

CHAPTER 219

[Engrossed Senate Bill No. 4425]

PORT DISTRICTS—ELECTION TO INCREASE NUMBER OF COMMISSIONERS

AN ACT Relating to port districts; and amending section 10, chapter 17, Laws of 1959 as last amended by section 7, chapter 51, Laws of 1965 and RCW 53.12.120.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 10, chapter 17, Laws of 1959 as last amended by section 7, chapter 51, Laws of 1965 and RCW 53.12.120 are each amended to read as follows:

~~((In port districts having a population of))~~ When the population of a port district reaches five hundred thousand ((or more)), in accordance with the latest United States regular or special census or with the official state population estimate, there shall be submitted to the voters of the district, at the ~~((first))~~ next general election ((after June 11, 1953)) or at a special port election called for that purpose, the proposition of increasing the number of commissioners to five. At any general election thereafter, the same proposition may be submitted by resolution of the port commissioners, by filing a certified copy of the resolution with the county auditor at least four months prior to the general election. If the proposition is adopted, the commission in that port district shall consist of five commissioners in positions numbered as specified in RCW 53.12.035, the additional commissioners to take office five days after the election.

Passed the Senate February 15, 1982.

Passed the House March 8, 1982.

Approved by the Governor April 3, 1982.

Filed in Office of Secretary of State April 3, 1982.

CHAPTER 220

[Second Reengrossed Senate Bill No. 3446]

CITIES AND TOWNS—INCORPORATION PROCEEDINGS

AN ACT Relating to incorporation proceedings for cities and towns; amending section 10, chapter 189, Laws of 1967 and RCW 36.93.100; amending section 17, chapter 189, Laws of 1967 as amended by section 1, chapter 142, Laws of 1979 ex. sess. and RCW 36.93.170; amending section 35.02.150, chapter 7, Laws of 1965, as last amended by section 1, chapter 164, Laws of 1973 1st ex. sess. and RCW 35.02.150; amending section 35A.03.140, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.140; amending section 35.03.040, chapter 7, Laws of 1965 as last amended by section 16, chapter 126, Laws of 1979 ex. sess. and RCW 35.03.040; adding a new section to chapter 35.03 RCW; adding a new section to chapter 36.93 RCW; and adding a new section to chapter 43.21C RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 10, chapter 189, Laws of 1967 and RCW 36.93.100 are each amended to read as follows:

The board shall review and approve, disapprove, or modify any of the actions set forth in RCW 36.93.090 when any of the following shall occur within sixty days of the filing of a notice of intention:

(1) The chairman or any three members of the boundary review board files a request for review;

(2) Any governmental unit affected files a request for review;

(3) A petition requesting review is filed and is signed by

(a) five percent of the registered voters residing within the area which is being considered for the proposed action (as determined by the boundary review board in its discretion subject to immediate review by writ of certiorari to the superior court); or

(b) an owner or owners of property consisting of five percent of the assessed valuation within such area.

If a period of sixty days shall elapse without the board's jurisdiction having been invoked as set forth in this section, the proposed action shall be deemed approved.

If a review concerning a proposed incorporation of a city or town is requested, the board shall make a finding as prescribed in RCW 36.93.150 within one hundred twenty days after the filing of such a request for review. If this period of one hundred twenty days shall elapse without the board making a finding as prescribed in RCW 36.93.150, the proposed incorporation shall be deemed approved.

Sec. 2. Section 17, chapter 189, Laws of 1967 as amended by section 1, chapter 142, Laws of 1979 ex. sess. and RCW 36.93.170 are each amended to read as follows:

In reaching a decision on a proposal or an alternative, the board shall consider the factors affecting such proposal, which shall include, but not be limited to the following:

(1) Population and territory; population density; land area and land uses; comprehensive use plans and zoning; per capita assessed valuation; topography, natural boundaries and drainage basins, proximity to other populated areas; the existence of prime agricultural soils and agricultural uses; the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years; location and most desirable future location of community facilities((-));

(2) Municipal services; need for municipal services; effect of ordinances, governmental codes, regulations and resolutions on existing uses; present cost and adequacy of governmental services and controls in area; prospects of governmental services from other sources; probable future needs for such services and controls; probable effect of proposal or alternative on cost and adequacy of services and controls in area and adjacent area; the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units((-)); and

(3) The effect of the proposal or alternative on adjacent areas, on mutual economic and social interests, and on the local governmental structure of the county.

The provisions of chapter 43.21C RCW, State Environmental Policy, shall not apply to incorporation proceedings covered by chapter 35.02, Incorporation Proceedings, or 35.03 RCW, Incorporation of First Class Cities, or 35A.03 RCW, Incorporation as a Noncharter Code City, or 35A.04 RCW, Incorporation of Intercounty Area as a Noncharter Code City.

Sec. 3. Section 35.02.150, chapter 7, Laws of 1965, as last amended by section 1, chapter 164, Laws of 1973 1st ex. sess. and RCW 35.02.150 are each amended to read as follows:

After the filing of any petition for incorporation with the county auditor, and pending its final disposition as provided for in this chapter, no other petition for incorporation (~~((and no petition or resolution for annexation))~~) which embraces any of the territory included therein shall be acted upon by the county auditor or the (~~((board of))~~) county (~~((commissioners,))~~) legislative authority (~~((or by any city or town clerk, city or town council,))~~) or by any other public official or body that might otherwise be empowered to receive or act upon such a petition: PROVIDED, That any petition for incorporation may be withdrawn, or a new petition embracing other or different boundaries may be substituted therefor, by a majority of the signers thereof, at any time before such petition has been certified by the county auditor to the (~~((board of))~~) county (~~((commissioners,))~~) legislative authority in which case the same proceedings shall be taken as in the case of an original petition. A boundary review board, county auditor, county legislative authority, or any other public official or body may act upon a petition for annexation before considering or acting upon a petition for incorporation which embraces some or all of the same territory, without regard to priority of filing.

Sec. 4. Section 35A.03.140, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.140 are each amended to read as follows:

After the filing of any petition for incorporation with the county auditor, and pending final disposition as provided for in this chapter, no other petition for incorporation (~~((or annexation))~~) which embraces any of the territory included therein shall be acted upon by the county auditor or the (~~((board of))~~) county (~~((commissioners,))~~) legislative authority (~~((or by any city or town clerk, city or town council,))~~), or by any other public official or body that might otherwise be empowered to receive or act upon such a petition: PROVIDED, That any petition for incorporation may be withdrawn or a new petition embracing other or different boundaries or another plan of government may be substituted therefor, by a majority of the signers thereof, at any time before such petition has been certified by the county auditor to the (~~((board of))~~) county (~~((commissioners,))~~) legislative authority in which case the same proceedings shall be taken as in the case of an original petition. A boundary review board, county legislative authority, or any other

public official or body may act upon a petition for annexation before considering or acting upon a petition for incorporation which embraces some or all of the same territory, without regard to priority of filing.

NEW SECTION. Sec. 5. There is added to chapter 36.93 RCW a new section to read as follows:

A boundary review board, county auditor, county legislative authority, or any other public official or body may act upon a petition for annexation before considering or acting upon a petition for incorporation which embraces some or all of the same territory, without regard to priority of filing.

NEW SECTION. Sec. 6. There is added to chapter 43.21C RCW a new section to read as follows:

The incorporation of a city or town is exempted from compliance with this chapter.

Sec. 7. Section 35.03.040, chapter 7, Laws of 1965 as last amended by section 16, chapter 126, Laws of 1979 ex. sess. and RCW 35.03.040 are each amended to read as follows:

The fifteen freeholders receiving the highest number of votes at such election shall be certified by the county auditor as elected as freeholders to form a charter for said city provided a majority of those voting at the election referred to in RCW 35.03.030 vote in favor of incorporation. It shall be the duty of the persons so elected to convene within ten days after their election and frame a charter for said city, and within sixty days thereafter they, or a majority of their number, shall submit such charter to the county legislative authority which shall ~~((within ninety days thereafter))~~ cause another election to be called and held in said city and to be conducted in the manner required for the calling of a special election in Title 29 RCW and to be held at the next special election date provided for in RCW 29.13.010 that is at least sixty days after the approval of the proposition referred to in RCW 35.03.030, as now or hereafter amended, except as otherwise provided in this chapter, and in conformity with Article 11, section 10 of the Constitution, for the purpose of submitting said charter to the qualified electors of said city and for the election of the various elective officials to the respective offices named in said charter. The form of ballot at such election shall be "for proposed charter," "against proposed charter," and the names of the candidates for the respective offices named in said proposed charter. At the first election of officials for said city any qualified elector of said city may become a candidate for any of the elective offices set forth in such proposed charter without nomination by filing with the proper election officials of the county a declaration in writing that he desires to be a candidate for a particular office (naming it), such declaration to be filed not earlier than sixty nor later than thirty days prior to such election. Candidates for council positions shall file for a numbered position as provided by RCW

29.21.017. The candidates receiving the highest number of votes for the respective offices shall be declared elected to such office and the county auditor shall issue a certificate of such election. The newly elected officials shall assume office when qualified in accordance with RCW 29.01.135. After the first election the nomination and election of officials for said city shall be as prescribed in the charter adopted by the people and the laws of the state. No person shall be entitled to vote at such election unless he shall be a qualified elector of said city and shall have resided within the limits of said city for at least thirty days preceding such election. ~~((If a majority of all the votes cast on the proposed charter are not in favor of the proposed charter, no further proceeding shall be had on the petition for incorporation filed pursuant to RCW 35.03.020, but this shall not bar any new proceeding for such purpose.))~~

*NEW SECTION. Sec. 8. There is added to chapter 35.03 RCW a new section to read as follows:

(1) If the proposition referred to in RCW 35.03.030 is approved by majority vote, the county legislative authority shall declare the territory to be incorporated as a noncharter code city. The effective date of the incorporation shall be when the county legislative authority files the declaration of the election results in favor of the incorporation in the office of the secretary of state. The city shall act under the provisions of Title 35A RCW as a noncharter code city and possess the powers of a noncharter code city unless the subsequent question of adopting the yet to be drafted proposed charter is approved.

The person who is elected as a freeholder receiving the greatest number of votes shall act as the mayor and the seven persons who are elected as freeholders receiving the next greatest number of votes shall act as the city council unless the city governing body is altered pursuant to an approved first class city charter. Such persons shall take office immediately after they are elected and qualified.

(2) Should the proposed charter be rejected by the voters, the city shall remain as a noncharter code city and the mayor and the seven member council shall remain in office until their successors are elected and qualified.

(3) *The tax rate of the initial imposition of nonvoter-approved regular property taxes by any city incorporated under this section shall not exceed the lower of either:*

(a) *Three dollars and thirty-seven and one-half cents per thousand dollars of assessed value; or*

(b) *The sum of the road district nonvoter-approved regular property tax rate last imposed in the area and the highest sum of nonvoter-approved regular property tax rates last imposed in any area within the city by all the junior taxing districts that have been dissolved as a result of the incorporation.*

(4) The provisions of this section shall retroactively apply to any area proposed to be incorporated under this chapter if the proposition referred to in RCW 35.03.030 has not been submitted to the voters prior to the effective date of this act.

*Sec. 8. was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 8, 1982.

Passed the House March 5, 1982.

Approved by the Governor April 3, 1982, with the exception of subsection (3) of Section 8, which is vetoed.

Filed in Office of Secretary of State April 3, 1982.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to Section 8 subsection (3) Senate Bill No. 3446 entitled:

"AN ACT Relating to incorporation proceedings for cities and towns".

Subsection (3) of Section 8 would severely limit the authority of a newly incorporated city to establish its property tax rate at a level sufficient to provide basic services. The lower tax rate that would result from implementation of subsection (3)(b) is less than the \$3.375 per \$1,000 of assessed value authorized for other Washington cities. I have therefore vetoed Subsection (3) of Section 8.

With the exception of Subsection (3) of Section 8, which I have vetoed, the remainder of Senate Bill No. 3446 is approved."

CHAPTER 221

[Senate Bill No. 4660]

ADMINISTRATIVE RULE-MAKING—AGENCY RULES REVIEW

AN ACT Relating to administrative rule making; amending section 3, chapter 237, Laws of 1967 as last amended by section 3, chapter 324, Laws of 1981 and RCW 34.04.025; amending section 1, chapter 84, Laws of 1977 ex. sess. as last amended by section 7, chapter ___ (HB 385), Laws of 1982 and RCW 34.04.045; amending section 15, chapter 234, Laws of 1959 as last amended by section 2, chapter 64, Laws of 1981 and RCW 34.04.150; amending section 3, chapter 57, Laws of 1971 ex. sess. as last amended by section 12, chapter 324, Laws of 1981 and RCW 28B.19.030; amending section 23, chapter 186, Laws of 1980 and RCW 28B.19.033; and adding new sections to chapter 34.04 RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 3, chapter 237, Laws of 1967 as last amended by section 3, chapter 324, Laws of 1981 and RCW 34.04.025 are each amended to read as follows:

(1) Prior to the adoption, amendment, or repeal of any rule, each agency shall:

(a) File notice thereof with the code reviser in accordance with RCW 34.08.020(1) for publication in the state register, and with the ((secretary of