

Planning Laws of Washington State

The planning authority for local governments in Washington can be found in the State Constitution and the Washington Courts.

Washington State Constitution: “Any county, city, town, or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws.” (Act XI, Section 11)

Washington Courts: “...zoning ordinances are constitutional in principle as a valid exercise of the police power, and will be upheld if there is a substantial relation to the public health, safety, morals, or general welfare.” All land use controls should ultimately implement the community’s comprehensive plan and be consistent with the goals of the plan. The following is a partial list and description of Washington’s most used statutory land use controls:

Planning Commissions (RCW 35.63): Allows cities or counties to create planning commissions, adopt plans and regulate land use. This is the least complex planning enabling statute with the minimum procedural requirements.

Planning Enabling Act (RCW 36.70): Directed specifically to counties and is the most detailed of the planning enabling statutes. Though it is more specific, procedurally detailed, and more complex than RCW 35.63, it includes the same minimum requirements for comprehensive plans.

Growth Management Act (RCW 36.70A): Required for counties with populations over 50,000 and growth rates of ten percent in ten years. Other counties may opt into GMA. Certain portions of other planning statutes were modified to require all counties in the state to designate and classify resource lands and critical area and to have all planning implementation consistent with adopted comprehensive plans. Mandates extensive comprehensive planning effort to meet specific statewide goals.

Boundary Review Board Act (RCW 36.93): Reviews growth and development on unincorporated areas of counties through decisions on city, town, and special purpose district annexations, incorporations, and extensions of water and sewer lines.

Subdivisions (RCW 58.17): Controls the division of land through a subdivision, a short subdivision, or a binding site plan for commercial property.

State Environmental Policy Act (RCW 43.21C): SEPA is Washington’s fundamental environmental law and requires environmental analysis of actions for both physical and policy changes affecting the environment.

Shoreline Management Act (RCW 90.58): Applies to “shorelines of the state” for protection and restoration of the state’s valuable natural resources and allows “reasonable and appropriate uses”. Each community containing applicable shorelines and wetlands must develop a master plan approved by the Department of Ecology.

Cities and Towns (RCW 35 and RCW 35A): Provides for clear and uniform processes for municipal incorporations, disincorporations and annexations for land areas.

Water-Sewer Districts (RCW 57): Provides for clear and uniform processes for formation, annexation, withdrawal, and consolidated of water-sewer district land areas.

Irrigation Districts (RCW 52): Describes the process for adding or deleting lands, or consolidating lands for irrigation districts.

Fire Protection Districts (RCW 52): Provides for clear and uniform processes for formation, annexation, and merger of fire protection district land areas.

Regulations and Guidelines for Annexation, Mergers and Incorporations

Growth Management Act (RCW 36.70A): Mandates extensive comprehensive planning effort to meet specific statewide goals. Requires land designations and planning implementation consistent with adopted comprehensive plan.

State Environmental Policy Act (RCW 43.21C): SEPA is Washington's fundamental environmental law and requires environmental analysis of actions for both physical and policy changes affecting the environment. SEPA may not be required for particular annexation or incorporation activities.

Boundary Review Board Act (RCW 36.93): Reviews growth and development in unincorporated areas of counties through decisions on city, town and special purpose district annexations, incorporations, mergers and extensions of water and sewer lines. Establishes requirements for applications and criteria for review of annexations, incorporation, mergers and extensions.

County Comprehensive Plan: Policies provided to meet specific statewide goals. Provides land designations and planning implementation policies within adopted comprehensive plan.

Cities and Towns (RCW 35- Sections 35.01 - 35.30): Provides for clear and uniform processes for municipal incorporations, disincorporations and annexations for land area. Also addresses some requirements for water and sewer districts (Also see RCW 57.24).

Annexation by Code Cities (RCW 35A.14): Establishes authorities and processes for annexations by petition and annexations by election.

Water and Sewer Districts (RCW 57.24): Provides for clear and uniform processes for water and sewer district annexations. Establishes authorities and processes for annexations by petition and annexations by election (Also see RCW 35).

Irrigation Districts (RCW 87.03.530 - 03.770): Provides for clear and uniform processes for consolidation, adding and excluding lands to irrigation districts.

Fire Districts (RCW 52.04): Provides for clear and uniform processes for fire district annexations. Establishes authorities and processes for annexations by petition and annexations by election.

Chapter 36.93 RCW

Local governmental organization — boundaries — review boards

Chapter Listing

RCW Sections

36.93.010 Purpose.

36.93.020 Definitions.

36.93.030 Creation of boundary review boards in counties with populations of two hundred ten thousand or more -- Creation in other counties.

36.93.040 Dates upon which boards in counties with populations of less than two hundred ten thousand deemed established.

36.93.051 Appointment of board -- Members -- Terms -- Qualifications.

36.93.061 Boards in counties with populations of less than one million -- Members -- Terms -- Qualifications.

36.93.063 Selection of board members -- Procedure -- Commencement of term -- Vacancies.

36.93.067 Effect of failure to make appointment.

36.93.070 Chairman, vice chairman, chief clerk -- Powers and duties of board and chief clerk -- Meetings -- Hearings -- Counsel -- Compensation.

36.93.080 Expenditures -- Remittance of costs to counties.

36.93.090 Filing notice of proposed actions with board.

36.93.093 Copy of notice of intention by water-sewer district to be sent officials.

36.93.100 Review of proposed actions by board -- Procedure.

36.93.105 Actions not subject to review by board.

36.93.110 When review not necessary.

36.93.116 Simultaneous consideration of incorporation and annexation of territory.

36.93.120 Fees.

36.93.130 Notice of intention -- Contents.

36.93.140 Pending actions not affected.

36.93.150 Review of proposed actions -- Actions and determinations of board -- Disapproval, effect.

36.93.153 Review of proposed incorporation in county with boundary review board.

36.93.155 Annexation approval -- Other action not authorized.

36.93.157 Decisions to be consistent with growth management act.

36.93.160 Hearings -- Notice -- Record -- Subpoenas -- Decision of board -- Appellate review.

36.93.170 Factors to be considered by board -- Incorporation proceedings exempt from state environmental policy act.

36.93.180 Objectives of boundary review board.

36.93.185 Objectives of boundary review board -- Water-sewer district annexations, mergers -- Territory not adjacent to district.

36.93.190 Decision of board not to affect existing franchises, permits, codes, ordinances, etc., for ten years.

36.93.200 Rules and regulations -- Adoption procedure.

36.93.210 Rules and regulations -- Filing -- Permanent register.

36.93.220 Provisions of prior laws superseded by chapter.

36.93.230 Power to disband boundary review board.

36.93.800 Application of chapter to merged special purpose districts.

36.93.900 Effective date -- 1967 c 189.

36.93.910 Severability -- 1967 c 189.

36.93.010

Purpose. The legislature finds that in metropolitan areas of this state, experiencing heavy population

growth, increased problems arise from rapid proliferation of municipalities and haphazard extension of and competition to extend municipal boundaries. These problems affect adversely the quality and quantity and cost of municipal services furnished, the financial integrity of certain municipalities, the consistency of local regulations, and many other incidents of local government. Further, the competition among municipalities for unincorporated territory and the disorganizing effect thereof on land use, the preservation of property values and the desired objective of a consistent comprehensive land use plan for populated areas, makes it appropriate that the legislature provide a method of guiding and controlling the creation and growth of municipalities in metropolitan areas so that such problems may be avoided and that residents and businesses in those areas may rely on the logical growth of local government affecting them. [1967 c 189 § 1.]

36.93.020

Definitions. As used herein:

(1) "Governmental unit" means any incorporated city or town, metropolitan municipal corporation, or any special purpose district as defined in this section.

(2) "Special purpose district" means any water-sewer district, fire protection district, drainage improvement district, drainage and diking improvement district, flood control zone district, irrigation district, metropolitan park district, drainage district, or public utility district engaged in water distribution.

(3) "Board" means a boundary review board created by or pursuant to this chapter. [1999 c 153 § 44; 1979 ex.s. c 30 § 5; 1967 c 189 § 2.]

Notes:

Part headings not law -- 1999 c 153: See note following RCW 57.04.050.

36.93.030

Creation of boundary review boards in counties with populations of two hundred ten thousand or more — Creation in other counties.

(1) There is hereby created and established in each county with a population of two hundred ten thousand or more a board to be known and designated as a "boundary review board".

(2) A boundary review board may be created and established in any other county in the following manner:

(a) The county legislative authority may, by majority vote, adopt a resolution establishing a boundary review board; or

(b) A petition seeking establishment of a boundary review board signed by qualified electors residing in the county equal in number to at least five percent of

the votes cast in the county at the last county general election may be filed with the county auditor.

Upon the filing of such a petition, the county auditor shall examine the same and certify to the sufficiency of the signatures thereon. No person may withdraw his or her name from a petition after it has been filed with the auditor. Within thirty days after the filing of such petition, the county auditor shall transmit the same to the county legislative authority, together with his or her certificate of sufficiency.

After receipt of a valid petition for the establishment of a boundary review board, the county legislative authority shall submit the question of whether a boundary review board should be established to the electorate at the next county primary or county general election which occurs more than forty-five days from the date of receipt of the petition. Notice of the election shall be given as provided in *RCW 29.27.080 and shall include a clear statement of the proposal to be submitted.

If a majority of the persons voting on the proposition shall vote in favor of the establishment of the boundary review board, such board shall thereupon be deemed established. [1991 c 363 § 91; 1969 ex.s. c 111 § 1; 1967 c 189 § 3.]

Notes:

*Reviser's note: RCW 29.27.080 was recodified as RCW 29A.52.350 pursuant to 2003 c 111 § 2401, effective July 1, 2004. RCW 29A.52.350 was subsequently repealed by 2004 c 271 § 193. Later enactment of RCW 29A.52.350, see RCW 29A.52.351.

Purpose -- Captions not law -- 1991 c 363: See notes following RCW 2.32.180.

36.93.040

Dates upon which boards in counties with populations of less than two hundred ten thousand deemed established.

For the purposes of this chapter, each county with a population of less than two hundred ten thousand shall be deemed to have established a boundary review board on and after the date a proposition for establishing the same has been approved at an election as provided for in RCW 36.93.030, or on and after the date of adoption of a resolution of the county legislative authority establishing the same as provided for in RCW 36.93.030. [1991 c 363 § 92; 1967 c 189 § 4.]

Notes:

Purpose -- Captions not law -- 1991 c 363: See notes following RCW 2.32.180.

36.93.051

Appointment of board — Members — Terms — Qualifications.

The boundary review board in each county with a population of one million or more shall consist of eleven members chosen as follows:

- (1) Three persons shall be appointed by the governor;
- (2) Three persons shall be appointed by the

county appointing authority;

(3) Three persons shall be appointed by the mayors of the cities and towns located within the county; and

(4) Two persons shall be appointed by the board from nominees of special districts in the county.

The governor shall designate one initial appointee to serve a term of two years, and two initial appointees to serve terms of four years, if the appointments are made in an odd-numbered year, or one initial appointee to serve a term of one year, and two initial appointees to serve terms of three years, if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of February in the year the appointment was made.

The county appointing authority shall designate one of its initial appointees to serve a term of two years, and two of its initial appointees to serve terms of four years, if the appointments are made in an odd-numbered year, or one of its initial appointees to serve a term of one year, and two of its initial appointees to serve terms of three years, if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of February in the year the appointment was made.

The mayors making the initial city and town appointments shall designate two of their initial appointees to serve terms of two years, and one of their initial appointees to serve a term of four years, if the appointments are made in an odd-numbered year, or two of their initial appointees to serve terms of one year, and one of their initial appointees to serve a term of three years, if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of February in the year the appointment was made.

The board shall make two initial appointments from the nominees of special districts, with one appointee serving a term of four years and one initial appointee serving a term of two years, if the appointments are made in an odd-numbered year, or one initial appointee serving a term of three years and one initial appointee serving a term of one year if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of March in the year in which the appointment is made.

After the initial appointments, all appointees shall serve four-year terms.

No appointee may be an official or employee of the county or a governmental unit in the county, or a consultant or advisor on a contractual or regular

retained basis of the county, any governmental unit in the county, or any agency or association thereof. [1991 c 363 § 93; 1989 c 84 § 17.]

Notes:

Purpose -- Captions not law -- 1991 c 363: See notes following RCW 2.32.180.

36.93.061

Boards in counties with populations of less than one million — Members — Terms — Qualifications.

The boundary review board in each county with a population of less than one million shall consist of five members chosen as follows:

- (1) Two persons shall be appointed by the governor;
- (2) One person shall be appointed by the county appointing authority;
- (3) One person shall be appointed by the mayors of the cities and towns located within the county; and
- (4) One person shall be appointed by the board from nominees of special districts in the county.

The governor shall designate one initial appointee to serve a term of two years, and one initial appointee to serve a term of four years, if the appointments are made in an odd-numbered year, or one initial appointee to serve a term of one year, and one initial appointee to serve a term of three years, if the appointments are made in an even-numbered year, with the length of a term being calculated from the first day of February in the year that the appointment was made.

The initial appointee of the county appointing authority shall serve a term of two years, if the appointment is made in an odd-numbered year, or a term of one year, if the appointment is made in an even-numbered year. The initial appointee by the mayors shall serve a term of four years, if the appointment is made in an odd-numbered year, or a term of three years, if the appointment is made in an even-numbered year. The length of the term shall be calculated from the first day in February in the year the appointment was made.

The board shall make one initial appointment from the nominees of special districts to serve a term of two years if the appointment is made in an odd-numbered year, or a term of one year if the appointment is made in an even-numbered year, with the length of the term being calculated from the first day of March in the year in which the appointment is made.

After the initial appointments, all appointees shall serve four-year terms.

No appointee may be an official or employee of the county or a governmental unit in the county, or a consultant or advisor on a contractual or regular

retained basis of the county, any governmental unit in the county, or any agency or association thereof. [1991 c 363 § 94; 1989 c 84 § 18.]

Notes:

Purpose -- Captions not law -- 1991 c 363: See notes following RCW 2.32.180.

36.93.063

Selection of board members — Procedure — Commencement of term — Vacancies.

The executive of the county shall make the appointments under RCW 36.93.051 and 36.93.061 for the county, if one exists, or otherwise the county legislative authority shall make the appointments for the county.

The mayors of all cities and towns in the county shall meet on or before the last day of January in each odd-numbered year to make such appointments for terms to commence on the first day of February in that year. The date of the meeting shall be called by the mayor of the largest city or town in the county, and the mayor of the largest city or town in the county who attends the meeting shall preside over the meeting. Selection of each appointee shall be by simple majority vote of those mayors who attend the meeting.

Any special district in the county may nominate a person to be appointed to the board on or before the last day of January in each odd-numbered year that the term for this position expires. The board shall make its appointment of a nominee or nominees from the special districts during the month of February following the date by which such nominations are required to be made.

The county appointing authority and the mayors of cities and towns within the county shall make their initial appointments for newly created boards within sixty days of the creation of the board or shall make sufficient additional appointments to increase a five-member board to an eleven-member board within sixty days of the date the county obtains a population of one million or more. The board shall make its initial appointment or appointments of board members from the nominees of special districts located within the county within ninety days of the creation of the board or shall make an additional appointment of a board member from the nominees of special districts located within the county within ninety days of the date the county obtains a population of one million or more.

The term of office for all appointees other than the appointee from the special districts shall commence on the first day of February in the year in which the term is to commence. The term of office for the appointee from nominees of special districts shall commence on the first day of March in the year in which the term is to commence.

Vacancies on the board shall be filled by appointment of a person to serve the remainder of the term in the same manner that the person whose position is vacant was filled. [1991 c 363 § 95; 1989 c 84 § 19.]

Notes:

Purpose -- Captions not law -- 1991 c 363: See notes following RCW 2.32.180.

36.93.067

Effect of failure to make appointment.

Whenever appointments under RCW 36.93.051 through *36.93.065 have not been made by the appointing authority, the size of the board shall be considered to be reduced by one member for each position that remains vacant or unappointed.

[1989 c 84 § 21.]

Notes:

*Reviser's note: RCW 36.93.065 was repealed by 1999 c 124 § 1.

36.93.070

Chairman, vice chairman, chief clerk — Powers and duties of board and chief clerk — Meetings — Hearings — Counsel — Compensation.

The members of each boundary review board shall elect from its members a chairman, vice chairman, and shall employ a nonmember as chief clerk, who shall be the secretary of the board. The board shall determine its own rules and order of business and shall provide by resolution for the time and manner of holding all regular or special meetings: PROVIDED, That all meetings shall be subject to chapter 42.30 RCW. The board shall keep a journal of its proceedings which shall be a public record. A majority of all the members shall constitute a quorum for the transaction of business.

The chief clerk of the board shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas to any public officer or employee ordering him to testify before the board and produce public records, papers, books or documents. The chief clerk may invoke the aid of any court of competent jurisdiction to carry out such powers.

The board by rule may provide for hearings by panels of members consisting of not less than five board members, the number of hearing panels and members thereof, and for the impartial selection of panel members. A majority of a panel shall constitute a quorum thereof.

At the request of the board, the state attorney general, or at the board's option, the county prosecuting attorney, shall provide counsel for the board.

The planning departments of the county, other counties, and any city, and any state or regional planning agency shall furnish such information to the board at its request as may be reasonably necessary

for the performance of its duties.

Each member of the board shall be compensated from the county current expense fund at the rate of fifty dollars per day, or a major portion thereof, for time actually devoted to the work of the boundary review board. Each board of county commissioners shall provide such funds as shall be necessary to pay the salaries of the members and staff, and such other expenses as shall be reasonably necessary. [1997 c 77 § 1; 1987 c 477 § 1; 1967 c 189 § 7.]

36.93.080

Expenditures — Remittance of costs to counties.

Expenditures by the board shall be subject to the provisions of chapter 36.40 RCW and other statutes relating to expenditures by counties. The department of community, trade, and economic development shall on a quarterly basis remit to each county one-half of the actual costs incurred by the county for the operation of the boundary review board within individual counties as provided for in this chapter. However, in the event no funds are appropriated to the said agency for this purpose, this shall not in any way affect the operation of the boundary review board. [1995 c 399 § 44; 1985 c 6 § 7; 1969 ex.s. c 111 § 4; 1967 c 189 § 8.]

36.93.090

Filing notice of proposed actions with board.

Whenever any of the following described actions are proposed in a county in which a board has been established, the initiators of the action shall file within one hundred eighty days a notice of intention with the board: PROVIDED, That when the initiator is the legislative body of a governmental unit, the notice of intention may be filed immediately following the body's first acceptance or approval of the action. The board may review any such proposed actions pertaining to:

(1) The: (a) Creation, incorporation, or change in the boundary, other than a consolidation, of any city, town, or special purpose district; (b) consolidation of special purpose districts, but not including consolidation of cities and towns; or (c) dissolution or disincorporation of any city, town, or special purpose district, except that a board may not review the dissolution or disincorporation of a special purpose district which was dissolved or disincorporated pursuant to the provisions of chapter 36.96 RCW: PROVIDED, That the change in the boundary of a city or town arising from the annexation of contiguous city or town owned property held for a public purpose shall be exempted from the requirements of this section; or

(2) The assumption by any city or town of all or part of the assets, facilities, or indebtedness of a

special purpose district which lies partially within such city or town; or

(3) The establishment of or change in the boundaries of a mutual water and sewer system or separate sewer system by a water-sewer district pursuant to RCW 57.08.065 or *chapter 57.40 RCW; or

(4) The extension of permanent water or sewer service outside of its existing service area by a city, town, or special purpose district. The service area of a city, town, or special purpose district shall include all of the area within its corporate boundaries plus, (a) for extensions of water service, the area outside of the corporate boundaries which it is designated to serve pursuant to a coordinated water system plan approved in accordance with RCW 70.116.050; and (b) for extensions of sewer service, the area outside of the corporate boundaries which it is designated to serve pursuant to a comprehensive sewerage plan approved in accordance with chapter 36.94 RCW and RCW 90.48.110.

[1996 c 230 § 1608; 1995 c 131 § 1; 1987 c 477 § 2; 1985 c 281 § 28; 1982 c 10 § 7. Prior: 1981 c 332 § 9; 1981 c 45 § 2; 1979 ex.s. c 5 § 12; 1971 ex.s. c 127 § 1; 1969 ex.s. c 111 § 5; 1967 c 189 § 9.]

Notes:

***Reviser's note:** Chapter 57.40 RCW was repealed and/or decodified in its entirety.

Part headings not law -- Effective date -- 1996 c 230: See notes following RCW 57.02.001.

Effective date -- 1995 c 131: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 24, 1995]." [1995 c 131 § 2.]

Severability -- 1985 c 281: See RCW 35.10.905.

Severability -- 1982 c 10: See note following RCW 6.13.080.

Severability -- 1981 c 332: See note following RCW 35.13.165.

Legislative declaration -- "District" defined --

1981 c 45: "It is declared to be the public policy of the state of Washington to provide for the orderly growth and development of those areas of the state requiring public water service or sewer service and to secure the health and welfare of the people residing therein. The growth of urban population and the movement of people into suburban areas has required the performance of such services by water districts and sewer districts and the development of such districts has created problems of conflicting jurisdiction and potential double taxation.

It is the purpose of this act to reduce the duplication of service and the conflict among jurisdictions by establishing the principle that the first in time is the first in right where districts overlap and by encouraging the consolidation of districts. It is also the purpose of this act to prevent the imposition of double taxation upon the same property by establishing a general classification of property which will be exempt from property taxation by a district

when such property is within the jurisdiction of an established district duly authorized to provide service of like character.

Unless the context clearly requires otherwise, as used in this act, the term "district" means either a water district organized under Title 57 RCW or a sewer district organized under Title 56 RCW or a merged water and sewer district organized pursuant to chapter 57.40 or 56.36 RCW." [1981 c 45 § 1.]

Severability -- 1981 c 45: "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." [1981 c 45 § 14.]

Severability -- 1979 ex.s. c 5: See RCW 36.96.920.

Consolidation of cities and towns -- Role of boundary review board: RCW 35.10.450.

36.93.093

Copy of notice of intention by water-sewer district to be sent officials.

Whenever a water-sewer district files with the board a notice of intention as required by RCW 36.93.090, the board shall send a copy of such notice of intention to the legislative authority of the county wherein such action is proposed to be taken and one copy to the state department of ecology. [1999 c 153 § 45; 1971 ex.s. c 127 § 2.]

Notes:

Part headings not law -- 1999 c 153: See note following RCW 57.04.050.

36.93.100

Review of proposed actions by board -- Procedure.

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 forty-five days of the filing of a notice of intention:

(1) Three members of a five-member boundary review board or five members of a boundary review board in a county with a population of one million or more files a request for review: PROVIDED, That the members of the boundary review board shall not be authorized to file a request for review of the following actions:

(a) The incorporation of any special district or change in the boundary of any city, town, or special purpose district;

(b) The extension of permanent water service outside of its existing corporate boundaries by a city, town, or special purpose district if (i) the extension is through the installation of water mains of six inches or less in diameter or (ii) the county legislative authority for the county in which the proposed extension is to be built is required or chooses to plan under RCW 36.70A.040 and has by a majority vote waived the authority of the board to initiate review of all other extensions; or

(c) The extension of permanent sewer service

outside of its existing corporate boundaries by a city, town, or special purpose district if (i) the extension is through the installation of sewer mains of eight inches or less in diameter or (ii) the county legislative authority for the county in which the proposed extension is to be built is required or chooses to plan under RCW 36.70A.040 and has by a majority vote waived the authority of the board to initiate review of all other extensions;

(2) Any governmental unit affected, including the governmental unit for which the boundary change or extension of permanent water or sewer service is proposed, or the county within which the area of the proposed action is located, files a request for review of the specific action;

(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;

(4) The majority of the members of boundary review boards concur with a request for review when a petition requesting the review is filed by five percent of the registered voters who deem themselves affected by the action and reside within one-quarter mile of the proposed action but not within the jurisdiction proposing the action.

If a period of forty-five 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 of a proposal 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 proposal shall be deemed approved unless the board and the person who submitted the proposal agree to an extension of the one hundred twenty day period. [1994 c 216 § 13; 1992 c 162 § 1; 1991 c 363 § 96; 1989 c 84 § 3; 1987 c 477 § 3; 1983 c 76 § 1; 1982 c 220 § 1; 1967 c 189 § 10.]

Notes:

Effective date -- 1994 c 216: See note following RCW 35.02.015.

Purpose -- Captions not law -- 1991 c 363: See notes following RCW 2.32.180.

Severability -- 1982 c 220: "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." [1982 c 220 § 9.]

36.93.105

Actions not subject to review by board.

The following actions shall not be subject to potential review by a boundary review board:

(1) Annexations of territory to a water-sewer district pursuant to RCW 36.94.410 through 36.94.440;

(2) Revisions of city or town boundaries pursuant to RCW 35.21.790 or 35A.21.210;

(3) Adjustments to city or town boundaries pursuant to RCW 35.13.340; and

(4) Adjustments to city and town boundaries pursuant to RCW 35.13.300 through 35.13.330. [1999 c 153 § 46; 1989 c 84 § 4; 1984 c 147 § 5.]

Notes:

Part headings not law -- 1999 c 153: See note following RCW 57.04.050.

36.93.110

When review not necessary.

Where an area proposed for annexation is less than ten acres and less than two million dollars in assessed valuation, the chairman of the review board may by written statement declare that review by the board is not necessary for the protection of the interest of the various parties, in which case the board shall not review such annexation.

[1987 c 477 § 4; 1973 1st ex.s. c 195 § 42; 1967 c 189 § 11.]

Notes:

Severability -- Effective dates -- Construction -- 1973 1st ex.s. c 195: See notes following RCW 84.52.043.

36.93.116

Simultaneous consideration of incorporation and annexation of territory.

A boundary review board may simultaneously consider the proposed incorporation of a city or town, and the proposed annexation of a portion of the territory included in the proposed incorporation, if the resolution or petition initiating the annexation is adopted or filed ninety or fewer days after the petition proposing the incorporation was filed. [1994 c 216 § 9.]

Notes:

Effective date -- 1994 c 216: See note following RCW 35.02.015.

36.93.120

Fees.

A fee of fifty dollars shall be paid by all initiators and in addition if the jurisdiction of the review board is invoked pursuant to RCW 36.93.100, the person or entity seeking review, except for the boundary review board itself, shall pay to the county treasurer and place in the county current expense fund the fee of two hundred dollars.

[1987 c 477 § 5; 1969 ex.s. c 111 § 6; 1967 c 189 § 12.]

36.93.130

Notice of intention — Contents.

The notice of intention shall contain the following information:

(1) The nature of the action sought;

(2) A brief statement of the reasons for the proposed action;

(3) The legal description of the boundaries proposed to be created, abolished or changed by such action: PROVIDED, That the legal description may be altered, with concurrence of the initiators of the proposed action, if a person designated by the county legislative authority as one who has expertise in legal descriptions makes a determination that the legal description is erroneous; and

(4) A county assessor's map on which the boundaries proposed to be created, abolished or changed by such action are designated: PROVIDED, That at the discretion of the boundary review board a map other than the county assessor's map may be accepted.

[1987 c 477 § 6; 1969 ex.s. c 111 § 7; 1967 c 189 § 13.]

36.93.140

Pending actions not affected.

Actions described in RCW 36.93.090 which are pending July 1, 1967, or actions in counties with populations of less than two hundred ten thousand which are pending on the date of the creation of a boundary review board therein, shall not be affected by the provisions of this chapter. Actions shall be deemed pending on and after the filing of sufficient petitions initiating the same with the appropriate public officer, or the performance of an official act initiating the same.

[1991 c 363 § 97; 1967 c 189 § 14.]

Notes:

Purpose -- Captions not law -- 1991 c 363: See notes following RCW 2.32.180.

36.93.150

Review of proposed actions — Actions and determinations of board — Disapproval, effect.

The board, upon review of any proposed action, shall take such of the following actions as it deems necessary to best carry out the intent of this chapter:

(1) Approve the proposal as submitted.

(2) Subject to RCW 35.02.170, modify the proposal by adjusting boundaries to add or delete territory. However, any proposal for annexation of territory to a town shall be subject to RCW 35.21.010 and the board shall not add additional territory, the amount of which is greater than that included in the original proposal. Any modifications shall not interfere with the authority of a city, town, or special purpose district to require or not require preannexation agreements, covenants, or petitions. A board shall not modify the proposed incorporation of a city with an estimated population of seven thousand five hundred or more by removing territory from the proposal, or adding territory to the proposal, that constitutes ten percent or more of the total area included within the

proposal before the board. However, a board shall remove territory in the proposed incorporation that is located outside of an urban growth area or is annexed by a city or town, and may remove territory in the proposed incorporation if a petition or resolution proposing the annexation is filed or adopted that has priority over the proposed incorporation, before the area is established that is subject to this ten percent restriction on removing or adding territory. A board shall not modify the proposed incorporation of a city with a population of seven thousand five hundred or more to reduce the territory in such a manner as to reduce the population below seven thousand five hundred.

(3) Determine a division of assets and liabilities between two or more governmental units where relevant.

(4) Determine whether, or the extent to which, functions of a special purpose district are to be assumed by an incorporated city or town, metropolitan municipal corporation, or another existing special purpose district.

(5) Disapprove the proposal except that the board shall not have jurisdiction: (a) To disapprove the dissolution or disincorporation of a special purpose district which is not providing services but shall have jurisdiction over the determination of a division of the assets and liabilities of a dissolved or disincorporated special purpose district; (b) over the division of assets and liabilities of a special purpose district that is dissolved or disincorporated pursuant to chapter 36.96 RCW; nor (c) to disapprove the incorporation of a city with an estimated population of seven thousand five hundred or more, but the board may recommend against the proposed incorporation of a city with such an estimated population.

Unless the board disapproves a proposal, it shall be presented under the appropriate statute for approval of a public body and, if required, a vote of the people. A proposal that has been modified shall be presented under the appropriate statute for approval of a public body and if required, a vote of the people. If a proposal, other than that for a city, town, or special purpose district annexation, after modification does not contain enough signatures of persons within the modified area, as are required by law, then the initiating party, parties or governmental unit has thirty days after the modification decision to secure enough signatures to satisfy the legal requirement. If the signatures cannot be secured then the proposal may be submitted to a vote of the people, as required by law.

The addition or deletion of property by the board shall not invalidate a petition which had previously

satisfied the sufficiency of signature provisions of RCW 35.13.130 or 35A.14.120. When the board, after due proceedings held, disapproves a proposed action, such proposed action shall be unavailable, the proposing agency shall be without power to initiate the same or substantially the same as determined by the board, and any succeeding acts intended to or tending to effectuate that action shall be void, but such action may be reinitiated after a period of twelve months from date of disapproval and shall again be subject to the same consideration.

The board shall not modify or deny a proposed action unless there is evidence on the record to support a conclusion that the action is inconsistent with one or more of the objectives under RCW 36.93.180. Every such determination to modify or deny a proposed action shall be made in writing pursuant to a motion, and shall be supported by appropriate written findings and conclusions, based on the record.

[1994 c 216 § 15; 1990 c 273 § 1; 1987 c 477 § 7; 1979 ex.s. c 5 § 13; 1975 1st ex.s. c 220 § 10; 1969 ex.s. c 111 § 8; 1967 c 189 § 15.]

Notes: **Effective date -- 1994 c 216:** See note following RCW 35.02.015.

Severability -- 1990 c 273: "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." [1990 c 273 § 3.]

Severability -- 1979 ex.s. c 5: See RCW 36.96.920.

Legislative finding, intent -- 1975 1st ex.s. c 220: See note following RCW 35.02.170.

36.93.153

Review of proposed incorporation in county with boundary review board.

The proposed incorporation of any city or town that includes territory located in a county in which a boundary review board exists shall be reviewed by the boundary review board and action taken as described under RCW 36.93.150.

[1994 c 216 § 10.]

Notes:

Effective date -- 1994 c 216: See note following RCW 35.02.015.

36.93.155

Annexation approval — Other action not authorized.

Boundary review board approval, or modification and approval, of a proposed annexation by a city, town, or special purpose district shall authorize annexation as approved and shall not authorize any other annexation action.

[1989 c 84 § 16.]

36.93.157

Decisions to be consistent with growth management act.

The decisions of a boundary review board located in a county that is required or chooses to plan under RCW 36.70A.040 must be consistent with RCW

36.70A.020, 36.70A.110, and 36.70A.210. [1992 c 162 § 2.]

36.93.160

Hearings — Notice — Record — Subpoenas — Decision of board — Appellate review.

(1) When the jurisdiction of the boundary review board has been invoked, the board shall set the date, time and place for a public hearing on the proposal. The board shall give at least thirty days' advance written notice of the date, time and place of the hearing to the governing body of each governmental unit having jurisdiction within the boundaries of the territory proposed to be annexed, formed, incorporated, disincorporated, dissolved or consolidated, or within the boundaries of a special district whose assets and facilities are proposed to be assumed by a city or town, and to the governing body of each city within three miles of the exterior boundaries of the area and to the proponent of the change. Notice shall also be given by publication in any newspaper of general circulation in the area of the proposed boundary change at least three times, the last publication of which shall be not less than five days prior to the date set for the public hearing. Notice shall also be posted in ten public places in the area affected for five days when the area is ten acres or more. When the area affected is less than ten acres, five notices shall be posted in five public places for five days. Notice as provided in this subsection shall include any territory which the board has determined to consider adding in accordance with RCW 36.93.150(2).

(2) A verbatim record shall be made of all testimony presented at the hearing and upon request and payment of the reasonable costs thereof, a copy of the transcript of the testimony shall be provided to any person or governmental unit.

(3) The chairman upon majority vote of the board or a panel may direct the chief clerk of the boundary review board to issue subpoenas to any public officer to testify, and to compel the production by him of any records, books, documents, public records or public papers.

(4) Within forty days after the conclusion of the final hearing on the proposal, the board shall file its written decision, setting forth the reasons therefor, with the board of county commissioners and the clerk of each governmental unit directly affected. The written decision shall indicate whether the proposed change is approved, rejected or modified and, if modified, the terms of the modification. The written decision need not include specific data on every factor required to be considered by the board, but shall indicate that all standards were given

consideration. Dissenting members of the board shall have the right to have their written dissents included as part of the decision.

(5) Unanimous decisions of the hearing panel or a decision of a majority of the members of the board shall constitute the decision of the board and shall not be appealable to the whole board. Any other decision shall be appealable to the entire board within ten days. Appeals shall be on the record, which shall be furnished by the appellant, but the board may, in its sole discretion, permit the introduction of additional evidence and argument. Decisions shall be final and conclusive unless within thirty days from the date of the action a governmental unit affected by the decision or any person owning real property or residing in the area affected by the decision files in the superior court a notice of appeal.

The filing of the notice of appeal within the time limit shall stay the effective date of the decision of the board until such time as the appeal shall have been adjudicated or withdrawn. On appeal the superior court shall not take any evidence other than that contained in the record of the hearing before the board.

(6) The superior court may affirm the decision of the board or remand the case for further proceedings; or it may reverse the decision if any substantial rights may have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions, or
- (b) In excess of the statutory authority or jurisdiction of the board, or
- (c) Made upon unlawful procedure, or
- (d) Affected by other error of law, or
- (e) Unsupported by material and substantial evidence in view of the entire record as submitted, or
- (f) Clearly erroneous.

An aggrieved party may seek appellate review of any final judgment of the superior court in the manner provided by law as in other civil cases. [1994 c 216 § 16; 1988 c 202 § 40; 1987 c 477 § 8; 1971 c 81 § 97; 1969 ex.s. c 111 § 9; 1967 c 189 § 16.]

Notes:

Effective date -- 1994 c 216: See note following RCW 35.02.015.

Severability -- 1988 c 202: See note following RCW 2.24.050.

General corporate powers -- Towns, restrictions as to area: RCW 35.21.010.

36.93.170

Factors to be considered by board — Incorporation proceedings exempt from state environmental policy act.

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 plans and zoning, as adopted under chapter 35.63, 35A.63, or 36.70 RCW; comprehensive plans and development regulations adopted under chapter 36.70A RCW; applicable service agreements entered into under chapter 36.115 or 39.34 RCW; applicable interlocal annexation agreements between a county and its cities; per capita assessed valuation; topography, natural boundaries and drainage basins, proximity to other populated areas; the existence and preservation of prime agricultural soils and productive 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 RCW. [1997 c 429 § 39; 1989 c 84 § 5; 1986 c 234 § 33; 1982 c 220 § 2; 1979 ex.s. c 142 § 1; 1967 c 189 § 17.]

Notes: **Severability -- 1997 c 429:** See note following RCW

36.70A.3201. **Severability -- 1982 c 220:** See note following RCW 36.93.100. Incorporation proceedings exempt from state environmental policy act: RCW 43.21C.220.

36.93.180

Objectives of boundary review board.

The decisions of the boundary review board shall attempt to achieve the following objectives:

(1) Preservation of natural neighborhoods and communities;

(2) Use of physical boundaries, including but not limited to bodies of water, highways, and land contours;

(3) Creation and preservation of logical service areas;

(4) Prevention of abnormally irregular boundaries;

(5) Discouragement of multiple incorporations of small cities and encouragement of incorporation of cities in excess of ten thousand population in heavily

populated urban areas;

(6) Dissolution of inactive special purpose districts;

(7) Adjustment of impractical boundaries;

(8) Incorporation as cities or towns or annexation to cities or towns of unincorporated areas which are urban in character; and

(9) Protection of agricultural and rural lands which are designated for long term productive agricultural and resource use by a comprehensive plan adopted by the county legislative authority. [1989 c 84 § 6; 1981 c 332 § 10; 1979 ex.s. c 142 § 2; 1967 c 189 § 18.]

Notes:

Severability -- 1981 c 332: See note following RCW 35.13.165.

36.93.185

Objectives of boundary review board — Water-sewer district annexations, mergers — Territory not adjacent to district.

The proposal by a water-sewer district to annex territory that is not adjacent to the district shall not be deemed to be violative of the objectives of a boundary review board solely due to the fact that the territory is not adjacent to the water-sewer district. The proposed consolidation or merger of two or more water-sewer districts that are not adjacent to each other shall not be deemed to be violative of the objectives of a boundary review board solely due to the fact that the districts are not adjacent. [1999 c 153 § 47; 1989 c 308 § 13.]

Notes:

Part headings not law -- 1999 c 153: See note following RCW 57.04.050.

36.93.190

Decision of board not to affect existing franchises, permits, codes, ordinances, etc., for ten years.

For a period of ten years from the date of the final decision, no proceeding, approval, action, or decision on a proposal or an alternative shall be deemed to cancel any franchise or permit theretofore granted by the authorities governing the territory to be annexed, nor shall it be deemed to supersede the application as to any territory to be annexed, of such construction codes and ordinances (including but not limited to fire, electrical, and plumbing codes and ordinances) as shall have been adopted by the authorities governing the territory to be annexed and in force at the time of the decision. [1967 c 189 § 19.]

36.93.200

Rules and regulations — Adoption procedure.

Each review board shall adopt rules governing the formal and informal procedures prescribed or authorized by this chapter. Such rules may state the qualifications of persons for practice before the board. Such rules shall also include rules of practice before

the board, together with forms and instructions.

To assist interested persons dealing with it, each board shall so far as deemed practicable supplement its rules with descriptive statements of its procedures.

Prior to the adoption of any rule authorized by law, or the amendment or repeal thereof, the board shall file notice thereof with the clerk of the court of the county in which the board is located. So far as practicable, the board shall also publish or otherwise circulate notice of its intended action and afford interested persons opportunity to submit data or views either orally or in writing. Such notice shall include (1) a statement of the time, place, and nature of public rule-making proceedings, (2) reference to the authority under which the rule is proposed, and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

This paragraph shall not apply to interpretative rules, general statements of policy, or rules of internal board organization, procedure or practice. [1967 c 189 § 20.]

36.93.210

Rules and regulations — Filing — Permanent register.

Each board shall file forthwith with the clerk of the court a certified copy of all rules and regulations adopted. The clerk shall keep a permanent register of such rules open to public inspection. [1967 c 189 § 21.]

36.93.220

Provisions of prior laws superseded by chapter.

Whenever a review board has been created pursuant to the terms of this chapter, the provisions of law relating to city annexation review boards set forth in chapter 35.13 RCW and the powers granted to the boards of county commissioners to alter boundaries of proposed annexations or incorporations shall not be applicable. [1967 c 189 § 22.]

36.93.230

Power to disband boundary review board.

When a county and the cities and towns within the county have adopted a comprehensive plan and consistent development regulations pursuant to the provisions of chapter 36.70A RCW, the county may, at the discretion of the county legislative authority, disband the boundary review board in that county. [1991 sp.s. c 32 § 22.]

Notes: **Section headings not law -- 1991 sp.s. c 32:** See RCW 36.70A.902.

36.93.800

Application of chapter to merged special purpose districts.

This chapter does not apply to the merger of irrigation districts authorized under RCW 87.03.530(2) and 87.03.845 through 87.03.855 or to the merger of a drainage improvement district, joint drainage

improvement district, or consolidated drainage improvement district into an irrigation district authorized by RCW 87.03.720 through 87.03.745 and 85.08.830 through 85.08.890. [1996 c 313 § 2; 1993 c 235 § 10.]

36.93.900

Effective date — 1967 c 189.

The effective date of this chapter is July 1, 1967. [1967 c 189 § 24.]

36.93.910

Severability — 1967 c 189.

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. [1967 c 189 § 23.]

Chapter 42.30 RCW

Open public meetings act

Chapter Listing

RCW Sections

<u>42.30.010</u>	Legislative declaration.
<u>42.30.020</u>	Definitions.
<u>42.30.030</u>	Meetings declared open and public.
<u>42.30.040</u>	Conditions to attendance not to be required.
<u>42.30.050</u>	Interruptions -- Procedure.
<u>42.30.060</u>	Ordinances, rules, resolutions, regulations, etc., adopted at public meetings -- Notice -- Secret voting prohibited.
<u>42.30.070</u>	Times and places for meetings -- Emergencies -- Exception.
<u>42.30.075</u>	Schedule of regular meetings -- Publication in state register -- Notice of change -- "Regular" meetings defined.
<u>42.30.080</u>	Special meetings.
<u>42.30.090</u>	Adjournments.
<u>42.30.100</u>	Continuances.
<u>42.30.110</u>	Executive sessions.
<u>42.30.120</u>	Violations -- Personal liability -- Penalty -- Attorney fees and costs.
<u>42.30.130</u>	Violations -- Mandamus or injunction.
<u>42.30.140</u>	Chapter controlling -- Application.
<u>42.30.200</u>	Governing body of recognized student association at college or university -- Chapter applicability to.
<u>42.30.210</u>	Assistance by attorney general.
<u>42.30.900</u>	Short title.
<u>42.30.910</u>	Construction -- 1971 ex.s. c 250.
<u>42.30.920</u>	Severability -- 1971 ex.s. c 250.

Notes:

Drug reimbursement policy recommendations: RCW 43.20A.365.

42.30.010

Legislative declaration.

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. [1971 ex.s. c 250 § 1.]

Notes:

Reviser's note: Throughout this chapter, the phrases "this act" and "this 1971 amendatory act" have been changed to "this chapter." "This act" [1971 ex.s. c 250] consists of this chapter, the amendment to RCW 34.04.025, and the repeal of RCW 42.32.010 and 42.32.020.

42.30.020

Definitions.

As used in this chapter unless the context indicates otherwise:

(1) "Public agency" means:

(a) Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature;

(b) Any county, city, school district, special purpose district, or other municipal corporation or political subdivision of the state of Washington;

(c) Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies;

(d) Any policy group whose membership includes representatives of publicly owned utilities formed by or pursuant to the laws of this state when meeting together as or on behalf of participants who have contracted for the output of generating plants being planned or built by an operating agency.

(2) "Governing body" means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

(3) "Action" means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. "Final action" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

(4) "Meeting" means meetings at which action is taken.

[1985 c 366 § 1; 1983 c 155 § 1; 1982 1st ex.s. c 43 § 10; 1971 ex.s. c 250 § 2.]

Notes:

Severability -- Savings -- 1982 1st ex.s. c 43: See notes following RCW 43.52.374.

42.30.030

Meetings declared open and public.

All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.

[1971 ex.s. c 250 § 3.]

42.30.040

Conditions to attendance not to be required.

A member of the public shall not be required, as a condition to attendance at a meeting of a governing body, to register his name and other information, to complete a questionnaire, or otherwise to fulfill any

condition precedent to his attendance. [1971 ex.s. c 250 § 4.]

42.30.050

Interruptions — Procedure.

In the event that any meeting is interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are interrupting the meeting, the members of the governing body conducting the meeting may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by majority vote of the members. In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the governing body from establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting. [1971 ex.s. c 250 § 5.]

42.30.060

Ordinances, rules, resolutions, regulations, etc., adopted at public meetings — Notice — Secret voting prohibited.

(1) No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter. Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.

(2) No governing body of a public agency at any meeting required to be open to the public shall vote by secret ballot. Any vote taken in violation of this subsection shall be null and void, and shall be considered an "action" under this chapter. [1989 c 42 § 1; 1971 ex.s. c 250 § 6.]

42.30.070

Times and places for meetings — Emergencies — Exception.

The governing body of a public agency shall provide the time for holding regular meetings by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body. Unless otherwise provided for in the act under which the public agency was formed, meetings of the governing body need not be held within the boundaries of the territory over which the public agency exercises jurisdiction. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day. If, by

reason of fire, flood, earthquake, or other emergency, there is a need for expedited action by a governing body to meet the emergency, the presiding officer of the governing body may provide for a meeting site other than the regular meeting site and the notice requirements of this chapter shall be suspended during such emergency. It shall not be a violation of the requirements of this chapter for a majority of the members of a governing body to travel together or gather for purposes other than a regular meeting or a special meeting as these terms are used in this chapter: PROVIDED, That they take no action as defined in this chapter.

[1983 c 155 § 2; 1973 c 66 § 1; 1971 ex.s. c 250 § 7.]

42.30.075

Schedule of regular meetings — Publication in state register — Notice of change — "Regular" meetings defined.

State agencies which hold regular meetings shall file with the code reviser a schedule of the time and place of such meetings on or before January of each year for publication in the Washington state register.

Notice of any change from such meeting schedule shall be published in the state register for distribution at least twenty days prior to the rescheduled meeting date.

For the purposes of this section "regular" meetings shall mean recurring meetings held in accordance with a periodic schedule declared by statute or rule.

[1977 ex.s. c 240 § 12.]

Notes:

Effective date -- Severability -- 1977 ex.s. c 240: See RCW 34.08.905 and 34.08.910.

Public meeting notices in state register: RCW 34.08.020.

42.30.080

Special meetings.

A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering written notice personally, by mail, by fax, or by electronic mail to each member of the governing body; and to each local newspaper of general circulation and to each local radio or television station which has on file with the governing body a written request to be notified of such special meeting or of all special meetings. Such notice must be delivered personally, by mail, by fax, or by electronic mail at least twenty-four hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body. Such written notice may be dispensed with as to any member who at or prior to the time the meeting

convenes files with the clerk or secretary of the governing body a written waiver of notice. Such waiver may be given by telegram, by fax, or electronic mail. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage. [2005 c 273 § 1; 1971 ex.s. c 250 § 8.]

42.30.090

Adjournments.

The governing body of a public agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the governing body may declare the meeting adjourned to a stated time and place. He shall cause a written notice of the adjournment to be given in the same manner as provided in RCW 42.30.080 for special meetings, unless such notice is waived as provided for special meetings. Whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule. [1971 ex.s. c 250 § 9.]

42.30.100

Continuances.

Any hearing being held, noticed, or ordered to be held by a governing body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the governing body in the same manner and to the same extent set forth in RCW 42.30.090 for the adjournment of meetings. [1971 ex.s. c 250 § 10.]

42.30.110

Executive sessions.

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding

an executive session during a regular or special meeting:

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing

body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(A) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(B) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(C) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

[2005 c 424 § 13; 2003 c 277 § 1; 2001 c 216 § 1; 1989 c 238 § 2; 1987 c 389 § 3; 1986 c 276 § 8; 1985 c 366 § 2; 1983 c 155 § 3; 1979 c 42 § 1; 1973 c 66 § 2; 1971 ex.s. c 250 § 11.]

Notes:

Captions not law -- Liberal construction -- Severability -- Effective dates -- 2005 c 424: See RCW 43.350.900 through 43.350.903.

Severability -- Effective date -- 1987 c 389: See notes following RCW 41.06.070.

Severability -- 1986 c 276: See RCW 53.31.901.

42.30.120

Violations — Personal liability — Penalty — Attorney fees and costs.

(1) Each member of the governing body who attends a meeting of such governing body where action is taken in violation of any provision of this chapter applicable to him, with knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of one hundred dollars. The civil penalty shall be assessed by a judge of the superior court and an action to enforce this penalty may be brought by any person. A violation of this chapter does not constitute a crime and assessment of the civil penalty by a judge shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.

(2) Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. Pursuant to RCW 4.84.185, any public agency who prevails in any action in the courts for a violation of this chapter may be awarded reasonable expenses and attorney fees upon final judgment and written findings by the trial judge that the action was frivolous and advanced without reasonable cause. [1985 c 69 § 1; 1973 c 66 § 3; 1971 ex.s. c 250 § 12.]

42.30.130

Violations — Mandamus or injunction.

Any person may commence an action either by mandamus or injunction for the purpose of stopping violations or preventing threatened violations of this chapter by members of a governing body. [1971 ex.s. c 250 § 13.]

42.30.140

Chapter controlling — Application.

If any provision of this chapter conflicts with the provisions of any other statute, the provisions of this chapter shall control: PROVIDED, That this chapter shall not apply to:

(1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation, or profession or to any disciplinary proceedings involving a member of such business, occupation, or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license

or registration is necessary; or

(2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or

(3) Matters governed by chapter 34.05 RCW, the Administrative Procedure Act; or

(4)(a) Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.

[1990 c 98 § 1; 1989 c 175 § 94; 1973 c 66 § 4; 1971 ex.s. c 250 § 14.]

Notes:

Effective date -- 1989 c 175: See note following RCW 34.05.010. Drug reimbursement policy recommendations: RCW 43.20A.365. Mediation testimony competency: RCW 5.60.070 and 5.60.072.

42.30.200

Governing body of recognized student association at college or university — Chapter applicability to.

The multimember student board which is the governing body of the recognized student association at a given campus of a public institution of higher education is hereby declared to be subject to the provisions of the open public meetings act as contained in this chapter, as now or hereafter amended. For the purposes of this section, "recognized student association" shall mean any body at any of the state's colleges and universities which selects officers through a process approved by the student body and which represents the interests of students. Any such body so selected shall be recognized by and registered with the respective boards of trustees and regents of the state's colleges and universities: PROVIDED, That there be no more than one such association representing undergraduate students, no more than one such association representing graduate students, and no more than one such association representing each group of professional students so recognized and registered at any of the state's colleges or universities. [1980 c 49 § 1.]

42.30.210

Assistance by attorney general.

The attorney general's office may provide information, technical assistance, and training on the provisions of this chapter. [2001 c 216 § 2.]

42.30.900

Short title.

This chapter may be cited as the "Open Public Meetings Act of 1971". [1971 ex.s. c 250 § 16.]

42.30.910

Construction — 1971 ex.s. c 250.

The purposes of this chapter are hereby declared remedial and shall be liberally construed. [1971 ex.s. c 250 § 18.]

42.30.920

Severability — 1971 ex.s. c 250.

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. [1971 ex.s. c 250 § 19.]

RCW 42.32.030

Minutes. The minutes of all regular and special meetings except executive sessions of such boards, commissions, agencies or authorities shall be promptly recorded and such records shall be open to public inspection. [1953 c 216 § 3.]

Notes:

Reviser's note: RCW 42.32.010 and 42.32.020 were repealed by 1971 ex.s. c 250 § 15; later enactment, see chapter 42.30 RCW.

Chapter 42.36 RCW

Appearance of fairness doctrine — limitations

[Chapter Listing](#)

RCW Sections

- [42.36.010](#) Local land use decisions.
- [42.36.020](#) Members of local decision-making bodies.
- [42.36.030](#) Legislative action of local executive or legislative officials.
- [42.36.040](#) Public discussion by candidate for public office.
- [42.36.050](#) Campaign contributions.
- [42.36.060](#) Quasi-judicial proceedings -- Ex parte communications prohibited, exceptions.
- [42.36.070](#) Quasi-judicial proceedings -- Prior advisory proceedings.
- [42.36.080](#) Disqualification based on doctrine -- Time limitation for raising challenge.
- [42.36.090](#) Participation of challenged member of decision-making body.
- [42.36.100](#) Judicial restriction of doctrine not prohibited -- Construction of chapter.
- [42.36.110](#) Right to fair hearing not impaired.
- [42.36.900](#) Severability -- 1982 c 229.

42.36.010

Local land use decisions.

Application of the appearance of fairness doctrine to local land use decisions shall be limited to the quasi-judicial actions of local decision-making bodies as defined in this section. Quasi-judicial actions of local decision-making bodies are those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance. [1982 c 229 § 1.]

42.36.020

Members of local decision-making bodies.

No member of a local decision-making body may be disqualified by the appearance of fairness doctrine for conducting the business of his or her office with any constituent on any matter other than a quasi-judicial action then pending before the local legislative body. [1982 c 229 § 2.]

42.36.030

Legislative action of local executive or legislative officials.

No legislative action taken by a local legislative body, its members, or local executive officials shall be invalidated by an application of the appearance of fairness doctrine. [1982 c 229 § 3.]

Public discussion by candidate for public office.

Prior to declaring as a candidate for public office or while campaigning for public office as defined by

*RCW 42.17.020 (5) and (25) no public discussion or expression of an opinion by a person subsequently elected to a public office, on any pending or proposed quasi-judicial actions, shall be a violation of the appearance of fairness doctrine. [1982 c 229 § 4.]

Notes:

*Reviser's note: RCW 42.17.020 was amended by 1991 sp.s. c 18 § 1, changing subsection (25) to subsection (26). The section was subsequently amended by 1995 c 397 § 1, changing subsections (5) and (26) to subsections (8) and (35), respectively. Further amendment by 2005 c 445 § 6, changed subsections (8) and (35) to subsections (9) and (40), respectively.

42.36.050

Campaign contributions.

A candidate for public office who complies with all provisions of applicable public disclosure and ethics laws shall not be limited from accepting campaign contributions to finance the campaign, including outstanding debts; nor shall it be a violation of the appearance of fairness doctrine to accept such campaign contributions.

[1982 c 229 § 5.] Notes: Public disclosure of campaign finances: Chapter 42.17 RCW.

42.36.060

Quasi-judicial proceedings — Ex parte communications prohibited, exceptions.

During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:

(1) Places on the record the substance of any written or oral ex parte communications concerning the decision of action; and

(2) Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding. [1984 c 191 § 1; 1982 c 229 § 6.]

42.36.070

Quasi-judicial proceedings — Prior advisory proceedings.

Participation by a member of a decision-making body in earlier proceedings that result in an advisory recommendation to a decision-making body shall not

disqualify that person from participating in any subsequent quasi-judicial proceeding. [1982 c 229 § 7.]

42.36.080

Disqualification based on doctrine — Time limitation for raising challenge.

Anyone seeking to rely on the appearance of fairness doctrine to disqualify a member of a decision-making body from participating in a decision must raise the challenge as soon as the basis for disqualification is made known to the individual. Where the basis is known or should reasonably have been known prior to the issuance of a decision and is not raised, it may not be relied on to invalidate the decision. [1982 c 229 § 8.]

42.36.090

Participation of challenged member of decision-making body.

In the event of a challenge to a member or members of a decision-making body which would cause a lack of a quorum or would result in a failure to obtain a majority vote as required by law, any such challenged member(s) shall be permitted to fully participate in the proceeding and vote as though the challenge had not occurred, if the member or members publicly disclose the basis for disqualification prior to rendering a decision. Such participation shall not subject the decision to a challenge by reason of violation of the appearance of fairness doctrine. [1982 c 229 § 9.]

42.36.100

Judicial restriction of doctrine not prohibited — Construction of chapter.

Nothing in this chapter prohibits the restriction or elimination of the appearance of fairness doctrine by the appellate courts. Nothing in this chapter may be construed to expand the appearance of fairness doctrine. [1982 c 229 § 10.]

42.36.110

Right to fair hearing not impaired.

Nothing in this chapter prohibits challenges to local land use decisions where actual violations of an individual's right to a fair hearing can be demonstrated. [1982 c 229 § 11.]

42.36.900

Severability — 1982 c 229.

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. [1982 c 229 § 12.]