Department of Fiscal Services

Maryland General Assembly

FISCAL NOTE

Senate Bill 489 (Senator Craig, *et al.*)
Economic and Environmental Affairs

Municipal Corporations - Incorporation Process

This bill changes the process by which an organizing community can become an incorporated municipality and changes the requirements for initiating the incorporation process. The bill also repeals a county's power to veto an organizing community's incorporation request.

Fiscal Summary

State Effect: None. The Attorney General's Office could create standard petition forms with existing resources.

Local Effect: Indeterminate effect on local government finances as discussed below.

Small Business Effect: None. The bill would not directly affect small businesses.

Fiscal Analysis

Bill Summary: The bill changes the requirements for initiating the incorporation process. At least 5% of the persons who reside within any particular area in a county and who are registered to vote in county elections, and the owners of at least 10% of the assessed real property in the area to be incorporated, may initiate a proposal to incorporate by submitting a valid petition to the county. A proposal may also be initiated by at least 10% of the persons who reside within a particular area and who are registered to vote in the county. The bill requires the Office of the Attorney General to create a standard petition form. An organizing community must obtain the minimum number of valid signatures within two years after receiving the standard petition form.

Within 30 days after receiving a petition, the county must verify the petition. If the petition meets the requirements, the county must appoint at least two county officials to represent the county in negotiations with the organizing community.

The bill also requires the county and the organizing community to share each other's position on issues related to incorporation. In particular, the county and organizing community must agree on (1) the phasing in of local income tax payments to the newly incorporated municipality, not exceeding three years; and (2) a comprehensive land use plan for the municipality, if it will exercise planning and zoning authority. Within 30 days after receiving the county's position statement, the organizing community must give the county a proposed charter to be used in the referendum election. Between 40 and 60 days after receiving the proposed charter, the county must specify, by resolution, the day and hours for a special referendum election on the proposed incorporation for the voters of the area to be incorporated.

If a majority of the voters cast their vote in favor of incorporation under the proposed charter, the area is deemed to be a municipal corporation.

The county must defray the costs of (1) the referendum election; (2) the original election of officers; and (3) any third party consultants hired by the county to analyze the issues related to the proposed incorporation. If the referendum vote results in incorporation, the municipal corporation must repay these expenses within one year of the date of incorporation.

Background: Currently, there are 156 incorporated municipalities in Maryland, located throughout 21 counties. Baltimore and Howard counties are the only counties that do not have any municipalities within their jurisdictions. Since municipalities were granted home rule in 1954, there have been six municipal incorporation efforts that have made it to referendum. Five of these efforts were successful, all in Montgomery County, with the latest being North Chevy Chase in 1995.

Local Effect: Since the bill lowers the number of persons required to initiate a petition for incorporation and eliminates the county's power to veto an incorporation request, the bill could make it easier for unincorporated areas to become municipalities. The number of new municipalities that could be created cannot be reliably estimated.

If the bill allows for more municipalities to be created, county governments would be significantly impacted. A county would most likely have to share a portion of its revenues from income taxes, highway user revenues, State police and fire aid, and possibly other local charges and fees with the new municipality. In addition, property tax revenues could also decrease if a county imposes a lower tax rate in the new municipality in order to compensate for services provided by the municipality that would otherwise be provided by the county (i.e., tax differential or offset). However, since the county would not provide certain services in the municipality, the revenue decrease would be partially, if not fully, offset by a decrease in expenditures. These amounts would depend upon the number of municipalities, the size of the municipalities, and the types of services provided by the municipalities.

County expenditures could also increase due to the costs associated with referendum elections, original elections of officers for new municipalities, and third party consultants to analyze proposed incorporations. However, if a referendum vote leads to incorporation, the new municipality must repay the county for these costs within one year after incorporation. These costs would depend upon the number of referendum elections and original municipal elections. The costs would also depend upon the number of consultants hired by the county and the scope of their activities.

Information Source(s): Maryland Municipal League; Baltimore, Montgomery, and Prince George's counties; Department of Fiscal Services

Fiscal Note History: First Reader - February 12, 1997
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