

HOUSE BILL REPORT

HB 1013

As Amended by the Senate

Title: An act relating to cities and towns.

Brief Description: Changing provisions relating to newly incorporated cities and towns.

Sponsor(s): Representatives Zellinsky, Ferguson, Haugen, Horn, Roland, Wood and Mitchell.

Brief History:

Reported by House Committee on:
Local Government, January 29, 1991, DP.
Passed House, February 7, 1991, 92-0;
Amended by Senate.

**HOUSE COMMITTEE ON
LOCAL GOVERNMENT**

Majority Report: *Do pass.* Signed by 14 members:
Representatives Haugen, Chair; Ferguson, Ranking Minority
Member; Mitchell, Assistant Ranking Minority Member; Bray;
Edmondson; Franklin; Horn; Nealey; Nelson; Rayburn; Roland;
Wood; Wynne; and Zellinsky.

Staff: Steve Lundin (786-7127).

Background: City and town incorporation laws were altered
fundamentally in 1986.

Prior to that time, city and town incorporations occurred at
a single election, including both a vote on the issue of
whether the area should incorporate and the election of the
new city or town officials. If voters approved the
incorporation, the incorporation became effective, and those
persons elected as initial city or town officials took
office, immediately upon certification of the election
results.

Under the 1986 changes, the city or town incorporation
process is spread out over a period of time of up to one
year after the initial election on the question of whether
the area should incorporate. Three separate elections are
held. First, an election is held to consider whether the
area should incorporate. Second, if the incorporation were
authorized, then an election is held to nominate persons for

the initial city or town elective position. Third, an election is held to elect one person to each position. Immediately after the results of the third election are certified, the newly-elected officials take office in a limited capacity and provide for a transition of the area into a city or town.

During this transition period, ordinances can be adopted that are effective upon the official date of incorporation; staff can be hired; an election can be held for a library district or fire protection district to annex the new city or town, effective immediately upon the official date of incorporation; and, revenue anticipation notes or tax anticipation notes can be issued.

The city or town incorporation occurs officially 360 days after the date of the initial election authorizing the incorporation, unless during this transition period the city or town governing body adopts a resolution providing for an earlier official date of incorporation at least 180 days after the date of the initial election authorizing the incorporation.

Summary of Bill: The laws relating to city and town incorporations are modified.

The third Tuesday in July is designated as a new potential special election date to be used in the incorporation process as follows: (1) if the initial election to authorize the incorporation of the city or town were held in April or May, then the special election to nominate candidates for the initial elective positions would be at this new special election date; and (2) if the primary special election to nominate candidates were held in April or May, the special election to elect the initial city elective officers would be held at this new special election date.

Whenever a city or town governing body adopts an ordinance during the interim transition period, time requirements for publishing ordinances, and for potential referendum action against ordinances, commence when the ordinances are approved.

During the interim transition period, a city or town and the city or town officials are subject to general statutes relating to the immunity of public officials from certain civil liability, public disclosure, the preservation and disposition of public records, ethics and conflicts of interest, open public meetings and requirements for meeting minutes, the publication of notices and ordinances, the designation of an official newspaper, liability insurance,

public contracts and bidding, and the Interlocal Cooperation Act.

Specific authority is given for moneys to be borrowed during the transition period.

Specific authority is given for the adoption and use of standards under the State Environmental Policy Act (SEPA) during the transition period.

It is clarified that any city or town establishing its official date of incorporation on or before January 1, may impose property taxes for collections later in the year after that January 1 date, if general statutes were followed concerning the timely filing of a budget and certification of the levy request.

A newly incorporated city or town is required to adopt an interim budget during the interim transition period in consultation with the division of municipal corporations of the state auditor's office. Procedures are provided for the adoption of a budget for the city or town after its official date of incorporation, including preparation of a preliminary budget, public hearings on the preliminary budget, and adoption of the actual budget.

Provision is made for an interim city manager or administrator to be appointed or serve until the official date of incorporation, and for retention of this individual for up to 90 days pending selection of a city manager pursuant to regular procedures.

Local governments and state agencies are authorized to make loans of staff, equipment, and technical and financial assistance to a newly formed city or town during the interim transition period, and such loans and assistance may be made without compensation. The initially elected city or town officials serve until the next general municipal election held 12 or more months after the date when they were elected.

The city or town officials are authorized to borrow an amount not exceeding the lesser of \$5 per capita or \$100,000 from the municipal sales and use tax equalization account. Repayments to that account shall be made over a three-year period from either sales tax receipts that otherwise would be distributed to the city or town under the sales tax equalization program.

The Department of Community Development shall identify different agencies that should receive notification of the incorporation of a new city or town, and shall assist the

newly formed city or town to provide such notice during the interim transition period.

During the interim transition period, the governing body of a newly incorporated city or town may agree with the board of fire commissioners to delay the otherwise automatic removal of a fire protection district from the newly incorporated city for a one-year period.

The time period during which a library district or fire district may be required to serve all or part of a newly incorporated area is clarified to be until the new city or town receives its own property tax receipts.

The time period during which the county is required to provide road maintenance in a newly incorporated city or town is altered somewhat to be the lesser of 60 days or until at least 40 percent of the anticipated road district property tax distributions are made to the city or town, instead of any road district property tax distributions that are made to the city or town.

During the interim period, the governing body of the new city or town may adopt resolutions establishing moratoria during the interim period on the filing of applications with the county for development permits or applications.

The costs of every election relating to the city or town, during its transition period, shall be borne by the city or town.

EFFECT OF SENATE AMENDMENT(S): The prohibition on holding an election to incorporate an area within three years of the date of an unsuccessful attempt to incorporate all or part of the area, if the vote in favor of incorporation was 40 percent or less, is altered to reduce the favorable vote that causes this prohibition to 30 percent or less.

Two sentences relating to the powers of a newly elected council during the interim transition period are reworded to clarify their intent.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: This clarifies the city incorporation procedure. The bill is essentially the same as legislation that died last session.

Testimony Against: None.

Witnesses: Stan Finkelstein, Association of Washington Cities (Pro).

VOTE ON FINAL PASSAGE:

Yeas 92; Nays 0; Excused 5; Absent 1

Excused: Representatives Jacobsen, Locke, Sheldon, Wood, and Mr. Speaker.

Absent: Representative Riley.