

HOUSE BILL REPORT

HB 1769

As Passed House:
February 12, 2022

Title: An act relating to community municipal corporations.

Brief Description: Concerning community municipal corporations.

Sponsors: Representatives Duerr, Springer, Fitzgibbon, Gregerson, Walen, Macri and Slatter.

Brief History:

Committee Activity:

Local Government: 1/26/22, 2/1/22 [DP].

Floor Activity:

Passed House: 2/12/22, 71-27.

Brief Summary of Bill

- Provides that the terms of existence of a community municipal corporation is four years after its authorization, or 30 days after the effective date of the bill, whichever is sooner.
- Repeals provisions allowing the creation of a community municipal corporation following annexation of an unincorporated area or the consolidation of two or more cities.
- Repeals provisions related to the membership and powers of the community councils of community municipal corporations as of January 1, 2023.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 6 members: Representatives Pollet, Chair; Duerr, Vice Chair; Goehner, Ranking Minority Member; Berg, Robertson and Senn.

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

Minority Report: Without recommendation. Signed by 1 member: Representative Griffey, Assistant Ranking Minority Member.

Staff: Kellen Wright (786-7134).

Background:

Unincorporated areas can be annexed to cities or towns through various methods. Among other methods, these include direct petition for annexation by property owners representing at least 60 percent of the assessed value of the property in the area proposed for annexation; a petition from a majority of voters and a majority of property owners; an election following a petition; or, with code cities, an interlocal agreement.

When an election method is used, a community municipal corporation (CMC) is eligible to be formed in the annexed area, also known as the CMC's service area, if at least one of three conditions are met:

- if the annexed area would itself be eligible for incorporation as a city or town;
- if the annexed area has at least 300 people and at least 10 percent of the population of the annexing city; or
- if the annexed area has at least 1,000 inhabitants.

A CMC may also be organized when two or more cities are consolidated.

The creation of a community municipal creation must be approved by voters at the time of annexation, and the ballot measure concerning the annexation may also provide for the simultaneous creation of a CMC as part of a single proposition. A CMC is governed by a five-member community council. The initial members are elected concurrently with the annexation.

The initial term of a CMC is four years. An election to reauthorize the CMC for an additional four years may be held if the community council adopts a resolution for such continuation at least seven months prior to the expiration of the CMC, or if at least 10 percent of the registered voters in the service area of the CMC file a petition for the continuation of the CMC with the city council at least six months before the CMC is due to expire. If either method for seeking a continuation of the CMC has occurred, the CMC may be reauthorized in an election. The only eligible voters in the election are residents within the CMC's service area. If reauthorization is approved by voters, the CMC will continue for another four years. New councilmembers are elected at the same election that the continuation of the CMC is determined.

During its existence, the community council of a CMC must be staffed by a deputy city clerk of the annexing city and must be provided with other needed clerical and technical assistance. The community council must also be provided with a properly equipped office, if necessary. The community council's expenses must be budgeted and paid for by the

annexing city.

The community council of a CMC can prevent, by vote, the application of certain ordinances and resolutions pertaining to land, buildings, or structures that are adopted by the annexing city from applying within the CMC. These include comprehensive plans; zoning ordinances; conditional use permits, special exceptions, or variances; subdivision ordinances; subdivisions plats; and planned unit developments. In order for these enactments to apply within a CMC, the community council must either give its approval to the ordinance or resolution or fail to disapprove the action within 60 days of final enactment. The disapproval of an ordinance or resolution by a community council does not affect its validity in the remainder of the annexing city.

Additionally, a community council of a CMC may make recommendations on a proposed comprehensive plan or other proposal that directly or indirectly affects property or land within the service area of the CMC; provide a forum for consideration of the conservation, improvement, or development of property within the service area; and advise, consult, and cooperate with the authority of the annexing city on any local matters directly or indirectly affecting the service area of the CMC.

There are currently two CMCs in Washington: the Houghton Community Council of Kirkland and the East Bellevue Community Council.

Summary of Bill:

The term of existence of CMCs is four years from authorization, or until 30 days after the effective date of the bill, whichever is sooner.

Following an annexation, CMCs may no longer be organized.

Provisions related to the membership and powers of the community councils of CMCs are repealed as of January 1, 2023.

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) The Washington State Legislature created community municipal corporations in the 1960s. Since then, numerous laws have passed on the state and federal level rendering these corporations obsolete. Only two CMCs still exist, and Houghton has now

had a CMC for longer than it was a city. The role of CMCs now adversely affects cities trying to foster inclusive and equitable communities where each resident has an equal voice and vote. No single neighborhood should be able to shift the burden of compliance with state growth targets to others, or to have more rights than other neighborhoods. This bill is about fairness and equity. It is time to end CMCs to give all residents equal say in community. The existence of a CMC creates an imbalance, as the neighborhood can exercise a veto on behalf of just 10 percent of residents. Even the threat of a veto changes how the city engages in planning. Only the people living within the CMC can decide if it continues, not the other 90 percent of the city. Any accomplishments of CMCs are due to actions by the city council that the CMC did not veto. These neighborhoods can still have representation through neighborhood associations and other normal channels. Many residents of annexed areas have been successfully integrated into the city without the need for a CMC. The decision by the Legislature to authorize CMCs was a legislative policy decision, as the decision to remove them would be. The creation of CMCs by voters was not a binding contract that the CMCs would exist in perpetuity. CMCs were created through a state law of general application, which is not a contract. Over time, laws and policies change. Simply because voters may have approved the creation of a discretionary structure allowed by statute does not mean it can't later be changed. The CMCs should be abolished as they no longer represent sound public policy. The only purpose of a CMC is to say "not in my backyard" and to override city council land use decisions. Cities should have a single set of rules for everyone. These communities are not distressed. The CMCs were originally created to allow a neighborhood to prevent too much rapid change right away, but these CMCs were created 50 years ago and any need for slowing down change has passed. The CMCs now add costs and delays, and exercise their veto on things like badly needed housing or a homeless shelter that took the city council years of work. The CMCs are a barrier to solutions to the housing crisis. A neighborhood should not be able to create a no-go area; everyone should be in it together.

(Opposed) There was a reason for the legislation creating CMCs back then and a reason for why they still exist now. Kirkland wanted to annex Houghton, and the CMC was part of the agreement for the annexation. This bill would disenfranchise the voters of CMCs, and it is an anti-democratic measure to those communities that have voted repeatedly for the CMC to continue. This is harmful to CMCs and to other legally established citizens groups throughout the state. These areas would lose ability to control their own destiny, which is all the CMCs want to do. This legislation would breach a binding contract between cities. These already distressed neighborhoods would be harmed further if the bill was enacted. If land use policy should be binding on everyone, it can be made at the state level, but if it is local legislation, then CMCs should be able to solve their local problems. This is really a sibling rivalry between cities. Citizens come to CMCs to talk about issues that are not heard by the city council. This legislation was passed to encourage annexations by allowing CMCs. Prior to allowing for CMCs, annexations had failed; it was only after the community was given the right to make land use decisions within the community that annexation occurred. The CMCs follow all state and federal laws and are making strides in affordability. There is no reason to abrogate the agreement that formed the basis for the city

to abandon its autonomy and agree to annexation.

Persons Testifying: (In support) Representative Davina Duerr, prime sponsor; Kevin Raymond, Toby Nixon, and Kelli Curtis, City of Kirkland; and Claudia Balducci, King County Council.

(Opposed) Terry Danysh and Terrence Danysh, PRK Livengood Law; Rick Whitney, Houghton Community Council; and Steve Kasner East Bellevue Community Council.

Persons Signed In To Testify But Not Testifying: Cynthia Stewart, League of Women Voters of Washington; Bryce Yadon, Futurewise; Angela Birney, City of Redmond; Christopher Randels; Marjorie Carlson; Jennifer Jaeger, Eastside Committee for Fair Governance; Carl Schroeder, Association of Washington Cities; Angela Rozmyn; Kevin Raymond, City of Kirkland; Jennifer Robertson; Lynne Robinson; John Stokes; Lynn Robinson; Rick Whitney, Houghton Community Council; John Kappler; Steve Kasner, East Bellevue Community Council; Karen Levenson; Chiho Lai, East Bellevue Community Council; Betsi Hummer; Larry Toedtli; Eckart Schmidt; Deepa Garg; Abolfazl Sirjani, PhD; Anna Rising; Steve Feller, Growth Management Act Advocates; Balor Simon; Matthew Goelzer; Tayweadah Briarmoon; Tasanaht Briarmoon; Gingkan Briarmoon; Karen Levenson; Matigan Goelzer; Rick Aramburu, Law Offices of J. Richard Aramburu PLLC; Alex Hay; and Phillip Allen.