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HOUSE BILL 1187

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State of Washington

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By Representatives Valle, H. Myers, Edmondson, Pruitt, Thomas, Dyer and Locke

Read first time 01/20/93. Referred to Committee on Local Government.

1 AN ACT Relating to unincorporated area councils; amending RCW  
2 36.105.010, 36.105.020, 36.105.030, 36.105.040, 36.105.050, 36.105.060,  
3 36.105.070, 36.105.080, 36.105.090, and 36.105.100; and adding a new  
4 section to chapter 36.105 RCW.

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

6 **Sec. 1.** RCW 36.105.010 and 1991 c 363 s 99 are each amended to  
7 read as follows:

8 Voters of the unincorporated areas of the state are authorized to  
9 establish ~~((community))~~ unincorporated area councils as provided in  
10 this chapter.

11 It is the purpose of this chapter to provide voters of  
12 unincorporated areas ~~((in counties with a population of over thirty  
13 thousand that are made up entirely of islands))~~ with direct input on  
14 the planning and zoning of their community by establishing a  
15 governmental mechanism to adopt ~~((proposed community comprehensive  
16 plans and))~~ a proposed community zoning ordinance ~~((s))~~ for a community  
17 that ~~((are))~~ is consistent with the county's comprehensive plan and an  
18 ~~((overall guide and framework))~~ ordinance adopted by the county  
19 legislative authority establishing a guide and framework for community

1 zoning ordinances. In addition, it is the purpose of this chapter to  
2 have ~~((community))~~ unincorporated area councils serve as forums for the  
3 discussion of local issues.

4 NEW SECTION. Sec. 2. A new section is added to chapter 36.105 RCW  
5 to read as follows:

6 Unincorporated area councils may be established only in the  
7 following counties:

8 (1) A county composed entirely of islands and with a population of  
9 over thirty thousand; or

10 (2) A county with a population of one million or more.

11 Sec. 3. RCW 36.105.020 and 1991 c 363 s 100 are each amended to  
12 read as follows:

13 Unless the context clearly requires otherwise, the definitions in  
14 this section apply throughout this chapter.

15 (1) "Community" means a portion of the unincorporated area for  
16 which ~~((a community))~~ an unincorporated area council has been  
17 established ~~((and which is located in a county with a population of  
18 over thirty thousand that is made up entirely of islands))~~.

19 (2) ~~(( "Community comprehensive plan" means a comprehensive plan  
20 adopted by a community council.~~

21 ~~((3) "Community council" means the governing body established under  
22 this chapter to adopt community comprehensive plans and community  
23 zoning ordinances for a community.~~

24 ~~((4))~~ "Community zoning ordinance~~((s))~~" means the zoning  
25 ordinance~~((s))~~ adopted by ~~((a community))~~ an unincorporated area  
26 council to implement ~~((a community))~~ and be consistent with the  
27 county's comprehensive plan.

28 (3) "Unincorporated area council" means the governing body  
29 established under this chapter to adopt a proposed community zoning  
30 ordinance for a community.

31 Sec. 4. RCW 36.105.030 and 1991 c 363 s 101 are each amended to  
32 read as follows:

33 A community for which ~~((a community))~~ an unincorporated area  
34 council is created ~~((may include only unincorporated territory located  
35 in a single county with a population of over thirty thousand that is  
36 made up entirely of islands and not included within a city or town. A~~

1 ~~community council~~) must have at least one thousand (~~persons residing~~  
2 ~~within the community when the community~~) residences when the  
3 unincorporated area council is created or, where the community only  
4 includes an entire island, at least three hundred (~~persons must reside~~  
5 ~~on the island~~) residences when the (~~community~~) unincorporated area  
6 council is created. Any portion of such a community that is annexed by  
7 a city or town, or is incorporated as a city or town, shall be removed  
8 from the community upon the effective date of the annexation or the  
9 official date of the incorporation. Except for a community that is  
10 composed of an entire island, a community may not include territory  
11 located both inside and outside of an urban growth area designated  
12 under RCW 36.70A.110.

13 **Sec. 5.** RCW 36.105.040 and 1991 c 363 s 102 are each amended to  
14 read as follows:

15 (1) The process to create (~~a community~~) an unincorporated area  
16 council shall be initiated by the filing of petitions with the county  
17 auditor of the county in which the community is located which: (a)  
18 Call for the creation of (~~a community~~) an unincorporated council; (b)  
19 set forth the boundaries for the community; (c) indicate the number of  
20 (~~community councilmembers~~) members on the unincorporated area  
21 council, which shall be five, seven, nine, or eleven; and (d) contain  
22 signatures of voters residing within the community equal in number to  
23 at least ten percent of the voters residing in the community who voted  
24 at the last state general election. The county auditor shall determine  
25 if the petitions contain a sufficient number of valid signatures and  
26 certify the sufficiency of the petitions within fifteen days of when  
27 the petitions were filed. If the petitions are certified as having  
28 sufficient valid signatures, the county auditor shall transmit the  
29 petitions and certificate to the county legislative authority.

30 (2) The county legislative authority shall hold a public hearing  
31 within the community on the creation of the proposed (~~community~~)  
32 unincorporated area council no later than sixty days after the  
33 petitions and certificate of sufficiency were transmitted to the county  
34 legislative authority. Notice of the public hearing shall be published  
35 in a newspaper of general circulation in the community for at least  
36 once a week for two consecutive weeks, with the last date of  
37 publication no more than ten days prior to the date of the public  
38 hearing. At least ten days before the public hearing, additional

1 notice shall be posted conspicuously in at least five places within the  
2 (~~proposed~~) community in a manner designed to attract public  
3 attention.

4 (3) After receiving testimony on the creation of the proposed  
5 (~~community~~) unincorporated area council, the county legislative  
6 authority may alter the boundaries of the community, but the boundaries  
7 may not be altered to reduce the number of persons living within the  
8 community by more than ten percent or below the minimum number of  
9 residents who must reside within the community at the time of the  
10 creation of the (~~community~~) unincorporated area council. If  
11 territory is added to the community, another public hearing on the  
12 proposal shall be held.

13 (4) The county legislative authority shall call a special election  
14 within the community to determine whether the proposed (~~community~~)  
15 unincorporated area council shall be created, and to elect the initial  
16 (~~community~~) unincorporated area councilmembers, at the next state  
17 general election occurring seventy-five or more days after the initial  
18 public hearing on the creation of the proposed (~~community~~)  
19 unincorporated area council. The (~~community~~) unincorporated area  
20 council shall be created if the ballot proposition authorizing the  
21 creation of the (~~community~~) unincorporated area council is approved  
22 by a simple majority vote of the voters of the community voting on the  
23 proposition.

24 **Sec. 6.** RCW 36.105.050 and 1991 c 363 s 103 are each amended to  
25 read as follows:

26 The initial members of (~~the community~~) an unincorporated area  
27 council shall be elected at the same election as the ballot proposition  
28 is submitted authorizing the creation of the (~~community~~)  
29 unincorporated area council. However, the election of the initial  
30 (~~community~~) councilmembers shall be null and void if the ballot  
31 proposition authorizing the creation of the (~~community~~)  
32 unincorporated area council is not approved by a simple majority vote  
33 of the voters of the community voting on the proposition.

34 No primary election shall be held to nominate candidates for  
35 initial council positions. (~~The initial community council shall~~  
36 ~~consist of the candidate for each council position who receives the~~  
37 ~~greatest number of votes for that council position.)) Candidates shall  
38 run for specific council positions. The person receiving the greatest~~

1 number of votes for each council position is elected as a  
2 councilmember. Staggering of terms of office shall be accomplished by  
3 having the simple majority of the ((winning candidates who receive))  
4 persons who are elected receiving the greatest number of votes being  
5 elected to four-year terms of office, and the remaining ((winning  
6 candidates)) persons who are elected being elected to two-year terms of  
7 office, if the election was held in ((an even-numbered)) the same year  
8 as the year in which members of the county legislative authority  
9 normally are elected, or the simple majority of the ((winning  
10 candidates who receive)) persons who are elected receiving the greatest  
11 number of votes being elected to three-year terms of office, and the  
12 remaining ((winning candidates)) persons who are elected being elected  
13 to one-year terms of office, if the election was held in ((an odd-  
14 numbered)) a year in which members of the county legislative authority  
15 normally are not elected, with the terms of office being computed from  
16 the first day of January in the year following the election. Initial  
17 councilmembers shall take office immediately when qualified in  
18 accordance with RCW 29.01.135.

19 ~~((However, where the county operates under a charter providing for~~  
20 ~~the election of members of the county legislative authority in odd-~~  
21 ~~numbered years, the terms of office of the initial councilmembers shall~~  
22 ~~be four years and two years, if the election of the initial~~  
23 ~~councilmembers was held on an odd-numbered year, or three years and one~~  
24 ~~year, if the election of the initial councilmembers was held on an~~  
25 ~~even-numbered year.))~~

26 **Sec. 7.** RCW 36.105.060 and 1991 c 363 s 104 are each amended to  
27 read as follows:

28 ~~((Community))~~ Unincorporated area councilmembers shall be elected  
29 to staggered four-year terms of office until their successors are  
30 elected and qualified. Each council position shall be numbered  
31 separately. Candidates shall run for specific council positions. The  
32 number of council positions shall be five, seven, nine, or eleven, as  
33 specified in the petition calling for the creation of the ((community))  
34 unincorporated area council. At every other general election when  
35 councilmembers are elected, the number of councilmembers who are  
36 normally elected shall vary by one.

37 ~~((Community))~~ Except as provided in this chapter, unincorporated  
38 area councilmembers shall be nominated and elected at nonpartisan

1 elections pursuant to general election laws(~~(, except the elections~~  
2 ~~shall be held in even-numbered years, unless the county operates under~~  
3 ~~a charter and members of the county legislative authority are elected~~  
4 ~~in odd-numbered years, in which case, community councilmembers shall be~~  
5 ~~elected in odd-numbered years)).~~ The county shall pay for the costs of  
6 all elections associated with unincorporated area councils and the  
7 election of councilmembers.

8 The county legislative authority shall increase the terms of office  
9 of each councilmember by one year if the voters of the county approve  
10 a county charter or an amendment to a county charter altering the year  
11 in which members of the county legislative authority normally are  
12 elected.

13 The provisions of this section apply to the election and terms of  
14 office of the initial ((community)) unincorporated area councilmembers,  
15 except as provided in RCW 36.105.050.

16 ((A councilmember shall lose his or her council position if his or  
17 her primary residence no longer is located within the community.))  
18 Vacancies on ((a community)) an unincorporated area council occur as  
19 provided in RCW 42.12.010 and shall be filled by action of the  
20 remaining councilmembers. If less than two councilmembers remain on  
21 the council, the county legislative authority shall appoint one or two  
22 qualified persons until the council has two members. A vacancy shall  
23 be filled by action of the county legislative authority if the  
24 remaining councilmembers fail to fill a vacancy within sixty days of  
25 the occurrence of the vacancy. An appointee shall fill the vacancy  
26 until a person is elected at the next general election at which  
27 councilmembers normally would be elected that occurs twenty-eight or  
28 more days after the occurrence of the vacancy. When time permits, and  
29 more than two persons file to fill the vacancy, a primary shall be  
30 held. If needed, a special filing period shall be authorized. The  
31 person who is elected shall take office immediately and serve the  
32 remainder of the unexpired term of office. However, if an election for  
33 the vacant position would otherwise have been held at this election,  
34 only one election may be held and the person who is elected shall be  
35 elected to both the remainder of the unexpired term and the succeeding  
36 term of office.

37 **Sec. 8.** RCW 36.105.070 and 1991 c 363 s 105 are each amended to  
38 read as follows:

1       (1) Within ~~((ninety))~~ one hundred twenty days of the election at  
2 which ~~((a community))~~ an unincorporated area council is created, the  
3 county legislative authority shall adopt an ordinance establishing  
4 policies and conditions ~~((and designating portions or components of the~~  
5 ~~county comprehensive plan and zoning ordinances))~~ that serve as an  
6 overall guide and framework for the development of proposed ~~((community~~  
7 ~~comprehensive plans and proposed))~~ community zoning ordinances. ~~((The~~  
8 ~~conditions and policies shall conform with the requirements of chapter~~  
9 ~~36.70A RCW.))~~ In addition, the ordinance may contain factors and  
10 provisions of general importance that must be included in the proposed  
11 community zoning ordinance that is adopted by the unincorporated area  
12 council of a particular community.

13       (2) ~~((Proposed community comprehensive plans and))~~ Each proposed  
14 community zoning ordinance~~((s that are))~~ adopted by ~~((a community))~~ an  
15 unincorporated area council shall be submitted to the county  
16 legislative authority for its review of the consistency of the  
17 ~~((proposed plans and))~~ proposed ordinance~~((s))~~ with the county  
18 ordinance adopted under subsection (1) of this section and the county's  
19 comprehensive plan, which where applicable includes, but is not limited  
20 to, the designation of lands and areas under RCW 36.70A.170, conserving  
21 lands and protecting areas under RCW 36.70A.060, retaining the urban  
22 nature of urban growth areas designated under RCW 36.70A.110 and the  
23 nonurban nature of areas outside of urban growth areas, and other  
24 actions taken by the county under chapter 36.70A RCW. A township's  
25 zoning ordinance may not alter the county's shoreline master program.  
26 The county legislative authority shall either approve the proposed  
27 ~~((plans and proposed))~~ community zoning ordinance((s)) as adopted, or  
28 refer the proposed ~~((plans and proposed))~~ community zoning  
29 ordinance((s)) back to the ~~((community))~~ unincorporated area council  
30 with written findings specifying the inconsistencies, within ninety  
31 days after ~~((they were))~~ it was submitted. The county ~~((comprehensive~~  
32 ~~plan, or subarea plan and comprehensive plan, and))~~ zoning  
33 ordinance~~((s))~~ shall remain in effect in the community until the  
34 ~~((proposed community comprehensive plans and))~~ proposed community  
35 zoning ordinance~~((s have))~~ has been approved as provided in this  
36 subsection.

37       An approved community zoning ordinance in a county that is required  
38 or chooses to plan under RCW 36.70A.040 is subject to potential appeal  
39 to a growth planning hearings board under chapter 36.70A RCW.

1       (3) Each proposed amendment to an approved (~~community~~  
2 ~~comprehensive plans or approved~~) community zoning ordinance(~~(s)~~) that  
3 is adopted by (~~a community~~) an unincorporated area council shall be  
4 submitted to the county legislative authority for its review of the  
5 consistency of the amendment with the county ordinance adopted under  
6 subsection (1) of this section and the county's comprehensive plan.  
7 The county legislative authority shall either approve the proposed  
8 amendment as adopted, or refer the proposed amendment back to the  
9 (~~community~~) unincorporated area council, with written findings  
10 specifying the inconsistencies within ninety days after the proposed  
11 amendment was submitted. The unamended (~~community comprehensive plans~~  
12 ~~and unamended~~) community zoning ordinance(~~(s)~~) shall remain in effect  
13 in the community until the proposed amendment has been approved as  
14 provided in this subsection.

15       An approved amendment to a community zoning ordinance in a county  
16 that is required or chooses to plan under RCW 36.70A.040 is subject to  
17 potential appeal to a growth planning hearings board under chapter  
18 36.70A RCW.

19       (4) If the county legislative authority amends the county's  
20 comprehensive plan or the county ordinance it adopted under subsection  
21 (1) of this section, (~~a community~~) each unincorporated area council  
22 shall (~~be given at least one hundred twenty days to~~) amend its  
23 (~~community comprehensive plans and~~) community zoning ordinance(~~(s)~~)  
24 to be consistent with (~~this~~) the amended county comprehensive plan or  
25 amended county ordinance. (~~However,~~) The county legislative  
26 authority may amend (~~the community comprehensive plans and~~) community  
27 zoning ordinances to achieve consistency with (~~this~~) the amended  
28 county comprehensive plan or amended county ordinance. Nothing in this  
29 subsection shall preclude (~~a community~~) an unincorporated area  
30 council from subsequently obtaining approval of its proposed  
31 (~~community comprehensive plans and proposed~~) amendments to the  
32 community zoning ordinance(~~(s)~~) that is so altered by the county  
33 legislative authority.

34       (5) Approved (~~community comprehensive plans and approved~~)  
35 community zoning ordinances shall be enforced by the county as if they  
36 had been adopted by the county legislative authority. All quasi-  
37 judicial actions and permits relating to these plans and ordinances  
38 shall be made and decided by the county legislative authority or  
39 otherwise as provided by the county legislative authority.



1 (6) The county shall provide administrative and staff support for  
2 each ~~((community))~~ unincorporated area council within its boundaries  
3 and shall defend each unincorporated area council in any lawsuit over  
4 the actions taken by the unincorporated area council under this  
5 chapter.

6 **Sec. 9.** RCW 36.105.080 and 1991 c 363 s 106 are each amended to  
7 read as follows:

8 ~~((A community council shall adopt proposed community comprehensive~~  
9 ~~plans and proposed community zoning ordinances as provided in RCW~~  
10 ~~36.105.070.—Community))~~ Unincorporated area councils shall not have  
11 the authority to take quasi-judicial actions nor to decide permit  
12 applications. ~~((In addition, a community))~~ Unincorporated area  
13 councils shall serve as ((a)) forums for the discussion of local  
14 issues.

15 ~~((Community))~~ Among other general laws, unincorporated area  
16 councils are subject to chapter 42.30 RCW, the open public meetings  
17 act.

18 **Sec. 10.** RCW 36.105.090 and 1991 c 363 s 107 are each amended to  
19 read as follows:

20 ~~((A community))~~ An unincorporated area council may provide for the  
21 annexation of adjacent unincorporated areas to the community that are  
22 not included within another community for which ~~((a community))~~ an  
23 unincorporated area council has been established. However, a community  
24 that is located outside an urban growth area may not annex areas inside  
25 an urban growth area and a community that is located inside an urban  
26 growth area may not annex areas outside of the urban growth area.

27 Annexations shall be initiated by either resolution of the  
28 ~~((community))~~ unincorporated area council proposing the annexation or  
29 petition of voters residing in the adjacent area, which petition: (a)  
30 Requests the annexation; (b) sets forth the boundaries of the area  
31 proposed to be annexed; and (c) contains signatures of voters residing  
32 within the area that is proposed to be annexed equal in number to at  
33 least ten percent of the voters residing in that area who voted at the  
34 last state general election. Annexation petitions shall be filed with  
35 the county auditor who shall determine if the petitions contain a  
36 sufficient number of valid signatures, certify the sufficiency of the  
37 petitions, and notify the ~~((community))~~ unincorporated area council of

1 the sufficiency of the petitions within fifteen days of when the  
2 petitions are submitted.

3 ~~((A ballot proposition authorizing the annexation shall be  
4 submitted to the voters of the area that is proposed to be annexed at  
5 a primary or general election in either an odd numbered or even-  
6 numbered year, if the community council initiated the annexation by  
7 resolution or if the community council concurs in an annexation that  
8 was initiated by the submission of annexation petitions containing  
9 sufficient valid signatures.))~~ The annexation shall occur if the  
10 ballot proposition authorizing the ~~((creation of the community))~~  
11 annexation is approved by a simple majority vote of the voters of the  
12 area proposed to be annexed voting on the proposition. The county's  
13 ~~((comprehensive plan, and where applicable to the county's subarea  
14 plan, and))~~ zoning ordinances shall continue in effect in the annexed  
15 area until proposed amendments to the ~~((approved community  
16 comprehensive plans and))~~ approved community zoning ordinance have been  
17 approved that apply to the annexed area.

18 **Sec. 11.** RCW 36.105.100 and 1991 c 363 s 108 are each amended to  
19 read as follows:

20 ~~((A community))~~ An unincorporated area council shall be dissolved  
21 if the population of the community is reduced to less than five hundred  
22 persons, or less than two hundred persons if the community only  
23 ~~((includes))~~ included an entire island at the time of creation of the  
24 unincorporated area council.

25 The question of whether an unincorporated area council should be  
26 retained shall be submitted to the voters of a community at the next  
27 general election at which ((community)) unincorporated area  
28 councilmembers would be elected((, occurring)) that occurs at least  
29 ~~((four))~~ twelve years after the creation or ((reestablishment of a  
30 community, a ballot proposition shall be submitted to the voters of the  
31 community on whether the community shall be reestablished)) latest  
32 affirmative vote to retain the unincorporated area council. The  
33 unincorporated area council shall be retained if the proposition to  
34 retain the unincorporated area council is approved by a simple majority  
35 vote of the voters of the community voting on the proposition. The  
36 election for council positions shall be held as if the ballot  
37 proposition on retaining the unincorporated area council were not  
38 submitted. If ((reestablished)) the unincorporated area council is

1 retained, the persons who are newly elected members of the  
2 ((community)) council and the ((retained)) other members of the  
3 ((community)) council whose terms have not expired shall constitute the  
4 members of the ((community)) unincorporated area council. If the  
5 unincorporated area council is not retained, the election of the new  
6 councilmembers is null and void, and the unincorporated area council  
7 shall be dissolved.

8 Whenever an unincorporated area council is dissolved, the approved  
9 community zoning ordinance remains in effect until altered by the  
10 county legislative authority.

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