

SENATE BILL REPORT

SB 5730

As of February 24, 1997

Title: An act relating to new counties.

Brief Description: Providing procedures for creating new counties.

Sponsors: Senators McCaslin, Haugen, Hale, Patterson, Sellar, Thibaudeau and Wood.

Brief History:

Committee Activity: Government Operations: 2/24/97.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Staff: Kathleen Healy (786-7403)

Background: The formation of new counties is governed by Article II, Section 3 of the state Constitution. A new county cannot be formed with less than 2,000 residents. The parent county cannot be reduced to a population of less than 4,000 residents. A majority of voters living in the territory must petition to have the new county created, but only under the provisions of a general law applicable to the whole state. Every new county is liable for a just proportion of the existing debts and liabilities of the county or counties from which the territory is taken.

This constitutional provision does not provide a process for determining the sufficiency of the formation process. There are no general state laws governing the petition process.

Within the last two years, four separate groups of voters submitted petitions to the Legislature to create new counties. Concern has been expressed that the lack of implementing statutes creates ambiguity as to how the process of forming new counties, validating signatures, establishing appropriate legislation and apportioning assets and liabilities of the counties is to be accomplished.

Summary of Bill: Procedures are established for the formation of new counties, and for the apportionment of liabilities and assets between the parent and new county. Various terms are defined. "Interim period" means the time period during which a new county government is established and during which apportionment occurs. The period begins January 1 following an election approving a new county and ends the following January 1. "Parent county" means the existing county out of which territory is stricken to create a new county.

Petition Process. The petition is filed with the Secretary of State, who stamps each page with the date the petition is filed. The petition requirements are specified, including the validation requirement and the appointment of a citizen oversight committee. Procedures are established to ensure that the petition is valid, along with procedures if the petition is determined to be invalid. A copy of the legal description of the proposed county is sent to the Office of Financial Management to ensure the proper population criteria is met, both in

the proposed county and in the parent county. If the petition fails, there may not be a subsequent petition which includes any portion of the failed county filed for four years. If the petition is certified as valid, the Secretary of State requests that legislation be enacted to authorize the establishment of the proposed county.

Legislation. The Legislature may enact special legislation specifying the legal description, apportionment procedures, election requirements and other measures to facilitate the new county. The Department of Community, Trade, and Economic Development (CTED) prepares a report on the new county. After special legislation is enacted, the question of creating a new county is submitted to the voters. The measure must receive a majority vote of those within the boundaries of the proposed county and a majority of those who reside in the parent county.

Interim Period. If the new county is approved, three commissioner districts are formed by the parent county for the new county. Separate elections are held in the new county to elect the initial county officials. Their terms of office are established, and CTED designates the annual salaries of the new elected officials and when such salaries are payable.

The initial county commissioners designate an initial county seat. Voters of the new county select the permanent public seat at the September primary occurring during the interim period. The formation of a new county may not affect the boundaries of a city, town or special district, except for a road district, a county rural library district, or a public transportation benefit area.

Provision is made for the superior and district courts for the new county.

Provision is made for the transfer of relevant records from the parent county to the new county. The new county pays the costs of transfer.

The powers, and limits on the powers, of the initial county officials are designated, including adoption of ordinances, purchasing powers and the ability to enter into interlocal agreements to provide for county services. Ordinances of the parent county have full force and effect within the new county until the end of the interim period. During the interim period, the parent county continues to provide county services to the new county, unless otherwise agreed.

Apportionment. Provision is made for the adoption of a budget for the new county during the interim period. The initial board may borrow money from the state, which money must be repaid within three years. Following the interim period, the Department of Transportation provides any appropriate funds to the new county. The new county is liable for a just proportion of the parent county's debts, and must receive a just proportion of the parent county's assets. The auditor of the parent county must meet with the auditor of the new county to apportion the relative debts and liabilities. If the auditors cannot agree to the apportionment of the parent county's debts and assets within 60 days of the notice to meet, either auditor can petition the Court of Appeals, which court can order the apportionment. The Court of Appeals is given original jurisdiction over these apportionment petitions.

The parent county continues imposing sales and use taxes throughout its entire boundaries until the end of the interim period. The new county must have its allocation of state moneys

beginning the first day following the interim period. Liberal construction of the rules must be given to this chapter allowing the formation of new counties so that a new county is able to fully function as a complete county government at the date it is officially created.

Miscellaneous. Boundaries of a new county, parent county and any affected road districts are established on January 1 following an election creating a new county.

False, duplicative or invalid signatures on new county petitions are penalized.

Technical corrections are made.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.