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SENATE BILL 5718

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State of Washington                      56th Legislature                      1999 Regular Session

By Senators Gardner, Spanel, Patterson and Haugen

Read first time . Referred to Committee on .

1            AN ACT Relating to cities and towns changing plans of government;  
2 amending RCW 35A.02.010, 35A.02.020, 35A.02.030, 35A.02.050,  
3 35A.02.090, 35A.06.030, 35A.06.040, 35A.06.050, 35A.06.060, and  
4 35A.06.070; and repealing RCW 35A.02.055 and 35A.02.080.

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

6            **Sec. 1.** RCW 35A.02.010 and 1979 ex.s. c 18 s 2 are each amended to  
7 read as follows:

8            Any ((incorporated)) city or town may ((become)) reclassify as a  
9 noncharter code city in accordance with, and be governed by, the  
10 provisions of this title relating to noncharter code cities and may  
11 select one of the plans of government authorized by this title, or may  
12 retain its current plan of government but otherwise operate under the  
13 provisions of this title. ((A city or town adopting and organizing  
14 under the optional municipal code shall not be deemed to have  
15 reorganized and to have abandoned its existing general plan of  
16 government, upon changing classification and becoming a noncharter code  
17 city, solely because organizing under a plan of government authorized  
18 in this title changes the number of elective offices or changes the  
19 terms thereof, or because an office becomes appointive rather than

1 elective, or because that city or town has come under the optional  
2 municipal code, or because of any combination of these factors.))

3 **Sec. 2.** RCW 35A.02.020 and 1990 c 259 s 2 are each amended to read  
4 as follows:

5 When a petition is filed, signed by registered voters of ((an  
6 incorporated)) a city or town, in number equal to not less than fifty  
7 percent of the votes cast at the last general municipal election,  
8 seeking ((the adoption by)) to reclassify the city or town ((of the  
9 classification of)) as a noncharter code city, either under its  
10 existing authorized plan of government or ((naming)) reorganizing under  
11 one of the plans of government authorized for noncharter code cities,  
12 the county auditor shall promptly proceed to determine the sufficiency  
13 of the petition under the rules set forth in RCW 35A.01.040. If the  
14 petition is found to be sufficient, the county auditor shall file with  
15 the legislative body a certificate of sufficiency of the petition. The  
16 reorganization of a city or town adopting a new plan of government  
17 under this section is subject to the restrictions under RCW 35A.06.030  
18 on how long the city or town must have had its current plan of  
19 government before it may reorganize, and the number of years that must  
20 have elapsed since the last time a ballot proposition to reorganize the  
21 city or town was submitted to voters. Thereupon the legislative body  
22 of ((such)) the city or town shall, by resolution, declare that the  
23 inhabitants of the city or town have decided to adopt the  
24 classification of noncharter code city and to be governed under the  
25 provisions of this title. If a prayer for reorganization is included  
26 in the petition such resolution shall also declare that the inhabitants  
27 of the city or town have decided to reorganize under the plan of  
28 government specified in the petition. The legislative body shall cause  
29 such resolution to be published at least once in a newspaper of general  
30 circulation within the city or town not later than ten days after the  
31 passage of the resolution. Upon the expiration of the ninetieth day  
32 from, but excluding the date of, first publication of the resolution,  
33 if no timely and sufficient referendum petition has been filed pursuant  
34 to RCW 35A.02.025, as now or hereafter amended, as determined by RCW  
35 35A.29.170, the legislative body at its next regular meeting shall  
36 effect the decision of the inhabitants, as expressed in the petition,  
37 by passage of an ordinance adopting for the city the classification of  
38 noncharter code city, and if the petition also sought governmental

1 reorganization by adoption of one of the plans of government authorized  
2 for noncharter code cities involving a different general plan of  
3 government from that under which the city is operating, then the  
4 legislative body shall provide at that time for such reorganization by  
5 ordinance and for election of all new officers pursuant to RCW  
6 35A.02.050, as now or hereafter amended.

7 **Sec. 3.** RCW 35A.02.030 and 1979 ex.s. c 18 s 5 are each amended to  
8 read as follows:

9 When a majority of the legislative body of ~~((an incorporated))~~ a  
10 city or town determines that it would serve the best interests and  
11 general welfare of such municipality to ~~((change the classification of  
12 such))~~ reclassify the city or town ~~((to that of))~~ as a noncharter code  
13 city, ~~((such))~~ the legislative body may, by resolution, declare its  
14 intention to adopt for the city or town the classification of  
15 noncharter code city. If the legislative body so determines, ~~((such))~~  
16 the resolution may also contain a declaration of intention to  
17 reorganize the ~~((municipal government))~~ city or town under one of the  
18 plans of government authorized in this title, naming such plan; but it  
19 shall also be lawful for the legislative body of any ~~((incorporated))~~  
20 city or town which is governed under a plan of government authorized  
21 prior to the time this title takes effect to ~~((adopt for))~~ reclassify  
22 the city or town ~~((the classification of))~~ as a noncharter code city  
23 while retaining the same general plan of government under which such  
24 city or town is then operating. The reorganization of a city or town  
25 adopting a new plan of government under this section is subject to the  
26 restrictions under RCW 35A.06.030 on how long the city or town must  
27 have had its current plan of government before it may reorganize, and  
28 the number of years that must have elapsed since the last time a ballot  
29 proposition to reorganize the city or town was submitted to voters.  
30 Within ten days after the passage of the resolution, the legislative  
31 body shall cause it to be published at least once in a newspaper of  
32 general circulation within the city or town. Upon the expiration of  
33 the ninetieth day from, but excluding the date of first publication of  
34 the resolution, if no timely and sufficient referendum petition has  
35 been filed pursuant to RCW 35A.02.035, as determined by RCW 35A.29.170,  
36 the intent expressed in such resolution shall at the next regular  
37 meeting of the legislative body be effected by an ordinance ~~((adopting~~  
38 ~~for))~~ reclassifying the city or town ~~((the classification of))~~ as a

1 noncharter code city; and, if the resolution includes a declaration of  
2 intention to reorganize, the legislative body shall provide at that  
3 time for such reorganization by ordinance.

4 **Sec. 4.** RCW 35A.02.050 and 1994 c 223 s 25 are each amended to  
5 read as follows:

6 ~~((The first election of officers where required for reorganization  
7 under))~~ (1) Whenever a city or town reclassifies as a noncharter code  
8 city and reorganizes with a different general plan of government  
9 ((newly adopted)), or a noncharter code city reorganizes with a  
10 different general plan of government, in a manner provided in RCW  
11 35A.02.020, 35A.02.030, 35A.06.030, or 35A.06.060, ((as now or  
12 hereafter amended, shall be at the next general municipal election if  
13 one is to be held more than ninety days but not more than one hundred  
14 and eighty days after certification of a reorganization ordinance or  
15 resolution, or otherwise at a special election to be held for that  
16 purpose in accordance with RCW 29.13.020. In the event that the first  
17 election of officers is to be held at a general municipal election,  
18 such election shall be preceded by a primary election pursuant to RCW  
19 29.21.010 and 29.13.070. In the event that the first election of all  
20 officers is to be held at a special election rather than at a general  
21 election, and notwithstanding any provisions of any other law to the  
22 contrary, such special election shall be preceded by a primary election  
23 to be held on a date authorized by RCW 29.13.010, and the persons  
24 nominated at that primary election shall be voted upon at the next  
25 succeeding special election that is authorized by RCW 29.13.010:  
26 PROVIDED, That in the event the ordinances calling for reclassification  
27 or reclassification and reorganization under the provisions of Title  
28 35A RCW have been filed with the secretary of state pursuant to RCW  
29 35A.02.040 in an even numbered year at least ninety days prior to a  
30 state general election then the election of new officers shall be  
31 concurrent with the state primary and general election and shall be  
32 conducted as set forth in general election law)) the members of the  
33 prior city or town legislative body shall retain their terms of office  
34 as members of the newly constituted council for the remainder of their  
35 terms of office. In addition, the mayor in a city or town with a mayor  
36 council plan of government shall retain his or her term of office as  
37 the mayor of the code city if the reorganization is to a mayor council  
38 plan of government under this title, or shall retain his or her term of

1 office and become a member of the newly constituted council if the  
2 reorganization is to a council manager plan of government under this  
3 title. If the city or town reorganizes by adopting a mayor council  
4 plan of government and abandoning another plan of government, the newly  
5 constituted council shall appoint the mayor and a successor shall be  
6 elected to a four-year term of office at the new municipal general  
7 election occurring sixty or more days after the date of the election  
8 when the new plan of government was approved.

9 (2) If the number of members on a newly constituted council is less  
10 than the appropriate number of council positions provided for the code  
11 city under RCW 35A.12.010 or 35A.13.010, the newly constituted council  
12 shall appoint the additional member or members to reach the appropriate  
13 number of members. A council member who is so appointed shall serve  
14 until a successor is elected at the next municipal general election  
15 occurring sixty or more days after the date of the election when the  
16 new plan of government was approved. The staggering of council terms  
17 shall be accomplished by electing one or more additional council  
18 members at that municipal general election to a combination of four-  
19 year terms of office or two-year terms of office, so that at the next  
20 following municipal general election two council members will be  
21 elected to a five-member council or three council members will be  
22 elected to a seven-member council. The council member or members who  
23 are elected to two-year terms of office shall be the one or ones who  
24 are elected receiving the fewest numbers of votes, and the county  
25 auditor shall declare which council member or members are elected to  
26 two-year terms of office.

27 (3) If the number of members on a newly constituted council is  
28 greater than the appropriate number of council positions provided for  
29 the code city under RCW 35A.12.010 or 35A.13.010, the number of council  
30 positions shall be reduced so that, at the next two succeeding  
31 municipal general elections occurring sixty or more days after the date  
32 of the election when the new plan of government was approved, three  
33 positions are filled at the first election and two positions are filled  
34 at the second election if a five-member council is eventually  
35 established, or four positions are filled at the first election and  
36 three positions are filled at the second election if a seven-member  
37 council is eventually established. An appointment to fill a vacancy  
38 may not be made during this transition period if a vacancy occurs on a

1 council with a greater number of positions than specified for the code  
2 city under RCW 35A.12.010 or 35A.13.010.

3 ~~((Upon reorganization,)) (4) Candidates for ((all offices))~~  
4 council positions shall file or be nominated for and successful  
5 candidates shall be elected to specific council positions. ~~((The~~  
6 ~~initial terms of office for those elected at a first election of all~~  
7 ~~officers shall be as follows: (1) A simple majority of the persons who~~  
8 ~~are elected as councilmembers receiving the greatest numbers of votes~~  
9 ~~and the mayor in a city with a mayor council plan of government shall~~  
10 ~~be elected to four year terms of office, if the election is held in an~~  
11 ~~odd numbered year, or three year terms of office, if the election is~~  
12 ~~held in an even numbered year; and (2) the other persons who are~~  
13 ~~elected as councilmembers shall be elected to two year terms of office,~~  
14 ~~if the election is held in an odd numbered year, or one year terms of~~  
15 ~~office, if the election is held in an even numbered year. The newly~~  
16 ~~elected officials shall take office immediately when they are elected~~  
17 ~~and qualified, but the length of their terms of office shall be~~  
18 ~~calculated from the first day of January in the year following the~~  
19 ~~election. Thereafter, each person elected as a councilmember or mayor~~  
20 ~~in a city with a mayor council plan of government shall be elected to~~  
21 ~~a four year term of office.))~~

22 Each councilmember, and a mayor in a city with a mayor-council plan  
23 of government, shall serve until a successor is elected and qualified  
24 and assumes office as provided in RCW 29.04.170.

25 ~~((The former officers shall, upon the election and qualification of~~  
26 ~~new officers, deliver to the proper officers of the reorganized~~  
27 ~~noncharter code city all books of record, documents and papers in their~~  
28 ~~possession belonging to such municipal corporation before the~~  
29 ~~reorganization thereof.))~~

30 **Sec. 5.** RCW 35A.02.090 and 1971 ex.s. c 251 s 3 are each amended  
31 to read as follows:

32 Proposals for ~~((each))~~ a noncharter code city to reorganize by  
33 abandoning its current plan of government and adopting one of the plans  
34 of government authorized by this title may be placed on the ballots in  
35 the same election by timely petition as provided in this chapter. When  
36 the ballot contains alternative proposals for each of the plans of  
37 government the ballot shall clearly state that voters may vote for only  
38 one of the plans of government.

1       **Sec. 6.** RCW 35A.06.030 and 1994 c 223 s 28 are each amended to  
2 read as follows:

3       By use of the resolution for election or petition for election  
4 methods described in RCW 35A.06.040, any noncharter code city which has  
5 operated for more than six consecutive years under one of the optional  
6 plans of government authorized by this title, or for more than a  
7 combined total of six consecutive years under a particular plan of  
8 government both as a code city and under the same general plan under  
9 Title 35 RCW immediately prior to becoming a code city, (~~may abandon~~  
10 ~~such organization and~~) may reorganize by abandoning its current plan  
11 of government and (~~adopt~~) adopting another plan of government  
12 authorized for noncharter code cities, but only after having been a  
13 noncharter code city for more than one year or a city after operating  
14 for more than six consecutive years under a particular plan of  
15 government as a noncharter code city(~~(:- PROVIDED, That these)~~). In  
16 addition, a ballot proposition to reorganize the plan of government may  
17 not be submitted to voters more frequently than once every two  
18 consecutive years, including the period prior to the noncharter code  
19 city reclassifying as a noncharter code city. The limitations included  
20 in this section shall not apply to a code city seeking to adopt a  
21 charter.

22       In reorganization under a different general plan of government as  
23 a noncharter code city, officers shall all be elected as provided in  
24 RCW 35A.02.050. When a noncharter code city adopts a plan of  
25 government other than those authorized under Title 35A RCW, such city  
26 ceases to be governed under this optional municipal code and shall be  
27 classified as a city or town of the class selected in the proceeding  
28 for adoption of such new plan, with the powers granted to such class  
29 under the general law.

30       **Sec. 7.** RCW 35A.06.040 and 1990 c 259 s 4 are each amended to read  
31 as follows:

32       Upon the passage of a resolution of the legislative body of a  
33 noncharter code city, or upon the filing of a sufficient petition with  
34 the county auditor signed by registered voters in number equal to not  
35 less than ten percent of the votes cast at the last general municipal  
36 election therein, proposing (~~abandonment by~~) the city (~~of~~)  
37 reorganize by abandoning the plan of government under which it is then  
38 operating and (~~adoption of~~) adopting another plan(~~(, naming such~~

1 ~~plan))~~ of government named in the resolution or petition, the  
2 sufficiency of the petition for ~~((abandonment))~~ the reorganization  
3 shall be determined, an election ordered and conducted, and the results  
4 declared generally as provided in chapter 35A.02 RCW insofar as such  
5 provisions are applicable. If the resolution or petition proposes a  
6 plan of government other than those authorized in chapters 35A.12 RCW  
7 and 35A.13 RCW of this title, the resolution or petition shall also  
8 specify the class of noncode city or town under which ~~((such))~~ the code  
9 city will be ~~((classified upon adoption of such))~~ reclassified if the  
10 plan of government is adopted.

11 **Sec. 8.** RCW 35A.06.050 and 1994 c 223 s 29 are each amended to  
12 read as follows:

13 The proposal for ~~((abandonment of a))~~ reorganizing a noncharter  
14 code city by abandoning its plan of government as authorized in RCW  
15 35A.06.030 and ~~((for adoption of))~~ adopting the plan of government  
16 named in the resolution or petition shall be voted upon at the next  
17 general municipal election if one is to be held within one hundred and  
18 eighty days or otherwise at a special election called for that purpose  
19 in accordance with RCW 29.13.020. The ballot title and statement of  
20 the proposition shall be prepared by the city attorney as provided in  
21 RCW 29.27.060 and 35A.29.120.

22 **Sec. 9.** RCW 35A.06.060 and 1979 ex.s. c 18 s 16 are each amended  
23 to read as follows:

24 If a majority of votes cast at the election favor ~~((abandonment of~~  
25 ~~the))~~ reorganizing the city by abandoning its general plan of  
26 government ~~((under which the noncharter code city is then organized and~~  
27 ~~reorganization))~~ and reorganizing the city under the different general  
28 plan of government proposed in the resolution or petition, the officers  
29 to be elected shall be those prescribed by the plan of government so  
30 adopted, and they shall be elected as provided in RCW 35A.02.050 ~~((if))~~  
31 whether or not the city is to remain a noncharter code city~~((, or if~~  
32 ~~the city is abandoning optional municipal code status, they shall be~~  
33 ~~elected at the next succeeding general municipal election. Upon the~~  
34 ~~election, qualification, and assumption of office by such officers the~~  
35 ~~reorganization of the government of such municipality shall be complete~~  
36 ~~and such municipality))~~ and shall ~~((thereafter))~~ be governed under  
37 ~~((such))~~ this plan of government. If the plan of government so adopted



1 is not a plan authorized for noncharter code cities, (~~upon the~~  
2 ~~election, qualification, and assumption of office by such officers the~~  
3 ~~municipality~~) the city shall cease (~~to be~~) being a noncharter code  
4 city governed under the provisions of this optional municipal code and  
5 shall revert to the classification selected and shall be governed by  
6 the general laws relating to (~~municipalities of such~~) cities or towns  
7 of that class with the powers conferred by law upon (~~municipalities of~~  
8 ~~such~~) cities or towns of that class. (~~Such change of~~  
9 ~~classification~~) A reclassification shall not affect the then existing  
10 property rights or liabilities of the municipal corporation.

11 **Sec. 10.** RCW 35A.06.070 and 1967 ex.s. c 119 s 35A.06.070 are each  
12 amended to read as follows:

13 By means of the procedures set forth in this chapter, insofar as  
14 they apply, any noncharter code city which has been governed under the  
15 provisions of this title for more than six years may (~~abandon the~~  
16 ~~classification of noncharter code city and elect to~~) be reclassified  
17 as a regular city or town governed under the general law relating to  
18 cities or towns of the classification held by such city immediately  
19 prior to becoming a noncharter code city, if any, or relating to cities  
20 or towns of the highest class for which it is qualified by population,  
21 with the powers conferred by law upon such class, while retaining the  
22 plan of government under which it is then organized. A (~~change of~~  
23 ~~classification~~) reclassification approved by a majority of the voters  
24 voting on such proposition shall become effective upon the filing of  
25 the record of such election with the office of the secretary of state.

26 The elected officials of the prior noncharter code city shall  
27 retain their terms of office and any changes in the elective positions  
28 shall occur as provided under RCW 35A.02.050.

29 NEW SECTION. **Sec. 11.** The following acts or parts of acts are  
30 each repealed:

31 (1) RCW 35A.02.055 (Election of new officers--Exception where same  
32 general plan of government is retained) and 1979 ex.s. c 18 s 8; and

33 (2) RCW 35A.02.080 (Election of officers upon approval of plan of  
34 government by voters) and 1971 ex.s. c 251 s 2 & 1967 ex.s. c 119 s  
35 35A.02.080.

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