

HOUSE BILL REPORT

HB 1595

As Reported by House Committee On: Local Government

Title: An act relating to the powers of initiative and referendum within counties that are not home rule charter counties.

Brief Description: Addressing the powers of initiative and referendum within counties that are not home rule charter counties.

Sponsors: Representatives Schmick, Fagan and Buys.

Brief History:

Committee Activity:

Local Government: 1/22/14, 2/5/14 [DP].

Brief Summary of Bill

- Grants the powers of initiative and referendum to all counties that are not home rule charter counties, and requires the legislative authorities of such counties to establish petition forms and procedures for circulating petitions.
- Establishes requirements for proposing initiative and referendum measures, verifying petition signatures, and submitting petitions to voters of the county.
- Authorizes county legislative authorities to submit proposed and enacted ordinances to the voters of the county for approval or rejection.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 9 members: Representatives Takko, Chair; Gregerson, Vice Chair; Overstreet, Ranking Minority Member; Kochmar, Assistant Ranking Minority Member; Farrell, Fitzgibbon, Pike, Springer and Taylor.

Staff: Michaela Murdock (786-7289).

Background:

Forms of County Government.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Washington Constitution provides for two forms of county government: (1) a "commission" form to be established through general laws by the Legislature; and (2) a "home rule" charter form, which any county may choose to adopt. Six of the state's 39 counties have adopted home rule charters.

Under a commission form, the county has a three-member board of commissioners, elected on a partisan basis, who serve as the county's legislative body and also perform executive functions. Counties with populations greater than 300,000 may increase the size of the commission from three to five members. The commissioners share administrative functions with other elected county officials, including a clerk, treasurer, sheriff, assessor, coroner, and auditor.

Under a home rule charter form, the county charter may provide for a form of government different from a commission form (*e.g.*, with a council/executive form, a county executive serves as the head of the executive branch and a county council serves as the legislative branch). Home rule charters can modify the duties of the board of county commissioners and other elected officials, or may entirely replace certain officers or subject them to restrictions.

Powers of Initiative and Referendum.

State laws and city or county ordinances may be initiated by petition and the approval of registered voters. Similarly, a state law or city or county ordinance may be defeated through a referendum petition and submission of the ordinance to a vote of the people.

The Washington Constitution directly grants state voters general initiative and referendum powers on state matters. For local matters, most cities in Washington may authorize initiatives and referendum powers on city matters pursuant to statute, and in home rule charter counties, county charters may authorize initiatives and referenda on county matters. All charter counties have granted county voters initiative and referendum powers. For counties that have not adopted a home rule charter (non-charter counties), state law does not authorize initiatives and referenda on county matters.

Summary of Bill:

The voters of each non-charter county are granted powers of initiative and referendum on county matters.

The county legislative authority of each non-charter county must establish initiative and referendum petition forms and procedures for circulating petitions in the county. In addition, initiative and referendum petitions are required to contain the full text of the proposed measure, the ballot title, and a specified warning to signers.

Requirements for the content of petitions and the process of submitting initiative and referendum petitions to the county are prescribed:

- Any legal voter of the county may file an initiative or referendum proposal with the county auditor.
- A \$20 filing fee may be charged.

- The county auditor must review filed proposals for form and style, must assign a serial number to the proposal, and must transmit a copy to the county's prosecuting attorney.
- The county prosecuting attorney must confer with the petitioner regarding legal aspects of the proposal and must prepare a concise statement, which is the petition's ballot title.
- The petitioner has 120 days from obtaining a ballot title to collect signatures of registered voters of the county, equal to or more than 25 percent of the number of votes cast in the county at the last regular gubernatorial election.
- Sufficient petitions must be filed not less than 120 days before the next general election.
- The county, within 10 days of its receipt, must determine whether the petition has sufficient signatures.

For sufficient initiative petitions filed with the county, the county legislative authority may choose to approve or pass the proposed initiative before submitting it to a vote of the people. Alternatively, the county legislative authority may choose to submit to a vote of the people a substitute measure alongside the proposed initiative.

For referenda, a referendum proposal must be filed within 15 days after an ordinance is enacted. When a referendum petition is filed with the county, the operation of the protested ordinance or part of the ordinance is suspended until the petition is either found to be insufficient or until the referendum is rejected by a majority of voters.

In addition to voter initiative and referendum petitions, county legislative authorities are authorized to submit any proposed or enacted ordinance to the voters for their approval or rejection at a general or special election.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Giving the powers of initiative and referendum to counties that are not home rule charter counties will neutralize special interests, curtail corruption, provide a vehicle for civic education, and put pressure on public officials to act in the public interest. Under current law, if a county's commissioners act against the interests of the community, citizens have no recourse. This bill will give citizens an important tool at the local level and give a voice to the people. Under the state Constitution, all political power is derived from the people, and one of the first powers reserved to the people is the power of initiative.

The bill sets the bar high for placing an initiative or referendum petition on a ballot; however, if enough people are behind an issue, this bill will make sure that their voices are heard. Also, referendum and initiative powers are rarely invoked. For example, the City of Clarkston has had such powers since 1977, but has only used them twice.

Although a county may become a home rule charter county, and then adopt the powers of initiative and referendum on county matters, the process is very difficult. Since 1969, 10 counties have tried and failed to become home rule charter counties. Also, legislation similar to this bill has been attempted three times since 1997. Citizens have a strong desire to obtain initiative and referendum powers on county matters. Currently, all six home rule charter counties, which contain over half of the state's total population, have adopted initiative and referendum powers on county matters. Cities also have the ability to become code cities and adopt initiative and referendum powers on city matters.

(Opposed) Counties are not opposed to this issue because of the cost; they are opposed because a mechanism already exists for counties to obtain the powers of initiative and referendum – by adopting a home rule charter. For example, San Juan County recently became a home rule charter county, and Clark County is currently going through the process. This issue is really about preserving local choice and control on a local level.

The state Constitution requires a uniform form of county government to be established by the Legislature, unless the county adopts a home rule charter. There is a question whether this bill would set up a nonuniform system of county government.

While Asotin County may have experienced difficulty with this issue, it is not an issue in other counties; however, this bill will have a significant statewide impact.

County auditors are concerned about the procedural timelines set out in the bill. For example, the bill requires the county auditor to confer with the petitioner within five days and the prosecutor must compose a ballot title within 10 days. These timelines may not give officials sufficient time to complete these duties.

Also, collecting signatures in an amount equaling 25 percent of the last gubernatorial vote is a high bar. For Mason County, that would be 7,000 signatures and in Cowlitz County that would be 10,750 signatures. Verifying all those signatures within 10 days will be next to impossible for the county auditor. The bill's timelines will possibly cause extraordinary challenges and cost.

Persons Testifying: (In support) Representative Schmick, prime sponsor; and Thomas Sattler.

(Opposed) Brian Enslow, Washington State Association of Counties; and Monty Cobb, Association of County Officials.

Persons Signed In To Testify But Not Testifying: None.