

Department of Legislative Services  
Maryland General Assembly  
2024 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1436 (Delegates S. Johnson and A. Johnson)  
Environment and Transportation

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**Municipal Incorporation - County Commissioners or County Council - Required  
Approval of Referendum Request**

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This bill requires the county commissioners or county council of a county to approve a referendum request for municipal incorporation if the referendum request is presented by at least 40% of the registered voters who are residents of the unincorporated area. The bill requires the county commissioners or county council to specify by resolution that a vote on the proposed incorporation of the municipality must be held in the next general election and include in the resolution the exact text of the proposed municipal charter. The bill requires the organizing committee for the proposed municipal incorporation to determine and include in a report to the county (1) the likely fiscal effect of the proposed incorporation on the residents of the proposed municipality, residents in the vicinity of the proposed municipality, and the county; (2) the services that the proposed municipality is expected to provide; and (3) any adverse economic effects on the county as a result of the proposed incorporation. The bill requires the county to post this report on the county's website as soon as it receives the report.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** County expenditures increase to the extent the bill results in a referendum that would not otherwise occur, as discussed below. Revenues are not affected. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** If the county commissioners or county council approves a referendum request presented by less than 40% of the registered voters who are residents of the unincorporated area, then, within 40 and 60 days of receiving the proposed charter, the county commissioners or county council must specify, by resolution, the day, and hours for a vote on the proposed incorporation.

**Current Law:** Title 4, Subtitle 2 of the Local Government Article prescribes the manner in which a new municipality may be incorporated under Article XI-E of the Maryland Constitution. In order to incorporate, a community must consist of a minimum of 300 residents in the area proposed for incorporation. A petition to incorporate must be submitted to the county in which the area proposed for incorporation is located. A valid petition must contain the signatures of: (1) at least 25% of the registered voters who are residents of the area proposed to be incorporated; or (2) at least 20% of the registered voters who are residents of the area proposed to be incorporated, together with the owners of at least 25% of the assessed valuation of the real property of the area proposed to be incorporated.

A standardized petition form developed by the Office of the Attorney General is available for communities' seeking incorporation through each county's local board of elections. If the community's petition satisfies statutory requirements, the county must appoint a liaison to work with the community's organizing committee. What follows is an exchange of information, development of a proposed charter, and exchange of comments between the county and the organizing committee. Next, the county may schedule a referendum on the matter of incorporation or reject a proposed incorporation. However, if a county rejects a referendum request, the county must provide in writing the reasons for the rejection and establish reasonable procedures for reconsideration of its rejection, including an opportunity for a public hearing. The county may then schedule a referendum on incorporation or affirm its earlier rejection.

If the county commissioners or county council approves the referendum request, as specified, the county commissioners or county council must include, by resolution, the day, and hours for a vote on the proposed incorporation by voters of the area to be incorporated. The resolution must include the exact text of the municipal charter as submitted to the organizing committee.

If the incorporation effort advances to referendum and the voters of the community approve incorporation, the county must proclaim the results within 10 days after receiving certification from the county board of elections. Subject to certain required statutory procedures, the incorporation takes effect 30 days following the proclamation.

### *Municipal Incorporations in Recent Years*

After 1954, the General Assembly's involvement in local municipal affairs diminished significantly with the ratification of Article XI-E of the Maryland Constitution, which provides for municipal home rule. Since ratification of the Municipal Home Rule Amendment, there have been only five new municipal incorporations. All these municipalities are located in Montgomery County, and all were originally created by the State as special taxing districts: Village of Chevy Chase, Section 3 (1982); Village of Chevy Chase, Section 5 (1982); Village of Martin's Additions (1985); Town of Chevy Chase View (1993); and Village of North Chevy Chase (1996). While the particular reasons and histories vary, the common theme in pursuing and achieving municipal status is the desire to exercise home rule powers under Article XI-E of the Maryland Constitution. Rather than by action of the General Assembly, these new municipalities were created by the successful referendum of the voters in each of the former special taxing districts in accordance with the provisions of Title 4, Subtitle 2 of the Local Government Article.

The Maryland Municipal League indicates that over recent years several attempts at incorporation have failed in the State. In 1997, the Harford County Council rejected a petition from the community of Edgewood. In 2007, a petition of incorporation from the residents of the Rollingwood area was rejected by the Montgomery County Council. In 2017, the Calvert County Commissioners rejected a referendum request for the incorporation of Calvert Shores.

**Local Fiscal Effect:** County expenditures increase for costs associated with a referendum, including the costs of administering the referendum and publishing notices of the referendum, to the extent the bill results in a referendum that would otherwise not occur. It is assumed the costs of a referendum are comparable to the costs of a municipal election, which average in the range of \$1.00 to \$3.00 per voter.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has been introduced within the last three years. See HB 688 of 2023; HB 42 of 2022; and HB 1226 of 2021.

**Designated Cross File:** None.

**Information Source(s):** Anne Arundel, Baltimore, Charles, and Garrett counties; Maryland Association of Counties; cities of Greenbelt and Laurel; Maryland Municipal League; Town of La Plata; Department of Legislative Services

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