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**SUBSTITUTE HOUSE BILL 1950**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Thompson, Scott and Koster)

Read first time 02/27/97.

1 AN ACT Relating to incorporations of cities and towns; amending RCW  
2 36.93.150, 35.02.039, and 35.02.070; adding a new section to chapter  
3 35.02 RCW; and adding a new section to chapter 36.93 RCW.

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

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

7 A proposed city or town in a county that plans under RCW 36.70A.040  
8 may not include any area located outside of an urban growth area  
9 designated under RCW 36.70A.110. However, an area located outside of  
10 an urban growth area in a county that plans under RCW 36.70A.040 may  
11 incorporate if the area meets the following requirements: (1) At least  
12 twenty-five percent of the boundaries of the area proposed to be  
13 incorporated are coterminous with a portion of the boundaries of an  
14 urban growth area; (2) the area has a population of at least five  
15 thousand; (3) the area has a density of at least five hundred persons  
16 per square mile; and (4) the area is already characterized by  
17 significant industrial development. Further, an area meeting the  
18 population requirements of RCW 35.02.010 that is located outside of an  
19 urban growth area in a county that plans under RCW 36.70A.040 may

1 incorporate if the area is a peninsula that is surrounded on all sides  
2 by saltwater and the Canadian border.

3 **Sec. 2.** RCW 36.93.150 and 1994 c 216 s 15 are each amended to read  
4 as follows:

5 The board, upon review of any proposed action, shall take such of  
6 the following actions as it deems necessary to best carry out the  
7 intent of this chapter:

8 (1) Approve the proposal as submitted.

9 (2) Subject to RCW 35.02.170, modify the proposal by adjusting  
10 boundaries to add or delete territory. However, any proposal for  
11 annexation of territory to a town shall be subject to RCW 35.21.010 and  
12 the board shall not add additional territory, the amount of which is  
13 greater than that included in the original proposal. Any modifications  
14 shall not interfere with the authority of a city, town, or special  
15 purpose district to require or not require preannexation agreements,  
16 covenants, or petitions. A board shall not modify the proposed  
17 incorporation of a city with an estimated population of seven thousand  
18 five hundred or more by removing territory from the proposal, or adding  
19 territory to the proposal, that constitutes ten percent or more of the  
20 total area included within the proposal before the board. However, a  
21 board shall remove territory in the proposed incorporation that (~~is~~  
22 ~~located outside of an urban growth area~~) does not meet the  
23 requirements of section 1 of this act or is annexed by a city or town,  
24 and may remove territory in the proposed incorporation if a petition or  
25 resolution proposing the annexation is filed or adopted that has  
26 priority over the proposed incorporation, before the area is  
27 established that is subject to this ten percent restriction on removing  
28 or adding territory. A board shall not modify the proposed  
29 incorporation of a city with a population of seven thousand five  
30 hundred or more to reduce the territory in such a manner as to reduce  
31 the population below seven thousand five hundred, except to remove any  
32 area that does not meet the requirements of section 1 of this act.

33 (3) Determine a division of assets and liabilities between two or  
34 more governmental units where relevant.

35 (4) Determine whether, or the extent to which, functions of a  
36 special purpose district are to be assumed by an incorporated city or  
37 town, metropolitan municipal corporation, or another existing special  
38 purpose district.

1 (5) Disapprove the proposal except that the board shall not have  
2 jurisdiction: (a) To disapprove the dissolution or disincorporation of  
3 a special purpose district which is not providing services but shall  
4 have jurisdiction over the determination of a division of the assets  
5 and liabilities of a dissolved or disincorporated special purpose  
6 district; (b) over the division of assets and liabilities of a special  
7 purpose district that is dissolved or disincorporated pursuant to  
8 chapter 36.96 RCW; nor (c) to disapprove the incorporation of a city  
9 with an estimated population of seven thousand five hundred or more,  
10 but the board may recommend against the proposed incorporation of a  
11 city with such an estimated population.

12 Unless the board disapproves a proposal, it shall be presented  
13 under the appropriate statute for approval of a public body and, if  
14 required, a vote of the people. A proposal that has been modified  
15 shall be presented under the appropriate statute for approval of a  
16 public body and if required, a vote of the people. If a proposal,  
17 other than that for a city, town, or special purpose district  
18 annexation, after modification does not contain enough signatures of  
19 persons within the modified area, as are required by law, then the  
20 initiating party, parties or governmental unit has thirty days after  
21 the modification decision to secure enough signatures to satisfy the  
22 legal requirement. If the signatures cannot be secured then the  
23 proposal may be submitted to a vote of the people, as required by law.

24 The addition or deletion of property by the board shall not  
25 invalidate a petition which had previously satisfied the sufficiency of  
26 signature provisions of RCW 35.13.130 or 35A.14.120. When the board,  
27 after due proceedings held, disapproves a proposed action, such  
28 proposed action shall be unavailable, the proposing agency shall be  
29 without power to initiate the same or substantially the same as  
30 determined by the board, and any succeeding acts intended to or tending  
31 to effectuate that action shall be void, but such action may be  
32 reinitiated after a period of twelve months from date of disapproval  
33 and shall again be subject to the same consideration.

34 The board shall not modify or deny a proposed action unless there  
35 is evidence on the record to support a conclusion that the action is  
36 inconsistent with one or more of the objectives under RCW 36.93.180.  
37 Every such determination to modify or deny a proposed action shall be  
38 made in writing pursuant to a motion, and shall be supported by  
39 appropriate written findings and conclusions, based on the record.

1       **Sec. 3.** RCW 35.02.039 and 1994 c 216 s 14 are each amended to read  
2 as follows:

3       (1) The county legislative authority of the county in which the  
4 proposed city or town is located shall hold a public hearing on the  
5 proposed incorporation if no boundary review board exists in the  
6 county. The public hearing shall be held within sixty days of when the  
7 county auditor notifies the legislative authority of the sufficiency of  
8 the petition if no boundary review board exists in the county, or  
9 within ninety days of when notice of the proposal is filed with the  
10 boundary review board if the boundary review board fails to take  
11 jurisdiction over the proposal. The public hearing may be continued to  
12 other days, not extending more than sixty days beyond the initial  
13 hearing date. (~~(If the boundary review board takes jurisdiction, the~~  
14 ~~county legislative authority shall not hold a public hearing on the~~  
15 ~~proposal.))~~)

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

21       **Sec. 4.** RCW 35.02.070 and 1994 c 216 s 17 are each amended to read  
22 as follows:

23       (1) If a county legislative authority holds a public hearing on a  
24 proposed incorporation, it shall establish and define the boundaries of  
25 the proposed city or town, being authorized to decrease or increase the  
26 area proposed in the petition under the same restrictions that a  
27 boundary review board may modify the proposed boundaries. The county  
28 legislative authority, or the boundary review board (~~(if it takes~~  
29 ~~jurisdiction))~~), shall determine the number of inhabitants within the  
30 boundaries it has established.

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

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

1        NEW SECTION.   **Sec. 5.**   A new section is added to chapter 36.93 RCW  
2 to read as follows:

3        The boundary review board shall review every proposed incorporation  
4 of an area as a city or town that is located within the county.

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