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**SUBSTITUTE SENATE BILL 6505**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senate Committee on Government Operations (originally sponsored by Senators Hale and Haugen)

Read first time 02/02/96.

1 AN ACT Relating to clarifying and harmonizing provisions in Titles  
2 35 and 41 RCW; amending RCW 35.02.130, 35.02.180, 35.07.040, 35.21.710,  
3 35.27.070, and 41.04.190; adding a new section to chapter 35.23 RCW;  
4 and repealing RCW 35.07.030, 35.17.160, 35.23.390, and 35.23.400.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.23 RCW  
7 to read as follows:

8 No person shall be eligible to or hold an elective office in a city  
9 unless the person is a resident and registered voter therein.

10 **Sec. 2.** RCW 35.02.130 and 1994 c 154 s 308 are each amended to  
11 read as follows:

12 The city or town officially shall become incorporated at a date  
13 from one hundred eighty days to three hundred sixty days after the date  
14 of the election on the question of incorporation. An interim period  
15 shall exist between the time the newly elected officials have been  
16 elected and qualified and this official date of incorporation. During  
17 this interim period, the newly elected officials are authorized to  
18 adopt ordinances and resolutions which shall become effective on or

1 after the official date of incorporation, and to enter into contracts  
2 and agreements to facilitate the transition to becoming a city or town  
3 and to ensure a continuation of governmental services after the  
4 official date of incorporation. Periods of time that would be required  
5 to elapse between the enactment and effective date of such ordinances,  
6 including but not limited to times for publication or for filing  
7 referendums, shall commence upon the date of such enactment as though  
8 the city or town were officially incorporated.

9 During this interim period, the city or town governing body may  
10 adopt rules establishing policies and procedures under the state  
11 environmental policy act, chapter 43.21C RCW, and may use these rules  
12 and procedures in making determinations under the state environmental  
13 policy act, chapter 43.21C RCW.

14 During this interim period, the newly formed city or town and its  
15 governing body shall be subject to the following as though the city or  
16 town were officially incorporated: RCW 4.24.470 relating to immunity;  
17 chapter 42.17 RCW relating to open government; chapter 40.14 RCW  
18 relating to the preservation and disposition of public records;  
19 chapters 42.20 and 42.23 RCW relating to ethics and conflicts of  
20 interest; chapters 42.30 and 42.32 RCW relating to open public meetings  
21 and minutes; RCW 35.22.288, ((35.23.310, 35.24.220)) 35.23.221,  
22 35.27.300, 35A.12.160, as appropriate, and chapter 35A.65 RCW relating  
23 to the publication of notices and ordinances; RCW 35.21.875 and  
24 35A.21.230 relating to the designation of an official newspaper; RCW  
25 36.16.138 relating to liability insurance; RCW 35.22.620, 35.23.352,  
26 and 35A.40.210, as appropriate, and statutes referenced therein  
27 relating to public contracts and bidding; and chapter 39.34 RCW  
28 relating to interlocal cooperation. Tax anticipation or revenue  
29 anticipation notes or warrants and other short-term obligations may be  
30 issued and funds may be borrowed on the security of these instruments  
31 during this interim period, as provided in chapter 39.50 RCW. Funds  
32 also may be borrowed from federal, state, and other governmental  
33 agencies in the same manner as if the city or town were officially  
34 incorporated.

35 RCW 84.52.020 and 84.52.070 shall apply to the extent that they may  
36 be applicable, and the governing body of such city or town may take  
37 appropriate action by ordinance during the interim period to adopt the  
38 property tax levy for its first full calendar year following the  
39 interim period.

1 The governing body of the new city or town may acquire needed  
2 facilities, supplies, equipment, insurance, and staff during this  
3 interim period as if the city or town were in existence. An interim  
4 city manager or administrator, who shall have such administrative  
5 powers and duties as are delegated by the governing body, may be  
6 appointed to serve only until the official date of incorporation.  
7 After the official date of incorporation the governing body of such a  
8 new city organized under the council manager form of government may  
9 extend the appointment of such an interim manager or administrator with  
10 such limited powers as the governing body determines, for up to ninety  
11 days. This governing body may submit ballot propositions to the voters  
12 of the city or town to authorize taxes to be collected on or after the  
13 official date of incorporation, or authorize an annexation of the city  
14 or town by a fire protection district or library district to be  
15 effective immediately upon the effective date of the incorporation as  
16 a city or town.

17 The boundaries of a newly incorporated city or town shall be deemed  
18 to be established for purposes of RCW 84.09.030 on the date that the  
19 results of the initial election on the question of incorporation are  
20 certified or the first day of January following the date of this  
21 election if the newly incorporated city or town does not impose  
22 property taxes in the same year that the voters approve the  
23 incorporation.

24 The newly elected officials shall take office immediately upon  
25 their election and qualification with limited powers during this  
26 interim period as provided in this section. They shall acquire their  
27 full powers as of the official date of incorporation and shall continue  
28 in office until their successors are elected and qualified at the next  
29 general municipal election after the official date of incorporation:  
30 PROVIDED, That if the date of the next general municipal election is  
31 less than twelve months after the date of the first election of  
32 councilmembers, those initially elected councilmembers shall serve  
33 until their successors are elected and qualified at the next following  
34 general municipal election as provided in RCW 29.04.170. For purposes  
35 of this section, the general municipal election shall be the date on  
36 which city and town general elections are held throughout the state of  
37 Washington, pursuant to RCW 29.13.020.

38 In any newly incorporated city that has adopted the council-manager  
39 form of government, the term of office of the mayor, during the interim

1 period only, shall be set by the council, and thereafter shall be as  
2 provided by law.

3       The official date of incorporation shall be on a date from one  
4 hundred eighty to three hundred sixty days after the date of the  
5 election on the question of incorporation, as specified in a resolution  
6 adopted by the governing body during this interim period. A copy of  
7 the resolution shall be filed with the county legislative authority of  
8 the county in which all or the major portion of the newly incorporated  
9 city or town is located. If the governing body fails to adopt such a  
10 resolution, the official date of incorporation shall be three hundred  
11 sixty days after the date of the election on the question of  
12 incorporation. The county legislative authority of the county in which  
13 all or the major portion of the newly incorporated city or town is  
14 located shall file a notice with the county assessor that the city or  
15 town has been authorized to be incorporated immediately after the  
16 favorable results of the election on the question of incorporation have  
17 been certified. The county legislative authority shall file a notice  
18 with the secretary of state that the city or town is incorporated as of  
19 the official date of incorporation.

20       **Sec. 3.** RCW 35.02.180 and 1986 c 234 s 17 are each amended to read  
21 as follows:

22       The ownership of all county roads located within the boundaries of  
23 a newly incorporated city or town shall revert to the city or town and  
24 become streets as of the official date of incorporation. However, any  
25 special assessments attributable to these county roads shall continue  
26 to exist and be collected as if the incorporation had not occurred.  
27 Property within the newly incorporated city or town shall continue to  
28 be subject to any indebtedness attributable to these roads and any  
29 related property tax levies.

30       The territory included within the newly incorporated city or town  
31 shall be removed from the road district as of the official date of  
32 incorporation. The territory included within the newly incorporated  
33 city or town shall be removed from a fire protection district or  
34 districts or library district or districts in which it was located, as  
35 of the official date of incorporation, unless the fire protection  
36 district or districts have annexed the city or town during the interim  
37 period as provided in RCW (~~52.04.160 through 52.04.200~~) 52.04.061  
38 through 52.04.101, or the library district or districts have annexed

1 the city or town during the interim period as provided in RCW  
2 (~~27.12.260 through 27.12.290~~) 27.12.360 through 27.12.395.

3 The ownership of all assets and liabilities of any park and  
4 recreation district created and governed under the provisions of  
5 chapter 36.69 RCW that is located wholly within the newly incorporated  
6 city or town shall, upon adoption of a resolution by the council of the  
7 newly incorporated city or town, revert to the city or town and become  
8 assets and liabilities of the city or town as of the official date of  
9 incorporation. However, any special assessments attributable to the  
10 park and recreation district shall continue to exist and be collected  
11 as if the incorporation had not occurred. Property that was within the  
12 boundaries of the park and recreation district shall continue to be  
13 subject to any indebtedness attributable to the park and recreation  
14 district and any related property tax levies.

15 **Sec. 4.** RCW 35.07.040 and 1965 c 7 s 35.07.040 are each amended to  
16 read as follows:

17 (~~If the applicable census shows a population of less than four~~  
18 ~~thousand)) Upon receipt of a valid petition for disincorporation, the  
19 council shall cause an election to be called upon the proposition of  
20 disincorporation. If the city or town has any indebtedness or  
21 outstanding liabilities, it shall order the election of a receiver at  
22 the same time.~~

23 **Sec. 5.** RCW 35.21.710 and 1983 2nd ex.s. c 3 s 33 are each amended  
24 to read as follows:

25 Any city which imposes a license fee or tax upon business  
26 activities consisting of the making of retail sales of tangible  
27 personal property which are measured by gross receipts or gross income  
28 from such sales, shall impose such tax at a single uniform rate upon  
29 all such business activities. The taxing authority granted to cities  
30 for taxes upon business activities measured by gross receipts or gross  
31 income from sales shall not exceed a rate of .0020; except that any  
32 city with an adopted ordinance at a higher rate, as of January 1, 1982  
33 shall be limited to a maximum increase of ten percent of the January  
34 1982 rate, not to exceed an annual incremental increase of two percent  
35 of current rate: PROVIDED, That any adopted ordinance which classifies  
36 according to different types of business or services shall be subject  
37 to both the ten percent and the two percent annual incremental increase

1 limitation on each tax rate: PROVIDED FURTHER, That all surtaxes on  
2 business and occupation classifications in effect as of January 1,  
3 1982, shall expire no later than December 31, 1982, or by expiration  
4 date established by local ordinance. Cities which impose a license fee  
5 or tax upon business activities consisting of the making of retail  
6 sales of tangible personal property which are measured by gross  
7 receipts or gross income from such sales shall be required to submit an  
8 annual report to the state auditor identifying the rate established and  
9 the revenues received from each fee or tax. This section shall not  
10 apply to any business activities subject to the tax imposed by chapter  
11 82.16 or 82.18 RCW. For purposes of this section, the providing to  
12 consumers of competitive telephone service, as defined in RCW  
13 82.04.065, shall be deemed to be the retail sale of tangible personal  
14 property.

15 **Sec. 6.** RCW 35.27.070 and 1993 c 47 s 2 are each amended to read  
16 as follows:

17 The government of a town shall be vested in a mayor and a council  
18 consisting of five members and a treasurer, all elective; the mayor  
19 shall appoint a clerk and a marshal; and may appoint a town attorney,  
20 pound master, street superintendent, a civil engineer, and such police  
21 and other subordinate officers and employees as may be provided for by  
22 ordinance. All appointive officers and employees shall hold office at  
23 the pleasure of the mayor, subject to any applicable law, rule, or  
24 regulation relating to civil service, and shall not be subject to  
25 confirmation by the town council.

26 **Sec. 7.** RCW 41.04.190 and 1992 c 146 s 13 are each amended to read  
27 as follows:

28 The cost of a policy or plan to a public agency or body is not  
29 additional compensation to the employees or elected officials covered  
30 thereby. The elected officials to whom this section applies include  
31 but are not limited to commissioners elected under chapters 28A.315,  
32 52.14, 53.12, 54.12, 56.12, 57.12, 70.44, and 87.03 RCW, as well as any  
33 county elected officials who are provided insurance coverage under RCW  
34 41.04.180 and those city officials elected under chapters 35.22, 35.23,  
35 35.27, 35A.12, and 35A.13 RCW. Any officer authorized to disburse such  
36 funds may pay in whole or in part to an insurance carrier or health

1 care service contractor the amount of the premiums due under the  
2 contract.

3 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each  
4 repealed:

5 (1) RCW 35.07.030 and 1965 c 7 s 35.07.030;

6 (2) RCW 35.17.160 and 1965 c 7 s 35.17.160;

7 (3) RCW 35.23.390 and 1965 c 7 s 35.23.390; and

8 (4) RCW 35.23.400 and 1965 c 7 s 35.23.400.

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