
SENATE BILL 5616

State of Washington

55th Legislature

1997 Regular Session

By Senators Haugen, Rasmussen, Goings and Schow

Read first time 02/04/97. Referred to Committee on Government Operations.

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

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

6 NEW SECTION. **Sec. 1.** Voters of the unincorporated areas of the
7 state are authorized to establish unincorporated area councils as
8 provided in this chapter.

9 It is the purpose of this chapter to provide voters of
10 unincorporated areas with direct input on the zoning of their community
11 by establishing a governmental mechanism to develop a proposed
12 community zoning ordinance for a community that is consistent with the
13 county's comprehensive plan and an ordinance adopted by the county
14 legislative authority establishing a guide and framework for community
15 zoning ordinances. In addition, it is the purpose of this chapter to
16 have unincorporated area councils serve as forums for the discussion of
17 local issues.

1 NEW SECTION. **Sec. 2.** Unincorporated area councils may be
2 established only in the following counties or portions of counties:

3 (1) An unincorporated area in a county with a population of one
4 million or more if the area is located within an urban growth area or
5 interim urban growth area designated by the county under RCW
6 36.70A.110; and

7 (2) An unincorporated area in a county composed entirely of
8 islands, whether or not the area is located within an urban growth area
9 designated by the county under RCW 36.70A.110.

10 NEW SECTION. **Sec. 3.** Unless the context clearly requires
11 otherwise, the definitions in this section apply throughout this
12 chapter.

13 (1) "Community" means a portion of the unincorporated area for
14 which an unincorporated area council has been established.

15 (2) "Community zoning ordinance" means the zoning ordinance that is
16 developed and endorsed by an unincorporated area council, and approved
17 and adopted by the county legislative authority as implementing and
18 consistent with the county's comprehensive plan and the county
19 ordinance adopted under section 8(1) of this act.

20 (3) "Unincorporated area council" means the governing body
21 established under this chapter to develop and endorse a proposed
22 community zoning ordinance for a community.

23 NEW SECTION. **Sec. 4.** A community for which an unincorporated area
24 council is created in a county that is composed entirely of islands
25 must have at least one thousand residents when the unincorporated area
26 council is created or, where the community only includes an entire
27 island, at least three hundred reside when the unincorporated area
28 council is created. A community for which an unincorporated area
29 council is created in a county with a population of one million or more
30 must have at least five thousand residents when the unincorporated area
31 council is created. Any portion of such a community that is annexed by
32 a city or town, or is incorporated as a city or town, shall be removed
33 from the community upon the effective date of the annexation or the
34 official date of the incorporation.

35 NEW SECTION. **Sec. 5.** (1) The process to create an unincorporated
36 area council shall be initiated by the filing of petitions with the

1 county auditor of the county in which the community is located which:
2 (a) Call for the creation of an unincorporated area council; (b) set
3 forth proposed boundaries for the community; (c) indicate the number of
4 members on the unincorporated area council, which shall be five, seven,
5 nine, or eleven; and (d) contain signatures of voters residing within
6 the community equal in number to at least ten percent of the voters
7 residing in the community who voted at the last state general election.
8 The county auditor shall determine if the petitions contain a
9 sufficient number of valid signatures and certify to the county
10 legislative authority the sufficiency of the petitions within fifteen
11 days of when the petitions were filed.

12 (2) If the petitions are certified as having sufficient valid
13 signatures, the county legislative authority shall hold a public
14 hearing within the community on the creation of the proposed
15 unincorporated area council no later than sixty days after the
16 certification. Notice of the public hearing shall be published in a
17 newspaper of general circulation in the community for at least once a
18 week for two consecutive weeks, with the last date of publication no
19 more than ten days prior to the date of the public hearing. At least
20 ten days before the public hearing, additional notice shall be posted
21 conspicuously in at least five places within the community in a manner
22 designed to attract public attention.

23 (3) After receiving testimony on the creation of the proposed
24 unincorporated area council, the county legislative authority must
25 remove any area from the proposed community that may not be included
26 within a community and may otherwise alter the boundaries of the
27 proposed community, but such an alteration may not reduce the number of
28 persons living within the community by more than ten percent or below
29 the minimum number of residents who must reside within the community at
30 the time of the creation of the unincorporated area council. If
31 territory is added to the community, another public hearing on the
32 proposal shall be held.

33 (4) The county legislative authority shall call a special election
34 within the community to determine whether the proposed unincorporated
35 area council shall be created, and to elect the initial unincorporated
36 area councilmembers, at the next state general election occurring
37 seventy-five or more days after the initial public hearing on the
38 creation of the proposed unincorporated area council. The
39 unincorporated area council shall be created if the ballot proposition

1 authorizing the creation of the unincorporated area council is approved
2 by a simple majority vote of the voters of the community voting on the
3 proposition.

4 NEW SECTION. **Sec. 6.** The initial members of an unincorporated
5 area council shall be elected at the same election as the ballot
6 proposition is submitted authorizing the creation of the unincorporated
7 area council. However, the election of the initial councilmembers
8 shall be null and void if the ballot proposition authorizing the
9 creation of the unincorporated area council is not approved by a simple
10 majority vote of the voters of the community voting on the proposition.

11 No primary election shall be held to nominate candidates for
12 initial council positions. Candidates shall run for specific council
13 positions. The person receiving the greatest number of votes for each
14 council position shall be elected as an initial councilmember.
15 Staggering of terms of office shall be accomplished by having the
16 simple majority of the persons who are elected receiving the greatest
17 number of votes being elected to four-year terms of office, and the
18 remaining persons who are elected being elected to two-year terms of
19 office, if the election was held in the same year as the year in which
20 members of the county legislative authority normally are elected, or
21 the simple majority of the persons who are elected receiving the
22 greatest number of votes being elected to three-year terms of office,
23 and the remaining persons who are elected being elected to one-year
24 terms of office, if the election was held in a year in which members of
25 the county legislative authority normally are not elected, with the
26 terms of office being computed from the first day of January in the
27 year following the election. Initial councilmembers shall take office
28 immediately when qualified in accordance with RCW 29.01.135.

29 NEW SECTION. **Sec. 7.** Unincorporated area councilmembers shall be
30 elected to staggered four-year terms of office until their successors
31 are elected and qualified. Each council position shall be numbered
32 separately. Candidates shall run for specific council positions. The
33 number of council positions shall be five, seven, nine, or eleven, as
34 specified in the petition calling for the creation of the
35 unincorporated area council. At every other general election when
36 councilmembers are elected, the number of councilmembers who are
37 normally elected shall vary by one.

1 Except as provided in this chapter, unincorporated area
2 councilmembers shall be nominated and elected at nonpartisan elections
3 pursuant to general election laws. The county shall pay for the costs
4 of all elections associated with unincorporated area councils and the
5 election of councilmembers.

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

10 The provisions of this section apply to the election and terms of
11 office of the initial unincorporated area councilmembers, except as
12 provided in section 6 of this act.

13 Vacancies on an unincorporated area council occur as provided in
14 RCW 42.12.010 and shall be filled as provided in RCW 42.12.070.

15 NEW SECTION. **Sec. 8.** (1) A community zoning ordinance shall be
16 developed and adopted as follows:

17 (a) Within one hundred twenty days after the election at which an
18 initial unincorporated area council is elected, the county legislative
19 authority shall adopt an ordinance establishing policies and conditions
20 serving as an overall guide and framework for the development of
21 proposed community zoning ordinances. The ordinance may include
22 factors and provisions of general importance that must be included in
23 a proposed community zoning ordinance for a particular community.

24 (b) An unincorporated area council shall develop and endorse a
25 proposed community zoning ordinance to the county legislative authority
26 for its review and approval or rejection that implements and is
27 consistent with the general county ordinance adopted under (a) of this
28 subsection and the county's comprehensive plan. Where applicable, the
29 county's comprehensive plan includes, but is not limited to, designated
30 lands and areas under RCW 36.70A.170, conserving lands and protecting
31 areas under RCW 36.70A.060, retaining the urban nature of urban growth
32 areas and interim urban growth areas designated under RCW 36.70A.110
33 and the nonurban nature of areas outside of designated urban growth
34 areas and interim urban growth areas, and other actions taken by the
35 county legislative authority under chapter 36.70A RCW. A proposed
36 community zoning ordinance may not alter the county's shoreline master
37 program.

1 The county legislative authority shall either approve the proposed
2 community zoning ordinance and adopt the proposed community zoning
3 ordinance as submitted, or refer the proposed community zoning
4 ordinance back to the unincorporated area council with written findings
5 specifying the inconsistencies, within ninety days after it is
6 submitted. The county zoning ordinance shall remain in effect in the
7 community until a proposed community zoning ordinance has been approved
8 by the county legislative authority using this procedure.

9 An approved community zoning ordinance in a county that is required
10 or chooses to plan under RCW 36.70A.040 is subject to potential appeal
11 to a growth planning hearings board under chapter 36.70A RCW. Such an
12 appeal must be filed within sixty days after the publication by the
13 county.

14 (c) An unincorporated area council may develop and endorse proposed
15 amendments to an approved community zoning ordinance, that implement
16 and are consistent with the general county ordinance adopted under (a)
17 of this subsection and the county comprehensive plan, and submit the
18 proposed amendments to the county legislative authority for its review
19 and approval or rejection under the same procedure and conditions
20 specified under (b) of this subsection for the review of a proposed
21 community zoning ordinance. The approved community zoning ordinance
22 shall remain in effect in the community until the proposed amendments
23 have been approved and adopted by the county legislative authority
24 using this procedure.

25 An approved amendment to a community zoning ordinance in a county
26 that is required or chooses to plan under RCW 36.70A.040 is subject to
27 potential appeal to a growth planning hearings board under chapter
28 36.70A RCW. Such an appeal must be filed within sixty days after
29 publication by the county.

30 (d) If the county legislative authority amends the county's
31 comprehensive plan or the general county ordinance it adopted under (a)
32 of this subsection, each unincorporated area council shall develop and
33 endorse proposed amendments to its approved community zoning ordinance
34 that are consistent with and implement the amended county comprehensive
35 plan or amended county ordinance following the procedure specified
36 under (c) of this subsection. The county legislative authority may
37 directly amend a community zoning ordinance to achieve consistency with
38 the amended county comprehensive plan or amended general county
39 ordinance to be in effect until adequate proposed amendments to the

1 community zoning ordinance that are developed and endorsed by the
2 unincorporated area council have been approved and adopted by the
3 county legislative authority. Nothing in this subsection (1)(d)
4 precludes an unincorporated area council from subsequently obtaining
5 approval of its proposed amendments to the community zoning ordinance
6 that is so altered by the county legislative authority.

7 (2) The county legislative authority shall enforce a community
8 zoning ordinance that it approves and adopts. An unincorporated area
9 council shall not have authority to take quasi-judicial actions or to
10 decide permit applications. All quasi-judicial actions and permits
11 relating to a community zoning ordinance shall be made and decided by
12 the county legislative authority or otherwise as provided by the county
13 legislative authority.

14 The county shall provide administrative and staff support for each
15 unincorporated area council within its boundaries and shall defend each
16 unincorporated area council in any lawsuit over the actions taken by
17 the unincorporated area council under this chapter.

18 NEW SECTION. **Sec. 9.** Unincorporated area councils shall not have
19 the authority to take quasi-judicial actions nor to decide permit
20 applications. Unincorporated area councils shall serve as forums for
21 the discussion of local issues.

22 Among other general laws, unincorporated area councils are subject
23 to chapter 42.30 RCW, the open public meetings act, and chapter 42.17
24 RCW, the public disclosure act.

25 NEW SECTION. **Sec. 10.** An unincorporated area council may provide
26 for the annexation of adjacent unincorporated areas in the same county
27 to the community that legally may be included within the community that
28 are not included within another community for which an unincorporated
29 area council has been established.

30 Annexations shall be initiated by either resolution of the
31 unincorporated area council proposing the annexation or petition of
32 voters residing in the adjacent area, which petition: (1) Requests the
33 annexation; (2) sets forth the boundaries of the area proposed to be
34 annexed; and (3) contains signatures of voters residing within the area
35 that is proposed to be annexed equal in number to at least ten percent
36 of the voters residing in that area who voted at the last state general
37 election. Annexation petitions shall be filed with the county auditor

1 who shall determine if the petitions contain a sufficient number of
2 valid signatures, certify the sufficiency of the petitions, and notify
3 the unincorporated area council of the sufficiency of the petitions
4 within fifteen days of when the petitions are submitted.

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

18 NEW SECTION. **Sec. 11.** An unincorporated area council that is
19 located in a county composed entirely of islands with a population of
20 thirty thousand or more shall be dissolved if the population of the
21 community is reduced to less than five hundred persons, or less than
22 two hundred persons if the community only included an entire island at
23 the time of creation of the unincorporated area council. An
24 unincorporated area council that is located in a county with a
25 population of five hundred thousand or more shall be dissolved if the
26 population of the community is reduced to less than two thousand five
27 hundred persons.

28 The question of whether an unincorporated area council should be
29 retained shall be submitted to the voters of a community at the next
30 general election at which unincorporated area councilmembers would be
31 elected that occur at least twelve years after the creation or 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 the unincorporated area council is retained, the persons

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

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

9 NEW SECTION. **Sec. 12.** The following acts or parts of acts are
10 each repealed:

- 11 (1) RCW 36.105.010 and 1991 c 363 s 99;
- 12 (2) RCW 36.105.020 and 1991 c 363 s 100;
- 13 (3) RCW 36.105.030 and 1991 c 363 s 101;
- 14 (4) RCW 36.105.040 and 1991 c 363 s 102;
- 15 (5) RCW 36.105.050 and 1991 c 363 s 103;
- 16 (6) RCW 36.105.060 and 1991 c 363 s 104;
- 17 (7) RCW 36.105.070 and 1991 c 363 s 105;
- 18 (8) RCW 36.105.080 and 1991 c 363 s 106;
- 19 (9) RCW 36.105.090 and 1991 c 363 s 107; and
- 20 (10) RCW 36.105.100 and 1991 c 363 s 108.

21 NEW SECTION. **Sec. 13.** Sections 1 through 11 of this act are each
22 added to chapter 36.105 RCW.

--- END ---