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HOUSE BILL 1761

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Brough, Haugen, Mitchell and Cooper.

Read first time February 7, 1991. Referred to Committee on Local Government.

1            AN ACT Relating to the powers of initiative and referendum in  
2 cities; amending RCW 35A.11.080, 35A.11.090, 35.17.260, 35.17.240,  
3 35.17.280, 35.17.290, 35.17.300, 35.17.230, 35A.29.170, and 39.88.090;  
4 adding new sections to chapter 35A.11 RCW; creating a new section;  
5 recodifying RCW 35.17.240, 35.17.260, 35.17.280, 35.17.290, and  
6 35.17.300; and repealing RCW 35.17.250, 35.17.270, 35.17.310,  
7 35.17.320, 35.17.330, 35.17.340, 35.17.350, 35.17.360, and 35A.11.100.

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

9            NEW SECTION.    **Sec. 1.**            The purposes of this act are to permit  
10 the application of initiative and referendum powers by noncharter code  
11 city voters on powers and authorities that have been granted by statute  
12 to either the city or to the city governing body, and to clarify the  
13 initiative and referendum procedures in noncharter code cities and  
14 cities operating with a commission form of government.

1       **Sec. 2.** RCW 35A.11.080 and 1979 ex.s. c 18 s 18 are each amended  
2 to read as follows:

3       The (~~qualified electors or legislative body of a~~) voters of a  
4 noncharter code city with a population of ten thousand or more shall  
5 possess the powers of initiative and referendum as provided in this  
6 chapter. In addition, the voters or council of any other noncharter  
7 code city may provide for the exercise in their city of the powers of  
8 initiative and referendum, upon electing so to do in the manner  
9 provided for changing the classification of a city or town in RCW  
10 35A.02.020, 35A.02.025, 35A.02.030, and 35A.02.035, as now or hereafter  
11 amended.

12       The exercise of such powers may be restricted or abandoned upon  
13 electing so to do in the manner provided for abandoning the plan of  
14 government of a noncharter code city in RCW 35A.06.030, 35A.06.040,  
15 35A.06.050, and 35A.06.060, as now or hereafter amended.

16       **Sec. 3.** RCW 35A.11.090 and 1973 1st ex.s. c 81 s 2 are each  
17 amended to read as follows:

18       Ordinances of noncharter code cities the qualified electors of  
19 which have elected to exercise the powers of initiative and referendum  
20 shall not go into effect before thirty days from the time of final  
21 passage and are subject to referendum during the interim except:

22       (1) Ordinances initiated by petition;

23       (2) Ordinances necessary for immediate preservation of public  
24 peace, health, and safety or for the support of city government and its  
25 existing public institutions which contain a statement of urgency and  
26 are passed by unanimous vote of the council;

27       (3) Ordinances providing for local improvement districts or utility  
28 local improvement districts;

29       (4) Ordinances appropriating money;

1 (5) Ordinances providing for or approving collective bargaining;  
2 (6) Ordinances providing for the compensation of or working  
3 conditions of city employees; (~~and~~)  
4 (7) Ordinances authorizing or repealing the levy of taxes; and  
5 (8) Other matters that have been restricted as provided under RCW  
6 35A.11.080;  
7 which excepted ordinances shall go into effect as provided by the  
8 general law or by applicable sections of Title 35 or 35A RCW as now or  
9 hereafter amended.

10 The powers of initiative and referendum shall be construed broadly  
11 in favor of these powers. Except as expressly provided in this section  
12 and as provided under RCW 35A.11.080, referendum action may be taken on  
13 any ordinance within the scope of the powers, functions, or duties of  
14 the city or city council. Except as expressly provided under RCW  
15 35A.11.080, initiative action may be taken on any subject within the  
16 scope of the powers, functions, or duties of the city or city council.

17 NEW SECTION. Sec. 4. A new section is added to chapter 35A.11 RCW  
18 to read as follows:

19 Initiative and referendum petitions shall be in the form prescribed  
20 in RCW 35A.01.040, except for the restriction on the color of paper on  
21 which the petition is printed. The minimum number of signatures  
22 required by the qualified electors of the city on an initiative or  
23 referendum petition is equal to twenty percent of the number of voters  
24 within the city who voted at the last preceding city general election.

25 Initiative or referendum petitions shall be filed with the city  
26 clerk, along with the name, address, and telephone number of the person  
27 who files the petitions. Immediately upon receipt of the petitions,  
28 the city clerk shall forward to the county auditor the petitions and  
29 the name, address, and telephone number of the person who submitted the

1 petitions. The auditor shall ascertain the validity of the signatures  
2 and certify the sufficiency of the petitions to the city council.

3 Elections shall be conducted as provided in general election law.

4 **Sec. 5.** RCW 35.17.260 and 1965 c 7 s 35.17.260 are each amended to  
5 read as follows:

6 ~~((Ordinances may be initiated by petition of electors of the city  
7 filed with the commission. If the petition accompanying the proposed  
8 ordinance is signed by the registered voters in the city equal in  
9 number to twenty five percent of the votes cast for all candidates for  
10 mayor at the last preceding city election, and if it contains))~~ An  
11 initiative petition shall contain a request that, unless passed by the  
12 ~~((commission))~~ council, the proposed ordinance be submitted to a vote  
13 of the people((, the commission)). Upon receipt of an initiative  
14 petition that has been certified by the county auditor as having  
15 sufficient valid signatures, the city council shall either:

16 (1) Pass the proposed ordinance without alteration within  
17 ~~((twenty))~~ thirty days after the ~~((city clerk's certificate))~~ county  
18 auditor has certified that the number of valid signatures on the  
19 petition ((are)) is sufficient; or

20 (2) Immediately ~~((after the clerk's certificate of sufficiency is  
21 attached to the petition, cause to be called))~~ request that the county  
22 legislative authority call a special election to be held ((not less  
23 than thirty nor more than)) at the next special election date provided  
24 in RCW 29.13.020 sixty days or more thereafter, for submission of the  
25 proposed ordinance without alteration, to a vote of the people ((unless  
26 a general election will occur within ninety days, in which event  
27 submission must be made thereat)). The ballot proposition on an  
28 initiative shall be stated so that by making one choice a voter can  
29 express his or her approval or rejection of the proposed ordinance.

1 Approval of the initiative ballot proposition by a simple majority vote  
2 shall result in the proposed ordinance being adopted immediately upon  
3 the certification of the election results, unless provided otherwise in  
4 the proposed ordinance.

5       **Sec. 6.** RCW 35.17.240 and 1965 c 7 s 35.17.240 are each amended to  
6 read as follows:

7       Upon the filing of a referendum petition, that has been certified  
8 as having sufficient valid signatures, praying therefor, the  
9 ((commission)) council shall reconsider an ordinance subject to  
10 referendum and upon reconsideration shall defeat it in its entirety or  
11 shall submit it to a vote of the people. The operation of an ordinance  
12 so protested against shall be suspended until the referendum petition  
13 is finally found insufficient or until the ordinance protested against  
14 has received a majority of the votes cast thereon at the election. If  
15 the council does not defeat the ordinance in its entirety, the council  
16 shall request that the county legislative authority call a special  
17 election for submission of the referendum to a vote of the people to be  
18 held at the next special election date provided in RCW 29.13.020 sixty  
19 or more days after the petition has been certified as being sufficient.

20       Additionally, a city council may pass an ordinance and refer the  
21 ordinance to the voters for their approval or rejection.

22       The ballot proposition on a referendum shall be stated so that by  
23 making one choice a voter can express his or her approval or rejection  
24 of the referred ordinance. Approval of the referred ordinance by a  
25 simple majority vote shall result in the ordinance becoming law  
26 immediately upon the certification of the election results, unless  
27 provided otherwise in the referred ordinance. Failure to approve the  
28 referred ordinance by a simple majority vote shall result in the  
29 referred ordinance being rejected in its entirety.

1       **Sec. 7.** RCW 35.17.280 and 1965 c 7 s 35.17.280 are each amended to  
2 read as follows:

3       Within ten days from ~~((the filing of a petition submitting a~~  
4 ~~proposed ordinance the city clerk))~~ receipt of an initiative or  
5 referendum petition from a city, the county auditor shall ascertain and  
6 append to the petition ((his)) a certificate stating whether or not it  
7 is signed by a sufficient number of ((registered voters, using the  
8 registration records and returns of the preceding municipal election  
9 for his sources of information, and the commission shall allow him  
10 extra help for that purpose, if necessary)) qualified electors. If the  
11 signatures are found by the ((clerk)) auditor to be insufficient, the  
12 auditor shall notify the person who submitted the petitions. The  
13 petition may be amended in that respect within ten days from the date  
14 of the certificate. Within ten days after submission of the amended  
15 petition the ((clerk)) auditor shall make an examination thereof and  
16 append ((his)) a certificate of the sufficiency thereto in the same  
17 manner as before. If the second certificate shall also show the number  
18 of signatures to be insufficient, the petition shall be returned to the  
19 person filing it.

20       **Sec. 8.** RCW 35.17.290 and 1965 c 7 s 35.17.290 are each amended to  
21 read as follows:

22       If the ~~((clerk))~~ county auditor finds the signatures on an  
23 initiative or referendum petition insufficient ((or)), any city voter  
24 may commence an action in the superior court against the auditor and  
25 procure a decree ordering the auditor to issue a certificate of  
26 sufficiency if the court finds that the signatures are sufficient. If  
27 the ((commission)) council refuses either to pass an initiative  
28 ordinance or ((order)) to request an election ((thereon)) on an  
29 initiative petition that has been certified as having sufficient valid

1 signatures, or refuses either to repeal the ordinance in its entirety  
2 or to request an election on a referendum petition that has been  
3 certified as having sufficient valid signatures, any ((taxpayer)) city  
4 or town voter may commence an action in the superior court against the  
5 city and procure a decree ordering an election to be held in the city  
6 for the purpose of voting upon the proposed or referred ordinance ((if  
7 the court finds the petition to be sufficient)).

8 However, the city may request a declaratory judgment on whether an  
9 ordinance that is sought to be referred may be subjected to referendum  
10 action, or the subject matter of a proposed ordinance may be subjected  
11 to initiative action.

12 **Sec. 9.** RCW 35.17.300 and 1965 c 7 s 35.17.300 are each amended to  
13 read as follows:

14 ~~((Publication of notice, the election, the canvass of the returns~~  
15 ~~and declaration of the results, shall be conducted in all respects as~~  
16 ~~are other city elections.)) Any number of proposed ((ordinances))  
17 initiatives or referenda may be voted on at the same election, but  
18 there shall not be more than one special election for that purpose  
19 during any one six-month((s)) period.~~

20 **Sec. 10.** RCW 35.17.230 and 1965 c 7 s 35.17.230 are each amended  
21 to read as follows:

22 Ordinances shall not go into effect before thirty days from the  
23 time of final passage ~~((and are subject to referendum during the~~  
24 ~~interim except:~~

25 ~~(1) Ordinances initiated by petition;~~

26 ~~(2))~~ except for ordinances necessary for immediate preservation of  
27 public peace, health, and safety which contain a statement of urgency  
28 and are passed by unanimous vote of all the commissioners((;

1       ~~(3) Ordinances providing for local improvement districts)).~~ The  
2 voters of cities operating with a commission form of government under  
3 chapter 35.17 RCW shall possess the powers of initiative and  
4 referendum. The powers of initiative and referendum shall be exercised  
5 in the manner provided for the exercise of such powers by voters in  
6 code cities under chapter 35A.11 RCW.

7       **Sec. 11.** RCW 35A.29.170 and 1967 ex.s. c 119 s 35A.29.170 are each  
8 amended to read as follows:

9       (1) Initiative and referendum petitions authorized to be filed  
10 under provisions of this title, or authorized by charter, or authorized  
11 for code cities having the commission form of government as provided by  
12 chapter 35.17 RCW, shall be in substantial compliance with the  
13 provisions of RCW 35A.01.040 as to form and content of the petition,  
14 insofar as such provisions are applicable; shall contain a true copy of  
15 a resolution or ordinance sought to be referred to the voters; and must  
16 contain valid signatures of qualified electors of the code city in the  
17 number required by the applicable provision of this title. Except when  
18 otherwise provided by statute, referendum petitions must be filed with  
19 the clerk of the legislative body of the code city within ninety days  
20 after the passage of the resolution or ordinance sought to be referred  
21 to the voters, or within such lesser number of days as may be  
22 authorized by statute or charter in order to precede the effective date  
23 of an ordinance: PROVIDED, That nothing herein shall be construed to  
24 abrogate or affect an exemption from initiative and/or referendum  
25 provided by a code city charter. Immediately upon receipt of the  
26 petitions, the clerk shall forward the petitions to the county auditor  
27 of the county within which the city is located and the auditor shall  
28 determine the sufficiency of the petition under the rules set forth in  
29 RCW 35A.01.040. When a referendum petition is filed with the clerk,

1 the legislative action sought to be referred to the voters shall be  
2 suspended from taking effect. Such suspension shall terminate when:  
3 ~~((+1))~~ (a) There is a final determination of insufficiency or  
4 untimeliness of the referendum petition; or ~~((+2))~~ (b) the legislative  
5 action so referred is approved by the voters at a referendum election.

6 (2) The provisions of this section shall not apply to initiative or  
7 referendum petitions under chapter 35A.11 RCW.

8 **Sec. 12.** RCW 39.88.090 and 1982 1st ex.s. c 42 s 10 are each  
9 amended to read as follows:

10 General obligation bonds which are issued to finance public  
11 facilities that are specified in the public improvement ordinance, and  
12 for which part or all of the principal or interest is paid by tax  
13 allocation revenues, shall be subject to the following requirements:

14 (1) The intent to issue such bonds and the maximum amount which the  
15 sponsor contemplates issuing are specified in the public improvement  
16 ordinance; and

17 (2) A statement of the intent of the sponsor to issue such bonds is  
18 included in all notices required by RCW 39.88.040 and 39.88.050.

19 In addition, the ordinance or resolution authorizing the issuance  
20 of such general obligation bonds shall be subject to potential  
21 referendum approval by the  
22 voters of the issuing entity when the bonds are part of the non-voter  
23 approved indebtedness limitation established pursuant to RCW 39.36.020.  
24 If the voters of the county or city issuing such bonds otherwise  
25 possess the general power of referendum on county or city matters, the  
26 ordinance or resolution shall be subject to that procedure. If the  
27 voters of the county or city issuing such bonds do not otherwise  
28 possess the general power of referendum on county or city matters, the  
29 referendum shall conform to the requirements and procedures for

1 referendum petitions provided for code cities (~~in RCW 35A.11.100~~)  
2 under chapter 35A.11 RCW.

3 NEW SECTION. Sec. 13. RCW 35.17.240, 35.17.260, 35.17.280,  
4 35.17.290, and 35.17.300, each as amended by this act, are each  
5 recodified as sections in chapter 35A.11 RCW.

6 NEW SECTION. Sec. 14. The following acts or parts of acts are  
7 each repealed:

- 8 (1) RCW 35.17.250 and 1965 c 7 s 35.17.250;
- 9 (2) RCW 35.17.270 and 1965 c 7 s 35.17.270;
- 10 (3) RCW 35.17.310 and 1965 c 7 s 35.17.310;
- 11 (4) RCW 35.17.320 and 1965 c 7 s 35.17.320;
- 12 (5) RCW 35.17.330 and 1965 c 7 s 35.17.330;
- 13 (6) RCW 35.17.340 and 1965 c 7 s 35.17.340;
- 14 (7) RCW 35.17.350 and 1965 c 7 s 35.17.350;
- 15 (8) RCW 35.17.360 and 1965 c 7 s 35.17.360; and
- 16 (9) RCW 35A.11.100 and 1973 1st ex.s. c 81 s 3.