties, but in time of public danger or emergency, if so authorized by the council, shall take command of the police, maintain law, and enforce order.

Enacted without amendment.

Mayor pro tempore.

SEC. 11. (RCW 35.18.210) If a vacancy occurs in the office of mayor, or in case of the incumbent's absence or disability, a mayor pro tempore selected by the members of the council from among their number shall act as mayor for the unexpired term or during the continuance of the absence or disability.

Enacted without amendment.

Council elected; when.

SEC. 12. (RCW 35.18.270) If the majority of the votes cast at an election for organization on the council-manager plan favor the plan, the city or town at its next regular election shall elect the council required under the council-manager plan in number according to the population of the municipality. They shall take office at the time provided by general law.

Division and amendment.

SEC. 13. Section 19, chapter 271, Laws of 1943 (heretofore codified as RCW 35.18.110 and 35.18.150) is divided and amended as set forth in sections 14 and 15 of this act.

Limitations on council in dealing with administrative services and personnel.

SEC. 14. (RCW 35.18.110) Neither the council, nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the city manager or any of his subordinates. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the manager and neither the council nor any committee or member thereof shall give orders to any subordinate of the city manager, either publicly or privately: *Provided,*

however, That nothing herein shall be construed to prohibit the council, while in open session, from fully and freely discussing with the city manager anything pertaining to appointments and removals of city officers and employees and city affairs.

Discussion in open sessions permitted.

SEC. 15. (RCW 35.18.150) Only a qualified elector of the city or town may be a member of the council and upon ceasing to be such, or upon being convicted of a crime involving moral turpitude, or of violating the provisions of RCW 35.18.110, he shall immediately forfeit his office.

Enacted without amendment.

Forfeiture of office required of council member.

SEC. 16. Section 14, chapter 271, Laws of 1943 (heretofore codified as RCW 35.18.120 through 35.18.140) is divided and amended as set forth in sections 17 through 19 of this act.

Division and amendment.

SEC. 17. (RCW 35.18.120) The city manager shall be appointed for an indefinite term and may be removed by a majority vote of the council.

Term and removal of city manager.

At least thirty days before the effective date of his removal, the city manager must be furnished with a formal statement in the form of a resolution passed by a majority vote of the city council stating the council's intention to remove him and the reasons therefor. Upon passage of the resolution stating the council's intention to remove the manager, the council by a similar vote may suspend him from duty, but his pay shall continue until his removal becomes effective.

Removal resolution.

Suspension from duty.

SEC. 18. (RCW 35.18.130) The city manager may, within thirty days from the date of service upon him of a copy thereof, reply in writing to the resolution stating the council's intention to remove him. In the event no reply is timely filed, the resolution shall upon the thirty-first day from the date of such service, constitute the final resolution removing the manager, and his services shall terminate upon that day. If a reply shall be timely filed with its clerk,

Enacted without amendment.

Reply to resolution.

Final resolution and termination.

Public hearing. the council shall fix a time for a public hearing upon the question of the manager's removal and a final resolution removing the manager shall not be adopted until a public hearing has been had. The action of the council in removing the manager shall be final.

Council's removal action final.

When council may designate officer to perform duties of manager. SEC. 19. (RCW 35.18.140) The council may designate a qualified administrative officer of the city or town to perform the duties of manager:

- (1) Upon the adoption of the council-manager plan, pending the selection and appointment of a manager; or
- (2) Upon the termination of the services of a manager, pending the selection and appointment of a new manager; or
- (3) During the absence, disability, or suspension of the manager.

Amendment. SEC. 20. Section 7, chapter 271, Laws of 1943 and RCW 35.18.170 are each amended to read as follows:

Council meetings. The council shall meet at the times and places fixed by ordinance but must hold at least one regular meeting each month. The clerk shall call special meetings of the council upon request of the mayor or any two members. At all meetings of the city council, a majority of the councilmen shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. Requests for special meetings shall state the subject to be considered and no other subject shall be considered at a special meeting.

Quorum.

Special meetings; request for.

Council and its committee meetings public. All meetings of the council and of committees thereof shall be open to the public and the rules of the council shall provide that citizens of the city or town shall have a reasonable opportunity to be heard at any meetings in regard to any matter being considered thereat.

SEC. 21. Sections 2 and 5, chapter 271, Laws of 1943 (heretofore divided, combined and codified as RCW 35.18.240 and 35.18.250) are amended to read as set forth in sections 22 and 23 of this act. Amendment.

SEC. 22. (RCW 35.18.240) Petitions to reorganize a city or town on the council-manager plan must be signed by registered voters resident therein equal in number to at least twenty percent of the votes cast for all candidates for mayor at the last preceding municipal election. In addition to the signature and residence addresses of the petitioners thereon, a petition must contain an affidavit stating the number of signers thereon at the time the affidavit is made. Petitions to reorganize city on council-manager plan; signatures and other information required.

Petitions containing the required number of signatures shall be accepted by the city or town clerk as prima facie valid until their invalidity has been proved. Petitions deemed prima facie valid.

A variation on such petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names or both shall not invalidate the signature on the petition if the surname and handwriting are the same. Signatures, including the original, of any voter who has signed such petitions two or more times shall be stricken. Variation in signatures.

SEC. 23. (RCW 35.18.250) Upon the filing of a petition for the adoption of the council-manager plan of government, or upon resolution of the council to that effect, the mayor, only after the petition has been found to be valid, by proclamation issued within ten days after the filing of the petition or the resolution with the clerk, shall submit the question at a special election to be held at a time specified in the proclamation, which shall be as soon as possible after the sufficiency of the petition has been determined or after the said resolution of the council has been enacted, but in any case not less than ninety days Mayor, by proclamation, shall submit question of adoption of council-manager plan at special election.

before the next regular municipal election therein. All acts necessary to hold this election, including legal notice, jurisdiction and canvassing of returns, shall be conducted in accordance with existing law.

Declarations of candidacy.

Declarations of candidacy for city or town elective positions under the council-manager plan for cities and towns already in existence shall be filed with the city clerk not more than forty-five nor less than thirty days prior to said election. Any candidate

Declaration of withdrawal.

may file a written declaration of withdrawal at any time within five days after the last day for filing a declaration of candidacy. All names of candidates

Names on ballot.

to be voted upon shall be printed upon the ballot alphabetically in group under the designation of the title of the offices for which they are candidates.

Assumption of office by newly elected officials; terms of office.

There shall be no rotation of names. The said newly elected officials shall assume office on the thirtieth day following the issuance of certificates of election and shall continue in office until their successors are elected and qualified at the next general municipal election to be held on the second Tuesday of March on the first even-numbered year following

Proviso.

said special election: *Provided*, That should said election be held on or after January first and before the second Tuesday of March of any even-numbered year and a majority of the votes cast are for the adoption of the council-manager plan, the next municipal general election shall not be held until the subsequent even-numbered year.

New section.

SEC. 24. There shall be added to chapter 35.18 RCW a new section to read as follows:

Limitation on revisal of appropriations by first council.

If, at the beginning of the term of office of the first council elected in a city organized under the council-manager plan, the appropriations for the expenditures of the city for the current fiscal year have been made, the council, by ordinance, may revise them but may not exceed the total appropriations for ex-

penditures already specified in the budget for the year.

SEC. 25. Sections 1 and 5, chapter 61, Laws of 1929 and section 1, chapter 27, Laws of 1941 (heretofore divided, combined and codified as RCW 35.27.420, 35.27.450, 35.27.460, 35.27.470 and 35.27.480) are amended to read as set forth in sections 26 through 30 of this act. Amendment.

SEC. 26. (RCW 35.27.420) On or before the second Monday in September of each year the town council shall make estimates of the amount required to meet the expenses of the town for the ensuing year and the amount necessary to be raised by taxation. Enacted without amendment.
Estimate of expenses and necessary taxation for ensuing year.

The estimates shall be fully itemized, showing under separate heads the amount required for each department, public office, public official, public improvement, maintenance of each public building, structure, or institution, the salary of each public officer or employee, the maintenance of public highways, roads, streets, and bridges and the construction, operation, and maintenance of each public utility. They shall contain a full and complete disclosure and statement of the contemplated expenditures for the ensuing year, showing the amount to be expended from each separate fund, and the total amount of public expense. Estimates fully itemized.

They shall also contain the total amount of emergency warrants issued during the preceding fiscal year. The statement shall also contain an estimate of the receipts for the ensuing year from sources other than direct taxation and the amount proposed to be raised by taxation upon the real and personal taxable property within the town, which shall include a levy sufficient to pay any emergency warrants remaining unpaid and to reimburse any funds out of which any of them may have been paid. Emergency warrants included in estimate; receipts for ensuing year.

Enacted without amendment.

Limitation on contracting indebtedness.

Emergency expenditures exception.

Violator guilty of misdemeanor.

Penalty.

Emergency expenditures; procedure for.

SEC. 27. (RCW 35.27.450) It shall be unlawful for any town council, public officer or employee of a town to contract any indebtedness or incur any liability in behalf of the town during any current fiscal year more than two percent in excess of the revenues provided for that year in the town's formally adopted estimates unless authorized by a majority vote of the electors of the town at a general or special election and any indebtedness contracted or liability incurred in violation hereof shall be void: *Provided*, That this shall not apply to emergency expenditures authorized as provided in RCW 35.27.460 and 35.27.470.

Any person violating the provisions of this section and RCW 35.27.420, 35.27.430, 35.27.440, 35.27.460, 35.27.470 and 35.27.480 shall be guilty of a misdemeanor punishable by a fine of not less than one hundred dollars nor more than five hundred dollars.

SEC. 28. (RCW 35.27.460) Upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, epidemic, riot, or insurrection, or for the immediate preservation of order or public health, or for the restoration to a condition of usefulness of any public property, the usefulness of which has been destroyed by accident, or for the relief of a stricken community overcome by calamity, or in settlement of approved claims for personal injuries or property damages (exclusive of claims arising from the operation of any public utility owned by the town) or to meet mandatory expenditures required by laws enacted since the last annual estimate was adopted, or to cover expenses incident to asking necessary arrangements for the establishment of a new form of government between the date on which the change in form of government has been approved by the electorate of the town and the date on which it is to become effective, including the expenses incident to arranging for the initial selection

of a city manager when the form of government has been changed to the council-manager plan, the town council, upon the adoption by unanimous vote of all members present of an ordinance stating the facts constituting the emergency and the estimated amount required to meet it, may make the expenditures therefor without any further notice or hearing.

SEC. 29. (RCW 35.27.470) If a public emergency which could not reasonably have been foreseen at the time of making the annual estimate requires the expenditures of money not provided for in such estimate, and if it is not one of the emergencies specifically enumerated in RCW 35. 27.460, the town council before making any expenditure beyond the two percent tolerance excess permitted, shall adopt an ordinance stating the facts constituting the emergency and the estimated amount required to meet it and declaring that an emergency exists.

Enacted
without
amendment.

Emergency not
enumerated in
RCW 35.27.460.

This ordinance shall not be voted on until one week has elapsed after its introduction and it shall require the unanimous vote of the council members present and the approval of the mayor.

Limitation.

Any taxpayer may appear at the council meeting at which the emergency ordinance is to be voted on and be heard for or against the adoption thereof.

Right to be
heard.

SEC. 30. (RCW 35.27.480) All emergency expenditures shall be paid for by the issuance of emergency warrants. Emergency warrants shall be paid from any money on hand in the town treasury in the fund properly chargeable with the expenditure.

Enacted
without
amendment.

Emergency
warrants.

If at any time there is insufficient money on hand in the proper fund with which to pay any emergency warrant, the warrant shall be registered, bear interest and shall be called in the same manner as other town warrants.

SEC. 31. Section 6, chapter 158, Laws of 1923 (heretofore codified as RCW 35.33.080, 35.33.090,

Division and
amendment.

35.33.100 and 35.33.150) is divided and amended as set forth in sections 32 through 35 of this act.

Emergency expenditures; enumerated conditions warranting same; procedure.

SEC. 32. (RCW 35.33.080) Upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, epidemic, riot, or insurrection, or for the immediate preservation of order or public health, or for the restoration to a condition of usefulness of any public property, the usefulness of which has been destroyed by accident, or for the relief of a stricken community overtaken by calamity, or in settlement of approved claims for personal injuries or property damage (exclusive of claims arising from the operation of any public utility owned by the city), or to meet mandatory expenditures required by laws enacted since the last annual budget was adopted, or to cover expenses incident to making necessary arrangements for the establishment of a new form of government between the date on which the change in form of government has been approved by the electorate of the city and the date on which it is to become effective, including the expenses incident to arranging for the initial selection of a city manager when the form of government has been changed to the council-manager plan, the city commission or council upon the adoption by the unanimous vote of all members present of an ordinance stating the facts constituting the emergency and the estimated amount required to meet it may make the expenditures therefor without notice or hearing.

Enacted without amendment.

Emergencies not enumerated in 35.33.080.

SEC. 33. (RCW 35.33.090) If a public emergency which could not reasonably have been foreseen at the time of the making of the estimates for the annual budget requires the expenditure of money not provided for in the annual budget, and if it is not one of the emergencies specifically enumerated in RCW 35.33.080 the city commission or council before making any expenditure therefor shall adopt an ordinance stating the facts constituting the emer-

gency and the estimated amount required to meet it and declaring that an emergency exists.

Such ordinance shall not be voted on until one week has elapsed after its introduction and it shall require the unanimous vote of the commissioners or council members present and in cities not having the commission form of government must also be approved by the mayor.

Limitation.

Any taxpayer may appear at the meeting at which the emergency ordinance is to be voted on and be heard for or against the adoption thereof. Any city which publishes a weekly bulletin or official gazette shall publish a copy of the proposed ordinance therein together with a notice of the time set thereon before the day set for the vote.

Right to be heard.

Publication.

SEC. 34. (RCW 35.33.100) All emergency expenditures shall be paid for by the issuance of emergency warrants. Emergency warrants shall be paid from any moneys on hand in the city treasury in the fund properly chargeable with such expenditures.

Enacted without amendment.

Emergency warrants.

If at any time there is insufficient money on hand in the fund with which to pay any emergency warrant, the warrant shall be registered, bear interest and be called in the same manner as other city warrants.

The clerk shall include in the annual budget to be submitted to the city commission or mayor the total amount of emergency warrants issued during the preceding fiscal year; and at the time the final budget is adopted the city commission or council shall include in its tax levies a levy sufficient to reimburse the fund or funds out of which the emergency warrants were paid: *Provided*, That any or all of such warrants may be funded into bonds in any manner authorized by law if deemed advisable.

Budget to include total amount of emergency warrants issued preceding fiscal year.

Provido.

SEC. 35. (RCW 35.33.150) All appropriations shall lapse at the end of the fiscal year, but the

Appropriations lapse.

accounts shall remain open for twenty days thereafter for the payment of claims incurred prior to the close of such year. Any claim presented after the twentieth day following the close of a fiscal year shall not be paid from the appropriations for that year but shall be provided for in the next ensuing budget: *Provided*, That this shall not prevent payment upon uncompleted improvements in progress at the close of the fiscal year.

Proviso.

Invalidity.

SEC. 36. If any section, paragraph, sentence, clause or phrase of this act is declared unconstitutional or invalid for any reason, the remainder of this act shall not be affected thereby.

Passed the Senate March 9, 1955.

Passed the House March 8, 1955.

Approved by the Governor March 21, 1955.

CHAPTER 338.

[S. B. 329.]

DRAINAGE IMPROVEMENT DISTRICTS.

AN ACT relating to drainage improvement districts; and amending section 4, chapter 157, Laws of 1921 and RCW 85.08.300.

Be it enacted by the Legislature of the State of Washington:

Amendment.

SECTION 1. Section 4, chapter 157, Laws of 1921 and RCW 85.08.300 are each amended to read as follows:

Board of supervisors of district; membership.

At the election, two electors of the county owning land in the district shall be elected, who, with the district engineer, shall constitute the first board of supervisors of the district. The supervisors shall have charge of the construction and maintenance of the systems of improvements, subject to the limitations hereinafter set forth, and may employ a superintendent of construction and maintenance who may be one of the two elected supervisors. The

Employ superintendent of construction and maintenance.