

requested by twenty-five persons, by a governmental subdivision or agency, or by an association having not less than twenty-five members. The agency shall consider fully all written and oral submissions respecting the proposed rule. Upon adoption of a rule, the agency, if requested to do so by an interested person either prior to adoption or within thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

(2) No rule hereafter adopted is valid unless adopted in substantial compliance with this section, or, if an emergency rule designated as such, adopted in substantial compliance with RCW 34.04.030, as now or hereafter amended. In any proceeding a rule cannot be contested on the ground of noncompliance with the procedural requirements of this section, or of RCW 34.04.030, as now or hereafter amended, after two years have elapsed from the effective date of the rule.

NEW SECTION. Sec. 18. The purposes of this 1971 amendatory act are hereby declared remedial and shall be liberally construed.

NEW SECTION. Sec. 19. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the Senate May 10, 1971.

Passed the House May 10, 1971.

Approved by the Governor May 20, 1971.

Filed in Office of Secretary of State May 21, 1971.

CHAPTER 251

[Substitute Senate Bill No. 678]

OPTIONAL MUNICIPAL CODE

AN ACT Relating to the optional municipal code;amending section 35A.02.050, chapter 119, Laws of 1967 ex. sess. as amended by section 2, chapter 52, Laws of 1970 ex. sess. and RCW 35A.02.050; amending section 35A.02.080, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.080; amending section 35A.02.090, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.090; amending section 35A.12.070, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.070; amending section 35A.14.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.030; amending section 35A.14.050, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.050; amending section

35A.06.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.06.030; amending section 35A.14.160, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.160; amending section 35A.58.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.58.030; amending section 35A.14.015, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.015; amending section 35A.14.200, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.200; amending section 35A.14.210, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.210; creating a new section; repealing section 35A.03.150, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.150; repealing section 35A.14.800, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.800; and declaring an emergency.

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

Section 1. Section 35A.02.050, chapter 119, Laws of 1967 ex. sess. as amended by section 2, chapter 52, Laws of 1970 ex. sess. and RCW 35A.02.050 are each amended to read as follows:

The first election of officers under a plan of government adopted in the manner provided in RCW 35A.02.020 or 35A.02.030 shall be at the next general municipal election if one is to be held more than ninety days but not more than one hundred and eighty days after certification of a reorganization ordinance or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days from the certification of such ordinance. In the event that the first election of officers as herein provided is to be held at a general municipal election, such election shall be preceded by a primary election pursuant to RCW 29.13.070. In the event that the first election of officers as herein provided is to be held at a special election, and notwithstanding any provisions of any other law to the contrary, such special election shall be preceded by a primary election to be held not less than forty-five nor more than sixty days prior to the date of the special election: PROVIDED, That in the event the ordinances calling for reclassification or reclassification and reorganization under the provisions of Title 35A RCW have been filed with the secretary of state pursuant to RCW 35A.02.040 in an even numbered year at least ninety days prior to a state general election then the election of new officers shall be concurrent with the state primary and general election and shall be conducted as set forth in chapter 35A.29 RCW: PROVIDED, FURTHER, That if the election of officers as provided in this section is for a period of time less than a specified two-year term or less than a specified four-year term, such an election shall not be preceded by a primary election. Declarations of candidacy for any primary election held pursuant to this section shall be filed as provided in RCW 35A.29.110 as amended. The terms of the persons holding office

at the time of such proceedings shall continue until the new officers are elected and qualified as provided in this 1970 amendatory act, and the ordinances, bylaws and resolutions adopted under the former plan of government, where not in conflict with state law, shall continue in force until repealed or amended by the legislative body of the reorganized noncharter code city. The former officers shall, upon the election and qualification of new officers, deliver to the proper officers of the reorganized noncharter code city all books of record, documents and papers in their possession belonging to such municipal corporation before the reorganization thereof. Officers elected at the first election of officers held pursuant to this amendatory act shall assume office as soon as the election returns have been certified.

Sec. 2. Section 35A.02.080, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.080 are each amended to read as follows:

((When a proposal to reorganize a city or town as a noncharter code city under a plan of government provided in this title is placed on the ballot for such election by any of the procedures or methods provided in this chapter, candidates for the offices which would be created if the proposed plan of government were approved by the voters may file a declaration of candidacy with the city clerk as provided in RCW 35A.29.110, and their names shall be placed upon the ballot alphabetically in groups under the designation of the respective titles of offices for which they are candidates. If a majority of those voting on the measures approve adoption by the municipality of the classification of noncharter code city and the reorganization of the municipality, the persons elected to offices under the plan of government approved by the voters shall, upon their qualification as provided by law, become the new officers of the noncharter code city.)) If the majority of votes cast at an election for organization under a plan provided in this title favor the plan, the city or town shall elect in accordance with RCW 35A.02.050 the officers for the positions created. The former officers of the municipality shall, upon the election and qualification of the new officers, deliver to the proper officers of the new noncharter code city all books of record, documents and papers in their possession belonging to such municipal corporation before reorganization.

Sec. 3. Section 35A.02.090, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.090 are each amended to read as follows:

Proposals for each of the plans of government authorized by this title may be placed on the ballots in the same election by timely petition as provided in this chapter((, and candidates for offices under one of the plans of government shall not be disqualified from filing as candidates for offices under the other plan)). When the ballot contains alternative proposals for each of

the plans of government ((and states of candidates for each of the plans;)) the ballot shall clearly state that voters may vote for only one of the plans of government ((but may cast their votes for officers under each of the plans of government to indicate their choice of officers in the event such plan receives a majority of the votes cast; The officers elected by the voters to fill the offices under the plan of government receiving a majority of the votes cast on the measure shall, upon their qualification, become the new officers of the noncharter code city)).

NEW SECTION. Sec. 4. Whenever in any territory forming a part of an incorporated code city which is part of a road district of the county, and road district taxes have been levied but not collected on any property within such territory, the same shall, when collected by the county treasurer, be paid to such code city and placed in the city street fund by the city: PROVIDED, That this section shall not apply to any special assessments due in behalf of such property.

Sec. 5. Section 35A.12.070, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.070 are each amended to read as follows:

The salaries of the mayor and the councilmen shall be fixed by ordinance and may be revised from time to time by ordinance, but any increase ((or reduction)) in the compensation attaching to an office shall not be applicable to the term then being served by the incumbent if such incumbent is a member of the city legislative body fixing his own compensation or as mayor in a mayor-council code city casts a tie-breaking vote relating to such ordinance: PROVIDED, That if the mayor of such a city does not cast such a vote, his salary may be increased during his term of office.

Until the first elective officers under this mayor-council plan of government may lawfully be paid the compensation provided by such salary ordinance, such officers shall be entitled to be compensated in the same manner and in the same amount as the compensation paid to officers of such city performing comparable services immediately prior to adoption of this mayor-council plan.

Until a salary ordinance can be passed and become effective as to elective officers of a newly incorporated code city, such first officers shall be entitled to compensation as follows: In cities having less than five thousand inhabitants, the mayor shall be entitled to a salary of one hundred and fifty dollars per calendar month and a councilman shall be entitled to twenty dollars per meeting for not more than two meetings per month; in cities having more than five thousand but less than fifteen thousand inhabitants, the mayor shall be entitled to a salary of three hundred and fifty dollars per calendar month and a councilman shall be entitled to one hundred and fifty dollars per calendar month; in cities having more

than fifteen thousand inhabitants, the mayor shall be entitled to a salary of twelve hundred and fifty dollars per calendar month and a councilman shall be entitled to four hundred dollars per calendar month: PROVIDED, That such interim compensation shall remain in effect only until a salary ordinance is passed and becomes effective as to such officers, and the amounts herein provided shall not be construed as fixing the usual salary of such officers. The mayor and councilmen shall receive reimbursement for their actual and necessary expenses incurred in the performance of the duties of their office, or the council by ordinance may provide for a per diem allowance. Procedure for approval of claims for expenses shall be as provided by ordinance.

Sec. 6. Section 35A.14.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.030 are each amended to read as follows:

Upon approval of the petition for election by the legislative body of the code city to which such territory is proposed to be annexed, the petition shall be filed with the board of county commissioners for the county in which such territory is located, along with a statement, in the form required by the city, of the provisions, if any there be, relating to assumption of debt by the owners of property of the area proposed to be annexed, and/or the simultaneous adoption of a proposed zoning regulation for the area. A copy of the petition and the statement, if any, shall also be filed with the boundary review board as provided for in chapter 189, Laws of 1967 [chapter 36.93 RCW] or the county annexation review board established by RCW ((35A-44-200)) 35A.14.160, unless such proposed annexation is within the provisions of RCW ((35A-44-200)) 35A.14.220.

Sec. 7. Section 35A.14.050, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.050 are each amended to read as follows:

After consideration of the proposed annexation as provided in RCW ((35A-44-260)) 35A.14.200, the county annexation review board, within thirty days after the final day of hearing, shall take one of the following actions:

(1) Approval of the proposal as submitted.

(2) Modification of the proposal by adjusting boundaries to include or exclude territory; except that any such inclusion of territory shall not increase the total area of territory proposed for annexation by an amount exceeding the original proposal by more than five percent: PROVIDED, That the county annexation review board shall not adjust boundaries to include territory not included in the original proposal without first affording to residents and property owners of the area affected by such adjustment of boundaries an opportunity to be heard as to the proposal.

(3) Disapproval of the proposal.

The written decision of the county annexation review board

shall be filed with the board of county commissioners and with the legislative body of the city concerned. If the annexation proposal is modified by the county annexation review board, such modification shall be fully set forth in the written decision. If the decision of the boundary review board or the county annexation review board is favorable to the annexation proposal, or the proposal as modified by the review board, the board of county commissioners, at its next regular meeting if to be held within thirty days after receipt of the decision of the boundary review board or the county annexation review board, or at a special meeting to be held within that period, shall set a date for submission of such annexation proposal, with any modifications made by the review board, to the voters of the territory proposed to be annexed. The question shall be submitted at a general election if one is to be held within ninety days, or at a special election called for that purpose not less than forty-five days nor more than ninety days after the filing of the decision of the review board with the board of county commissioners. If the boundary review board or the county annexation review board disapproves the annexation proposal, no further action shall be taken thereon, and no proposal for annexation of the same territory, or substantially the same as determined by the board, shall be initiated or considered for twelve months thereafter.

Sec. 8. Section 35A.14.160, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.160 are each amended to read as follows:

There is hereby established in each county of the state, other than counties having a boundary review board as provided for in chapter 189, Laws of 1967 [chapter 36.93 RCW], a board to be known as the "annexation review board for the county of (naming the county)", which shall be charged with the duty of reviewing proposals for annexation of unincorporated territory to charter code cities and noncharter code cities within its respective county; except that proposals within the provisions of RCW (~~35A-14-200~~) 35A.14.220 shall not be subject to the jurisdiction of such board.

In all counties in which a boundary review board is established pursuant to chapter 189, Laws of 1967 [chapter 36.93 RCW] review of proposals for annexation of unincorporated territory to charter code cities and noncharter code cities within such counties shall be subject to chapter 189, Laws of 1967 [chapter 36.93 RCW]. Whenever ((a first class county with a population over one hundred seventy thousand)) any county establishes a boundary review board pursuant to chapter 189, Laws of 1967 [chapter 36.93 RCW] the provisions of this act relating to annexation review boards shall not be applicable.

Except as provided above in this section, whenever one or more

cities of a county shall have elected to be governed by this title by becoming a charter code city or noncharter code city, the governor shall, within forty-five days thereafter, appoint an annexation review board for such county consisting of five members appointed in the following manner:

Two members shall be selected independently by the governor. Three members shall be selected by the governor from the following sources: (1) One member shall be appointed from nominees of the individual members of the board of county commissioners; (2) one member shall be appointed from nominees of the individual mayors of charter code cities within such county; (3) one member shall be appointed from nominees of the individual mayors of noncharter code cities within such county.

Each source shall nominate at least two persons for an available position. In the event there are less than two nominees for any position, the governor may appoint the member for that position independently. If, at the time of appointment, there are within the county no cities of one of the classes named above as a nominating source, a position which would otherwise have been filled by nomination from such source shall be filled by independent appointment of the governor.

In making appointments independently and in making appointments from among nominees, the governor shall strive to appoint persons familiar with municipal government and administration by experience and/or training.

Sec. 9. Section 35A.58.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.58.030 are each amended to read as follows:

The provisions of chapter 58.16 RCW together with the provisions of a code city's subdivision regulations as adopted by ordinance not inconsistent with the provisions of chapter ~~((58.16))~~ 58.17 RCW shall control the platting and subdividing of land into lots or tracts comprising five or more of such lots or tracts or containing a dedication of any part thereof as a public street or highway, or other public place or use: PROVIDED, That nothing herein shall prohibit the legislative body of a code city from adopting reasonable ordinances regulating the subdivision of land into two or more parcels without requiring compliance with all of the requirements of the platting law.

Sec. 10. Section 35A.14.015, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.015 are each amended to read as follows:

When the legislative body of a charter code city or noncharter code city shall determine that the best interests and general welfare of such city would be served by the annexation of unincorporated territory contiguous to such city, such legislative body may, by resolution, call for an election to be held to submit to the voters

of such territory the proposal for annexation. The resolution shall describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and shall provide that said city will pay the cost of the annexation election. The resolution may require that there also be submitted to the electorate of the territory sought to be annexed a proposition that all property within the area annexed shall, upon annexation, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for any then outstanding indebtedness of the city to which said area is annexed, contracted prior to, or existing at, the date of annexation. Whenever such city has prepared and filed a proposed zoning regulation for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, the resolution initiating the election may also provide for the simultaneous adoption of the proposed zoning regulation upon approval of annexation by the electorate of the area to be annexed. A certified copy of the resolution shall be filed with the board of county commissioners of the county in which said territory is located. A certified copy of the resolution shall be filed with the boundary review board as provided for in chapter 189, Laws of 1967 [chapter 36.93 RCW] or the county annexation review board established by RCW 35A.14.200, unless such annexation proposal is within the provisions of RCW ((35A.14.200)) 35A.14.220.

Sec. 11. Section 35A.14.200, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.200 are each amended to read as follows:

The jurisdiction of the county annexation review board shall be invoked upon the filing with the board of a resolution for an annexation election as provided in RCW 35A.14.015, or of a petition for an annexation election as provided in RCW 35A.14.030, and the board shall proceed to hold a hearing, upon notice, all as provided in RCW 35A.14.040. A verbatim record shall be made of all testimony presented at the hearing and upon request and payment of the reasonable costs thereof, a copy of the transcript of such testimony shall be provided to any person or governmental unit. The board shall make and file its decision, all as provided in RCW 35A.14.050, insofar as said section is applicable to the matter before the board. Dissenting members of the board shall have the right to have their written dissents included as part of the decision. In reaching a decision on an annexation proposal, the county annexation review board shall consider the factors affecting such proposal, which shall include but not be limited to the following:

(1) The immediate and prospective population of the area proposed to be annexed, the configuration of the area, land use and land uses, comprehensive use plans and zoning, per capita assessed valuation, topography, natural boundaries and drainage basins, the

likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years, location and coordination of community facilities and services; and

(2) The need for municipal services and the available municipal services, effect of ordinances and governmental codes, regulations and resolutions on existing uses, present cost and adequacy of governmental services and controls, the probable future needs for such services and controls, the probable effect of the annexation proposal or alternatives on cost and adequacy of services and controls in area and adjacent area, the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units; and

(3) The effect of the annexation proposal or alternatives on adjacent areas, on mutual economic and social interests, and on the local governmental structure of the county.

The county annexation review board shall determine whether the proposed annexation would be in the public interest and for the public welfare. The decision of the board shall be accompanied by the findings of the board. Such findings need not include specific data on all the factors listed in this section, but shall indicate that all such factors were considered.

Sec. 12. Section 35A.14.210, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.210 are each amended to read as follows:

Decisions of the county annexation review board shall be final unless within ten days from the date of said action a governmental unit affected by the decision or any person owning real property in or residing in the area proposed to be annexed files in the superior court a notice of appeal. The filing of such notice of appeal within such time limit shall stay the effective date of the decision of the board until such time as the appeal shall have been adjudicated or withdrawn. On appeal the superior court shall not take any evidence other than that contained in the record of the hearing before the board. The superior court may affirm the decision of the county annexation review board or remand the case for further proceedings; or the court may reverse the decision and remand if it finds that substantial rights have been prejudiced because the findings, conclusions, or decision of the board are:

- (1) In violation of constitutional provisions; or
- (2) In excess of the statutory authority or jurisdiction of the board; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error of law; or
- (5) Unsupported by material and substantial evidence in view of the entire record as submitted; or
- (6) Arbitrary or capricious.

Sec. 13. Section 35A.06.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.06.030 are each amended to read as follows:

By use of the resolution for election or petition for election methods described in RCW 35A.06.040, any noncharter code city which has operated for more than six years under one of the optional plans of government authorized by this title, ~~((or which retained its existing plan of government upon becoming a noncharter code city and has operated thereunder for more than six years,))~~ may abandon such organization and may either adopt another plan of government authorized for noncharter code cities, or may adopt a plan of government authorized by the general law for municipalities of the highest class for which the population of such city qualifies it, or authorized for the class to which such city belonged immediately prior to becoming a noncharter code city, if any. When a noncharter code city adopts a plan of government other than those authorized for noncharter code cities, such city ceases to be governed under this optional municipal code and shall be classified as a city or town of the class selected in the proceeding for adoption of such new plan, with the powers granted to such class under the general law. Any city is authorized to adopt any plan of government provided for noncharter code cities any time after one year from the date of becoming a noncharter code city.

NEW SECTION. Sec. 14. Whenever any territory is annexed to a code city which is part of a road district of the county and road district taxes have been levied but not collected on any property within the annexed territory, the same shall when collected by the county treasurer be paid to the code city and by the city placed in the city street fund: Provided, That this section shall not apply to any special assessments due in behalf of such property.

NEW SECTION. Sec. 15. The following acts or parts of acts are each repealed:

(1) Section 35A.03.150, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.150; and

(2) Section 35A.14.800, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.800.

NEW SECTION. Sec. 16. All distributions of road district taxes that have been levied but not collected or that shall hereafter be levied but not collected shall be distributed to code cities in accordance with sections 4 and 14 of this act.

NEW SECTION. Sec. 17. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 18. This act is necessary for the immediate preservation of the public peace, health, and safety, and

the support of the state government and its existing public institutions and shall take effect immediately.

Passed the Senate May 10, 1971.

Passed the House May 7, 1971.

Approved by the Governor May 20, 1971.

Filed in Office of Secretary of State May 21, 1971.

CHAPTER 252

[Engrossed Senate Bill No. 755]

FRANCHISE INVESTMENT PROTECTION ACT

AN ACT Relating to franchises; creating new sections; defining crimes; providing an effective date; and prescribing penalties.

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

NEW SECTION. Section 1. When used in this act, unless the context otherwise requires:

(1) "Advertisement" means any written or printed communication or any communication by means of recorded telephone messages or spoken on radio, television, or similar communication media published in connection with an offer or sale of a franchise.

(2) "Community interest" means a continuing financial interest between the franchisor and franchisee in the operation of the franchise business.

(3) "Director" means the director of department of motor vehicles.

(4) "Franchise" means an oral or written contract or agreement, either expressed or implied, in which a person grants to another person, a license to use a trade name, service mark, trade mark, logotype or related characteristic in which there is a community interest in the business of offering, selling, distributing goods or services at wholesale or retail, leasing, or otherwise and in which the franchisee is required to pay, directly or indirectly, a franchise fee.

(5) "Franchisee" means a person to whom a franchise is offered or granted.

(6) "Franchisor" means a person who grants a franchise to another person.

(7) "Area Franchise" means any contract or agreement between a franchisor or subfranchisor whereby the subfranchisor is granted the right to sell or negotiate the sale of franchises in the name or on behalf of the franchisor.

(8) "Subfranchisor" means a person to whom an area franchise