

1 1013 AAS 4/8/91

2 HB 1013 - S COMM AMD

3 By Committee on Government Operations

4 Adopted 4/8/91 - Voice Vote

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 35.02.078 and 1986 c 234 s 10 are each amended to
8 read as follows:

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

15 The initial election on the question of incorporation shall be held
16 at the next special election date specified in RCW 29.13.020 that
17 occurs sixty or more days after the final public hearing by the county
18 legislative authority or authorities, or the approval or modification
19 and approval by the boundary review board or boards. The county
20 legislative authority or authorities shall call for this election and,
21 if the incorporation is approved, shall call for other elections to
22 elect the elected officials as provided in this section. If the vote
23 in favor of the incorporation receives (~~forty~~) thirty percent or less
24 of the total vote on the question of incorporation, no new election on
25 the question of incorporation for the area or any portion of the area
26 proposed to be incorporated may be held for a period of three years
27 from the date of the election in which the incorporation failed. This
28 three-year prohibition shall not apply to any proposed city or town in

1 which such election was held before the effective date of this act and
2 the vote in favor of the incorporation received thirty percent or more
3 of the total on the question of incorporation.

4 If the incorporation is authorized as provided by RCW 35.02.120,
5 separate elections shall be held to nominate and elect persons to fill
6 the various elective offices prescribed by law for the population and
7 type of city or town, and to which it will belong. The primary
8 election to nominate candidates for these elective positions shall be
9 held at the next special election date, as specified in RCW 29.13.020,
10 that occurs sixty or more days after the election on the question of
11 incorporation or, if the incorporation election was held in April or
12 May, at a special election by mail ballots to be held on the third
13 Tuesday in July. The election to fill these elective positions shall be
14 held at the next special election date, as specified in RCW 29.13.020,
15 that occurs thirty or more days after certification of the results of
16 the primary election or, if the primary election was held in April or
17 May, at a special election by mail ballots to be held on the third
18 Tuesday in July."

19 "NEW SECTION. **Sec. 2.** A new section is added to chapter 35.02 RCW
20 to read as follows:

21 A newly incorporated city or town shall be liable for its
22 proportionate share of the costs of all elections, after the election
23 on whether the area should be incorporated, at which an issue relating
24 to the city or town is placed before the voters, as if the city or town
25 was in existence after the election at which voters authorized the area
26 to incorporate."

27 "**Sec. 3.** RCW 35.02.130 and 1986 c 234 s 16 are each amended to
28 read as follows:

1 The city or town officially shall become incorporated at a date
2 from one hundred eighty days to three hundred sixty days after the date
3 of the election on the question of incorporation. An interim period
4 shall exist between the time the newly elected officials have been
5 elected and qualified and this official date of incorporation. During
6 this interim period, the newly elected officials are authorized to
7 adopt ordinances and resolutions which shall become effective on or
8 after the official date of incorporation, and to enter into contracts
9 and agreements to facilitate the transition to becoming a city or town
10 and to ensure a continuation of governmental services after the
11 official date of incorporation. Periods of time that would be required
12 to elapse between the enactment and effective date of such ordinances,
13 including but not limited to times for publication or for filing
14 referendums, shall commence upon the date of such enactment as though
15 the city or town were officially incorporated.

16 During this interim period, the city or town governing body may
17 adopt rules establishing policies and procedures under the state
18 environmental policy act, chapter 43.21C RCW, and may use these rules
19 and procedures in making determinations under the state environmental
20 policy act, chapter 43.21C RCW.

21 During this interim period, the newly formed city or town and its
22 governing body shall be subject to the following as though the city or
23 town were officially incorporated: RCW 4.24.470 relating to immunity;
24 chapter 42.17 RCW relating to open government; chapter 40.14 RCW
25 relating to the preservation and disposition of public records;
26 chapters 42.20, 42.22, and 42.23 RCW relating to ethics and conflicts
27 of interest; chapters 42.30 and 42.32 RCW relating to open public
28 meetings and minutes; RCW 35.22.288, 35.23.310, 35.24.220, 35.27.300,
29 35A.12.160, as appropriate, and chapter 35A.65 RCW relating to the
30 publication of notices and ordinances; RCW 35.21.875 and 35A.21.230

1 relating to the designation of an official newspaper; RCW 36.16.138
2 relating to liability insurance; RCW 35.22.620, 35.23.352, and
3 35A.40.210, as appropriate, and statutes referenced therein relating to
4 public contracts and bidding; and chapter 39.34 RCW relating to
5 interlocal cooperation. Tax anticipation or revenue anticipation notes
6 or warrants and other short-term obligations may be issued and funds
7 may be borrowed on the security of these instruments during this
8 interim period, as provided in chapter 39.50 RCW. Funds also may be
9 borrowed from federal, state, and other governmental agencies in the
10 same manner as if the city or town were officially incorporated.

11 RCW 84.52.020 and 84.52.070 shall apply to the extent that they may
12 be applicable, and the governing body of such city or town may take
13 appropriate action by ordinance during the interim period to adopt the
14 property tax levy for its first full calendar year following the
15 interim period.

16 The governing body of the new city or town may acquire needed
17 facilities, supplies, equipment, insurance, and staff during this
18 interim period as if the city or town were in existence. An interim
19 city manager or administrator, who shall have such administrative
20 powers and duties as are delegated by the governing body, may be
21 appointed to serve only until the official date of incorporation.
22 After the official date of incorporation the governing body of such a
23 new city organized under the council manager form of government may
24 extend the appointment of such an interim manager or administrator with
25 such limited powers as the governing body determines, for up to ninety
26 days. This governing body may submit ballot propositions to the voters
27 of the city or town to authorize taxes to be collected on or after the
28 official date of incorporation, or authorize an annexation of the city
29 or town by a fire protection district or library district to be

1 effective immediately upon the effective date of the incorporation as
2 a city or town.

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

10 The newly elected officials shall take office immediately upon
11 their election and qualification with limited powers during this
12 interim period as provided in this section. They shall acquire their
13 full powers as of the official date of incorporation and shall continue
14 in office until their successors are elected and qualified at the next
15 general municipal election after the official date of incorporation:
16 PROVIDED, That if the date of the next general municipal election is
17 less than ~~((seventy-five days))~~ twelve months after the ~~((official))~~
18 ~~date ((of incorporation, the))~~ of the first election of councilmembers,
19 those initially elected ((officials)) councilmembers shall ~~((hold~~
20 ~~office))~~ serve until their successors are elected and qualified at the
21 next following general municipal election ~~((next-following))~~ as
22 provided in RCW 29.04.170. For purposes of this section, the general
23 municipal election shall be the date on which city and town general
24 elections are held throughout the state of Washington, pursuant to RCW
25 29.13.020.

26 The official date of incorporation shall be on a date from one
27 hundred eighty to three hundred sixty days after the date of the
28 election on the question of incorporation, as specified in a resolution
29 adopted by the governing body during this interim period. A copy of
30 the resolution shall be filed with the county legislative authority of

1 the county in which all or the major portion of the newly incorporated
2 city or town is located. If the governing body fails to adopt such a
3 resolution, the official date of incorporation shall be three hundred
4 sixty days after the date of the election on the question of
5 incorporation. The county legislative authority of the county in which
6 all or the major portion of the newly incorporated city or town is
7 located shall file a notice with the county assessor that the city or
8 town has been authorized to be incorporated immediately after the
9 favorable results of the election on the question of incorporation have
10 been certified. The county legislative authority shall file a notice
11 with the secretary of state that the city or town is incorporated as of
12 the official date of incorporation."

13 "NEW SECTION. Sec. 4. A new section is added to chapter 35.02 RCW
14 to read as follows:

15 The newly elected officials shall adopt an interim budget for the
16 interim period or until January 1 of the following year, whichever
17 occurs first. A second interim budget shall be adopted for any period
18 between January 1 and the official date of incorporation. These interim
19 budgets shall be adopted in consultation with the office of the state
20 auditor, division of municipal corporations.

21 The governing body shall adopt a budget for the newly incorporated
22 city or town for the period between the official date of incorporation
23 and January 1 of the following year. The mayor or governing body,
24 whichever is appropriate shall prepare or the governing body may direct
25 the interim city manager to prepare a preliminary budget in detail to
26 be made public at least sixty days before the official date of
27 incorporation as a recommendation for the final budget. The mayor,
28 governing body, or the interim city manager shall submit as a part of
29 the preliminary budget a budget message that contains an explanation of

1 the budget document, an outline of the recommended financial policies
2 and programs of the city or town for the ensuing fiscal year, and a
3 statement of the relation of the recommended appropriation to such
4 policies and programs. Immediately following the release of the
5 preliminary budget, the governing body shall cause to be published a
6 notice once each week for two consecutive weeks of a public hearing to
7 be held at least twenty days before the official date of incorporation
8 on the fixing of the final budget. Any taxpayer may appear and be
9 heard for or against any part of the budget. The governing body may
10 make such adjustments and changes as it deems necessary and may adopt
11 the final budget at the conclusion of the public hearing or at any time
12 before the official date of incorporation."

13 "NEW SECTION. **Sec. 5.** A new section is added to chapter 35.02 RCW
14 to read as follows:

15 Upon the certification of election of officers, the governing body
16 may by resolution borrow money from the municipal sales and use tax
17 equalization account, up to one hundred thousand dollars or five
18 dollars per capita based on the population estimate required by RCW
19 35.02.030, whichever is less.

20 The loan authorized by this section shall be repaid over a three-
21 year period. The state treasurer shall withhold moneys from the funds
22 otherwise payable to the city or town that has obtained such a loan,
23 either from the municipal sales and use tax equalization account or
24 from sales and use tax entitlements otherwise distributable to such
25 city or town, so that the account is fully reimbursed over the three-
26 year period. The state treasurer shall adopt by rule procedures to
27 accomplish the purpose of this section on a reasonable and equitable
28 basis over the three-year period."

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

3 The department of community development shall identify federal,
4 state, and local agencies that should receive notification that a new
5 city or town is about to incorporate and shall assist newly formed
6 cities and towns during the interim period before the official date of
7 incorporation in providing such notification to the identified
8 agencies."

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

11 During the interim period, the governing body of the newly formed
12 city or town and the board of fire commissioners may by written
13 agreement delay the transfer of the district's assets and liabilities,
14 and the city's or town's responsibility for the provision of fire
15 protection, that would otherwise occur under RCW 35.02.190 or 35.02.200
16 for up to one year after the official date of incorporation. During the
17 one-year period, the fire protection district may annex the city or
18 town pursuant to chapter 52.04 RCW and retain the responsibility for
19 fire protection."

20 "**Sec. 8.** RCW 35.02.210 and 1986 c 234 s 21 are each amended to
21 read as follows:

22 At the option of the governing body of a newly incorporated city or
23 town, any fire protection district or library district serving any part
24 of the area so incorporated shall continue to provide services to such
25 area until the city or town (~~((receives distributions of property tax~~
26 ~~receipts from these special districts pursuant to RCW 35.02.140, or the~~
27 ~~city or town))~~ receives its own property tax receipts(~~(, whichever is~~
28 ~~earlier))~~)."

1 **"Sec. 9.** RCW 35.02.220 and 1986 c 234 s 22 are each amended to
2 read as follows:

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

9 A county shall continue to provide the following services to a
10 newly incorporated city or town, or that portion of the county within
11 which the newly incorporated city or town is located, at the
12 preincorporation level as follows:

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

18 (2) Road maintenance shall be for a period not to exceed sixty days
19 from the official date of the incorporation or until ~~((any))~~ forty
20 percent of the anticipated annual tax distribution from the road
21 district tax levy is made to the newly incorporated city or town
22 pursuant to RCW 35.02.140, whichever is the shorter time period."

23 **"Sec. 10.** RCW 52.02.020 and 1984 c 230 s 1 are each amended to
24 read as follows:

25 Fire protection districts for the provision of fire prevention
26 services, fire suppression services, emergency medical services, and
27 for the protection of life and property in areas outside of cities and
28 towns, except where the cities and towns have been annexed into a fire
29 protection district or where the district is continuing service

1 pursuant to section 7 of this act, are authorized to be established as
2 provided in this title."

3 "NEW SECTION. Sec. 11. A new section is added to chapter 35.02
4 RCW to read as follows:

5 During the interim period, the governing body of the newly formed
6 city or town may adopt resolutions establishing moratoria during the
7 interim transition period on the filing of applications with the county
8 for development permits or approvals, including, but not limited,
9 subdivision approvals, short subdivision approvals, and building
10 permits."

11 "NEW SECTION. Sec. 12. A new section is added to chapter 35.02
12 RCW to read as follows:

13 Cities, towns, counties, and other local government agencies and
14 state agencies may make loans of staff and equipment, and technical and
15 financial assistance to the newly formed city or town during the
16 interim period to facilitate the transition to an incorporated city or
17 town. Such loans and assistance may be without compensation."

18 "NEW SECTION. Sec. 13. This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of the
20 state government and its existing public institutions, and shall take
21 effect immediately."

22 **HB 1013** - S COMM AMD
23 By Committee on Government Operations

24 Adopted 4/8/91 - Voice Vote

25 On page 1, line 1 of the title, after "towns;" strike the remainder
26 of the title and insert "amending RCW 35.02.078, 35.02.130, 35.02.210,

- 1 35.02.220, and 52.02.020; adding new sections to chapter 35.02 RCW; and
- 2 declaring an emergency."