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**SUBSTITUTE SENATE BILL 5133**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senate Government Operations, Tribal Relations & Elections  
(originally sponsored by Senators Schoesler, Baumgartner, and Delvin)

READ FIRST TIME 02/03/11.

1       AN ACT Relating to using state correctional facility populations to  
2 determine population thresholds for certain local government purposes;  
3 and amending RCW 35A.12.010, 35A.13.010, and 47.26.345.

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

5       **Sec. 1.** RCW 35A.12.010 and 2009 c 549 s 3005 are each amended to  
6 read as follows:

7       The government of any noncharter code city or charter code city  
8 electing to adopt the mayor-council plan of government authorized by  
9 this chapter shall be vested in an elected mayor and an elected  
10 council. The council of a noncharter code city having less than  
11 twenty-five hundred inhabitants shall consist of five members; when  
12 there are twenty-five hundred or more inhabitants, the council shall  
13 consist of seven members. A city with a population of less than  
14 twenty-five hundred at the time of reclassification as an optional  
15 municipal code city may choose to maintain a seven-member council. The  
16 decision concerning the number of councilmembers shall be made by the  
17 council and be incorporated as a section of the ordinance adopting for  
18 the city the classification of noncharter code city. If the population  
19 of a city after having become a code city decreases from twenty-five

1 hundred or more to less than twenty-five hundred, it shall continue to  
2 have a seven-member council. If, after a city has become a mayor-  
3 council code city, its population increases to twenty-five hundred or  
4 more inhabitants, the number of council offices in such city may  
5 increase from five to seven members upon the affirmative vote of a  
6 majority of the existing council to increase the number of council  
7 offices in the city. When the population of a mayor-council code city  
8 having five council offices increases to five thousand or more  
9 inhabitants, the number of council offices in the city shall increase  
10 from five to seven members. In the event of an increase in the number  
11 of council offices, the city council shall, by majority vote, pursuant  
12 to RCW 35A.12.050, appoint two persons to serve in these offices until  
13 the next municipal general election, at which election one person shall  
14 be elected for a two-year term and one person shall be elected for a  
15 four-year term. The number of inhabitants shall be determined by the  
16 most recent official state or federal census or determination by the  
17 state office of financial management. A charter adopted under the  
18 provisions of this title, incorporating the mayor-council plan of  
19 government set forth in this chapter, may provide for an uneven number  
20 of councilmembers not exceeding eleven. For the purposes of  
21 determining population under this section, cities may include the  
22 population of any state correctional facility located within the city.

23 A noncharter code city of less than five thousand inhabitants which  
24 has elected the mayor-council plan of government and which has seven  
25 council offices may establish a five-member council in accordance with  
26 the following procedure. At least six months prior to a municipal  
27 general election, the city council shall adopt an ordinance providing  
28 for reduction in the number of council offices to five. The ordinance  
29 shall specify which two council offices, the terms of which expire at  
30 the next general election, are to be terminated. The ordinance shall  
31 provide for the renumbering of council positions and shall also provide  
32 for a two-year extension of the term of office of a retained council  
33 office, if necessary, in order to comply with RCW 35A.12.040.

34 However, a noncharter code city that has retained its old mayor-  
35 council plan of government, as provided in RCW 35A.02.130, is subject  
36 to the laws applicable to that old plan of government.

1       **Sec. 2.** RCW 35A.13.010 and 2009 c 549 s 3016 are each amended to  
2 read as follows:

3       The councilmembers shall be the only elective officers of a code  
4 city electing to adopt the council-manager plan of government  
5 authorized by this chapter, except where statutes provide for an  
6 elective municipal judge. The council shall appoint an officer whose  
7 title shall be "city manager" who shall be the chief executive officer  
8 and head of the administrative branch of the city government. The city  
9 manager shall be responsible to the council for the proper  
10 administration of all affairs of the code city. The council of a  
11 noncharter code city having less than twenty-five hundred inhabitants  
12 shall consist of five members; when there are twenty-five hundred or  
13 more inhabitants the council shall consist of seven members: PROVIDED,  
14 That if the population of a city after having become a code city  
15 decreases from twenty-five hundred or more to less than twenty-five  
16 hundred, it shall continue to have a seven member council. If, after  
17 a city has become a council-manager code city its population increases  
18 to twenty-five hundred or more inhabitants, the number of council  
19 offices in such city may increase from five to seven members upon the  
20 affirmative vote of a majority of the existing council to increase the  
21 number of council offices in the city. When the population of a  
22 council-manager code city having five council offices increases to five  
23 thousand or more inhabitants, the number of council offices in the city  
24 shall increase from five to seven members. In the event of an increase  
25 in the number of council offices, the city council shall, by majority  
26 vote, pursuant to RCW 35A.13.020, appoint two persons to serve in these  
27 offices until the next municipal general election, at which election  
28 one person shall be elected for a two-year term and one person shall be  
29 elected for a four-year term. The number of inhabitants shall be  
30 determined by the most recent official state or federal census or  
31 determination by the state office of financial management. A charter  
32 adopted under the provisions of this title, incorporating the council-  
33 manager plan of government set forth in this chapter may provide for an  
34 uneven number of councilmembers not exceeding eleven.

35       A noncharter code city of less than five thousand inhabitants which  
36 has elected the council-manager plan of government and which has seven  
37 council offices may establish a five-member council in accordance with  
38 the following procedure. At least six months prior to a municipal

1 general election, the city council shall adopt an ordinance providing  
2 for reduction in the number of council offices to five. The ordinance  
3 shall specify which two council offices, the terms of which expire at  
4 the next general election, are to be terminated. The ordinance shall  
5 provide for the renumbering of council positions and shall also provide  
6 for a two-year extension of the term of office of a retained council  
7 office, if necessary, in order to comply with RCW 35A.12.040.

8 However, a noncharter code city that has retained its old council-  
9 manager plan of government, as provided in RCW 35A.02.130, is subject  
10 to the laws applicable to that old plan of government.

11 For the purposes of determining population under this section,  
12 cities may include the population of any state correctional facility  
13 located within the city.

14 **Sec. 3.** RCW 47.26.345 and 2005 c 83 s 3 are each amended to read  
15 as follows:

16 All cities and towns with a population of less than five thousand  
17 are eligible to receive money from the small city pavement and sidewalk  
18 account created under RCW 47.26.340 for maintenance, repair, and  
19 resurfacing of city and town streets. For the purposes of determining  
20 population under this section, cities may include or exclude the  
21 population of any state correctional facility located within the city.

22 The board shall determine the allocation of money based on:

23 (1) The amount of available funds within the small city pavement  
24 and sidewalk account;

25 (2) Whether the city or town meets one or more of the following  
26 criteria:

27 (a) The city or town has identified a street in a six-year  
28 transportation improvement plan, as defined by RCW 35.77.010, or a  
29 project identified through the use of a pavement management system;

30 (b) The city or town has provided pavement rating information on  
31 the proposed street improvement or street network improvement;

32 (c) The city or town has provided sidewalk information on the  
33 proposed sidewalk system improvement;

34 (d) The city or town has provided information, where available, on  
35 traffic conditions for truck routes, bus routes, and traffic volumes;

36 (e) The city or town has the ability to provide a local match as  
37 demonstrated by one or more of the following:

- 1 (i) A funding match based upon a city's assessed valuation;
- 2 (ii) Community involvement and support, including volunteer  
3 participation, such as landscaping and maintaining landscaping along  
4 the street or sidewalk system; or
- 5 (iii) Partnership efforts with federal or other state programs,  
6 including the department of (~~community, trade, and economic~~  
7 ~~development~~) commerce mainstreet program.

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