

HOUSE BILL 213

Unofficial Copy
L3
HB 534/97 - CGM

1998 Regular Session
8lr0946
CF 8lr2022

By: **Delegates Conroy, Dembrow, Faulkner, Getty, Hubbard, Mandel,
Morgan, Palumbo, Patterson, Pitkin, Rudolph, and Snodgrass**

Introduced and read first time: January 23, 1998
Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Municipal Corporations - Incorporation Process**

3 FOR the purpose of altering the process by which a certain group of individuals may
4 become a municipal corporation; requiring the Office of the Attorney General to
5 develop and distribute a certain standard petition form under certain
6 circumstances; altering the contents of a petition to incorporate; imposing a
7 certain time frame within which an organizing community shall obtain the
8 minimum number of required valid signatures on a petition under certain
9 circumstances; requiring a county governing body to make certain verifications
10 concerning a petition to incorporate and to appoint a county liaison under
11 certain circumstances; requiring an organizing committee to seek information
12 from a county government, hold a certain public meeting, and present a certain
13 report to a county governing body under certain circumstances; authorizing the
14 county governing body to review and comment on a certain report from an
15 organizing committee under certain circumstances; requiring the organizing
16 committee to present to a county governing body a proposed charter and certain
17 statements under certain circumstances; authorizing the county governing body
18 to specify by resolution the days and hours for a special referendum election on
19 a proposed incorporation under certain circumstances; providing for a certain
20 process of review if a county governing body rejects a referendum request under
21 certain circumstances; authorizing a county to withhold certain payments to a
22 new municipal corporation under certain circumstances; specifying a certain
23 schedule for phasing in the local income tax payments to a new municipal
24 corporation under certain circumstances; requiring a new municipal corporation
25 and a county governing body to cooperate in developing the first comprehensive
26 land use plan of the municipal corporation under certain circumstances;
27 providing that a petition to incorporate that is initiated before the effective date
28 of this Act is null and void under certain circumstances; defining certain terms;
29 making stylistic changes; and generally relating to the incorporation process for
30 municipal corporations.

31 BY repealing and reenacting, with amendments,
32 Article 23A - Corporations - Municipal
33 Section 20, 21, and 24 through 29, inclusive

1 Annotated Code of Maryland
2 (1996 Replacement Volume and 1997 Supplement)

3 BY repealing
4 Article 23A - Corporations - Municipal
5 Section 22, 23, and 30
6 Annotated Code of Maryland
7 (1996 Replacement Volume and 1997 Supplement)

8 BY adding to
9 Article 23A - Corporations - Municipal
10 Section 22, 23, 24, and 29
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 1997 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article 23A - Corporations - Municipal**

16 20.

17 (A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (2) "COUNTY GOVERNING BODY" MEANS THE BOARD OF COUNTY
20 COMMISSIONERS OR COUNTY COUNCIL OF A COUNTY.

21 (3) "COUNTY LIAISON" MEANS A COUNTY OFFICIAL, OR THE DESIGNEE
22 OF THE COUNTY OFFICIAL, WHO IS RESPONSIBLE FOR COORDINATING
23 COMMUNICATION BETWEEN THE ORGANIZING COMMITTEE AND THE COUNTY.

24 (4) "ORGANIZING COMMITTEE" MEANS THE GROUP OF INDIVIDUALS
25 FROM THE ORGANIZING COMMUNITY THAT IS RESPONSIBLE FOR WORKING WITH
26 THE COUNTY GOVERNING BODY ON THE PROPOSED MUNICIPAL INCORPORATION
27 AFTER A PETITION FOR INCORPORATION IS VERIFIED.

28 (5) "ORGANIZING COMMUNITY" MEANS INDIVIDUALS RESIDING WITHIN
29 A PARTICULAR UNINCORPORATED AREA WHO ARE INTERESTED IN FORMING A
30 MUNICIPAL CORPORATION.

31 (B) [The] THIS SUBTITLE GOVERNS THE incorporation of any area and group
32 of [persons] INDIVIDUALS, not then existing as a municipal corporation [, shall be
33 accomplished as in this subheading provided. At least three hundred persons must be
34 maintaining a bona fide residence within the limits of any]. AN area proposed for
35 incorporation[,] SHALL CONTAIN AT LEAST 300 BONA FIDE RESIDENTS before it may
36 proceed under the provisions of this [subheading] SUBTITLE.

1 21.

2 (a) (1) [Twenty percent or more] AT LEAST 20% of the [persons]
3 INDIVIDUALS WHO RESIDE within any particular area in a county AND who are
4 registered to vote in county elections, together with the owners of [not less than 25
5 percent] AT LEAST 25% of the assessed valuation of the real property of the area to be
6 incorporated, may initiate a proposal to incorporate that area as a municipal
7 corporation, by PRESENTING a VALID petition [presented] to the [board of county
8 commissioners or to the county council of the county] COUNTY GOVERNING BODY.

9 (2) AT LEAST 25% OF THE INDIVIDUALS WHO RESIDE WITHIN ANY
10 PARTICULAR AREA IN A COUNTY AND WHO ARE REGISTERED TO VOTE IN COUNTY
11 ELECTIONS MAY INITIATE A PROPOSAL TO INCORPORATE THAT AREA AS A
12 MUNICIPAL CORPORATION, BY PRESENTING A VALID PETITION TO THE COUNTY
13 GOVERNING BODY.

14 (B) (1) THE OFFICE OF THE ATTORNEY GENERAL SHALL CREATE A
15 STANDARD PETITION FORM FOR USE BY ANY ORGANIZING COMMUNITY WITHIN THE
16 STATE.

17 (2) THE ATTORNEY GENERAL SHALL PROVIDE THE BOARD OF
18 SUPERVISORS OF ELECTIONS OF EACH COUNTY WITH THE FORM CREATED UNDER
19 PARAGRAPH (1) OF THIS SUBSECTION FOR DISSEMINATION TO ANY ORGANIZING
20 COMMUNITY.

21 (C) A PETITION PRESENTED UNDER SUBSECTION (A) OF THIS SECTION SHALL:

22 (1) EXPRESS THE INTEREST OF THE SUBSCRIBING INDIVIDUALS IN THE
23 INCORPORATION OF THEIR AREA;

24 (2) CONTAIN A DETAILED DESCRIPTION OF THE BOUNDARIES OF THE
25 AREA PROPOSED TO BE INCORPORATED, INCLUDING A SURVEY OF COURSES AND
26 DISTANCES OR GENERAL LANDMARKS AND PLACE NAMES;

27 (3) STATE THE NAME CHOSEN FOR THE NEW MUNICIPAL CORPORATION,
28 WHICH MAY NOT BE THE SAME NAME AS THAT USED BY ANY EXISTING MUNICIPAL
29 CORPORATION OR COUNTY IN THE STATE; AND

30 (4) STATE THE NAMES OF THE INDIVIDUALS WHO WILL INITIALLY
31 REPRESENT THE ORGANIZING COMMUNITY ON THE ORGANIZING COMMITTEE.

32 (D) THE ORGANIZING COMMUNITY SHALL OBTAIN THE MINIMUM NUMBER OF
33 REQUIRED VALID SIGNATURES WITHIN 18 MONTHS FROM THE DATE THAT THE
34 ORGANIZING COMMUNITY RECEIVED THE STANDARD PETITION FORM FROM THE
35 COUNTY BOARD OF SUPERVISORS OF ELECTIONS.

36 (E) Each person signing the petition shall indicate on the petition the person's
37 name and [residence] RESIDENTIAL address and[, if the person is the owner of real
38 property in the area to be incorporated,] the location and assessed valuation of the
39 person's property, IF THE PERSON OWNS REAL PROPERTY IN THE AREA TO BE

1 INCORPORATED AND IF THE ORGANIZING COMMUNITY PURSUES THE
2 INCORPORATION PETITION UNDER SUBSECTION (A)(1) OF THIS SECTION.

3 (F) [Upon receiving the petition, the board of county commissioners or county
4 council is directed to] WITHIN 60 DAYS OF RECEIVING A PETITION, THE COUNTY
5 GOVERNING BODY:

6 (1) [verify] SHALL VERIFY that [any] EACH person who signed [it is a
7 resident of] THE PETITION RESIDES IN the particular area TO BE INCORPORATED,
8 [and] is registered to vote in county elections, [and/or is an owner of] AND, IF
9 APPLICABLE, OWNS real property within the area to be incorporated;

10 (2) [, and shall consider] SHALL VERIFY THAT the petition [of no effect
11 if] MEETS THE REQUIREMENTS OF THIS SECTION [it is signed by fewer than 20
12 percent of the persons from that area who are registered to vote in county elections, or
13 by persons owning less than 25 percent of said real property.]; AND

14 (3) IF THE PETITION MEETS THE REQUIREMENTS OF THIS SECTION,
15 SHALL APPOINT A COUNTY LIAISON.

16 [(b) Twenty-five percent or more of the persons who reside within any
17 particular area in a county and who are registered to vote in county elections may
18 initiate a proposal to incorporate that area as a municipal corporation, by a petition
19 presented to the board of county commissioners or to the county council of the county.
20 Each person signing the petition shall indicate on the petition the person's name and
21 residence address. Upon receiving the petition, the board of county commissioners or
22 county council is directed to verify that any person who signed it is a resident of the
23 particular area and is registered to vote in county elections and shall consider the
24 petition of no effect if it is signed by fewer than 25 percent of the persons from that
25 area who are registered to vote in county elections.

26 (c) If a petition complies with the requirements of either subsection (a) or (b)
27 of this section, the board or the council shall by resolution, passed as in its normal
28 legislative procedure, specify the day and the hours for the election at which the
29 question of incorporation shall be submitted to the voters of the particular area, or
30 reject the referendum request within 60 days of the petition requirements having
31 been met.

32 (d) (1) If the board or council rejects the referendum request, the board or
33 council shall provide in writing and make available to the general public the reasons
34 for rejecting the referendum request.

35 (2) The board or council shall establish reasonable procedures by which
36 reconsideration of a referendum request denial can be undertaken, including an
37 opportunity for a public hearing with sufficient advance public notice.

38 (3) Upon completion of this hearing and review process, the board or
39 council shall, by resolution, affirm its previous action or grant the referendum
40 request.

1 (4) If the resolution to grant a referendum is approved, there shall be a
2 special election, within a period of not less than forty days nor more than sixty days
3 after the passage of the resolution.

4 (5) In that portion of the resolution which provides for submitting the
5 question of incorporation to the voters of the particular area, the exact wording shall
6 be specified which is to be placed on the ballots or voting machines at the time of the
7 referendum.]

8 [(e)] (G) A petition when filed [shall become] BECOMES the property of the
9 [board of county commissioners or the county council,] COUNTY GOVERNING BODY
10 and [shall] MAY not [thereafter] be used for the purposes of initiating further
11 referenda [thereon].

12 [(f) No municipal corporation shall be created under the provisions of this
13 subtitle without the specific approval of the board of county commissioners or of the
14 county council of the county in which the proposed municipal corporation is located.]

15 [22.

16 The petition presented to the board of county commissioners or county council
17 shall include a detailed description of the boundaries of the area proposed to be
18 incorporated. The description shall comprise a survey of courses and distances and
19 may also be by general landmarks and place names. The name chosen for the new
20 municipal corporation shall not be the same as that used by any existing municipal
21 corporation or county in the State of Maryland.]

22 22.

23 (A) (1) WITHIN 90 DAYS FROM THE VERIFICATION OF A VALID PETITION,
24 THE ORGANIZING COMMITTEE SHALL:

25 (I) ACTIVELY SEEK INFORMATION AND INPUT FROM THE COUNTY
26 GOVERNMENT;

27 (II) HOLD A PUBLIC MEETING TO COLLECT PUBLIC TESTIMONY ON
28 THE PROPOSED INCORPORATION; AND

29 (III) PRESENT THE COUNTY GOVERNING BODY WITH A REPORT ON
30 ISSUES RELATED TO THE PROPOSED INCORPORATION.

31 (2) DURING THE 90-DAY PERIOD REQUIRED UNDER PARAGRAPH (1) OF
32 THIS SUBSECTION, THE COUNTY GOVERNMENT SHALL COOPERATE FULLY WITH THE
33 ORGANIZING COMMITTEE.

34 (3) THE ORGANIZING COMMITTEE SHALL:

35 (I) NOTIFY THE COUNTY LIAISON OF ALL MEETINGS AND
36 DELIBERATIONS OF THE ORGANIZING COMMITTEE; AND

1 (II) ENSURE THAT THE COUNTY LIAISON IS GIVEN FULL
2 OPPORTUNITY TO PARTICIPATE IN ALL MEETINGS AND DELIBERATIONS OF THE
3 ORGANIZING COMMITTEE.

4 (B) WITHIN 45 DAYS OF THE RECEIPT OF THE REPORT REQUIRED UNDER
5 SUBSECTION (A)(1)(III) OF THIS SECTION, THE COUNTY GOVERNING BODY OR ITS
6 DESIGNEE MAY REVIEW THE REPORT AND PROVIDE COMMENTS TO THE ORGANIZING
7 COMMITTEE ON ISSUES RELATING TO THE PROPOSED INCORPORATION.

8 [23.

9 The petition presented to the board of county commissioners or county council
10 shall make provision for the text of the charter proposed for the municipal
11 corporation. The petition shall include, as a supplementary paper, the exact text of
12 the proposed charter.]

13 23.

14 (A) THE ORGANIZING COMMITTEE SHALL PRESENT TO THE COUNTY
15 GOVERNING BODY A PROPOSED CHARTER FOR USE IN THE REFERENDUM ELECTION:

16 (1) WITHIN 45 DAYS OF RECEIPT OF THE COMMENTS SUBMITTED TO THE
17 ORGANIZING COMMITTEE UNDER § 22(B) OF THIS SUBTITLE; OR

18 (2) IF THE COUNTY GOVERNING BODY HAS NOT SUBMITTED
19 COMMENTS, NO LATER THAN 90 DAYS AFTER THE DATE THE REPORT IS SENT BY THE
20 ORGANIZING COMMITTEE UNDER § 22(A)(1)(III) OF THIS SUBTITLE.

21 (B) THE ORGANIZING COMMITTEE SHALL ALSO SUBMIT WITH THE PROPOSED
22 CHARTER STATEMENTS THAT DESCRIBE:

23 (1) THE LIKELY FISCAL EFFECT OF THE PROPOSED INCORPORATION ON
24 RESIDENTS OF THE PROPOSED MUNICIPALITY, RESIDENTS IN THE VICINITY OF THE
25 PROPOSED MUNICIPALITY, AND THE COUNTY AS A WHOLE;

26 (2) THE SERVICES THE PROPOSED MUNICIPALITY WILL PROVIDE; AND

27 (3) THE IMPACT THE PROPOSED INCORPORATION WILL HAVE ON
28 PROPERTY TAX RATES.

29 24.

30 (A) BETWEEN 40 AND 60 DAYS AFTER THE COUNTY GOVERNING BODY
31 RECEIVES THE PROPOSED CHARTER FROM THE ORGANIZING COMMITTEE, THE
32 COUNTY GOVERNING BODY MAY SPECIFY, BY RESOLUTION, THE DAY AND HOURS
33 FOR A SPECIAL REFERENDUM ELECTION ON THE PROPOSED INCORPORATION FOR
34 THE VOTERS OF THE AREA TO BE INCORPORATED.

1 (B) THE RESOLUTION DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL
2 CONTAIN THE EXACT WORDING OF THE PROPOSED CHARTER, AS SUBMITTED BY THE
3 ORGANIZING COMMITTEE, TO BE VOTED ON AT THE TIME OF THE REFERENDUM.

4 (C) (1) IF THE COUNTY GOVERNING BODY REJECTS THE REFERENDUM
5 REQUEST, THE COUNTY GOVERNING BODY SHALL PROVIDE IN WRITING AND MAKE
6 AVAILABLE TO THE GENERAL PUBLIC WITHIN A REASONABLE TIME THE REASONS
7 FOR REJECTING THE REFERENDUM REQUEST.

8 (2) THE COUNTY GOVERNING BODY SHALL ESTABLISH REASONABLE
9 PROCEDURES BY WHICH A RECONSIDERATION OF A REJECTION OF A REFERENDUM
10 REQUEST CAN BE UNDERTAKEN, INCLUDING AN OPPORTUNITY FOR A PUBLIC
11 HEARING WITH SUFFICIENT ADVANCE PUBLIC NOTICE.

12 (3) ON COMPLETION OF THE HEARING AND REVIEW PROCESS, THE
13 COUNTY GOVERNING BODY SHALL BY RESOLUTION AFFIRM THE REJECTION OR
14 GRANT THE REFERENDUM REQUEST.

15 [24.] 25.

16 The [board of county commissioners or county council] COUNTY GOVERNING
17 BODY shall give notice by posting and publication of the submission of the proposal of
18 incorporation, INCLUDING A FAIR SUMMARY OF THE PROPOSED CHARTER, to the
19 voters of the area proposed to be incorporated. For not less than the [four] 4 weeks
20 immediately preceding the election at which the question is to be submitted, a
21 complete and exact copy of the wording of the proposed charter shall be posted or
22 available for public inspection at the office of the [board or council] COUNTY
23 GOVERNING BODY. On the day of the election a [similar] copy shall be posted or
24 available for public inspection at the place or places for voting on the question of
25 incorporation. Notice of the election, together with a fair summary of the proposed
26 charter, shall be published in a newspaper or newspapers of general circulation in the
27 particular area proposed to be incorporated not less than once in each of the [four] 4
28 weeks immediately preceding the election.

29 [25.] 26.

30 (a) On the day and during the hours specified for the referendum, the question
31 of incorporation under the proposed charter shall be submitted to the registered
32 voters of the area proposed to be incorporated. The board of supervisors of elections of
33 the county, and its clerks, judges of election and subordinates, shall arrange for and
34 conduct the referendum. It is the intent of this section that the referendum election
35 shall be conducted generally according to the procedures and practices observed for
36 regular countywide elections, except as specifically or necessarily modified by the
37 provisions of this subtitle. The wording specified by the [board of county
38 commissioners or county council] COUNTY GOVERNING BODY, in the resolution
39 providing for a referendum on the question of the proposed incorporation, shall be
40 placed on the ballots or voting machines used at the referendum election.

41 (b) The board of supervisors of elections, and its clerks, judges of election and
42 subordinates, promptly following the closing of the polls shall tally the results thereof,

1 and shall forthwith certify the results of the referendum to the [board of county
2 commissioners or county council] COUNTY GOVERNING BODY.

3 (c) If a majority of those who vote on any question so submitted to the voters
4 of a particular area, proposing the incorporation thereof, shall cast their votes in favor
5 of the incorporation under the proposed charter, the [board of county commissioners
6 or county council] COUNTY GOVERNING BODY shall within [ten] 10 days after
7 receiving a certification of the vote from the board of supervisors of elections so
8 proclaim publicly, and on the [thirtieth] 30TH day following the public proclamation
9 the area specified, and the residents thereof, shall be deemed to be a municipal
10 corporation operating under and in accordance with the charter so proposed, in all
11 respects to be effective and observed as the charter of the municipal corporation. If
12 less than a majority of those who vote on any such question of proposed incorporation
13 shall cast their votes in favor of the incorporation under the proposed charter, the
14 [board or council] COUNTY GOVERNING BODY likewise shall so proclaim, adding to
15 the proclamation the statement that the proposed incorporation is of no effect and
16 that as to the said proposed municipal incorporation the proposed charter is null and
17 void and of no effect whatsoever.

18 [26.] 27.

19 (A) [The] SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS
20 SECTION, THE COUNTY GOVERNING BODY SHALL DEFRAY THE expenses of:

21 (1) [the] THE referendum election;

22 (2) THE ORIGINAL ELECTION OF OFFICERS; AND

23 (3) THE REASONABLE COSTS OF ANY THIRD PARTY CONSULTANTS
24 HIRED BY THE COUNTY GOVERNING BODY TO ANALYZE ISSUES RELATED TO THE
25 PROPOSED INCORPORATION [shall be defrayed by the board of county commissioners
26 or county council, but if].

27 (B) IF the referendum vote results in incorporation, the municipal corporation
28 shall repay the total amount of [such] THE expenses SPECIFIED IN SUBSECTION (A)
29 OF THIS SECTION to the [board or council] COUNTY GOVERNING BODY, within [one]
30 1 year following the effective date of the incorporation.

31 (C) AFTER 1 YEAR FROM THE EFFECTIVE DATE OF THE INCORPORATION, A
32 COUNTY GOVERNING BODY MAY WITHHOLD ANY PAYMENTS DUE TO THE MUNICIPAL
33 CORPORATION FOR PURPOSES OF SATISFYING ANY UNPAID EXPENSES SPECIFIED IN
34 SUBSECTION (A) OF THIS SECTION.

35 [27.] 28.

36 (a) At the time of making public proclamation as to the vote on the question of
37 incorporation under the proposed charter, the [board of county commissioners or
38 county council] COUNTY GOVERNING BODY shall send the information concerning the
39 charter adopted by the municipal corporation to the Department of Legislative
40 [Reference] SERVICES, as provided in § 9A of this article for municipal officials.

1 (b) A proposal to incorporate a municipal corporation and to adopt a charter
2 may not be rescinded after its formal submission, in any manner other than that of a
3 formal charter repeal as provided in the subheading "Repeal of Charter" in this
4 subtitle.

5 (c) The charter is not effective and shall not be applied or considered as if
6 effective unless and until it has been registered as required in this section.

7 (d) The charter is included in the requirements of § 17A of this subtitle,
8 including its printing and indexing in the laws enacted by the General Assembly.

9 [28.]

10 (E) The exact text of the charter of the municipal corporation, adopted under
11 the provisions of this subtitle and as amended from time to time, shall thereafter be
12 included in any edition or codification of the charter of the municipal corporation.

13 29.

14 (A) IF THE REFERENDUM RESULTS IN THE CREATION OF A NEW MUNICIPAL
15 CORPORATION, THE LOCAL INCOME TAX PAYMENTS AUTHORIZED UNDER § 2-607 OF
16 THE TAX - GENERAL ARTICLE SHALL BE DISTRIBUTED TO THE MUNICIPAL
17 CORPORATION AS FOLLOWS UNLESS THE COUNTY GOVERNING BODY AGREES TO AN
18 ACCELERATED PAYMENT SCHEDULE:

19 (1) IN THE FIRST FULL FISCAL YEAR FOLLOWING THE EFFECTIVE DATE
20 OF THE MUNICIPAL INCORPORATION, ONE-THIRD OF THE DISTRIBUTION
21 OTHERWISE REQUIRED UNDER § 2-607 OF THE TAX - GENERAL ARTICLE;

22 (2) IN THE SECOND FULL FISCAL YEAR FOLLOWING THE EFFECTIVE
23 DATE OF THE MUNICIPAL INCORPORATION, TWO-THIRDS OF THE DISTRIBUTION
24 OTHERWISE REQUIRED UNDER § 2-607 OF THE TAX - GENERAL ARTICLE; AND

25 (3) IN THE THIRD FULL FISCAL YEAR FOLLOWING THE EFFECTIVE DATE
26 OF THE MUNICIPAL INCORPORATION AND EACH SUBSEQUENT YEAR, ALL OF THE
27 DISTRIBUTION REQUIRED UNDER § 2-607 OF THE TAX - GENERAL ARTICLE.

28 (B) (1) FOR THOSE MUNICIPAL CORPORATIONS THAT ARE ELIGIBLE TO
29 ASSUME PLANNING AND ZONING AUTHORITY, THE COUNTY GOVERNING BODY AND
30 THE MUNICIPAL CORPORATION SHALL COOPERATE IN DEVELOPING THE FIRST
31 COMPREHENSIVE LAND USE PLAN OF THE MUNICIPAL CORPORATION.

32 (2) THE INITIAL ZONING DESIGNATIONS USED BY THE MUNICIPAL
33 CORPORATION SHALL COMPLY WITH THE PROVISIONS OF § 9(C) OF THIS ARTICLE,
34 INCLUDING THE 5-YEAR ZONING CLASSIFICATION RESTRICTION, UNLESS THE
35 COUNTY GOVERNING BODY EXPRESSLY APPROVES OTHERWISE.

1 [29.] 30.

2 (a) Town officers shall be nominated by a certificate of nomination filed by
3 each candidate, with the [board of county commissioners or county council] COUNTY
4 GOVERNING BODY, giving in each instance the name and residence address of the
5 candidate, together with a statement of the particular office to which he aspires.
6 Thereupon, the [board or council] COUNTY GOVERNING BODY, together with the
7 board of supervisors of elections for the county, shall prepare ballots or the voting
8 machines so as to permit the registered voters of the particular area to vote upon the
9 several candidates who are so nominated. The election of officers for the municipal
10 corporation shall be arranged for and conducted at the same time and at the same
11 place or places as the referendum election on the question of incorporation, and
12 subject generally to the same procedures and practices. A vote cast against the
13 proposed incorporation of the municipal corporation shall not be held to bar the voter
14 from expressing his choices among the nominees for the several offices, and if less
15 than a majority of those who vote on the question of incorporation cast their votes in
16 favor thereof, the votes cast for election to the several offices shall be null and void
17 and of no effect whatsoever.

18 (b) The board of supervisors of elections, and its clerks, judges of election and
19 subordinates, shall tally the results of the votes cast for candidates for office, and
20 shall certify them along with the tally on the question of incorporation, to the [board
21 of county commissioners or county council] COUNTY GOVERNING BODY.

22 (c) Any person who receives a plurality of the votes cast for any particular
23 office, whether or not he receives a majority of all the votes cast for that office, shall
24 be publicly proclaimed by the [board or council] COUNTY GOVERNING BODY to have
25 been elected thereto. The persons so named by proclamation shall at the effective time
26 for the charter become the several respective officers of the municipal corporation.
27 Each officer shall continue to hold such position until regularly superseded by a new
28 elective officer, elected as may be provided in the charter of the municipal corporation;
29 and during such period he shall be taken and accepted in all respects as the elected
30 officer of the municipal corporation in his respective position, with the powers,
31 authority and duties as set forth and prescribed in the charter.

32 (d) If no person is nominated for an office in the government of the municipal
33 corporation, or if a person elected thereto is unable to assume his office, or if for any
34 other reason no person is elected to fill an office, the [board of county commissioners
35 or county council] COUNTY GOVERNING BODY shall name a resident of the particular
36 area to the office, and upon assuming it he shall hold it in all respects as if regularly
37 elected thereto as in this section provided.

38 (e) No person shall be either nominated or elected to any office in the
39 government of the municipal corporation unless he qualifies under whatever
40 requirements may be specified for that office according to the charter proposed for the
41 municipal corporation.

1 [30.

2 The expenses of the original election for candidates for office shall be defrayed
3 by the board of county commissioners or the county council, but if the referendum
4 vote results in incorporation, the municipal corporation shall repay the total amount
5 of such expenses to the board or council, within one year following the effective date of
6 the incorporation.]

7 SECTION 2. AND BE IT FURTHER ENACTED, That a petition to incorporate
8 under the provisions of Article 23A of the Code that is initiated before the effective
9 date of this Act shall be null and void if the petition is not presented to the county
10 governing body of the area proposed for incorporation before the effective date of this
11 Act or within 18 months after the petition is initiated, whichever is later.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 1998.