
Local Government Committee

HJR 4211

Brief Description: Authorizing consolidation or merging of statutory and constitutional county functions and structures.

Sponsors: Representatives Sommers, Curtis and Simpson.

Brief Summary of Bill

- Creates a ballot initiative for consideration at the next general election proposing the amendment of the state constitution so as to allow counties to consolidate or merge any statutory or constitutional function or structure.
- Authorizes the legislature to pass laws necessary to implement the proposed constitutional amendment and to impose additional requirements or conditions for such implementation.

Hearing Date: 2/9/07

Staff: Thamas Osborn (786-7129).

Background:

Article XI of the Constitution of the State of Washington.

In Article XI, sections 1 through 5, the Constitution of the State of Washington (State Constitution) provides that counties shall be the primary legal subdivision of the state and outlines the general requirements for county governance. Under these constitutional provisions, the Legislature is required to establish a uniform system of county government and to provide for the election and compensation of county commissioners, sheriffs, clerks, treasurers, prosecuting attorneys, and other necessary officers.

The state constitution prohibits the creation of a new county with fewer than 2,000 residents or which has the effect of reducing the population of an existing county to less than 4,000 residents. No territory can be taken from any county unless a majority of the voters living in the territory

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petition for the change in boundaries. Any county taking territory from another county is liable for a just proportion of existing debts and liabilities of the county losing territory.

Five new counties have been formed since statehood, and no new counties have been formed since 1911. No counties have ever been dissolved.

At present, Washington has 39 counties with populations ranging from 2,400 to 1.7 million. Thirty-four of these counties operate under the commission form of government and 5 have adopted "home rule" charters, pursuant to provisions in the State Constitution and legislation enacted in 1948. The five "home rule" charter counties are: Clallam, King, Pierce, Snohomish, and Whatcom.

Interlocal Cooperation Act Chapter 39.34 RCW.

Under the Interlocal Cooperation Act (ICA), chapter 39.34 RCW, "public agencies" including cities and counties are granted broad authority to engage in joint or cooperative actions that may include the consolidation or merger of a broad range of functions and/or structures. The ICA specifically states that: 1) "Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state having the power or powers, privilege or authority..."; and that 2) "Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this chapter..." Accordingly, the ICA is often utilized by cities and counties in order to engage in cooperative activities and agreements with respect to law enforcement, fire protection, public utility administration, etc.

The ICA defines "public agency" to include any agency, political subdivision, or unit of local government. The term includes municipal corporations, counties, special purpose districts, local service districts, state agencies, federal agencies, recognized Indian tribes, as well as other states' political subdivisions.

The broad authority granted to public agencies under the ICA is, however, subject to the condition that interlocal agreements may not violate the provisions of the state constitution or federal law.

Summary of Bill:

The bill creates a ballot initiative for consideration by the voters at the next general election proposing the amendment of Article XI, Section 3, of the State Constitution, so as to allow two or more counties to "consolidate or merge any statutory or constitutional function or structure, in a manner as prescribed by law." The stated purpose of the amendment is to promote "efficiency, cost savings, and improved service," but stops short of actually allowing the formal merger of two or more counties into a single county.

The broad language of the proposed amendment removes any constitutional restrictions on counties sharing the entire range of county functions, including governance, law enforcement, road maintenance, administration of public utilities, finance, and public health. Furthermore, the amendment appears to authorize counties to share elected officials and their respective departments, including county commissioners, sheriffs, county clerks, treasurers, and prosecuting attorneys. In short, broadly construed, the proposed amendment can be interpreted to allow the *de facto* merger of two or more counties, but does not authorize the formal creation of a new county or the changing of geographic boundaries.

In addition, the proposed constitutional amendment explicitly authorizes the Legislature to pass those laws necessary to implement the amendment and to impose additional requirements or conditions required for such implementation. Any such laws must be "general" laws applicable to the whole state. Accordingly, the Legislature retains control of how the provisions of the amendment are implemented, insofar as the amendment explicitly grants it broad, discretionary authority to regulate the consolidation and/or mergers of county functions and structures and to create procedural requirements.

Appropriation: None.

Fiscal Note: Requested on February 5, 2007.