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SENATE BILL 5609

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State of Washington

57th Legislature

2001 Regular Session

By Senators Patterson, Horn, McCaslin and Gardner

Read first time 01/29/2001. Referred to Committee on State & Local Government.

1 AN ACT Relating to reconciling conflicting provisions in laws  
2 pertaining to cities and towns; and amending RCW 35A.63.110 and  
3 35A.40.090.

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

5 **Sec. 1.** RCW 35A.63.110 and 1979 ex.s. c 18 s 34 are each amended  
6 to read as follows:

7 A code city which pursuant to this chapter creates a planning  
8 agency and which has twenty-five hundred or more inhabitants, by  
9 ordinance, shall create a board of adjustment and provide for its  
10 membership, terms of office, organization, jurisdiction. A code city  
11 which pursuant to this chapter creates a planning agency and which has  
12 a population of less than twenty-five hundred may, by ordinance,  
13 similarly create a board of adjustment. In the event a code city with  
14 a population of less than twenty-five hundred creates a planning  
15 agency, but does not create a board of adjustment, the code city shall  
16 provide that the city legislative authority shall itself hear and  
17 decide the items listed in subdivisions (1), (2), and (3) of this  
18 section. The action of the board of adjustment shall be final and  
19 conclusive, unless, within (~~ten~~) twenty-one days from the date of the

1 action, the original applicant or an adverse party makes application to  
2 the superior court for the county in which that city is located for a  
3 writ of certiorari, a writ of prohibition, or a writ of mandamus. No  
4 member of the board of adjustment shall be a member of the planning  
5 agency or the legislative body. Subject to conditions, safeguards, and  
6 procedures provided by ordinance, the board of adjustment may be  
7 empowered to hear and decide:

8 (1) Appeals from orders, recommendations, permits, decisions, or  
9 determinations made by a code city official in the administration or  
10 enforcement of the provisions of this chapter or any ordinances adopted  
11 pursuant to it.

12 (2) Applications for variances from the terms of the zoning  
13 ordinance, the official map ordinance or other land-use regulatory  
14 ordinances under procedures and conditions prescribed by city  
15 ordinance, which among other things shall provide that no application  
16 for a variance shall be granted unless the board of adjustment finds:

17 (a) the variance shall not constitute a grant of special privilege  
18 inconsistent with the limitation upon uses of other properties in the  
19 vicinity and zone in which the property on behalf of which the  
20 application was filed is located; and

21 (b) that such variance is necessary, because of special  
22 circumstances relating to the size, shape, topography, location, or  
23 surroundings of the subject property, to provide it with use rights and  
24 privileges permitted to other properties in the vicinity and in the  
25 zone in which the subject property is located; and

26 (c) that the granting of such variance will not be materially  
27 detrimental to the public welfare or injurious to the property or  
28 improvements in the vicinity and zone in which the subject property is  
29 situated.

30 (3) Applications for conditional-use permits, unless such  
31 applications are to be heard and decided by the planning agency. A  
32 conditional use means a use listed among those classified in any given  
33 zone but permitted to locate only after review as herein provided in  
34 accordance with standards and criteria set forth in the zoning  
35 ordinance.

36 (4) Such other quasi judicial and administrative determinations as  
37 may be delegated by ordinance.

38 In deciding any of the matters referred to in subsections (1), (2),  
39 (3), and (4) of this section, the board of adjustment shall issue a

1 written report giving the reasons for its decision. If a code city  
2 provides for a hearing examiner and vests in him the authority to hear  
3 and decide the items listed in subdivisions (1), (2), and (3) of this  
4 section pursuant to RCW 35A.63.170, then the provisions of this section  
5 shall not apply to such a city.

6 **Sec. 2.** RCW 35A.40.090 and 1973 1st ex.s. c 195 s 29 are each  
7 amended to read as follows:

8 ~~((No code city shall incur an indebtedness exceeding three-fourths  
9 of one percent of the value of the taxable property in such city  
10 without the assent of three-fifths of the voters therein voting at an  
11 election to be held for that purpose nor, with such assent, to exceed  
12 two and one-half percent of the value of the taxable property therein  
13 except as otherwise provided in chapter 39.36 RCW and subject to the  
14 provisions of this chapter and shall have the authority and be subject  
15 to the constitutional and/or statutory limitations relating to levy of  
16 taxes. The term "value of the taxable property" shall have the meaning  
17 set forth in RCW 39.36.015.))~~

18 The provisions of general law contained in chapter 39.36 RCW  
19 relating to municipal indebtedness shall be applicable to code cities.

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