

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 688 (Delegates S. Johnson and A. Johnson)
Environment and Transportation

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

This bill requires the county commissioners or county council of a county to approve a referendum request for municipal incorporation if a valid petition is presented by at least 40% of the registered voters who are residents of the unincorporated area.

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.

Analysis

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 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 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.

Additional Information

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

Designated Cross File: None.

Information Source(s): Charles, and Garrett counties; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

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