

SENATE BILL REPORT

HB 1013

AS REPORTED BY COMMITTEE ON GOVERNMENTAL OPERATIONS,  
MARCH 26, 1991

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

**SPONSORS:** Representatives Zellinsky, Ferguson, Haugen, Horn, Roland, Wood and Mitchell.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

**Majority Report:** Do pass as amended.

Signed by Senators McCaslin, Chairman; Roach, Vice Chairman; and Madsen.

**Staff:** Rod McAulay (786-7754)

**Hearing Dates:** March 26, 1991

**BACKGROUND:**

Since 1986 the city or town incorporation process is spread out over a period of time of up to one year during which three separate elections are held. First, an election is held to consider whether the area should incorporate. Second, if the incorporation is authorized, then an election is held to nominate persons for the initial city or town elective positions. Third, an election is held to elect one person to each position. If the incorporating (first) or primary (second) election occurs on the special election date in April or May, the succeeding election occurs on the primary election date in September. 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:**

If the initial election to authorize the incorporation of a city or town or the subsequent election to nominate candidates is held on the special election dates in April or May, the next succeeding election in the process shall be at a special election by mail ballots to be held on the third Tuesday in July.

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.

Following an incorporation election, a city or town shall pay the proportionate cost of elections on city or town issues which occur during the interim period.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

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

**SUMMARY OF PROPOSED SENATE AMENDMENT:**

A provision is added which changes from 40 percent to 30 percent the number of positive votes in a failed incorporation election necessary to suspend the three year waiting period before another incorporation election may be held. This provision applies in situations where the failed incorporation election occurred prior to the effective date of this act.

A superfluous clause is deleted and ungrammatical sentence structure is corrected.

**TESTIMONY FOR:**

Basically a housekeeping measure which clarifies the powers and duties of city and town governments during the interim period between the successful incorporation election and formal incorporation.

**TESTIMONY AGAINST:** None

**TESTIFIED:** Stan Finkelstein, AWC (pro)