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Position: FAV



Maryland Municipal League
The Association of Maryland's Cities and Towns

TESTIMONY

February 25, 2025

Committee: Senate Education, Energy, and the Environment

Bill: SB 546 – Municipal Incorporation - County Commissioners or County Council - Required Approval of Referendum Request

Position: Support

Reason for Position:

The Maryland Municipal League supports Senate Bill 546, which provides residents with a clear pathway to municipal incorporation.

Municipal incorporation understandably requires several significant procedural steps along the way to forming a new governing body. Part of the process includes establishing an organizing committee, working with the county liaison, holding public meetings, and developing a municipal charter.

But, after all this work, there is no mechanism that would require a county to allow a referendum of the voters to occur. As such, we have only seen 5 successful municipal corporations since 1954, all of which were already special taxing districts and provided no property tax revenue to their respective counties. No new community has established a municipality in over 70 years.

SB 546 gives local communities a fighting chance by requiring the county to approve a referendum request at the end of the process if 40% of the area's residents signed the incorporation petition. Registered voters would still have to vote for incorporation via referendum, but they will at least have the opportunity. We believe this is a reasonable and balanced approach which enables Maryland residents to have a say in their manner of representation.

For these reasons, the Maryland Municipal League respectfully requests a ***favorable*** report on Senate Bill 546. For more information, please contact Justin Fiore, Deputy Director of Advocacy and Public Affairs, at justinf@mdmunicipal.org. Thank you in advance for your consideration.

The Maryland Municipal League uses its collective voice to advocate, empower and protect the interests of our 161 local governments members and elevates local leadership, delivers impactful solutions for our communities, and builds an inclusive culture for the 2 million Marylanders we serve.

SB546 Sponsor Testimony.pdf

Uploaded by: Mary-Dulany James

Position: FAV

MARY-DULANY JAMES
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Judicial Proceedings Committee
Executive Nominations Committee

Senate Chair
Joint Committee on
Children, Youth, and Families

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony of Senator Mary-Dulany James
In Support of SB 546 – Municipal Incorporation – County Commissioners or
County Council – Required Approval of Referendum Request
Before the Senate Education, Energy, and the Environment Committee
February 25th, 2025

Dear Chair Feldman, Vice Chair Kagan, and Members of the Committee,

In 1954, Maryland ratified Article XI-E of the Maryland Constitution, which provided for municipal home rule and established that communities should have a pathway to seek municipal incorporation. Since that change to the constitution, the only new municipalities in Maryland have been located in Montgomery County and all were originally created by the state as special taxing districts. All other petitions of incorporation in Maryland in recent years have been rejected by the county in which the community seeking incorporation is located.

Communities may seek municipal incorporation for many reasons. They may seek to have authority over development and zoning, local finances, and government services. Communities also may seek to apply for their own grants and have the ability to decide what quality of life projects they want in their communities.

In current law, Title 4, Subtitle 2 of the Local Government Article prescribes the manner in which a new municipality may be incorporated. To incorporate, a community must consist of at least 300 residents and a petition to incorporate must be submitted to the county in which the area proposed for incorporation is located. For a petition to be considered valid, it must contain the signatures of:

- (1) at least 25% of registered voters of the area proposed to be incorporated, or
- (2) at least 20% of registered voters 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

If a community submits a valid petition, the county must appoint a liaison to work with the community's organizing committee to exchange information regarding what incorporation would entail and to develop a new proposed charter. Next, the county *may* schedule a referendum regarding incorporation or can reject the proposed incorporation.

In practice, this has meant that counties can reject petitions for incorporation even if the community shows a clear will to incorporate and has the means to self-govern. In my district, many in the community of Edgewood have been seeking to incorporate for years and even submitted a petition to Harford County in 1997, but they have not made any significant progress towards incorporating since then.

Edgewood's attempt at incorporation – and Harford County's rejection – highlights the flaws in the current system. This bill represents the first step towards fixing these flaws.

Senate Bill 546 aims to create a better balance of power between communities and county governments to ensure that local communities with the will and means to incorporate cannot continue to be rejected. Under Senate Bill 546, a county will be required to approve a referendum request for municipal incorporation if the petition to the county includes signatures of at least 40% of the registered voters who are residents of the unincorporated area. If a community can meet this very high standard to clearly demonstrate the will to incorporate, they will now have the opportunity to actually do so.

The bill would require the organizing committee for the proposed municipal incorporation to report to the county the likely fiscal impact of incorporation to residents and the county government, as well as what services the new municipal incorporation plans to provide and any adverse impacts the county could face as a result of incorporation. This ensures that any community seeking to incorporate and the county in which it is located can all be well aware of any impacts incorporation may have before moving forward.

In short, this bill will help level the playing field between communities and their county governments in discussions regarding municipal incorporation. I appreciate the Committee's consideration of Senate Bill 546 and ask for a Favorable Report.

Respectfully,

A handwritten signature in black ink, appearing to read "Mary-Dulany James". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Senator Mary-Dulany James

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Uploaded by: Michael Sanderson

Position: UNF



MARYLAND
Association of
COUNTIES

Senate Bill 546

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

MACo Position: **OPPOSE**

To: Education, Energy, and the Environment
Committee

Date: February 25, 2025

From: Michael Sanderson

The Maryland Association of Counties (MACo) **OPPOSES** SB 546. This bill would upend the longstanding, carefully crafted framework that governs municipal incorporation by stripping county governments of proper and necessary input and oversight.

Under current and longstanding Maryland law, in order to incorporate, residents of an area must first petition the county governing body with their interest. The county then evaluates the potential effects of the possible incorporation on the surrounding area and the county at large, and determines through its own public process whether to submit the matter to a referendum, which by law is confined to the affected area's residents. SB 546 effectively skips that middle step, and denies any input from areas affected by, but not geographically within, the proposed incorporation.

The effects of such a change are far-reaching, and potentially worrisome. This bill could jeopardize local zoning policies by creating an appealing avenue for development inconsistent with the overall county land use plans. During a vigorous development climate, builders frustrated by limitations of county-imposed laws such as Adequate Public Facilities Ordinances may see a new incorporation path as an avenue to skirt those limitations, and SB 546 could advance that. The result could be overcrowding in school facilities and unmanageable burdens on public safety, infrastructure, and other county services.

From the fiscal perspective, wide-open incorporation could pose comparable concerns. Under Maryland law, county income tax receipts from municipal residents are shared with the city or town. Residents in select enclaves in virtually any county could incorporate merely to receive this allocation of county resources – regardless of their desire for any municipal services. This curiosity already exists in certain current Maryland municipalities, but could become rampant if legislation like SB 546 were to pass.

Along similar lines, state law governing Highway User Revenues would be another artificial inducement to incorporate. This is because state law currently rewards municipal road miles more generously than county road miles (and even more so with the current phase-in of substantially higher municipal road funding passed during the 2022 session), under a heavily distorted allocation, patchworked since the “great recession” cuts over a decade ago. While this financial incentive is not dramatic, it illustrates yet another distortion arising from a wide-open incorporation law.

The 2025 introduced bill adds a new element to its process, but does so by awkwardly placing the burden of fiscal analysis onto the “organizing committee” who may lack the technical wherewithal and the proper data access to effectively forecast these statutory funding shifts. Their ability to project the

potential new level of services and additional taxes from residents and property owners in the area may be valuable to the county governing body and the nearby residents, but tells only a part of the story.

In Maryland, county and municipal government have a different range of responsibilities. Allowing residents to, at their leisure, designate themselves for municipal treatment when it suits their whim, and without concern for the effects on the abutting areas or the county at large, merely allows the distortions in these laws to become a major policy weakness.

SB 546 reverses a set of laws designed to ensure broad, public consideration of proposed municipal incorporations, and sets aside the meaningful impacts upon the residents of the area surrounding the would-be town. Accordingly, MACo requests an **UNFAVORABLE** report on SB 546.