

from the date of filing thereof, unless the applicant consents to an extension of such time period. A final plat meeting all requirements of this chapter shall be submitted to the legislative body of the city, town, or county for approval within three years of the date of preliminary plat approval: **PROVIDED**, That this three-year time period shall retroactively apply to any preliminary plat pending before a city, town, or county as of July 24, 1983, where the authority to proceed with the filing of a final plat has not lapsed under an applicable city, town, or county ordinance containing a shorter time period that was in effect when the preliminary plat was approved. An applicant who files a written request with the legislative body of the city, town, or county at least thirty days before the expiration of this three-year period shall be granted one one-year extension upon a showing that the applicant has attempted in good faith to submit the final plat within the three-year period. Nothing contained in this section shall act to prevent any city, town, or county from adopting by ordinance procedures which would allow other extensions of time that may or may not contain additional or altered conditions and requirements.

**NEW SECTION.** Sec. 3. This act does not affect the provisions of RCW 82.02.020.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

## CHAPTER 234

[Engrossed Substitute House Bill No. 308]

### MUNICIPAL INCORPORATION

AN ACT Relating to municipal incorporation proceedings; amending RCW 35.02.010, 35.02.020, 35.02.030, 35.02.035, 35.02.040, 35.02.070, 35.02.086, 35.02.090, 35.02.100, 35.02.110, 35.02.120, 35.02.130, 35.13.247, 35.13.248, 35.02.140, 35.21.763, 35A.03.160, 35.02.150, 35.02.160, 35.02.170, 35.04.150, 35.04.160, 35.04.170, 35A.14.015, 35A.14.050, 35A.14.140, 35A.29.090, 36.93.170, 36.94.180, and 52.08.025; adding new sections to chapter 35.02 RCW; adding a new section to chapter 35A.03 RCW; recodifying RCW 35.04.150, 35.04.160, 35.04.170, 35.13.247, 35.13.248, 35.21.763, 35A.03.160, and 35.21.764; repealing RCW 35.02.050, 35.02.060, 35.02.080, 35.03.005, 35.03.010, 35.03.020, 35.03.030, 35.03.035, 35.03.040, 35.03.050, 35.04.010, 35.04.020, 35.04.030, 35.04.040, 35.04.050, 35.04.060, 35.04.070, 35.04.080, 35.04.090, 35.04.100, 35.04.110, 35.04.120, 35.04.130, 35.04.140, 35.04.180, 35A.03.010, 35A.03.020, 35A.03.030, 35A.03.035, 35A.03.040, 35A.03.050, 35A.03.060, 35A.03.070, 35A.03.075, 35A.03.080, 35A.03.085, 35A.03.090, 35A.03.100, 35A.03.110, 35A.03.120, 35A.03.130, 35A.03.140, 35A.03.151, 35A.03.152, 35A.03.170, 35A.03.180, 35A.04.010, 35A.04.020, 35A.04.030, 35A.04.040, 35A.04.050, 35A.04.060, 35A.04.070, 35A.04.080, 35A.04.090, 35A.04.100, 35A.04.110, 35A.04.120, 35A.04.130, 35A.04.140, 35A.04.150, 35A.04.160, 35A.04.170, 35A.04.180, and 35A.04.190; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 35.02 RCW to read as follows:

The purpose of chapter 35.02 RCW is to provide a clear and uniform process for the incorporation of cities or towns operating under either Title 35 or 35A RCW. An incorporation may result in the creation of a second class city, third class city, or town operating under Title 35 RCW, or a noncharter code city operating under Title 35A RCW.

Sec. 2. Section 35.02.010, chapter 7, Laws of 1965 as amended by section 1, chapter 48, Laws of 1969 and RCW 35.02.010 are each amended to read as follows:

Any ~~((portion of a county))~~ contiguous area containing not less than three hundred inhabitants lying outside the limits of an incorporated city or town may become incorporated as a ~~((municipal corporation of the class to which it belongs))~~ city or town operating under Title 35 or 35A RCW as provided in this chapter: PROVIDED, That no area which lies within five air miles of the boundary of any city having a population of fifteen thousand or more ~~((and lying within the same county))~~ shall be incorporated ~~((after June 12, 1969))~~ which contains less than three thousand inhabitants.

Sec. 3. Section 35.02.020, chapter 7, Laws of 1965 and RCW 35.02-.020 are each amended to read as follows:

A petition for incorporation must be signed by qualified voters resident within the limits of the proposed city or town equal in number to ~~((twenty))~~ ten percent of the votes cast at the last state general election and presented to the auditor of the county in which all, or the largest portion of, the proposed city or town is located.

Sec. 4. Section 35.02.030, chapter 7, Laws of 1965 and RCW 35.02-.030 are each amended to read as follows:

The petition for incorporation shall ~~((contain))~~: (1) Indicate whether the proposed city or town shall be a noncharter code city operating under Title 35A RCW, or a city or town operating under Title 35 RCW; (2) indicate the form or plan of government ((under which a)) the city ((is to operate in the event it is incorporated,)) or town is to have; (3) set forth and particularly describe the proposed boundaries of the proposed city or town(;); (4) state the name of the proposed ((corporation and)) city or town; (5) state the number of inhabitants therein, as nearly as may be(;); and (6) pray that it may be incorporated. The petition shall conform to the requirements for form prescribed in RCW 35A.01.040. If the proposed city or town is located in more than one county, the petition shall be prepared in such a manner as to indicate the different counties within which the signators reside. A city or town operating under Title 35 RCW may have a mayor/council, council/manager, or commission form of government. A city operating under Title 35A RCW may have a mayor/council or council/manager plan of government. If the petition fails to specify the matters described in subsection (1) of this section, the proposal shall be to incorporate as a noncharter code city. If the petition fails to specify the

matter described in subsection (2) of this section, the proposal shall be to incorporate with a mayor/council form or plan of government.

Sec. 5. Section 35.02.035, chapter 7, Laws of 1965 and RCW 35.02-.035 are each amended to read as follows:

The county auditor shall within thirty days from the time of receiving said petition determine ~~((that the legal description of the area proposed to be incorporated is correct and that there is))~~ if the petition contains a sufficient number of valid signatures. ~~((Upon such determination))~~ If the proposed city or town is located in more than one county, the auditor shall immediately transmit a copy of the petition to the auditor of the other county or counties within which the proposed city or town is located. Each of these other county auditors shall certify the number of valid signatures thereon of voters residing in the county and transmit the certification to the auditor of the county with whom the petition was originally filed. This auditor shall determine if the petition contains a sufficient number of valid signatures. If the petition is certified as having sufficient valid signatures, the county auditor shall transmit said petition((s)), accompanied by the certificate of sufficiency, to the ((board of)) county ((commissioners)) legislative authority or authorities of the county or counties within which the proposed city or town is located.

NEW SECTION. Sec. 6. A new section is added to chapter 35.02 RCW to read as follows:

The county auditor who certifies the sufficiency of the petition shall notify the person or persons who submitted the petition of its sufficiency within five days of when the determination of sufficiency is made. Notice shall be by certified mail and may additionally be made by telephone. If a boundary review board or boards exists in the county or counties in which the proposed city or town is located, the petitioners shall file notice of the proposed incorporation with the boundary review board or boards.

NEW SECTION. Sec. 7. A new section is added to chapter 35.02 RCW to read as follows:

(1) The county legislative authority of the county in which the proposed city or town is located shall hold a public hearing on the proposed incorporation if no boundary review board exists in the county, or if the boundary review board does not take jurisdiction over the proposal. The public hearing shall be held within sixty days of when the county auditor notifies the legislative authority of the sufficiency of the petition if no boundary review board exists in the county, or within ninety days of when notice of the proposal is filed with the boundary review board if the boundary review board fails to take jurisdiction over the proposal. The public hearing may be continued to other days, not extending more than sixty days

beyond the initial hearing date. If the boundary review board takes jurisdiction, the county legislative authority shall not hold a public hearing on the proposal.

(2) If the proposed city or town is located in more than one county, a public hearing shall be held in each of the counties by the county legislative authority or boundary review board. Joint public hearings may be held by two or more county legislative authorities, or two or more boundary review boards.

Sec. 8. Section 35.02.040, chapter 7, Laws of 1965 and RCW 35.02-.040 are each amended to read as follows:

~~((Upon receipt of a petition for incorporation together with a certificate of sufficiency by the county auditor, the board of county commissioners shall give))~~ Notice of the public hearing ((upon said petition for)) by the county legislative authority on the proposed incorporation shall be by one publication in not more than ten nor less than three days prior to the date set for said hearing in one or more newspapers of general circulation within the ((county)) area proposed to be incorporated. Said notice shall contain the time and place of said hearing.

Sec. 9. Section 35.02.070, chapter 7, Laws of 1965 as amended by section 3, chapter 220, Laws of 1975 1st ex. sess. and RCW 35.02.070 are each amended to read as follows:

~~((Upon final hearing on a petition for incorporation the board shall, subject to RCW 35.02.170,))~~ (1) If a county legislative authority holds a public hearing on a proposed incorporation, it shall establish and define the boundaries of the proposed city or town, being authorized to decrease but not increase the area proposed in the petition ((and)), except for adjusting the boundaries out to the right of way line of any portion of a public highway, street, or road pursuant to RCW 35.02.170. Any ((such)) decrease shall not exceed twenty percent of the area proposed((; it must also determine the number of inhabitants within the boundaries it has established)) or that portion of the area located within the county: PROVIDED, That the area shall not be so decreased that the number of inhabitants therein shall be less than required by RCW 35.02.010 as now or hereafter amended. The county legislative authority, or the boundary review board if it takes jurisdiction, shall determine the number of inhabitants within the boundaries it has established.

(2) A county legislative authority shall disapprove the proposed incorporation if, without decreasing the area proposed in the petition, it does not conform with RCW 35.02.010. A county legislative authority may not otherwise disapprove a proposed incorporation.

(3) A county legislative authority or boundary review board has jurisdiction only over that portion of a proposed city or town located within the boundaries of the county.

**NEW SECTION.** Sec. 10. A new section is added to chapter 35.02 RCW to read as follows:

An election shall be held in the area proposed to be incorporated to determine whether the proposed city or town shall be incorporated if the boundary review board approves or modifies and approves the proposal, or if the county legislative authority does not disapprove the proposal as provided in RCW 35.02.070. Voters at this election shall determine if the area is to be incorporated.

The initial election on the question of incorporation shall be held at the next special election date specified in RCW 29.13.020 that occurs sixty or more days after the final public hearing by the county legislative authority or authorities, or the approval or modification and approval by the boundary review board or boards. The county legislative authority or authorities shall call for this election and, if the incorporation is approved, shall call for other elections to elect the elected officials as provided in this section. If the vote in favor of the incorporation receives forty percent or less of the total vote on the question of incorporation, no new election on the question of incorporation for the area or any portion of the area proposed to be incorporated may be held for a period of three years from the date of the election in which the incorporation failed.

If the incorporation is authorized as provided by RCW 35.02.120, separate elections shall be held to nominate and elect persons to fill the various elective offices prescribed by law for the population and type of city or town, and to which it will belong. The primary election to nominate candidates for these elective positions shall be held at the next special election date, as specified in RCW 29.13.020, that occurs sixty or more days after the election on the question of incorporation. The election to fill these elective positions shall be held at the next special election date, as specified in RCW 29.13.020, that occurs thirty or more days after certification of the results of the primary election.

Sec. 11. Section 35.02.086, chapter 7, Laws of 1965 and RCW 35.02-.086 are each amended to read as follows:

Each candidate((s)) for a city or town elective position((s of the class to which such proposed corporation will belong and for the type of government as named in said petition)) shall file a declaration of candidacy with the county auditor of the county in which all or the major portion of the city or town is located, not more than forty-five nor less than thirty days prior to ((said)) the primary election at which the initial elected officials are nominated. The elective positions shall be as provided in law for the type of city or town and form or plan of government specified in the petition to incorporate, and for the population of the city or town as determined by the county legislative authority or boundary review board where applicable. Any candidate may withdraw his or her declaration at any time within five days after the last day allowed for filing declaration of candidacy. ((There

shall be no fee charged for filing a declaration of candidacy for this incorporation election:)) All names of candidates to be voted upon shall be printed upon the ballot alphabetically in groups under the designation of the respective titles of offices for which they are candidates. Names of candidates printed upon the ballot need not be rotated.

Sec. 12. Section 35.02.090, chapter 7, Laws of 1965 and RCW 35.02-.090 are each amended to read as follows:

The elections on the proposed incorporation and for the nomination and election of the initial elected officials shall be conducted in accordance with the general election laws of the state, except as provided in this chapter. No person ((shall be)) is entitled to vote thereat unless he or she is a qualified elector of the county, or any of the counties in which the proposed city or town is located, and has resided within the limits of the proposed city or town for at least thirty days next preceding the date of election.

Sec. 13. Section 35.02.100, chapter 7, Laws of 1965 and RCW 35.02-.100 are each amended to read as follows:

The notice of election on the question of the incorporation shall be given as provided by RCW 29.27.080 but shall further describe the boundaries of the proposed city or town, its name, and the number of inhabitants(;) ascertained by the ((board of)) county ((commissioners)) legislative authority or the boundary review board to reside ((therein)) in it.

Sec. 14. Section 35.02.110, chapter 7, Laws of 1965 and RCW 35.02-.110 are each amended to read as follows:

The ballots in the initial election on the question of incorporation shall contain the words "for incorporation" and "against incorporation" or words equivalent thereto(, and also the names of the persons to be voted for, to fill the various elective offices).

Sec. 15. Section 35.02.120, chapter 7, Laws of 1965 and RCW 35.02-.120 are each amended to read as follows:

((The county canvassing board of election returns shall certify the results of the election to the board of county commissioners:)) If the results reveal that a majority of the votes cast are for incorporation, the ((board by an order entered upon its minutes shall declare the city or town duly incorporated as of the class to which it may belong, naming it under the style of city (or town) of . . . . . The board shall cause a certified copy of the order to be filed in the office of the secretary of state)) city or town shall become incorporated as provided in RCW 35.02.130. If the proposed city or town is located in more than one county, the auditors of the county or counties in which the smaller portion or portions of the proposed city or town is located shall forward a certified copy of the election results to the auditor of the county within which the major portion is located. This auditor shall add these totals to the totals in his or her county and certify the results to each of the county legislative authorities.

Sec. 16. Section 35.02.130, chapter 7, Laws of 1965 and RCW 35.02-.130 are each amended to read as follows:

~~The ((incorporation shall be complete upon the filing of the order of the board of county commissioners declaring it so, in the office of the secretary of state. The county auditor shall issue certificates of election to the successful candidates on or before the twentieth day following an election and said newly elected officials shall assume office on the first Monday following the issuance of the certificate of election))~~ city or town officially shall become incorporated at a date from one hundred eighty days to three hundred sixty days after the date of the election on the question of incorporation. An interim period shall exist between the time the newly elected officials have been elected and qualified and this official date of incorporation. During this interim period, the newly elected officials are authorized to adopt ordinances and resolutions which shall become effective on or after the official date of incorporation, and to enter into contracts and agreements to facilitate the transition to becoming a city or town and to ensure a continuation of governmental services after the official date of incorporation. Tax anticipation or revenue anticipation notes or warrants may be issued during this interim period. The governing body of the new city or town may acquire needed facilities, supplies, equipment, insurance, and staff during this interim period as if the city or town were in existence. This governing body may submit ballot propositions to the voters of the city or town to authorize taxes to be collected on or after the official date of incorporation, or authorize an annexation of the city or town by a fire protection district or library district to be effective immediately upon the effective date of the incorporation as a city or town.

The boundaries of a newly incorporated city or town shall be deemed to be established for purposes of RCW 84.09.030 on the date that the results of the initial election on the question of incorporation are certified or the first day of January following the date of this election if the newly incorporated city or town does not impose property taxes in the same year that the voters approve the incorporation.

The newly elected officials shall take office immediately upon their election and qualification with limited powers during this interim period as provided in this section. They shall acquire their full powers as of the official date of incorporation and shall continue in office until their successors are elected and qualified at the next general municipal election after the official date of incorporation: PROVIDED, That if the date of the next general municipal election is less than seventy-five days after the official date of incorporation ((election)), the initially elected officials ((~~elected at the incorporation election~~)) shall hold office until their successors are elected and qualified at the general municipal election next following.

The official date of incorporation shall be on a date from one hundred eighty to three hundred sixty days after the date of the election on the

question of incorporation, as specified in a resolution adopted by the governing body during this interim period. A copy of the resolution shall be filed with the county legislative authority of the county in which all or the major portion of the newly incorporated city or town is located. If the governing body fails to adopt such a resolution, the official date of incorporation shall be three hundred sixty days after the date of the election on the question of incorporation. The county legislative authority of the county in which all or the major portion of the newly incorporated city or town is located shall file a notice with the county assessor that the city or town has been authorized to be incorporated immediately after the favorable results of the election on the question of incorporation have been certified. The county legislative authority shall file a notice with the secretary of state that the city or town is incorporated as of the official date of incorporation.

NEW SECTION, Sec. 17. A new section is added to chapter 35.02 RCW to read as follows:

The ownership of all county roads located within the boundaries of a newly incorporated city or town shall revert to the city or town and become streets as of the official date of incorporation. However, any special assessments attributable to these county roads shall continue to exist and be collected as if the incorporation had not occurred. Property within the newly incorporated city or town shall continue to be subject to any indebtedness attributable to these roads and any related property tax levies.

The territory included within the newly incorporated city or town shall be removed from the road district as of the official date of incorporation. The territory included within the newly incorporated city or town shall be removed from a fire protection district or districts or library district or districts in which it was located, as of the official date of incorporation, unless the fire protection district or districts have annexed the city or town during the interim period as provided in RCW 52.04.160 through 52.04.200, or the library district or districts have annexed the city or town during the interim period as provided in RCW 27.12.260 through 27.12.290.

Sec. 18. Section 35.13.247, chapter 7, Laws of 1965 as amended by section 5, chapter 332, Laws of 1981 and RCW 35.13.247 are each amended to read as follows:

If a portion of a fire protection district including at least sixty percent of the assessed valuation of the real property of the district is annexed to or incorporated into a city or town, ownership of all of the assets of the district shall be vested in the city or town, upon payment in cash, properties or contracts for fire protection services to the district within one year, of a percentage of the value of said assets equal to the percentage of the value of the real property in entire district remaining outside the incorporated or annexed area. The fire protection district may elect, by a vote of a majority of the persons residing outside the annexed or incorporated area who vote on the proposition, to require the annexing or incorporating city or town to

assume responsibility for the provision of fire protection, and for the operation and maintenance of the district's property, facilities, and equipment throughout the district and to pay the city or town a reasonable fee for such fire protection, operation, and maintenance.

If all of a fire protection district is included in an area that incorporates as a city or town or is annexed to a city or town, all of the assets and liabilities of the fire protection district shall be transferred to the newly incorporated city or town upon its official date of incorporation or to the city or town upon the annexation.

Sec. 19. Section 35.13.248, chapter 7, Laws of 1965 as amended by section 1, chapter 146, Laws of 1967 and RCW 35.13.248 are each amended to read as follows:

(1) If a portion of a fire protection district including less than sixty percent of the assessed value of the real property of the district is annexed to or incorporated into a city or town, the ownership of all assets of the district shall remain in the district and the district shall pay to the city or town within one year or within such period of time as the district continues to collect taxes in such incorporated or annexed areas, in cash, properties or contracts for fire protection services, a percentage of the value of said assets equal to the percentage of the value of the real property in the entire district lying within the area so incorporated or annexed: PROVIDED, That if the area annexed or incorporated includes less than five percent of the ((area of the district is affected)) assessed value of the real property of the district, no payment shall be made to the city or town.

(2) As provided in RCW 35A.03.160, the fire protection district from which territory is removed as a result of an incorporation or annexation shall provide fire protection to the incorporated or annexed area for such period as the district continues to collect taxes levied in such annexed or incorporated area.

(3) For the purposes of this section, the word "assets" shall mean the total assets of the fire district, reduced by its liabilities, including bonded indebtedness, the same to be determined by usual and accepted accounting methods. The amount of said liability shall be determined by reference to the fire district's balance sheet, produced in the regular course of business, which is nearest in time to the certification of the annexation of fire district territory by the city or town.

Sec. 20. Section 35.02.140, chapter 7, Laws of 1965 and RCW 35.02.140 are each amended to read as follows:

Whenever in any territory forming a part of an incorporated city or town which is part of a road district ((of the county)), and road district regular property taxes ((have been levied but not collected)) are collectable on any property within such territory, the same shall, when collected by the county treasurer, be paid to such city or town and placed in the city or town street fund by the city or town: PROVIDED, That this section shall not

apply to excess property tax levies securing general indebtedness or any special assessments due in behalf of such property.

Sec. 21. Section 35A.03.160, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.160 are each amended to read as follows:

At the option of the ~~((council))~~ governing body of a newly-incorporated ~~((noncharter code))~~ city or town, any fire protection district or library district serving any part of the area so incorporated shall continue to provide services to such area ~~((for the period during which such area is included within such special service district for taxing purposes under the provisions of RCW 84.09.030, without compensation from the noncharter code))~~ until the city or town receives distributions of property tax receipts from these special districts pursuant to RCW 35.02.140, or the city or town receives its own property tax receipts, whichever is earlier.

Sec. 22. Section 1, chapter 143, Laws of 1985 and RCW 35.21.763 are each amended to read as follows:

~~((Counties))~~ The approval of an incorporation by the voters of a proposed city or town, and the existence of a transition period to become a city or town, shall not remove the responsibility of any county, road district, library district, or fire district, within which the area is located, to continue providing services to the area until the official date of the incorporation.

A county shall continue to provide the following services to a newly incorporated ((cities)) city or town((s)), or that portion of the county within which the newly incorporated city or town is located, at the preincorporation level as follows:

(1) Law enforcement services shall be provided for a period not to exceed sixty days from the official date of the incorporation or until the city or town is receiving or could have begun receiving sales tax distributions under RCW ((82.14.020(1))) 82.14.030(1), whichever is the shortest time period.

(2) Road maintenance shall be for a period not to exceed sixty days from the official date of the incorporation or until any tax distribution from the road district tax levy is made to the newly incorporated city or town pursuant to RCW ((35A.03.151 and 35A.03.152)) 35.02.140, whichever is the shorter time period.

Sec. 23. Section 35.02.150, chapter 7, Laws of 1965 as last amended by section 3, chapter 220, Laws of 1982 and RCW 35.02.150 are each amended to read as follows:

After the filing of any petition for incorporation with the county auditor, and pending its final disposition as provided for in this chapter, no other petition for incorporation which embraces any of the territory included therein shall be acted upon by the county auditor ~~((or))~~ the county legislative authority, or the boundary review board, or by any other public official or body that might otherwise be empowered to receive or act upon such a

petition: PROVIDED, That any petition for incorporation may be withdrawn(~~(, or a new petition embracing other or different boundaries may be substituted therefor,)~~) by a majority of the signers thereof(~~(;)~~) at any time before such petition has been certified by the county auditor to the county legislative authority: PROVIDED FURTHER, That a new petition may be substituted therefor that embraces other or different boundaries, incorporation as a city or town operating under a different title of law, or for incorporation as a city or town operating under a different plan or form of government, by a majority of the signers of the original incorporation petition, at any time before the original petition has been certified by the county auditor to the county legislative authority, in which case the same proceedings shall be taken as in the case of an original petition. A boundary review board, county auditor, county legislative authority, or any other public official or body may act upon a petition for annexation before considering or acting upon a petition for incorporation which embraces some or all of the same territory, without regard to priority of filing.

Sec. 24. Section 1, chapter 42, Laws of 1965 ex. sess. and RCW 35-.02.160 are each amended to read as follows:

The incorporation of any territory (~~((within the boundaries of any city pursuant to the provisions of chapters 35.02 through 35.04 RCW))~~) as a city or town shall cancel, as of the effective date of such incorporation, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such incorporated territory, authorizing or otherwise permitting the operation of any public transportation, garbage collection and/or disposal or other similar public service business or facility within the limits of the incorporated territory, but the holder of any such franchise or permit canceled pursuant to this section shall be forthwith granted by the incorporating city or town a franchise to continue such business within the incorporated territory for a term of not less than the remaining term of the original franchise or permit, or five years, whichever is the shorter period, and the incorporating city or town, by franchise, permit or public operation, shall not extend similar or competing services to the incorporated territory except upon a proper showing of the inability or refusal of such person, firm or corporation to adequately service said incorporated territory at a reasonable price: PROVIDED, That the provisions of this section shall not preclude the purchase by the incorporating city or town of said franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm or corporation whose franchise or permit has been canceled by the terms of this section shall suffer any measurable damages as a result of any incorporation pursuant to the provisions of chapter(~~(s)~~) 35.02 (~~((through 35.04))~~)

RCW, such person, firm or corporation shall have a right of action against any city or town causing such damages.

Sec. 25. Section 2, chapter 220, Laws of 1975 1st ex. sess. and RCW 35.02.170 are each amended to read as follows:

~~((After September 8, 1975;))~~ Centerlines of public streets, roads or highways shall not be used to define any part of a boundary of a city or town in an incorporation or annexation proceeding. The right of way line of any public street, road or highway, or any segment thereof, may be used to define a part of a corporate boundary in an incorporation or annexation proceeding.

Sec. 26. Section 35.04.150, chapter 7, Laws of 1965 and RCW 35.04.150 are each amended to read as follows:

After incorporation of a city or town located in more than one county, all purposes essential to the maintenance, operation, and administration of the ((corporation)) city or town whenever any action is required or may be performed by the county, county legislative authority, or any county officer or board, such action shall be performed by the respective county, county legislative authority, officer, or board of the county of that part of the ((municipality)) city or town in which the largest number of inhabitants reside as of the date of the incorporation of the proposed ((corporation)) city or town except as provided in RCW 35.04.160 as recodified by this 1986 act, and all costs incurred shall be borne proportionately by each county in that ratio which the number of inhabitants residing in that part of each county forming a part of the proposed ((corporation)) city or town bears to the total number of inhabitants residing within the whole of the ((corporation)) city or town.

Sec. 27. Section 35.04.160, chapter 7, Laws of 1965 and RCW 35.04.160 are each amended to read as follows:

In the case of evaluation, assessment, collection, apportionment, and any other allied power or duty relating to taxes in connection with the ((corporation)) city or town, the action shall be performed by the county, county legislative authority, or county officer or board of the county for that area of the ((corporation)) city or town which is located within ((his)) the respective county, and all materials, information, and other data and all moneys collected shall be submitted to the proper officer of the county of that part of the ((corporation)) city or town in which the largest number of inhabitants reside. Any power which may be or duty which shall be performed in connection therewith shall be performed by the county, county legislative authority, officer, or board receiving such as though only a ((corporation)) city or town in a single county were concerned. All moneys collected from such area constituting a part of such ((corporation)) city or town that should be paid to such ((corporation)) city or town shall be

delivered to the ((corporate)) treasurer thereof, and all other materials, information, or data relating to the ((corporation)) city or town shall be submitted to the appropriate ((corporate)) city or town officials.

Any costs or expenses incurred under this section shall be borne proportionately by each county involved.

Sec. 28. Section 35.04.170, chapter 7, Laws of 1965 and RCW 35.04.170 are each amended to read as follows:

Any ((corporation)) city or town incorporated as provided in this chapter shall, in addition to all other powers, duties and benefits of ((corporations of the same class)) a city or town of the same type or class, be authorized to purchase, acquire, lease, or administer any property, real or personal, or property rights and improvements thereon owned by the federal government on such terms and conditions as may be mutually agreed upon, when authorized to do so by the United States government, and thereafter to sell, transfer, exchange, lease, or otherwise dispose of any such property, and to execute contracts with the federal government with respect to supplying water and for other utility services.

Sec. 29. Section 35A.14.015, chapter 119, Laws of 1967 ex. sess. as last amended by section 1, chapter 124, Laws of 1979 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, subject to RCW ((35A.03.180)) 35.02.170, 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 all or any portion of the then-outstanding indebtedness of the city to which said area is annexed, which indebtedness has been approved by the voters, contracted for, or incurred 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 legislative authority 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 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.14.220.

Sec. 30. Section 35A.14.050, chapter 119, Laws of 1967 ex. sess. as last amended by section 15, chapter 220, Laws of 1975 1st 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.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) Subject to RCW (~~35A.03.180~~) 35.02.170, 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. 31. Section 35A.14.140, chapter 119, Laws of 1967 ex. sess. as amended by section 16, chapter 220, Laws of 1975 1st ex. sess. and RCW 35A.14.140 are each amended to read as follows:

Following the hearing, if the legislative body determines to effect the annexation, they shall do so by ordinance. Subject to RCW ((35A.03.180)) 35.02.170, the ordinance may annex all or any portion of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the annexation ordinance a certified copy shall be filed with the board of county commissioners of the county in which the annexed property is located.

Sec. 32. Section 27, chapter 281, Laws of 1985 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)) 35.02.130, 35.10.480, or 35A.08.110, the term of every code city officer elected to office in a general municipal election as provided in RCW 29.13.020 shall begin when qualified and in accordance with RCW 29.04.170: 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 they are qualified in accordance with RCW 29.01.135, unless otherwise provided in this title: PROVIDED FURTHER, That when not otherwise provided 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. 33. Section 17, chapter 189, Laws of 1967 as last amended by section 2, chapter 220, Laws of 1982 and RCW 36.93.170 are each amended to read as follows:

In reaching a decision on a proposal or an alternative, the board shall consider the factors affecting such proposal, which shall include, but not be limited to the following:

(1) Population and territory; population density; land area and land uses; comprehensive use plans and zoning; per capita assessed valuation; topography, natural boundaries and drainage basins, proximity to other populated areas; the existence of prime agricultural soils and agricultural uses; the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years; location and most desirable future location of community facilities;

(2) Municipal services; need for municipal services; effect of ordinances, governmental codes, regulations and resolutions on existing uses; present cost and adequacy of governmental services and controls in area; prospects of governmental services from other sources; probable future needs for such services and controls; probable effect of proposal or alternative 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 proposal or alternative on adjacent areas, on mutual economic and social interests, and on the local governmental structure of the county.

The provisions of chapter 43.21C RCW, State Environmental Policy, shall not apply to incorporation proceedings covered by chapter 35.02 (~~(RCW), Incorporation Proceedings, or 35.03~~) RCW (~~(Incorporation of First Class Cities, or 35A.03 RCW, Incorporation as a Noncharter Code City, or 35A.04 RCW, Incorporation of Intercounty Area as a Noncharter Code City)~~).

Sec. 34. Section 18, chapter 72, Laws of 1967 as last amended by section 82, chapter 3, Laws of 1983 and RCW 36.94.180 are each amended to read as follows:

In the event of the annexation to a city or town of an area, or incorporation of an area, in which a county is operating a sewerage and/or water system, the property, facilities, and equipment of such sewerage and/or water system lying within the annexed or incorporated area may be transferred to the city or town if such transfer will not materially affect the operation of any of the remaining county system, subject to the assumption by the city or town of the county's obligations relating to such property, facilities, and equipment, under the procedures specified in, and pursuant to the authority contained in, chapter 35.13A RCW.

Sec. 35. Section 6, chapter 237, Laws of 1959 as last amended by section 119, chapter 7, Laws of 1985 and RCW 52.08.025 are each amended to read as follows:

Effective January 1, 1960, every city or town, or portion thereof, which is situated within the boundaries of a fire protection district shall become automatically removed from such fire protection district, and no fire protection district shall thereafter include any city or town, or portion thereof, within its boundaries except as provided for in RCW 52.02.020, 52.04.061, 52.04.071, 52.04.081, and 52.04.101.

However, if the area which incorporates or is annexed includes all of a fire protection district, the fire protection district, for purposes of imposing regular property taxes, shall continue in existence until the first day of January in the year in which the initial property tax collections of the newly incorporated city or town will be made or until the first day of January in the year the annexing city or town will collect its property taxes imposed on the newly annexed area. The members of the city or town council or commission shall act as the board of commissioners to impose, receive, and expend these property taxes.

NEW SECTION. Sec. 36. A new section is added to chapter 35A.03 RCW to read as follows:

Noncharter code cities shall be incorporated as provided in chapter 35.02 RCW.

NEW SECTION. Sec. 37. RCW 35.04.150, 35.04.160, 35.04.170, 35.13.247, 35.13.248, 35.21.763, and 35A.03.160, each as amended by this act, are decodified and recodified as part of chapter 35.02 RCW.

NEW SECTION. Sec. 38. RCW 35.21.764 is decodified and recodified as part of chapter 35.02 RCW.

NEW SECTION. Sec. 39. The following acts or parts of acts are each repealed:

- (1) Section 35.02.050, chapter 7, Laws of 1965 and RCW 35.02.050;
- (2) Section 35.02.060, chapter 7, Laws of 1965 and RCW 35.02.060;
- (3) Section 35.02.080, chapter 7, Laws of 1965 and RCW 35.02.080;
- (4) Section 6, chapter 270, Laws of 1969 ex. sess. and RCW 35.03.005;
- (5) Section 35.03.010, chapter 7, Laws of 1965, section 1, chapter 270, Laws of 1969 ex. sess. and RCW 35.03.010;
- (6) Section 35.03.020, chapter 7, Laws of 1965, section 2, chapter 270, Laws of 1969 ex. sess., section 17, chapter 469, Laws of 1985 and RCW 35.03.020;
- (7) Section 35.03.030, chapter 7, Laws of 1965, section 3, chapter 270, Laws of 1969 ex. sess., section 4, chapter 220, Laws of 1975 1st ex. sess. and RCW 35.03.030;
- (8) Section 8, chapter 220, Laws of 1982 and RCW 35.03.035;
- (9) Section 35.03.040, chapter 7, Laws of 1965, section 4, chapter 270, Laws of 1969 ex. sess., section 16, chapter 126, Laws of 1979 ex. sess., section 7, chapter 220, Laws of 1982 and RCW 35.03.040; and
- (10) Section 35.03.050, chapter 7, Laws of 1965, section 5, chapter 270, Laws of 1969 ex. sess. and RCW 35.03.050.

NEW SECTION. Sec. 40. The following acts or parts of acts are each repealed:

- (1) Section 35.04.010, chapter 7, Laws of 1965 and RCW 35.04.010;
  - (2) Section 35.04.020, chapter 7, Laws of 1965 and RCW 35.04.020;
  - (3) Section 35.04.030, chapter 7, Laws of 1965 and RCW 35.04.030;
  - (4) Section 35.04.040, chapter 7, Laws of 1965 and RCW 35.04.040;
  - (5) Section 35.04.050, chapter 7, Laws of 1965 and RCW 35.04.050;
  - (6) Section 35.04.060, chapter 7, Laws of 1965, section 5, chapter 220, Laws of 1975 1st ex. sess. and RCW 35.04.060;
  - (7) Section 35.04.070, chapter 7, Laws of 1965, section 5, chapter 110, Laws of 1977 ex. sess., section 24, chapter 151, Laws of 1979 and RCW 35.04.070;
  - (8) Section 35.04.080, chapter 7, Laws of 1965 and RCW 35.04.080;
  - (9) Section 35.04.090, chapter 7, Laws of 1965 and RCW 35.04.090;
  - (10) Section 35.04.100, chapter 7, Laws of 1965 and RCW 35.04.100;
  - (11) Section 35.04.110, chapter 7, Laws of 1965 and RCW 35.04.110;
  - (12) Section 35.04.120, chapter 7, Laws of 1965 and RCW 35.04.120;
  - (13) Section 35.04.130, chapter 7, Laws of 1965 and RCW 35.04.130;
  - (14) Section 35.04.140, chapter 7, Laws of 1965 and RCW 35.04.140;
- and
- (15) Section 35.04.180, chapter 7, Laws of 1965 and RCW 35.04.180.

NEW SECTION. Sec. 41. The following acts or parts of acts are each repealed:

(1) Section 35A.03.010, chapter 119, Laws of 1967 ex. sess., section 10, chapter 18, Laws of 1979 ex. sess. and RCW 35A.03.010;

(2) Section 35A.03.020, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.020;

(3) Section 35A.03.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.030;

(4) Section 35A.03.035, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.035;

(5) Section 35A.03.040, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.040;

(6) Section 35A.03.050, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.050;

(7) Section 35A.03.060, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.060;

(8) Section 35A.03.070, chapter 119, Laws of 1967 ex. sess., section 12, chapter 220, Laws of 1975 1st ex. sess. and RCW 35A.03.070;

(9) Section 35A.03.075, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.075;

(10) Section 35A.03.080, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.080;

(11) Section 35A.03.085, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.085;

(12) Section 35A.03.090, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.090;

(13) Section 35A.03.100, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.100;

(14) Section 35A.03.110, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.110;

(15) Section 35A.03.120, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.120;

(16) Section 35A.03.130, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.130;

(17) Section 35A.03.140, chapter 119, Laws of 1967 ex. sess., section 4, chapter 220, Laws of 1982 and RCW 35A.03.140;

(18) Section 4, chapter 251, Laws of 1971 ex. sess. and RCW 35A.03.151;

(19) Section 16, chapter 251, Laws of 1971 ex. sess. and RCW 35A.03.152;

(20) Section 35A.03.170, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.170; and

(21) Section 11, chapter 220, Laws of 1975 1st ex. sess. and RCW 35A.03.180.

NEW SECTION. Sec. 42. The following acts or parts of acts are each repealed:

(1) Section 35A.04.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.010;

(2) Section 35A.04.020, chapter 119, Laws of 1967 ex. sess., section 11, chapter 18, Laws of 1979 ex. sess. and RCW 35A.04.020;

(3) Section 35A.04.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.030;

(4) Section 35A.04.040, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.040;

(5) Section 35A.04.050, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.050;

(6) Section 35A.04.060, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.060;

(7) Section 35A.04.070, chapter 119, Laws of 1967 ex. sess., section 13, chapter 220, Laws of 1975 1st ex. sess., section 12, chapter 18, Laws of 1979 ex. sess. and RCW 35A.04.070;

(8) Section 35A.04.080, chapter 119, Laws of 1967 ex. sess., section 29, chapter 151, Laws of 1979, section 13, chapter 18, Laws of 1979 ex. sess. and RCW 35A.04.080;

(9) Section 35A.04.090, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.090;

(10) Section 35A.04.100, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.100;

(11) Section 35A.04.110, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.110;

(12) Section 35A.04.120, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.120;

(13) Section 35A.04.130, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.130;

(14) Section 35A.04.140, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.140;

(15) Section 35A.04.150, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.150;

(16) Section 35A.04.160, chapter 119, Laws of 1967 ex. sess., section 30, chapter 151, Laws of 1979 and RCW 35A.04.160;

(17) Section 35A.04.170, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.170;

(18) Section 35A.04.180, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.180; and

(19) Section 35A.04.190, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.190.

NEW SECTION. Sec. 43. 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 February 3, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

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## CHAPTER 235

[Engrossed Substitute Senate Bill No. 3458]

### AUTOMOBILE INSURANCE—REDUCTION FOR INSUREDS FIFTY-FIVE YEARS AND OVER WHO HAVE COMPLETED AN ACCIDENT PREVENTION COURSE

AN ACT Relating to automobile insurance; and adding new sections to chapter 48.19 RCW.

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

NEW SECTION. Sec. 1. Any schedule of rates or rating plan for automobile liability and physical damage insurance submitted to or filed with the commissioner shall provide for an appropriate reduction in premium charges except for underinsured motorist coverage for those insureds who are fifty-five years of age and older, for a two-year period after successfully completing a motor vehicle accident prevention course meeting the criteria of the department of licensing with a minimum of eight hours, or additional hours as determined by rule of the department of licensing. This course may be conducted by a public or private agency approved by the department.

NEW SECTION. Sec. 2. All insurance companies writing automobile liability and physical damage insurance in this state shall allow an appropriate reduction in premium charges except for underinsured motorist coverage to all eligible persons subject to section 1 of this act.

NEW SECTION. Sec. 3. Upon successfully completing the approved course, each participant shall be issued by the course's sponsoring agency, a certificate that shall be the basis of qualification for the discount on insurance.

NEW SECTION. Sec. 4. Each participant shall take an approved course every two years to continue to be eligible for the discount on insurance.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act shall be added to chapter 48.19 RCW.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.