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HOUSE BILL 2001

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State of Washington                      54th Legislature                      1995 Regular Session

By Representatives D. Schmidt, Scott and Thompson

Read first time 02/21/95.      Referred to Committee on Government Operations.

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

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))~~ develop a proposed community zoning ordinance~~((s))~~ for a  
17 community that ~~((are))~~ is consistent with the county's comprehensive  
18 plan and an ~~((overall guide and framework))~~ ordinance adopted by the  
19 county legislative authority establishing a guide and framework for

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

8 (1) An unincorporated area in a county with a population of five  
9 hundred thousand or more if the area is located within an urban growth  
10 area or interim urban growth area designated by the county under RCW  
11 36.70A.110; and

12 (2) An unincorporated area in a county composed entirely of islands  
13 and with a population of over thirty thousand, whether or not the area  
14 is located within an urban growth area designated by the county under  
15 RCW 36.70A.110.

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

18 Unless the context clearly requires otherwise, the definitions in  
19 this section apply throughout this chapter.

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

24 (2) ~~(( "Community comprehensive plan" means a comprehensive plan  
25 adopted by a community council.~~

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

29 (4)) "Community zoning ordinance~~((s))~~" means the zoning  
30 ordinance~~((s adopted by a community))~~ that is developed and endorsed by  
31 an unincorporated area council ~~((to implement a community)), and~~  
32 approved and adopted by the county legislative authority as  
33 implementing and consistent with the county's comprehensive plan and  
34 the county ordinance adopted under RCW 36.105.070(1).

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

1       **Sec. 4.** RCW 36.105.030 and 1991 c 363 s 101 are each amended to  
2 read as follows:

3       A community for which ~~((a community))~~ an unincorporated area  
4 council is created ~~((may include only unincorporated territory located~~  
5 ~~in a single county with a population of over thirty thousand that is~~  
6 ~~made up entirely of islands and not included within a city or town. A~~  
7 ~~community council))~~ in a county that is composed entirely of islands  
8 with a population of thirty thousand or more must have at least one  
9 thousand ~~((persons residing within the community when the community))~~  
10 residents when the unincorporated area council is created or, where the  
11 community only includes an entire island, at least three hundred  
12 ~~((persons must reside on the island))~~ reside when the ~~((community))~~  
13 unincorporated area council is created. A community for which an  
14 unincorporated area council is created in a county with a population of  
15 five hundred thousand or more must have at least five thousand  
16 residents when the unincorporated area council is created. Any portion  
17 of such a community that is annexed by a city or town, or is  
18 incorporated as a city or town, shall be removed from the community  
19 upon the effective date of the annexation or the official date of the  
20 incorporation.

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

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

1 ~~shall transmit the petitions and certificate to the county legislative~~  
2 ~~authority.))~~

3 (2) If the petitions are certified as having sufficient valid  
4 signatures, the county legislative authority shall hold a public  
5 hearing within the community on the creation of the proposed  
6 ((community)) unincorporated area council no later than sixty days  
7 after the ((~~petitions and certificate of sufficiency were transmitted~~  
8 to the county legislative authority)) certification. Notice of the  
9 public hearing shall be published in a newspaper of general circulation  
10 in the community for at least once a week for two consecutive weeks,  
11 with the last date of publication no more than ten days prior to the  
12 date of the public hearing. At least ten days before the public  
13 hearing, additional notice shall be posted conspicuously in at least  
14 five places within the ((~~proposed~~)) community in a manner designed to  
15 attract public attention.

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

27 (4) The county legislative authority shall call a special election  
28 within the community to determine whether the proposed ((community))  
29 unincorporated area council shall be created, and to elect the initial  
30 ((community)) unincorporated area councilmembers, at the next state  
31 general election occurring seventy-five or more days after the initial  
32 public hearing on the creation of the proposed ((~~community~~))  
33 unincorporated area council. The ((~~community~~)) unincorporated area  
34 council shall be created if the ballot proposition authorizing the  
35 creation of the ((~~community~~)) unincorporated area council is approved  
36 by a simple majority vote of the voters of the community voting on the  
37 proposition.

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

3       The initial members of (~~the community~~) an unincorporated area  
4 council shall be elected at the same election as the ballot proposition  
5 is submitted authorizing the creation of the (~~community~~)  
6 unincorporated area council. However, the election of the initial  
7 (~~community~~) councilmembers shall be null and void if the ballot  
8 proposition authorizing the creation of the (~~community~~)  
9 unincorporated area council is not approved by a simple majority vote  
10 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. (~~The initial community council shall~~  
13 ~~consist of the candidate for each council position who receives the~~  
14 ~~greatest number of votes for that council position.~~) Candidates shall  
15 run for specific council positions. The person receiving the greatest  
16 number of votes for each council position shall be elected as an  
17 initial councilmember. Staggering of terms of office shall be  
18 accomplished by having the simple majority of the (~~winning candidates~~  
19 ~~who receive~~) persons who are elected receiving the greatest number of  
20 votes being elected to four-year terms of office, and the remaining  
21 (~~winning candidates~~) persons who are elected being elected to two-  
22 year terms of office, if the election was held in (~~an even-numbered~~)  
23 the same year as the year in which members of the county legislative  
24 authority normally are elected, or the simple majority of the (~~winning~~  
25 ~~candidates who receive~~) persons who are elected receiving the greatest  
26 number of votes being elected to three-year terms of office, and the  
27 remaining (~~winning candidates~~) persons who are elected being elected  
28 to one-year terms of office, if the election was held in (~~an odd-~~  
29 ~~numbered~~) a year in which members of the county legislative authority  
30 normally are not elected, with the terms of office being computed from  
31 the first day of January in the year following the election. Initial  
32 councilmembers shall take office immediately when qualified in  
33 accordance with RCW 29.01.135.

34       (~~However, where the county operates under a charter providing for~~  
35 ~~the election of members of the county legislative authority in odd-~~  
36 ~~numbered years, the terms of office of the initial councilmembers shall~~  
37 ~~be four years and two years, if the election of the initial~~  
38 ~~councilmembers was held on an odd-numbered year, or three years and one~~

1 year, if the election of the initial councilmembers was held on an  
2 even-numbered year.))

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

5 ((Community)) Unincorporated area councilmembers shall be elected  
6 to staggered four-year terms of office until their successors are  
7 elected and qualified. Each council position shall be numbered  
8 separately. Candidates shall run for specific council positions. The  
9 number of council positions shall be five, seven, nine, or eleven, as  
10 specified in the petition calling for the creation of the ((community))  
11 unincorporated area council. At every other general election when  
12 councilmembers are elected, the number of councilmembers who are  
13 normally elected shall vary by one.

14 ((Community)) Except as provided in this chapter, unincorporated  
15 area councilmembers shall be nominated and elected at nonpartisan  
16 elections pursuant to general election laws(~~(, except the elections~~  
17 ~~shall be held in even-numbered years, unless the county operates under~~  
18 ~~a charter and members of the county legislative authority are elected~~  
19 ~~in odd-numbered years, in which case, community councilmembers shall be~~  
20 ~~elected in odd-numbered years))~~). The county shall pay for the costs of  
21 all elections associated with unincorporated area councils and the  
22 election of councilmembers.

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

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

30 ((A councilmember shall lose his or her council position if his or  
31 her primary residence no longer is located within the community.))  
32 Vacancies on ((a community)) an unincorporated area council occur as  
33 provided in RCW 42.12.010 and shall be filled ((by action of the  
34 remaining councilmembers)) as provided in RCW 42.12.070.

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

1       (1) A community zoning ordinance shall be developed and adopted as  
2 follows:

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

15       ~~((2))~~ Proposed community comprehensive plans and (b) An  
16 unincorporated area council shall develop and endorse a proposed  
17 community zoning ordinance~~((s that are adopted by a community council~~  
18 shall be submitted)) to the county legislative authority for its review  
19 ~~((of the consistency of the proposed plans and proposed ordinances~~  
20 with)) and approval or rejection that implements and is consistent with  
21 the general county ordinance adopted under (a) of this subsection ~~((1)~~  
22 of this section)) and the county's comprehensive plan. Where  
23 applicable, the county's comprehensive plan includes, but is not  
24 limited to, designated lands and areas under RCW 36.70A.170, conserving  
25 lands and protecting areas under RCW 36.70A.060, retaining the urban  
26 nature of urban growth areas and interim urban growth areas designated  
27 under RCW 36.70A.110 and the nonurban nature of areas outside of  
28 designated urban growth areas and interim urban growth areas, and other  
29 actions taken by the county legislative authority under chapter 36.70A  
30 RCW. A proposed community zoning ordinance may not alter the county's  
31 shoreline master program.

32       The county legislative authority shall either approve the proposed  
33 ~~((plans and proposed))~~ community zoning ordinance and adopt the  
34 proposed community zoning ordinance~~((s))~~ as ~~((adopted))~~ submitted, or  
35 refer the proposed ~~((plans and proposed))~~ community zoning  
36 ordinance~~((s))~~ back to the ~~((community))~~ unincorporated area council  
37 with written findings specifying the inconsistencies, within ninety  
38 days after ~~((they were))~~ it is submitted. The county ~~((comprehensive~~  
39 plan, or subarea plan and comprehensive plan, and)) zoning

1 ordinance(~~s~~) shall remain in effect in the community until (~~the~~  
2 ~~proposed community comprehensive plans and~~) a proposed community  
3 zoning ordinance(~~s have~~) has been approved (~~as provided in this~~  
4 ~~subsection~~) by the county legislative authority using this procedure.

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

10 (~~(3)~~) ~~Each proposed amendment to approved community comprehensive~~  
11 ~~plans or approved community zoning ordinances that is adopted by a~~  
12 ~~community~~) (c) An unincorporated area council (~~shall be submitted~~)  
13 may develop and endorse proposed amendments to an approved community  
14 zoning ordinance, that implement and are consistent with the general  
15 county ordinance adopted under (a) of this subsection and the county  
16 comprehensive plan, and submit the proposed amendments to the county  
17 legislative authority for its review (~~of the consistency of the~~  
18 amendment with the ordinance adopted under subsection (1) of this  
19 section. The county legislative authority shall either approve the  
20 proposed amendment as adopted or refer the proposed amendment back to  
21 the community council with written findings specifying the  
22 inconsistencies within ninety days after the proposed amendment was  
23 submitted) and approval or rejection under the same procedure and  
24 conditions specified under (b) of this subsection for the review of a  
25 proposed community zoning ordinance. The (~~unamended community~~  
26 comprehensive plans and unamended) approved community zoning  
27 ordinance(~~s~~) shall remain in effect in the community until the  
28 proposed amendments (~~has~~) have been approved (~~as provided in this~~  
29 subsection) and adopted by the county legislative authority using this  
30 procedure.

31 An approved amendment to a community zoning ordinance in a county  
32 that is required or chooses to plan under RCW 36.70A.040 is subject to  
33 potential appeal to a growth planning hearings board under chapter  
34 36.70A RCW. Such an appeal must be filed within sixty days after  
35 publication by the county.

36 (~~(4)~~) (d) If the county legislative authority amends the county's  
37 comprehensive plan or the general county ordinance it adopted under (a)  
38 of this subsection (~~(1) of this section, a community~~), each  
39 unincorporated area council shall (~~be given at least one hundred~~

1 ~~twenty days to amend its community comprehensive plans and~~) develop  
2 and endorse proposed amendments to its approved community zoning  
3 ordinance((s to be)) that are consistent with ((this)) and implement  
4 the amended county comprehensive plan or amended county ordinance  
5 following the procedure specified under (c) of this subsection.  
6 ~~((However,))~~ The county legislative authority may directly amend ((the  
7 ~~community comprehensive plans and~~) a community zoning ordinance((s))  
8 to achieve consistency with ((this)) the amended county comprehensive  
9 plan or amended general county ordinance to be in effect until adequate  
10 proposed amendments to the community zoning ordinance that are  
11 developed and endorsed by the unincorporated area council have been  
12 approved and adopted by the county legislative authority. Nothing in  
13 this subsection ((shall)) (1)(d) precludes ((a community)) an  
14 unincorporated area council from subsequently obtaining approval of its  
15 proposed ((community comprehensive plans and proposed)) amendments to  
16 the community zoning ordinance((s)) that is so altered by the county  
17 legislative authority.

18 ~~((5) Approved community comprehensive plans and approved community~~  
19 ~~zoning ordinances shall be enforced by the county as if they had been~~  
20 ~~adopted by))~~ (2) The county legislative authority shall enforce a  
21 community zoning ordinance that it approves and adopts. An  
22 unincorporated area council shall not have authority to take quasi-  
23 judicial actions or to decide permit applications. All quasi-judicial  
24 actions and permits relating to ((these plans and ordinances)) a  
25 community zoning ordinance shall be made and decided by the county  
26 legislative authority or otherwise as provided by the county  
27 legislative authority.

28 ~~((6))~~ The county shall provide administrative and staff support  
29 for each ((community)) unincorporated area council within its  
30 boundaries and shall defend each unincorporated area council in any  
31 lawsuit over the actions taken by the unincorporated area council under  
32 this chapter.

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

35 ~~((A community council shall adopt proposed community comprehensive~~  
36 ~~plans and proposed community zoning ordinances as provided in RCW~~  
37 ~~36.105.070.—Community))~~ Unincorporated area councils shall not have  
38 the authority to take quasi-judicial actions nor to decide permit

1 applications. ~~((In addition, a community))~~ Unincorporated area  
2 councils shall serve as ~~((a))~~ forums for the discussion of local  
3 issues.

4 ~~((Community))~~ Among other general laws, unincorporated area  
5 councils are subject to chapter 42.30 RCW, the open public meetings  
6 act, and chapter 42.17 RCW, the public disclosure act.

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

9 ~~((A community))~~ An unincorporated area council may provide for the  
10 annexation of adjacent unincorporated areas in the same county to the  
11 community that legally may be included within the community that are  
12 not included within another community for which ~~((a community))~~ an  
13 unincorporated area council has been established.

14 Annexations shall be initiated by either resolution of the  
15 ~~((community))~~ unincorporated area council proposing the annexation or  
16 petition of voters residing in the adjacent area, which petition: (a)  
17 Requests the annexation; (b) sets forth the boundaries of the area  
18 proposed to be annexed; and (c) contains signatures of voters residing  
19 within the area that is proposed to be annexed equal in number to at  
20 least ten percent of the voters residing in that area who voted at the  
21 last state general election. Annexation petitions shall be filed with  
22 the county auditor who shall determine if the petitions contain a  
23 sufficient number of valid signatures, certify the sufficiency of the  
24 petitions, and notify the ~~((community))~~ unincorporated area council of  
25 the sufficiency of the petitions within fifteen days of when the  
26 petitions are submitted.

27 A ballot proposition authorizing the annexation shall be submitted  
28 to the voters of the area that is proposed to be annexed at a primary  
29 or general election in either an odd-numbered or even-numbered year, if  
30 the ~~((community))~~ unincorporated area council initiated the annexation  
31 by resolution or if the ~~((community))~~ unincorporated area council  
32 concurs in an annexation that was initiated by the submission of  
33 annexation petitions containing sufficient valid signatures. The  
34 annexation shall occur if the ballot proposition authorizing the  
35 ~~((creation of the community))~~ annexation is approved by a simple  
36 majority vote of the voters of the area proposed to be annexed voting  
37 on the proposition. The county's ~~((comprehensive plan, and where~~  
38 ~~applicable to the county's subarea plan, and))~~ zoning ordinances shall

1 continue in effect in the annexed area until proposed amendments to the  
2 (~~approved community comprehensive plans and~~) approved community  
3 zoning ordinance have been approved and adopted by the county  
4 legislative authority that apply to the annexed area.

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

7 (~~A community~~) An unincorporated area council that is located in  
8 a county composed entirely of islands with a population of thirty  
9 thousand or more shall be dissolved if the population of the community  
10 is reduced to less than five hundred persons, or less than two hundred  
11 persons if the community only (~~includes~~) included an entire island at  
12 the time of creation of the unincorporated area council. An  
13 unincorporated area council that is located in a county with a  
14 population of five hundred thousand or more shall be dissolved if the  
15 population of the community is reduced to less than two thousand five  
16 hundred persons.

17 The question of whether an unincorporated area council should be  
18 retained shall be submitted to the voters of a community at the next  
19 general election at which (~~community~~) unincorporated area  
20 councilmembers would be elected(~~, occurring~~) that occur at least  
21 (~~four~~) twelve years after the creation or (~~reestablishment of a~~  
22 community, a ballot proposition shall be submitted to the voters of the  
23 community on whether the community shall be reestablished)) latest  
24 affirmative vote to retain the unincorporated area council. The  
25 unincorporated area council shall be retained if the proposition to  
26 retain the unincorporated area council is approved by a simple majority  
27 vote of the voters of the community voting on the proposition. The  
28 election for council positions shall be held as if the ballot  
29 proposition on retaining the unincorporated area council were not  
30 submitted. If (~~reestablished~~) the unincorporated area council is  
31 retained, the persons who are newly elected members of the  
32 (~~community~~) council and the (~~retained~~) other members of the  
33 (~~community~~) council whose terms have not expired shall constitute the  
34 members of the (~~community~~) unincorporated area council. If the  
35 unincorporated area council is not retained, the election of the new  
36 councilmembers is null and void, and the unincorporated area council  
37 shall be dissolved.

1 Whenever an unincorporated area council is dissolved, the approved  
2 community zoning ordinance remains in effect until altered by the  
3 county legislative authority.

4 NEW SECTION. **Sec. 12.** This act alters and clarifies the  
5 authorities of community councils, including changing the name of such  
6 a council to an unincorporated area council. A community council that  
7 was authorized by voters prior to the effective date of this act shall  
8 remain in effect with authorities as provided in this act and shall be  
9 called an unincorporated area council.

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