

No trustee, except the ex officio member, shall receive any compensation or emolument whatever for services as trustee; nor shall any trustee have or acquire any personal interest in any lease or contract whatsoever, made by the county or board of trustees with respect to such hospital or institution; PROVIDED, That each member of a board of trustees of a county hospital may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended: PROVIDED FURTHER, That, in addition, trustees of a county hospital shall be reimbursed for travel expenses for traveling from their home to a trustee meeting at a rate provided for in RCW 43.03.060 as now existing or hereafter amended.

Passed the House March 29, 1979.

Passed the Senate April 9, 1979.

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CHAPTER 18

[House Bill No. 1325]

CITIES AND TOWNS—OPTIONAL MUNICIPAL CODE—ORGANIZATION, REORGANIZATION—OFFICERS' ELECTIONS—GOVERNING BODY MEETINGS

AN ACT Relating to the optional municipal code; amending section 35A.02.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.010; amending section 35A.02.020, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.020; amending section 35A.02.025, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.025; amending section 35A.02.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.030; amending section 35A.02.040, chapter 119, Laws of 1967 ex. sess. as amended by section 1, chapter 52, Laws of 1970 ex. sess. and RCW 35A.02.040; amending section 35A.02.050, chapter 119, Laws of 1967 ex. sess. as last amended by section 1, chapter 251, Laws of 1971 ex. sess. and RCW 35A.02.050; amending section 35A.02.110, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.110; amending section 35A.03.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.010; amending section 35A.04.020, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.020; amending section 35A.04.070, chapter 119, Laws of 1967 ex. sess. as amended by section 13, chapter 220, Laws of 1975 1st ex. sess. and RCW 35A.04.070; amending section 35A.04.080, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.080; amending section 35A.06.030, chapter 119, Laws of 1967 ex. sess. as amended by section 13, chapter 251, Laws of 1971 ex. sess. and RCW 35A.06.030; amending section 35A.06.050, chapter 119, Laws of 1967 ex. sess. and RCW 35A.06.050; amending section 35A.06.060, chapter 119, Laws of 1967 ex. sess. and RCW 35A.06.060; amending section 35A.11.040, chapter 119, Laws of 1967 ex. sess. and RCW 35A.11.040; amending section 1, chapter 81, Laws of 1973 1st ex. sess. and RCW 35A.11.080; amending section 35A.12.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.010; amending section 35A.12.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.030; amending section 35A.12.040, chapter 119, Laws of 1967 ex. sess. as amended by section 3, chapter 52, Laws of 1970 ex. sess. and RCW 35A.12.040; amending section 35A.12.100, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.100; amending section 35A.12.110, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.110; amending section 35A.13.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.13.010; amending section 35A.13.040, chapter 119, Laws of 1967 ex. sess. and RCW 35A.13.040; amending section 35A.13.170, chapter 119, Laws of 1967 ex. sess. and RCW 35A.13.170; amending section 35A.14.220, chapter 119, Laws of 1967 ex. sess. as amended by section 26, chapter 195, Laws of 1973 1st ex. sess. and RCW 35A.14.220; amending section 35A.14.700, chapter 119, Laws of 1967 ex. sess. as amended by section

2, chapter 31, Laws of 1975 1st ex. sess. and RCW 35A.14.700; amending section 35A.29.090, chapter 119, Laws of 1967 ex. sess. and RCW 35A.29.090; amending section 35A.29.110, chapter 119, Laws of 1967 ex. sess. as amended by section 4, chapter 52, Laws of 1970 ex. sess. and RCW 35A.29.110; amending section 35A.29.120, chapter 119, Laws of 1967 ex. sess. and RCW 35A.29.120; amending section 35A.44.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.44.010; amending section 35A.63.020, chapter 119, Laws of 1967 ex. sess. and RCW 35A.63.020; amending section 35A.63.110, chapter 119, Laws of 1967 ex. sess. and RCW 35A.63.110; adding a new section to chapter 119, Laws of 1967 ex. sess. and to chapter 35A.01 RCW; adding a new section to chapter 119, Laws of 1967 ex. sess. and to chapter 35A.02 RCW; repealing section 35A.06.080, chapter 119, Laws of 1967 ex. sess. and RCW 35A.06.080; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 119, Laws of 1967 ex. sess. and to chapter 35A.01 RCW a new section to read as follows:

Where used in this title with reference to procedures established by this title in regard to a change of plan or classification of government, unless a different meaning is plainly required by the context:

(1) "Classify" means a change from a city of the first, second, or third class, or a town, to a code city.

(2) "Classification" means either that portion of the general law under which a city or a town operates under Title 35 RCW as a first, second, or third class city, or town, or otherwise as a code city.

(3) "Organize" means to provide for officers after becoming a code city, under the same general plan of government under which the city operated prior to becoming a code city, pursuant to section 8 of this act.

(4) "Organization" means the general plan of government under which a city operates.

(5) "Plan of government" means either the mayor-council, council-manager, or commission form of government in general, without regard to variations in the number of elective offices or whether officers are elective or appointive.

(6) "Reclassify" means changing from a code city to the classification, if any, held by such a city immediately prior to becoming a code city.

(7) "Reclassification" means changing from city or town operating under Title 35 RCW to a city operating under Title 35A RCW, or vice versa; a change in classification.

(8) "Reorganize" means changing the plan of government under which a city or town operates to a different general plan of government, for which an election of new officers under RCW 35A.02.050 is required. A city or town shall not be deemed to have reorganized simply by increasing or decreasing the number of members of its legislative body.

(9) "Reorganization" means a change in general plan of government where an election of all new officers is required in order to accomplish this change, but an increase or decrease in the number of members of its legislative body shall not be deemed to constitute a reorganization.

Sec. 2. Section 35A.02.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.010 are each amended to read as follows:

Any incorporated city or town may become a noncharter code city in accordance with, and be governed by, the provisions of this title relating to noncharter code cities and may select one of the plans of government authorized by this title. A city or town adopting and organizing under the optional municipal code shall not be deemed to have reorganized and to have abandoned its existing general plan of government, upon changing classification and becoming a noncharter code city, solely because organizing under a plan of government authorized in this title changes the number of elective offices or changes the terms thereof, or because an office becomes appointive rather than elective, or because that city or town has come under the optional municipal code, or because of any combination of these factors.

Sec. 3. Section 35A.02.020, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.020 are each amended to read as follows:

When a petition is filed, signed by qualified electors of an incorporated city or town, in number equal to not less than fifty percent of the votes cast at the last general municipal election, seeking the adoption by the city or town of the classification of noncharter code city, either under its existing authorized plan of government or naming one of the plans of government authorized for noncharter code cities, ~~the ((legislative body of the city or town to which the petition is presented shall direct the))~~ city or town clerk shall promptly proceed to determine the sufficiency of the petition under the rules set forth in RCW 35A.01.040. If the petition is found to be sufficient, the clerk shall file with the legislative body a certificate of sufficiency of the petition. Thereupon the legislative body of such city or town shall, by resolution, declare that the inhabitants of the city or town have decided to adopt the classification of noncharter code city and to be governed under the provisions of this title. If a prayer for reorganization is included in the petition such resolution shall also declare that the inhabitants of the city or town have decided to reorganize under the plan of government specified in the petition. The legislative body shall cause such resolution to be published at least once in a newspaper of general circulation within the city or town not later than ten days after the passage of the resolution. Upon the expiration of the ninetieth day from, but excluding the date of, first publication of the resolution, if no timely and sufficient referendum petition has been filed pursuant to RCW 35A.02.025, as now or hereafter amended, as determined by RCW 35A.29.170, the legislative body at its next regular meeting shall effect the decision of the inhabitants, as expressed in the petition, by passage of an ordinance adopting for the city the classification of noncharter code city, and if the petition also sought governmental reorganization by adoption of one of the plans of government authorized for noncharter code cities involving a different general plan of government from that under which the city is operating, then the legislative body shall provide at that

time for such reorganization by ordinance and for election of all new officers pursuant to RCW 35A.02.050, as now or hereafter amended.

Sec. 4. Section 35A.02.025, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.025 are each amended to read as follows:

Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general municipal election, such resolution as authorized by RCW 35A.02.020 shall be referred to the voters for confirmation or rejection in the next general municipal election if one is to be held within one hundred and eighty days from the date of filing of the referendum petition, or at a special election to be called for that purpose (~~((not less than ninety days nor more than one hundred and eighty days from the date of filing such referendum petition))~~) in accordance with RCW 29.13.020.

Sec. 5. Section 35A.02.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.030 are each amended to read as follows:

When a majority of the legislative body of an incorporated city or town determines that it would serve the best interests and general welfare of such municipality to change the classification of such city or town to that of noncharter code city, such legislative body may, by resolution, declare its intention to adopt for the city or town the classification of noncharter code city. If the legislative body so determines, such resolution may also contain a declaration of intention to reorganize the municipal government under one of the plans of government authorized in this title, naming such plan; but it shall also be lawful for the legislative body of any incorporated city or town which is governed under a plan of government authorized prior to the time this title takes effect to adopt for the city or town the classification of noncharter code city while retaining the same general plan of government under which such city or town is then operating. Within ten days after the passage of the resolution, the legislative body shall cause it to be published at least once in a newspaper of general circulation within the city or town. Upon the expiration of the ninetieth day from, but excluding the date of first publication of the resolution, if no timely and sufficient referendum petition has been filed pursuant to RCW 35A.02.035, as determined by RCW 35A.29.170, the intent expressed in such resolution shall at the next regular meeting of the legislative body be effected by an ordinance adopting for the city or town the classification of noncharter code city; and, if the resolution includes a declaration of intention to reorganize, the legislative body shall provide at that time for such reorganization by ordinance.

Sec. 6. Section 35A.02.040, chapter 119, Laws of 1967 ex. sess. as amended by section 1, chapter 52, Laws of 1970 ex. sess. and RCW 35A.02.040 are each amended to read as follows:

When one or more ordinances are passed under RCW 35A.02.020 or ~~((RCW))~~ 35A.02.030, as now or hereafter amended, the clerk of the city or town shall forward to the secretary of state a certified copy of any such ordinance. Upon the filing in the office of the secretary of state of a certified copy of an ordinance adopting the classification of noncharter code city, such city or town shall thereafter be classified as a noncharter code city; except that if there is also filed with the secretary of state a certified copy of an ordinance providing for reorganization of the municipal government of such city or town under a different general plan of government, such reclassification and reorganization shall not be effective until the election ~~((and))~~, qualification, and assumption of office under RCW 35A.02.050 as now or hereafter amended of ~~((the))~~ at least a quorum of all new officers under the plan of government so adopted.

Sec. 7. Section 35A.02.050, chapter 119, Laws of 1967 ex. sess. as last amended by section 1, chapter 251, Laws of 1971 ex. sess. and RCW 35A.02.050 are each amended to read as follows:

The first election of officers where required for reorganization under a different general plan of government newly adopted in ~~((the))~~ a manner provided in RCW 35A.02.020 ~~((or))~~, 35A.02.030, 35A.06.030, or 35A.06.060, as now or hereafter amended, 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 resolution, or otherwise 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 accordance with RCW 29.13.020. 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 29.21.010 and 29.13.070. In the event that the first election of all officers as herein provided is to be held at a special election rather than at a general 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))~~ to be held on a date authorized by RCW 29.13.010, and the persons nominated at that primary election shall be voted upon at the next succeeding special election that is authorized by RCW 29.13.010: 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)). Upon reorganization, candidates for all offices shall file or be nominated for and successful candidates shall be elected to specific council positions, and an initial term or office for those elected at a first election of all officers to positions one and two for a five member council, or positions one through three for a seven member council, shall if the election occurs at a general municipal election be only until the second Monday in January first following the next general municipal election two years hence and if the election occurs at a special election, the duration of these initial terms shall be until the second Monday in January in the first even-numbered year that follows the next general municipal election. The duration of the initial term attaching to the remaining councilmanic positions shall be until the second Monday in January two years next thereafter, so that staggered regular four year terms will ultimately result. Any declarations of candidacy for any primary or other election held pursuant to this section shall be filed as provided in RCW 35A.29.110 as now or hereafter 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.~~

NEW SECTION, Sec. 8. There is added to chapter 119, Laws of 1967 ex. sess. and to chapter 35A.02 RCW a new section to read as follows:

Where a city elects to become a noncharter code city under one of the optional plans of government provided in Title 35A RCW for code cities which involves the same general plan of government as that under which the city operated prior to the choice and where with the change in classification the number of councilmanic positions in a city remains the same or increases from five to seven, the procedures for the first election of officers which appear in RCW 35A.02.050 shall not be followed. When membership in a city council remains the same or is increased upon becoming a noncharter code city, the terms of incumbent council members shall not be affected. If the number of council members is increased from five to seven, the city council shall, by majority vote, pursuant to RCW 35A.12.050 and 35A.13.020, appoint two persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two-year term and one person shall be elected for a four-year term.

A first election of all officers upon a change in classification to a non-charter code city is also not required where the change in classification otherwise retains the same general or specific plan of government and where the change in classification results in a decrease in the number of councilmanic positions in a city.

If the membership in a city council is decreased from seven to five members upon adopting the classification of noncharter code city, this decrease in the number of council members shall be determined in the following manner: The council members shall determine by lot which two councilmanic positions shall be eliminated upon the expiration of their terms of office. The terms of the remaining council members shall not be affected.

Sec. 9. Section 35A.02.110, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.110 are each amended to read as follows:

The election officials, after counting the ballots, shall make their returns to the county auditor upon forms furnished by him within six hours after the closing of the polls; and on the Monday next succeeding the election or as soon thereafter as the county auditor has received the returns from all the precincts included therein, the county canvassing board shall canvass the returns in such election and shall forthwith certify in duplicate to the city or town clerk the whole number of votes given at the election, the number of votes in favor of reclassification and the number against it, and the number of votes in favor of each plan of government voted upon and the number against it (~~(and the number of votes received by each candidate)~~). The clerk shall lay the certificate of election before the legislative body of the city or town at its next regular meeting after the receipt of such certificate by the clerk, and if it appears that the votes cast for adoption of the classification of noncharter code city and in favor of a plan of government named on the ballot were a majority of the votes cast in such election, the council shall thereupon, by resolution, declare that the inhabitants of the city or town have decided on such reclassification and reorganization under the plan of government approved and direct the clerk to forward to the secretary of state a certified copy of the resolution.

Sec. 10. Section 35A.03.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.010 are each amended to read as follows:

Any area of a county containing not less than three hundred inhabitants, lying outside the limits of an incorporated city or town, may become incorporated as a noncharter code city under the provisions of this title: **PROVIDED**, That no area which lies within five air miles of the boundary of any city having a population of fifteen thousand or more shall be incorporated under the provisions of this title unless the limits of the proposed noncharter code city contain (~~(five)~~) three thousand or more inhabitants.

Sec. 11. Section 35A.04.020, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.020 are each amended to read as follows:

Any area lying in two or more counties which is not incorporated as a municipal corporation, may become incorporated as a noncharter code city under the provisions of this chapter: PROVIDED, That when any part of the area to be incorporated lies within five air miles of the boundary of any city having a population of fifteen thousand or more no petition under RCW 35.04.030 shall be valid unless the limits of the proposed city contain ~~((five))~~ three thousand or more inhabitants.

Sec. 12. Section 35A.04.070, chapter 119, Laws of 1967 ex. sess. as amended by section 13, chapter 220, Laws of 1975 1st ex. sess. and RCW 35A.04.070 are each amended to read as follows:

If upon final hearing the respective boards find that any land within their respective counties has been unjustly or improperly included within or excluded from the proposed corporation, based on the considerations stated in RCW 35A.04.060, the respective boards may change and fix the boundary lines of the portion of the proposed corporation within their respective counties in such a manner as they deem reasonable and just and conducive to the public welfare and convenience: PROVIDED, That when any part of the area to be incorporated lies within five air miles of the boundary of any city having a population of fifteen thousand or more, the area shall not be so decreased that the number of inhabitants therein shall be less than ~~((five))~~ three thousand. No land shall be so included within the boundaries described in the petition unless each board of county commissioners of that county in which the area sought to be included is located first obtains the written assent of a number of qualified voters resident within each area to be included in the proposed corporation equal in number to not less than twenty percent of the votes cast in that area at the last state election. Within five days after the final hearing each board of county commissioners shall, for the area within its respective county, by order establish and define the boundaries of the proposed corporation consistent with RCW 35A.03-.180, determine the number of inhabitants residing therein and affirm the name of the proposed corporation: PROVIDED, That for the action required after the final hearing, the boards may act jointly but in such case a majority of each board must vote favorably on such final action and the order shall be entered in the minutes of each board.

Sec. 13. Section 35A.04.080, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.080 are each amended to read as follows:

In determining the number of inhabitants within the boundaries established for the proposed noncharter code city, the population shall be determined as follows:

An actual enumeration shall be made by, or under the direction of, the board of county commissioners of each county in which a portion of the proposed corporation is located, in accordance with practices and policies,

and subject to the approval, of the state (~~(census board)~~) office of financial management; and the population so determined shall constitute the official population of the proposed corporation.

Sec. 14. Section 35A.06.030, chapter 119, Laws of 1967 ex. sess. as amended by section 13, chapter 251, Laws of 1971 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 consecutive years under one of the optional plans of government authorized by this title, or for more than a combined total of six consecutive years under a particular plan of government both as a code city and under the same general plan under Title 35 RCW immediately prior to becoming a code city, may abandon such organization and may (~~(either)~~) reorganize and adopt another plan of government authorized for noncharter code cities, but only after having been a noncharter code city for more than one year or a city after operating for more than six consecutive years under a particular plan of government as a noncharter code city or may reclassify and 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: PROVIDED, That these limitations shall not apply to a city seeking to adopt a charter.

In reorganization under a different general plan of government as a noncharter code city, officers shall all be elected as provided in RCW 35A.02.050. When a noncharter code city adopts a plan of government other than those authorized (~~(for noncharter code cities)~~) under Title 35A RCW, 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:)~~)

Sec. 15. Section 35A.06.050, chapter 119, Laws of 1967 ex. sess. and RCW 35A.06.050 are each amended to read as follows:

The proposal for abandonment of (~~(the)~~) a plan of government (~~(under which a noncharter code city has operated for more than six years)~~) as authorized in RCW 35A.06.030 and for adoption of the plan named in the resolution or petition shall be voted upon at the next general municipal election if one is to be held within one hundred and eighty days or otherwise at a special election called for that purpose (~~(not less than ninety days, nor more than one hundred and eighty days after the passage of the resolution or the certification of sufficiency of the petition)~~) in accordance with RCW 29.13.020. The ballot title and statement of the proposition shall be prepared by the city attorney as provided in RCW 29.27.060 and 35A.29.120,

as now or hereafter amended. If the plan proposed in the petition is not a plan authorized for noncharter code cities by this title, the ballot statement shall clearly set forth that adoption of such plan by the voters would require abandonment of the classification of noncharter code city and that government would be under the general law relating to cities of the class specified in the resolution or petition. If the plan proposed in the petition is a plan authorized for noncharter code cities the ballot statement shall clearly set forth that adoption of such plan by the voters would not affect the eligibility of the noncharter code city to be governed under this optional municipal code.

Sec. 16. Section 35A.06.060, chapter 119, Laws of 1967 ex. sess. and RCW 35A.06.060 are each amended to read as follows:

If a majority of votes cast at the election favor abandonment of the general plan of government under which the noncharter code city is then organized and reorganization under the different general plan proposed in the resolution or petition, the officers to be elected (~~((at the next succeeding general municipal election))~~) shall be those prescribed by the plan of government so adopted, and they shall be elected as provided in RCW 35A.02-.050 if the city is to remain a noncharter code city, or if the city is abandoning optional municipal code status, they shall be elected at the next succeeding general municipal election. Upon the election (~~((and))~~), qualification (~~((of))~~), and assumption of office by such officers the reorganization of the government of such municipality shall be complete and such municipality shall thereafter be governed under such plan. If the plan so adopted is not a plan authorized for noncharter code cities, upon the election (~~((and))~~), qualification (~~((of))~~), and assumption of office by such officers the municipality shall cease to be a noncharter code city governed under the provisions of this optional municipal code and shall revert to the classification selected (~~((at such election))~~) and shall be governed by the general laws relating to municipalities of such class with the powers conferred by law upon municipalities of such class. Such change of classification shall not affect the then existing property rights or liabilities of the municipal corporation.

Sec. 17. Section 35A.11.040, chapter 119, Laws of 1967 ex. sess. and RCW 35A.11.040 are each amended to read as follows:

The legislative body of a code city may exercise any of its powers or perform any of its functions including purchasing, and participate in the financing thereof, jointly or in cooperation, as provided for in chapter (~~((239; Laws of 1967 [chapter 39.34 RCW]))~~) 39.34 RCW. The legislative body of a code city shall have power to accept any gift or grant for any public purpose and may carry out any conditions of such gift or grant when not in conflict with state or federal law.

Sec. 18. Section 1, chapter 81, Laws of 1973 1st ex. sess. and RCW 35A.11.080 are each amended to read as follows:

The qualified electors or legislative body of a noncharter code city may provide for the exercise in their city of the powers of initiative and referendum, upon electing so to do in the manner provided for changing the classification of a city or town in RCW 35A.02.020, 35A.02.025, 35A.02.030, and 35A.02.035, as now or hereafter amended.

The exercise of such powers may be restricted or abandoned upon electing so to do in the manner provided for abandoning the plan of government of a noncharter code city in RCW 35A.06.030, 35A.06.040, 35A.06.050, and 35A.06.060, as now or hereafter amended.

Sec. 19. Section 35A.12.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.010 are each amended to read as follows:

The government of any noncharter code city or charter code city electing to adopt the mayor-council plan of government authorized by this chapter shall be vested in an elected mayor and an elected council. The council of a noncharter code city having less than twenty-five hundred inhabitants shall consist of five members; when there are twenty-five hundred or more inhabitants, the council shall consist of seven members; PROVIDED, That if the population of a city after having become a code city decreases from twenty-five hundred or more to less than twenty-five hundred, it shall continue to have a seven member council. If, after a city has become a mayor-council code city, its population increases to twenty-five hundred or more inhabitants, the number of councilmanic offices in such a city shall increase from five to seven members. In that event the city council shall, by majority vote, pursuant to RCW 35A.12.050, appoint two persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two-year term and one person shall be elected for a four-year term. The number of inhabitants shall be determined by the most recent official state or federal census or determination by the state ((~~census board~~)) office of financial management. A charter adopted under the provisions of this title, incorporating the mayor-council plan of government set forth in this chapter, may provide for an uneven number of councilmen not exceeding eleven.

Sec. 20. Section 35A.12.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.030 are each amended to read as follows:

No person shall be eligible to hold elective office under the mayor-council plan unless ((~~he shall have been~~)) the person is a registered voter of the city at the time of filing his declaration of candidacy and has been a resident of the city for a period of at least one year next preceding his election. Residence and voting within the limits of any territory which has been included in, annexed to, or consolidated with such city is construed to have been residence within the city. A mayor or councilman shall hold within the city government no other public office or employment except as permitted under the provisions of chapter 42.23 RCW.

Sec. 21. Section 35A.12.040, chapter 119, Laws of 1967 ex. sess. as amended by section 3, chapter 52, Laws of 1970 ex. sess. and RCW 35A.12.040 are each amended to read as follows:

Officers shall be elected at biennial municipal elections to be conducted as provided in chapter 35A.29 RCW. The mayor and the councilmen shall be elected for four year terms and until their successors are elected and qualified; except that at ~~((the))~~ any first election three councilmen in cities having seven councilmen, and two councilmen in cities having five councilmen, shall be elected for two year terms and the remaining councilmen shall be elected for four year terms ~~((, and the mayor in office at the time of such election shall continue for another four year term coextensive with the terms for which councilmen elected for four years are elected and there shall be no election as to mayor))~~. At any first election upon reorganization, council members shall be elected as provided in RCW 35A.02.050. Thereafter the requisite number of councilmen shall be elected biennially as the terms of their predecessors expire and shall serve for terms of four years. The positions to be filled on the city council shall be designated by consecutive numbers and shall be dealt with as separate offices for all election purposes, as provided in RCW 35A.29.105. ~~((At the first election in cities having seven councilmen, the candidates elected to positions one, two, and three shall serve for two year terms and the candidates elected to positions four, five, six and seven shall serve for four year terms; at the first election in cities having five councilmen, the candidates elected to positions one and two shall serve for two year terms and the candidates elected to positions three, four, and five shall serve for four year terms. PROVIDED, That))~~ In any city which holds its first election under this title in the calendar year 1970, candidates elected for two year terms shall hold office until their successors are elected and qualified at the general municipal election to be held in November, 1973 and candidates elected for four year terms shall hold office until their successors are elected and qualified at the general municipal election to be held in November, 1975. Election to positions on the council shall be by majority vote from the city at large, unless provision is made by charter or ordinance for election by wards. The city council shall be the judge of the qualifications of its members and determine contested elections of city officers, subject to review by certiorari as provided by law. The mayor and councilmen shall qualify by taking an oath or affirmation of office and as may be provided by law, charter, or ordinance.

Sec. 22. Section 35A.12.100, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.100 are each amended to read as follows:

The mayor shall be the chief executive and administrative officer of the city, in charge of all departments and employees, with authority to designate assistants and department heads. The mayor may appoint and remove a chief administrative officer or assistant administrative officer, if so provided by ordinance or charter. He shall see that all laws and ordinances are

faithfully enforced and that law and order is maintained in the city, and shall have general supervision of the administration of city government and all city interests. All official bonds and bonds of contractors with the city shall be submitted to the mayor or such person as he may designate for approval or disapproval. He shall see that all contracts and agreements made with the city or for its use and benefit are faithfully kept and performed, and to this end he may cause any legal proceedings to be instituted and prosecuted in the name of the city, subject to approval by majority vote of all members of the council. The mayor shall preside over all meetings of the city council, when present, but shall have a vote only in the case of a tie in the votes of the councilmen with respect to matters other than the passage of any ordinance, grant, or revocation of franchise or license, or any resolution for the payment of money. He shall report to the council concerning the affairs of the city and its financial and other needs, and shall make recommendations for council consideration and action. He shall prepare and submit to the council a proposed budget, as required by chapter 35A.33 RCW. The mayor shall have the power to veto ordinances passed by the council and submitted to him as provided in RCW 35A.12.130 but such veto may be overridden by the vote of a majority of all council members plus one more vote. The mayor shall be the official and ceremonial head of the city and shall represent the city on ceremonial occasions, except that when illness or other duties prevent the mayor's attendance at an official function and no mayor pro tempore has been appointed by the council, a member of the council or some other suitable person may be designated by the mayor to represent the city on such occasion.

Sec. 23. Section 35A.12.110, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.110 are each amended to read as follows:

The city council and mayor shall meet regularly, at least once a month, at a place within the corporate limits of the city at such times as may be fixed by ordinance or resolution. Special meetings may be called by the mayor or any three members of the council by written notice delivered to each member of the council at least ~~((twelve))~~ twenty-four hours before the time specified for the proposed meeting. All actions that have heretofore been taken at special council meetings held pursuant to this section, but for which the number of hours of notice given has been at variance with requirements of RCW 42.30.080, are hereby validated. All council meetings shall be open to the public except ((that the council may hold executive sessions from which the public is excluded for purposes other than the final adoption of an ordinance, resolution, rule, regulation, or directive)) as permitted by chapter 42.30 RCW. No ordinance or resolution shall be passed, or contract let or entered into, or bill for the payment of money allowed at any meeting not open to the public, nor at any public meeting the date of which is not fixed by ordinance, resolution, or rule, unless public notice of such meeting has been given by such notice to ~~((the local press, radio, and~~

~~television, as will be reasonably calculated to inform inhabitants of the city of the meeting))~~ each local newspaper of general circulation and to each local radio or television station, as provided in RCW 42.30.080 as now or hereafter amended. Meetings of the council shall be presided over by the mayor, if present, or otherwise by the mayor pro tempore, or deputy mayor if one has been appointed, or by a member of the council selected by a majority of the council members at such meeting. Appointment of a council member to preside over the meeting shall not in any way abridge his right to vote on matters coming before the council at such meeting. In the absence of the clerk, a deputy clerk or other qualified person appointed by the clerk, the mayor, or the council, may perform the duties of clerk at such meeting. A journal of all proceedings shall be kept, which shall be a public record.

Sec. 24. Section 35A.13.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.13.010 are each amended to read as follows:

The councilmen shall be the only elective officers of a code city electing to adopt the council-manager plan of government authorized by this chapter, except where statutes provide for an elective police judge. 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 the city government. The city manager shall be responsible to the council for the proper administration of all affairs of the code city. The council of a non-charter code city having less than twenty-five hundred inhabitants shall consist of five members; when there are twenty-five hundred or more inhabitants the council shall consist of seven members: PROVIDED, That if the population of a city after having become a code city decreases from twenty-five hundred or more to less than twenty-five hundred, it shall continue to have a seven member council. If, after a city has become a council-manager code city its population increases to twenty-five hundred or more inhabitants, the number of councilmanic offices in such a city shall increase from five to seven members. It that event, the city council shall, by majority vote, pursuant to RCW 35A.13.020, appoint two persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two-year term and one person shall be elected for a four-year term. The number of inhabitants shall be determined by the most recent official state or federal census or determination by the state ((~~census board~~)) office of financial management. A charter adopted under the provisions of this title, incorporating the council-manager plan of government set forth in this chapter may provide for an uneven number of councilmen not exceeding eleven.

Sec. 25. Section 35A.13.040, chapter 119, Laws of 1967 ex. sess. and RCW 35A.13.040 are each amended to read as follows:

The salaries of the councilmen, including the mayor, 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 become effective until the expiration of the term then being served by the incumbent: PROVIDED, That compensation of councilmen may not be increased or diminished after their election nor may the compensation of the mayor be increased or diminished after the mayor has been chosen by the council.

Until councilmen of a newly-organized council-manager code city may lawfully be paid as provided by salary ordinance, such councilmen shall be entitled to compensation in the same manner and in the same amount as councilmen of such city prior to the adoption of this council-manager plan.

Until a salary ordinance can be passed and become effective as to elective officers of a newly incorporated code city, the first councilmen shall be entitled to compensation as follows: In cities having less than five thousand inhabitants—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—a salary of one hundred and fifty dollars per calendar month; in cities having more than fifteen thousand inhabitants—a salary of four hundred dollars per calendar month. A councilman who is occupying the position of mayor, in addition to his salary as a councilman, shall be entitled, while serving as mayor, to an additional amount per calendar month, or portion thereof, equal to twenty-five percent of the councilmanic salary: 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 compensation provided herein shall not be construed as fixing the usual compensation of such officers. 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. 26. Section 35A.13.170, chapter 119, Laws of 1967 ex. sess. and RCW 35A.13.170 are each amended to read as follows:

All provisions of RCW 35A.12.110, as now or hereafter amended, and 35A.12.120, relating to council meetings, a quorum for transaction of business, rules and voting at council meetings, shall be applicable to code cities organized under this council-manager plan.

Sec. 27. Section 35A.14.220, chapter 119, Laws of 1967 ex. sess. as amended by section 26, chapter 195, Laws of 1973 1st ex. sess. and RCW 35A.14.220 are each amended to read as follows:

Annexations under the provisions of RCW 35A.14.295, 35A.14.297, 35A.14.300, and 35A.14.310 shall not be subject to review by the annexation review board: PROVIDED, That in ((class AA, class A and first class

countries)) any county in which a boundary review board is established under chapter 36.93 RCW all annexations shall be subject to review except as provided for in RCW 36.93.110. When the area proposed for annexation in a petition or resolution, initiated and filed under any of the methods of initiating annexation authorized by this chapter, is less than fifty acres or less than two million dollars in assessed valuation, review procedures shall not be required as to such annexation proposal, except as provided in chapter 36.93 RCW in those counties with a review board established pursuant to chapter 36.93 RCW: PROVIDED, That when an annexation proposal is initiated by the direct petition method authorized by ~~((section))~~ RCW 35A.14.120, review procedures shall not be required without regard to acreage or assessed valuation, except as provided in chapter 36.93 RCW in those counties with a boundary review board established pursuant to chapter 36.93 RCW.

Sec. 28. Section 35A.14.700, chapter 119, Laws of 1967 ex. sess. as amended by section 2, chapter 31, Laws of 1975 1st ex. sess. and RCW 35A.14.700 are each amended to read as follows:

Whenever any territory is annexed to a code city, a certificate as hereinafter provided shall be submitted in triplicate to the office of ~~((program planning and fiscal))~~ financial management~~((, hereinafter in this section referred to as "the office";))~~ within thirty days of the effective date of annexation specified in the relevant ordinance. After approval of the certificate, the office of financial management shall retain the original copy in its files, and transmit the second copy to the department of ~~((highways))~~ transportation and return the third copy to the code city. Such certificates shall be in such form and contain such information as shall be prescribed by the office of financial management. A copy of the complete ordinance containing a legal description and a map showing specifically the boundaries of the annexed territory shall be attached to each of the three copies of the certificate. The certificate shall be signed by the mayor and attested by the city clerk. Upon request, the office of financial management shall furnish certification forms to any code city.

Upon approval of the annexation certificate, the office of financial management shall forward to each state official or department responsible for making allocations or payments to cities or towns, a revised certificate reflecting the increase in population due to such annexation. Upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for the allocation and payment of state funds to such city or town.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate is forwarded by the office of financial management thirty days or less prior to the commencement of the next quarterly period,

the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

The resident population of the annexed territory shall be determined by, or under the direction of, the mayor of the code city. Such population determination shall consist of an actual enumeration of the population which shall be made in accordance with practices and policies, and subject to the approval of the office of financial management. The population shall be determined as of the effective date of annexation as specified in the relevant ordinance.

Until an annexation certificate is filed and approved as provided herein, such annexed territory shall not be considered by the office of financial management in determining the population of such code city.

Sec. 29. Section 35A.29.090, chapter 119, Laws of 1967 ex. sess. and RCW 35A.29.090 are each amended to read as follows:

Except as otherwise provided in RCW 35A.03.130, 35A.04.140, 35A-.05.110, (~~and~~) or 35A.08.110, the term of every code city officer elected to office at the general municipal election on the first Tuesday following the first Monday in November of the odd-numbered years shall begin as of noon on the second Monday in January following his election: PROVIDED, That any person elected to less than a full term where the office sought is vacant or is held by an appointed incumbent shall assume office as soon as the election returns are certified and certificates of election have been delivered, except for the first election of all officers at a general municipal election, or unless otherwise provided in this title: PROVIDED FURTHER, That when not otherwise provided (~~for~~) in this title, the term of officers elected at a special election shall begin on the first Monday following the certification of the election returns.

Sec. 30. Section 35A.29.110, chapter 119, Laws of 1967 ex. sess. as amended by section 4, chapter 52, Laws of 1970 ex. sess. and RCW 35A-.29.110 are each amended to read as follows:

A candidate for office in a code city shall file a declaration of candidacy substantially in the form set forth in RCW 29.18.030 insofar as such form is applicable to nonpartisan offices. Declarations of candidacy for offices of code cities to be voted upon at any municipal general election shall be filed with the (~~city clerk or code city clerk~~) county auditor not earlier than the last Monday of July nor later than the next succeeding Friday in the year such general election is to be held: PROVIDED, That if the first election of all officers upon reorganization as a noncharter code city under a plan of government newly adopted in the manner provided in RCW 35A.02.020, 35A.02.030 (~~or~~), 35A.02.080, or 35A.06.030, as now or hereafter amended, is (~~a special~~) an election as provided in RCW 35A.02.050 as now or hereafter amended, such declarations of candidacy shall be filed with the (~~city clerk~~) county auditor not more than fifty nor less than forty-six days prior to the primary election provided for in RCW 35A.02.050 as amended.

Any candidate may withdraw his declaration at any time but not later than five days after the last day allowed for filing declarations of candidacy. Nominating petitions for charter commissioners and for any other office for which nominating petitions may be required shall be filed with the ~~((city clerk or code city clerk))~~ county auditor not more than sixty nor less than forty-six days prior to the date of the election, and may be withdrawn at any time but not later than five days after the last day allowed for filing such petitions.

Sec. 31. Section 35A.29.120, chapter 119, Laws of 1967 ex. sess. and RCW 35A.29.120 are each amended to read as follows:

When any question is to be submitted to the voters of a code city, or when a proposition is to be submitted to the voters of an area under provisions of this title, the question or proposition shall be advertised as provided for nominees for office, and in such cases there shall also be printed on the ballot a concise statement ~~((not exceeding one hundred words containing the essential features thereof expressed in such a manner as to clearly identify the proposition to be voted upon))~~ in the form of a question and as otherwise provided in RCW 29.27.060, which statement shall be prepared by the attorney for the code city, or by the prosecuting attorney for the county for elections held outside of a code city. ~~((In addition to such a statement, the official preparing the statement shall also prepare a caption, not to exceed ten words in length, to permit the voters readily to identify the proposition and distinguish it from other propositions on the ballot. This caption shall be placed on the ballot immediately before the statement, and shall be printed in heavy black type in such a manner as to be readable at a glance. The caption and))~~ The concise statement ~~((together))~~ shall constitute the ballot title.

Sec. 32. Section 35A.44.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.44.010 are each amended to read as follows:

The population of code cities shall be determined ~~((by))~~ for specific purposes in accordance with any express provision of state law relating thereto. Where no express provision is made, the provisions of ~~((chapter 43.62 RCW relating to the state census board;))~~ RCW 43.41.110(7) relating to the office of financial management and the provisions of RCW 35.13.260 shall govern.

Sec. 33. Section 35A.63.020, chapter 119, Laws of 1967 ex. sess. and RCW 35A.63.020 are each amended to read as follows:

By ordinance a code city may create a planning agency and provide for its membership, organization, and expenses. The planning agency shall serve in an advisory capacity to the chief administrative officer or the legislative body, or both, as may be provided by ordinance and shall have such other powers and duties as shall be provided by ordinance. If any person or persons on a planning agency concludes that he has a conflict of interest or an

appearance of fairness problem with respect to a matter pending before the agency so that he cannot discharge his duties on such an agency, he shall disqualify himself from participating in the deliberations and the decision-making process with respect to the matter. If this occurs, the appointing authority that appoints such a person may appoint a person to serve as an alternate on the agency to serve in his stead in regard to such a matter.

Sec. 34. Section 35A.63.110, chapter 119, Laws of 1967 ex. sess. and RCW 35A.63.110 are each amended to read as follows:

A code city which pursuant to this chapter creates a planning agency and which has twenty-five hundred or more inhabitants, by ordinance, shall create a board of adjustment and provide for its membership, terms of office, organization, jurisdiction. A code city which pursuant to this chapter creates a planning agency and which has a population of less than twenty-five hundred may, by ordinance, similarly create a board of adjustment. In the event a code city with a population of less than twenty-five hundred creates a planning agency, but does not create a board of adjustment, the code city shall provide that the city legislative authority shall itself hear and decide the items listed in subdivisions (1), (2), and (3) of this section. The action of the board of adjustment shall be final and conclusive, unless, within ten days from the date of the action, the original applicant or an adverse party makes application to the superior court for the county in which that city is located for a writ of certiorari, a writ of prohibition, or a writ of mandamus. No member of the board of adjustment shall be a member of the planning agency or the legislative body. Subject to conditions, safeguards, and procedures provided by ordinance, the board of adjustment may be empowered to hear and decide:

(1) Appeals from orders, recommendations, permits, decisions, or determinations made by a code city official in the administration or enforcement of the provisions of this chapter or any ordinances adopted pursuant to it.

(2) Applications for variances from the terms of the zoning ordinance, the official map ordinance or other land-use regulatory ordinances under procedures and conditions prescribed by city ordinance, which among other things shall provide that no application for a variance shall be granted unless the board of adjustment finds:

(a) the variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located; and

(b) that such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

(c) that the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

(3) Applications for conditional-use permits, unless such applications are to be heard and decided by the planning agency. A conditional use means a use listed among those classified in any given zone but permitted to locate only after review as herein provided in accordance with standards and criteria set forth in the zoning ordinance.

(4) Such other quasi judicial and administrative determinations as may be delegated by ordinance.

In deciding any of the matters referred to in subsections (1), (2), (3), and (4) of this section, the board of adjustment shall issue a written report giving the reasons for its decision. If a code city provides for a hearing examiner and vests in him the authority to hear and decide the items listed in subdivisions (1), (2), and (3) of this section pursuant to RCW 35A.63.170, then the provisions of this section shall not apply to such a city.

NEW SECTION. Sec. 35. Section 35A.06.080, chapter 119, Laws of 1967 ex. sess. and RCW 35A.06.080 are each hereby repealed.

NEW SECTION. Sec. 36. 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. 37. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 21, 1979.

Passed the Senate April 9, 1979.

Approved by the Governor April 17, 1979.

Filed in Office of Secretary of State April 17, 1979.

CHAPTER 19

[Substitute Senate Bill No. 2042]

COLLEGES AND UNIVERSITIES—FOREIGN STUDENTS—CONSULAR MISSIONS—RESIDENT STATUS

AN ACT Relating to higher education; and adding a new section to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.15 RCW.

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

NEW SECTION. Section 1. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.15 RCW a new section to read as follows: