

As Reported by the Committee of Conference

124th General Assembly

Regular Session

2001-2002

Am. Sub. S. B. No. 5

SENATORS Wachtmann, Harris, Robert Gardner, Carnes, Blessing

REPRESENTATIVES Roman, Driehaus, Coates, Distel, Carano, Sferra,

Schmidt, Flowers, Hagan, Willamowski, Niehaus, Metzger, Seaver, Faber,

Peterson, Aslanides, Krupinski, Rhine, Latell, Cates, Grendell, Seitz, Buehrer,

Brinkman, Latta, Clancy, Hollister, Kearns, Collier, Webster,

Womer Benjamin, Widowfield

A B I L L

To amend sections 505.62, 709.02, 709.03, 709.032, 1
709.033, 709.04, 709.13, 709.14, 709.15, 709.19, 2
709.21, 929.02, and 5705.31; to enact new sections 3
709.031, 709.07, 709.11, and 709.16 and sections 4
709.013, 709.014, 709.015, 709.021, 709.022, 5
709.023, 709.024, 709.192, and 5705.315; and to 6
repeal sections 709.031, 709.07, 709.08, 709.09, 7
709.11, 709.16, 709.17, and 709.18 of the Revised 8
Code to revise the laws governing municipal 9
annexations. 10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 505.62, 709.02, 709.03, 709.032, 11
709.033, 709.04, 709.13, 709.14, 709.15, 709.19, 709.21, 929.02, 12
and 5705.31 be amended and new sections 709.031, 709.07, 709.11, 13
and 709.16 and sections 709.013, 709.014, 709.015, 709.021, 14
709.022, 709.023, 709.024, 709.192, and 5705.315 of the Revised 15
Code be enacted to read as follows: 16

~~Sec. 505.62. A board of township trustees may enter into a contract with, and may appropriate township general revenue fund moneys for the services of, an attorney to represent the township at annexation hearings before the board of county commissioners and upon any appeal of the board's decision pursuant to section 709.07 or Chapter 2506. of the Revised Code.~~

~~The board of township trustees of a township that includes territory that is proposed to be annexed has standing in any appeal of the board of county commissioners' decision on the annexation of township territory that is taken pursuant to section 709.07 or Chapter 2506. of the Revised Code, if the board of township trustees was represented at the annexation hearing before the board of county commissioners, expert witnesses, and other consultants as the board determines are necessary for any potential or pending annexation action, including proceedings before a board of county commissioners or any court. The board also may appropriate general revenue fund moneys for any other expenses it considers necessary that are related to any potential or pending annexation actions.~~

Sec. 709.013. (A) If, after a petition for annexation is filed with the board of county commissioners, one or more other petitions are filed containing all or a part of the territory contained in the first petition, the board shall hear and decide the petitions in the order in which they were filed.

(B) The effect of granting any petition under division (A) of this section shall be to delete from any subsequently filed petition any territory contained in the petition that was granted.

(C) If two or more petitions for annexation are filed seeking to annex part or all of the same territory and appeals are subsequently filed under section 709.07 of the Revised Code, each

court shall decide the appeal on the first-filed petition before
considering the appeal in any subsequently filed petition.

47
48

Sec. 709.014. (A) The board of county commissioners may
establish a reasonable fee or schedule of fees to cover its costs
incurred in any annexation proceedings that take place under this
chapter. The board also may require an initial deposit to be paid
at the time a petition for annexation is filed under sections
709.02 to 709.21 of the Revised Code or promptly after that time.
The clerk of the board shall maintain an accurate and detailed
accounting of all funds received and expended in the processing of
a petition for annexation filed under sections 709.02 to 709.21 of
the Revised Code.

49
50
51
52
53
54
55
56
57
58

(B) Notwithstanding anything to the contrary in division (E)
of section 709.024 and division (A) of section 709.03 of the
Revised Code, the board of county commissioners, by resolution,
may appoint the clerk of the board or the county administrator to
set the date, time, and place for hearings, and to provide
associated notices to the agent for the petitioners, required
under those divisions instead of the board.

59
60
61
62
63
64
65

Sec. 709.015. The procedural requirements set forth in
sections 709.02 to 709.21 of the Revised Code are directory in
nature. Substantial compliance with the procedural requirements of
those sections is sufficient to grant the board of county
commissioners jurisdiction to hear and render its decision on a
petition for annexation filed under those sections. The board
shall cure a procedural defect and shall not deny a petition for
annexation solely upon the basis of procedural defects.

66
67
68
69
70
71
72
73

Sec. 709.02. (A) The owners of real estate adjacent
contiguous to a municipal corporation may, ~~at their option, cause~~
such territory to be annexed thereto, ~~petition for annexation to a~~

74
75
76

municipal corporation in the manner provided by sections ~~709.03~~ 77
709.02 to 709.11 of the Revised Code. ~~Application~~ 78

(B) Application for ~~such~~ annexation shall be made by a 79
petition, ~~addressed to~~ filed with the clerk of the board of county 80
commissioners of the county in which the territory is located, ~~and~~ 81
~~signed by a majority of the owners of real estate in such~~ 82
~~territory.~~ Such 83

(C) The petition required by this section shall contain the 84
following: 85

~~(A) A full~~ (1) The signatures of a majority of the owners of 86
real estate in the territory proposed for annexation. The person 87
who signs or the circulator of the petition also shall write the 88
date the signature was made next to the owner's name. No signature 89
obtained more than one hundred eighty days before the date on 90
which the petition is filed shall be counted in determining the 91
number of signers of the petition. Any owner who signed the 92
petition may have the signature removed before the document is 93
filed by delivering a signed statement to the agent for the 94
petitioners expressing the owner's wish to have the signature 95
removed. Upon receiving a signed statement, the agent for the 96
petitioners shall strike through the signature, causing the 97
signature to be deleted from the petition. 98

(2) An accurate legal description of the perimeter and an 99
accurate map or plat of the territory ~~sought to be annexed~~ 100
proposed for annexation; 101

~~(B) A statement of the number of owners of real estate in the~~ 102
~~territory sought to be annexed;~~ 103

~~(C)~~ (3) The name of a person or persons to act as agent for 104
the petitioners. The agent for the petitioners may be an official, 105
employee, or agent of the municipal corporation to which 106
annexation is proposed. 107

(D) At the time of filing the petition for annexation, the agent for the petitioners also shall file with the clerk of the board a list of all tracts, lots, or parcels in the territory proposed for annexation, and all tracts, lots, or parcels located adjacent to that territory or directly across the road from it when the road is adjacent to it, including the name and mailing address of the owner of each tract, lot, or parcel, and the permanent parcel number from the county auditor's permanent parcel numbering system established under section 319.28 of the Revised Code for each tract, lot, or parcel. This list shall not be considered to be a part of the petition for annexation, and any error on the list shall not affect the validity of the petition.

(E) As used in sections 709.02 to 709.21 and, 709.38, and 709.39 of the Revised Code, "owner" or "owners" means any adult individual ~~seized of a freehold estate in land~~ who is legally competent, the state or any political subdivision as defined in section 5713.081 of the Revised Code, and any firm, trustee, or private corporation ~~that, any of which~~ is seized of a freehold estate in land; except that ~~individuals, firms, and corporations holding easements and any railroad, utility, street, and highway rights-of-way held in fee, by easement, or by dedication and acceptance~~ are not included within ~~such those~~ meanings; and no person, firm, trustee, or private corporation, the state, or any political subdivision, that has become an owner of real estate by a conveyance, the primary purpose of which is to affect the number of owners required to sign ~~an annexation~~ a petition for annexation, is included within ~~such those~~ meanings. For purposes of sections 709.02 to 709.21, 709.38, and 709.39 of the Revised Code, the state or any political subdivision shall not be considered an owner and shall not be included in determining the number of owners needed to sign a petition unless an authorized agent of the state or the political subdivision signs the

petition. The authorized agent for the state shall be the director 140
of administrative services. 141

An owner is determined as of the date the petition is filed 142
with the board of county commissioners. If the owner is a 143
corporation, partnership, business trust, estate, trust, 144
organization, association, group, institution, society, state, or 145
political subdivision, the petition shall be signed by a person 146
who is authorized to sign for that entity. A person who owns more 147
than one parcel of real estate, either individually or as a tenant 148
in common or by survivorship tenancy, shall be counted as one 149
owner for purposes of this chapter. 150

Sec. 709.021. (A) When a petition signed by all of the owners 151
of real estate in the unincorporated territory of a township 152
proposed for annexation requests the annexation of that territory 153
to a municipal corporation contiguous to that territory under one 154
of the special procedures provided for annexation in sections 155
709.022, 709.023, and 709.024 of the Revised Code, the annexation 156
proceedings shall be conducted under those sections to the 157
exclusion of any other provisions of this chapter unless otherwise 158
provided in this section or the special procedure section chosen. 159

(B) Application for annexation shall be made by a petition 161
filed with the clerk of the board of county commissioners of the 162
county in which the territory is located, and the procedures 163
contained in divisions (C), (D), and (E) of section 709.02 of the 164
Revised Code shall be followed, except that all owners, not just a 165
majority of owners, shall sign the petition. To be valid, each 166
petition circulated for the special procedure in section 709.022 167
or 709.023 of the Revised Code shall contain the notice provided 168
for in division (B) of section 709.022 or division (A) of section 169
709.023 of the Revised Code, whichever is applicable. 170

(C) Except as otherwise provided in this section, only this section and sections 709.014, 709.015, 709.04, 709.10, 709.11, 709.12, 709.192, 709.20, and 709.21 of the Revised Code apply to the granting of an annexation described in this section.

(D) As used in sections 709.022 and 709.024 of the Revised Code, "party" or "parties" means the municipal corporation to which annexation is proposed, each township any portion of which is included within the territory proposed for annexation, and the agent for the petitioners.

Sec. 709.022. (A) A petition filed under section 709.021 of the Revised Code that requests to follow this section is for the special procedure of annexing land with the consent of all parties. The petition shall be accompanied by a certified copy of an annexation agreement provided for in section 709.192 of the Revised Code or of a cooperative economic development agreement provided for in section 701.07 of the Revised Code, that is entered into by the municipal corporation and each township any portion of which is included within the territory proposed for annexation. Upon the receipt of the petition and the applicable agreement, the board of county commissioners, at the board's next regular session, shall enter upon its journal a resolution granting the annexation, without holding a hearing.

(B) Owners who sign a petition requesting that the special procedure in this section be followed expressly waive their right to appeal any action taken by the board of county commissioners under this section. There is no appeal from the board's decision under this section in law or in equity.

The petition circulated to collect signatures for the special procedure in this section shall contain in boldface capital letters immediately above the heading of the place for signatures on each part of the petition the following: "WHOEVER SIGNS THIS

PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL ANY ACTION ON THE 202
PETITION TAKEN BY THE BOARD OF COUNTY COMMISSIONERS. THERE ALSO IS 203
NO APPEAL FROM THE BOARD'S DECISION IN THIS MATTER IN LAW OR IN 204
EQUITY." 205

(C) After the board of county commissioners grants the 206
petition for annexation, the clerk of the board shall deliver a 207
certified copy of the entire record of the annexation proceedings, 208
including all resolutions of the board, signed by a majority of 209
the members of the board, the petition, map, and all other papers 210
on file, and the recording of the proceedings, if a copy is 211
available, to the auditor or clerk of the municipal corporation to 212
which annexation is proposed. 213

Sec. 709.023. (A) A petition filed under section 709.021 of 214
the Revised Code that requests to follow this section is for the 215
special procedure of annexing land into a municipal corporation 216
when, subject to division (H) of this section, the land also is 217
not to be excluded from the township under section 503.07 of the 218
Revised Code. The owners who sign this petition by their signature 219
expressly waive their right to appeal in law or equity from the 220
board of county commissioners' entry of any resolution under this 221
section, waive any rights they may have to sue on any issue 222
relating to a municipal corporation requiring a buffer as provided 223
in this section, and waive any rights to seek a variance that 224
would relieve or exempt them from that buffer requirement. 225

The petition circulated to collect signatures for the special 227
procedure in this section shall contain in boldface capital 228
letters immediately above the heading of the place for signatures 229
on each part of the petition the following: "WHOEVER SIGNS THIS 230
PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL IN LAW OR EQUITY 231
FROM THE BOARD OF COUNTY COMMISSIONERS' ENTRY OF ANY RESOLUTION 232

PERTAINING TO THIS SPECIAL ANNEXATION PROCEDURE, ALTHOUGH A WRIT 233
OF MANDAMUS MAY BE SOUGHT TO COMPEL THE BOARD TO PERFORM ITS 234
DUTIES REQUIRED BY LAW FOR THIS SPECIAL ANNEXATION PROCEDURE." 235

(B) Upon the filing of the petition in the office of the 236
clerk of the board of county commissioners, the clerk shall cause 237
the petition to be entered upon the board's journal at its next 238
regular session. This entry shall be the first official act of the 239
board on the petition. Within five days after the filing of the 240
petition, the agent for the petitioners shall notify in the manner 241
and form specified in this division the clerk of the legislative 242
authority of the municipal corporation to which annexation is 243
proposed, the clerk of each township any portion of which is 244
included within the territory proposed for annexation, the clerk 245
of the board of county commissioners of each county in which the 246
territory proposed for annexation is located other than the county 247
in which the petition is filed, and the owners of property 248
adjacent to the territory proposed for annexation or adjacent to a 249
road that is adjacent to that territory and located directly 250
across that road from that territory. The notice shall refer to 251
the time and date when the petition was filed and the county in 252
which it was filed and shall have attached or shall be accompanied 253
by a copy of the petition and any attachments or documents 254
accompanying the petition as filed. 255

Notice to a property owner is sufficient if sent by regular 256
United States mail to the tax mailing address listed on the county 257
auditor's records. Notice to the appropriate government officer 258
shall be given by certified mail, return receipt requested, or by 259
causing the notice to be personally served on the officer, with 260
proof of service by affidavit of the person who delivered the 261
notice. Proof of service of the notice on each appropriate 262
government officer shall be filed with the board of county 263
commissioners with which the petition was filed. 264

(C) Within twenty days after the date that the petition is 265
filed, the legislative authority of the municipal corporation to 266
which annexation is proposed shall adopt an ordinance or 267
resolution stating what services the municipal corporation will 268
provide, and an approximate date by which it will provide them, to 269
the territory proposed for annexation, upon annexation. The 270
municipal corporation is entitled in its sole discretion to 271
provide to the territory proposed for annexation, upon annexation, 272
services in addition to the services described in that ordinance 273
or resolution. 274

If the territory proposed for annexation is subject to zoning 275
regulations adopted under either Chapter 303. or 519. of the 276
Revised Code at the time the petition is filed, the legislative 277
authority of the municipal corporation also shall adopt an 278
ordinance or resolution stating that, if the territory is annexed 279
and becomes subject to zoning by the municipal corporation and 280
that municipal zoning permits uses in the annexed territory that 281
the municipal corporation determines are clearly incompatible with 282
the uses permitted under current county or township zoning 283
regulations in the adjacent land remaining within the township 284
from which the territory was annexed, the legislative authority of 285
the municipal corporation will require, in the zoning ordinance 286
permitting the incompatible uses, the owner of the annexed 287
territory to provide a buffer separating the use of the annexed 288
territory and the adjacent land remaining within the township. For 289
the purposes of this section, "buffer" includes open space, 290
landscaping, fences, walls, and other structured elements; streets 291
and street rights-of-way; and bicycle and pedestrian paths and 292
sidewalks. 293

The clerk of the legislative authority of the municipal 294
corporation to which annexation is proposed shall file the 295
ordinances or resolutions adopted under this division with the 296

board of county commissioners within twenty days following the 297
date that the petition is filed. The board shall make these 298
ordinances or resolutions available for public inspection. 299

(D) Within twenty-five days after the date that the petition 300
is filed, the legislative authority of the municipal corporation 301
to which annexation is proposed and each township any portion of 302
which is included within the territory proposed for annexation may 303
adopt and file with the board of county commissioners an ordinance 304
or resolution consenting or objecting to the proposed annexation. 305
An objection to the proposed annexation shall be based solely upon 306
the petition's failure to meet the conditions specified in 307
division (E) of this section. 308

If the municipal corporation and each of those townships 309
timely files an ordinance or resolution consenting to the proposed 310
annexation, the board at its next regular session shall enter upon 311
its journal a resolution granting the proposed annexation. If, 312
instead, the municipal corporation or any of those townships files 313
an ordinance or resolution that objects to the proposed 314
annexation, the board of county commissioners shall proceed as 315
provided in division (E) of this section. Failure of the municipal 316
corporation or any of those townships to timely file an ordinance 317
or resolution consenting or objecting to the proposed annexation 318
shall be deemed to constitute consent by that municipal 319
corporation or township to the proposed annexation. 320

(E) Unless the petition is granted under division (D) of this 321
section, not less than thirty or more than forty-five days after 322
the date that the petition is filed, the board of county 323
commissioners shall review it to determine if each of the 324
following conditions has been met: 325

(1) The petition meets all the requirements set forth in, and 326
was filed in the manner provided in, section 709.021 of the 327
Revised Code. 328

(2) The persons who signed the petition are owners of the 329
real estate located in the territory proposed for annexation and 330
constitute all of the owners of real estate in that territory. 331

(3) The territory proposed for annexation does not exceed 332
five hundred acres. 333

(4) The territory proposed for annexation shares a contiguous 334
boundary with the municipal corporation to which annexation is 335
proposed for a continuous length of at least five per cent of the 336
perimeter of the territory proposed for annexation. 337

(5) The annexation will not create an unincorporated area of 338
the township that is completely surrounded by the territory 339
proposed for annexation. 340

(6) The municipal corporation to which annexation is proposed 341
has agreed to provide to the territory proposed for annexation the 342
services specified in the relevant ordinance or resolution adopted 343
under division (C) of this section. 344

(7) If a street or highway will be divided or segmented by 345
the boundary line between the township and the municipal 346
corporation as to create a road maintenance problem, the municipal 347
corporation to which annexation is proposed has agreed as a 348
condition of the annexation to assume the maintenance of that 349
street or highway or to otherwise correct the problem. As used in 350
this section, "street" or "highway" has the same meaning as in 351
section 4511.01 of the Revised Code. 352

(F) Not less than thirty or more than forty-five days after 353
the date that the petition is filed, if the petition is not 354
granted under division (D) of this section, the board of county 355
commissioners, if it finds that each of the conditions specified 356
in division (E) of this section has been met, shall enter upon its 357
journal a resolution granting the annexation. If the board of 358
county commissioners finds that one or more of the conditions 359

specified in division (E) of this section have not been met, it shall enter upon its journal a resolution that states which of those conditions the board finds have not been met and that denies the petition.

360
361
362
363

(G) If a petition is granted under division (D) or (F) of this section, the clerk of the board of county commissioners shall proceed as provided in division (C)(1) of section 709.033 of the Revised Code, except that no recording or hearing exhibits would be involved. There is no appeal in law or equity from the board's entry of any resolution under this section, but any party may seek a writ of mandamus to compel the board of county commissioners to perform its duties under this section.

364
365
366
367
368
369
370
371

(H) Notwithstanding anything to the contrary in section 503.07 of the Revised Code, unless otherwise provided in an annexation agreement entered into pursuant to section 709.192 of the Revised Code or in a cooperative economic development agreement entered into pursuant to section 701.07 of the Revised Code, territory annexed into a municipal corporation pursuant to this section shall not at any time be excluded from the township under section 503.07 of the Revised Code and, thus, remains subject to the township's real property taxes.

372
373
374
375
376
377
378
379
380

(I) Any owner of land that remains within a township and that is adjacent to territory annexed pursuant to this section who is directly affected by the failure of the annexing municipal corporation to enforce compliance with any zoning ordinance it adopts under division (C) of this section requiring the owner of the annexed territory to provide a buffer zone, may commence in the court of common pleas a civil action against that owner to enforce compliance with that buffer requirement whenever the required buffer is not in place before any development of the annexed territory begins.

381
382
383
384
385
386
387
388
389
390

Sec. 709.024. (A) A petition filed under section 709.021 of 391
the Revised Code that requests to follow this section is for the 392
special procedure of annexing land into a municipal corporation 393
for the purpose of undertaking a significant economic development 394
project. As used in this section, "significant economic 395
development project" means one or more economic development 396
projects that can be classified as industrial, distribution, high 397
technology, research and development, or commercial, which 398
projects may include ancillary residential and retail uses and 399
which projects shall satisfy all of the following: 400

(1) Total private real and personal property investment in a 401
project shall be in excess of ten million dollars through land and 402
infrastructure, new construction, reconstruction, installation of 403
fixtures and equipment, or the addition of inventory, excluding 404
investment solely related to the ancillary residential and retail 405
elements, if any, of the project. As used in this division, 406
"private real and personal property investment" does not include 407
payments in lieu of taxes, however characterized, under Chapter 408
725. or 1728. or sections 5709.40 to 5709.43, 5709.73 to 5709.75, 409
or 5709.78 to 5709.81 of the Revised Code. 410

(2) There shall be created by the project an additional 411
annual payroll in excess of one million dollars, excluding payroll 412
arising solely out of the retail elements, if any, of the project. 413

(3) The project has been certified by the state director of 414
development as meeting the requirements of divisions (A)(1) and 415
(2) of this section. 416

(B) Upon the filing of the petition under section 709.021 of 417
the Revised Code in the office of the clerk of the board of county 418
commissioners, the clerk shall cause the petition to be entered 419
upon the journal of the board at its next regular session. This 420
entry shall be the first official act of the board on the 421

petition. Within five days after the filing of the petition, the 422
agent for the petitioners shall notify in the manner and form 423
specified in this division the clerk of the legislative authority 424
of the municipal corporation to which annexation is proposed, the 425
clerk of each township any portion of which is included within the 426
territory proposed for annexation, the clerk of the board of 427
county commissioners of each county in which the territory 428
proposed for annexation is located other than the county in which 429
the petition is filed, and the owners of property adjacent to the 430
territory proposed for annexation or adjacent to a road that is 431
adjacent to that territory and located directly across that road 432
from that territory. The notice shall refer to the time and date 433
when the petition was filed and the county in which it was filed 434
and shall have attached or shall be accompanied by a copy of the 435
petition and any attachments or documents accompanying the 436
petition as filed. 437

Notice to a property owner is sufficient if sent by regular 438
United States mail to the tax mailing address listed on the county 439
auditor's records. Notice to the appropriate government officer 440
shall be given by certified mail, return receipt requested, or by 441
causing the notice to be personally served on the officer, with 442
proof of service by affidavit of the person who delivered the 443
notice. Proof of service of the notice on each appropriate 444
government officer shall be filed with the board of county 445
commissioners with which the petition was filed. 446

(C)(1) Within thirty days after the petition is filed, the 447
legislative authority of the municipal corporation to which 448
annexation is proposed and each township any portion of which is 449
included within the territory proposed for annexation may adopt 450
and file with the board of county commissioners an ordinance or 451
resolution consenting or objecting to the proposed annexation. An 452
objection to the proposed annexation shall be based solely upon 453

the petition's failure to meet the conditions specified in
division (F) of this section. Failure of the municipal corporation
or any of those townships to timely file an ordinance or
resolution consenting or objecting to the proposed annexation
shall be deemed to constitute consent by that municipal
corporation or township to the proposed annexation.

454
455
456
457
458
459

(2) Within twenty days after receiving the notice required by
division (B) of this section, the legislative authority of the
municipal corporation shall adopt, by ordinance or resolution, a
statement indicating what services the municipal corporation will
provide or cause to be provided, and an approximate date by which
it will provide or cause them to be provided, to the territory
proposed for annexation, upon annexation. If a hearing is to be
conducted under division (E) of this section, the legislative
authority shall file the statement with the clerk of the board of
county commissioners at least twenty days before the date of the
hearing.

460
461
462
463
464
465
466
467
468
469
470

(D) If all parties to the annexation proceedings consent to
the proposed annexation, a hearing shall not be held, and the
board, at its next regular session, shall enter upon its journal a
resolution granting the annexation. There is no appeal in law or
in equity from the board's entry of a resolution under this
division. The clerk of the board shall proceed as provided in
division (C)(1) of section 709.033 of the Revised Code.

471
472
473
474
475
476
477

(E) Unless the petition is granted under division (D) of this
section, a hearing shall be held on the petition. The board of
county commissioners shall hear the petition at its next regular
session and shall notify the agent for the petitioners of the
hearing's date, time, and place. The agent for the petitioners
shall give, within five days after receipt of the notice of the
hearing from the board, to the parties and property owners
entitled to notice under division (B) of this section, notice of

478
479
480
481
482
483
484
485

the date, time, and place of the hearing. Notice to a property 486
owner is sufficient if sent by regular United States mail to the 487
tax mailing address listed on the county auditor's records. At the 488
hearing, the parties and any owner of real estate within the 489
territory proposed to be annexed are entitled to appear for the 490
purposes described in division (C) of section 709.032 of the 491
Revised Code. 492

(F) Within thirty days after a hearing under division (E) of 493
this section, the board of county commissioners shall enter upon 494
its journal a resolution granting or denying the proposed 495
annexation. The resolution shall include specific findings of fact 496
as to whether or not each of the conditions listed in this 497
division has been met. If the board grants the annexation, the 498
clerk of the board shall proceed as provided in division (C)(1) of 499
section 709.033 of the Revised Code. 500

The board shall enter a resolution granting the annexation if 501
it finds, based upon a preponderance of the substantial, reliable, 502
and probative evidence on the whole record, that each of the 503
following conditions has been met: 504

(1) The petition meets all the requirements set forth in, and 505
was filed in the manner provided in, section 709.021 of the 506
Revised Code. 507

(2) The persons who signed the petition are owners of real 508
estate located in the territory proposed to be annexed in the 509
petition and constitute all of the owners of real estate in that 510
territory. 511

(3) No street or highway will be divided or segmented by the 512
boundary line between a township and the municipal corporation as 513
to create a road maintenance problem, or if the street or highway 514
will be so divided or segmented, the municipal corporation has 515
agreed, as a condition of the annexation, that it will assume the 516

maintenance of that street or highway. For the purposes of this 517
division, "street" or "highway" has the same meaning as in section 518
4511.01 of the Revised Code. 519

(4) The municipal corporation to which the territory is 520
proposed to be annexed has adopted an ordinance or resolution as 521
required by division (C)(2) of this section. 522

(5) The state director of development has certified that the 523
project meets the requirements of divisions (A)(1) and (2) of this 524
section and thereby qualifies as a significant economic 525
development project. The director's certification is binding on 526
the board of county commissioners. 527

(G) An owner who signed the petition may appeal a decision of 528
the board of county commissioners denying the proposed annexation 529
under section 709.07 of the Revised Code. No other person has 530
standing to appeal the board's decision in law or in equity. If 531
the board grants the annexation, there shall be no appeal in law 532
or in equity. 533

(H) Notwithstanding anything to the contrary in section 534
503.07 of the Revised Code, unless otherwise provided in an 535
annexation agreement entered into pursuant to section 709.192 of 536
the Revised Code or in a cooperative economic development 537
agreement entered into pursuant to section 701.07 of the Revised 538
Code, territory annexed into a municipal corporation pursuant to 539
this section shall not at any time be excluded from the township 540
under section 503.07 of the Revised Code and, thus, remains 541
subject to the township's real property taxes. 542

(I) A municipal corporation to which annexation is proposed 543
is entitled in its sole discretion to provide to the territory 544
proposed for annexation, upon annexation, services in addition to 545
the services described in the ordinance or resolution adopted by 546
the legislative authority of the municipal corporation under 547

division (C)(2) of this section.

548

~~Sec. 709.03. The (A) Once a petition required by described in~~ 549
~~section 709.02 of the Revised Code shall be is filed in, the~~ 550
~~office clerk of the board of county commissioners and the clerk~~ 551
~~shall cause the petition to be entered upon the record of~~ 552
~~proceedings journal of the board, which at its next regular~~ 553
~~session. This entry shall be the first official act of the board~~ 554
~~on the annexation petition, and shall cause the petition to be~~ 555
~~filed in the office of the county auditor, where it shall be~~ 556
~~subject to the inspection of any interested person. The agent for~~ 557
~~the petitioners shall cause written notice of the filing of the~~ 558
~~petition with the board of county commissioners and the date of~~ 559
~~such filing to be delivered to the clerk of the legislative~~ 560
~~authority of the municipal corporation to which annexation is~~ 561
~~proposed and to the clerk of each township any portion of which is~~ 562
~~included within the territory sought to be annexed. Any person.~~ 563
~~Within five days after the filing of the petition, the board shall~~ 564
~~set the date, time, and place for the hearing on the petition and~~ 565
~~shall notify the agent for the petitioners. The date for the~~ 566
~~hearing shall be not less than sixty or more than ninety days~~ 567
~~after the petition is filed with the clerk of the board.~~ 568

(B) Upon being notified of the date of the hearing, the agent 569
for the petitioners shall do all of the following: 570

(1) Within five days cause written notice of the filing of 571
the petition with the board of county commissioners, the date and 572
time of the filing, and the date, time, and place of the hearing, 573
to be delivered to the clerk of the legislative authority of the 574
municipal corporation to which annexation is proposed, to the 575
clerk of each township any portion of which is included within the 576
territory proposed for annexation, and to the clerk of the board 577
of county commissioners of each county in which the territory 578

proposed for annexation is located other than the county in which 579
the petition is filed. The notice shall state the date and time 580
when the petition was filed and the county in which it was filed 581
and shall have attached or shall be accompanied by a copy of the 582
petition and any attachments or documents accompanying the 583
petition as filed. The notice shall be given by certified mail, 584
return receipt requested, or by causing the notice to be 585
personally served on the appropriate governmental officer, with 586
proof of service being by affidavit of the person who delivered 587
the notice. Within ten days after the date of completion of 588
service, the agent for the petitioners shall file proof of service 589
of the notice with the board of county commissioners with which 590
the petition was filed. 591

(2) Within ten days send by regular mail a copy of the notice 592
of the board of county commissioners of the hearing to all owners 593
of property within the territory proposed to be annexed, and to 594
all owners of property adjacent to the territory proposed to be 595
annexed or adjacent to a road that is adjacent to that territory 596
and located directly across that road from that territory, whose 597
names were provided by the agent for the petitioners under 598
division (D) of section 709.02 of the Revised Code, along with a 599
map of the territory proposed to be annexed and a statement 600
indicating where the full petition for annexation can be reviewed. 601
The notice also shall include a statement that any owner who 602
signed the petition may remove the owner's signature by filing 603
with the clerk of the board of county commissioners a written 604
notice of withdrawal of the owner's signature within twenty-one 605
days after the date the agent mails the notice; the agent shall 606
include with each mailed notice a certification of the date of its 607
mailing for this purpose. Within ten days after the mailing of the 608
notices, the agent shall file with the board of county 609
commissioners with which the petition was filed, a notarized 610

affidavit that a notice was sent by regular mail to these property owners.

611
612

(3) Cause a notice containing the substance of the petition, and the date, time, and place of the hearing, to be published at least once and at least seven days prior to the date fixed for the hearing, in a newspaper of general circulation in each county in which territory proposed for annexation is situated. Within ten days after the date of completion of the publication or at the hearing, whichever comes first, the agent for the petitioners shall file proof of publication of the notice with the board of county commissioners with which the petition was filed.

613
614
615
616
617
618
619
620
621

(C) Any owner who signed the petition for annexation may remove his that signature by filing with the clerk of the board of county commissioners a written notice of withdrawal of his the owner's signature within twenty twenty-one days after such a notice of filing is delivered to the clerk of the township in which he resides the date the agent for the petitioners mailed the notice of the hearing to the owner as provided in division (B)(2) of this section. Thereafter, signatures may be withdrawn or removed only in the manner authorized by section 709.032 of the Revised Code.

622
623
624
625
626
627
628
629
630
631

(D) Upon receiving the notice described in division (B)(1) of this section, the legislative authority of the municipal corporation shall adopt, by ordinance or resolution, a statement indicating what services the municipal corporation will provide, and an approximate date by which it will provide them, to the territory proposed for annexation, upon annexation. The statement shall be filed with the board of county commissioners at least twenty days before the date of the hearing. The municipal corporation is entitled in its sole discretion to provide to the territory proposed for annexation, upon annexation, services in addition to the services described in the ordinance or resolution

632
633
634
635
636
637
638
639
640
641
642

it adopts under this division.

643

Sec. 709.031. (A) Within five days after the petition for annexation is filed with the board of county commissioners, the clerk of the board shall refer the legal description of the perimeter and the map or plat of the territory proposed to be annexed to the county engineer for a report upon the accuracy of the legal description of the perimeter, map, or plat. Upon receiving these items, the county engineer shall file, at least twenty-five days before the hearing, a written report with the board based on the engineer's findings, which shall not be conclusive upon the board. Failure of the engineer to make the report shall not affect the jurisdiction or duty of the board to proceed.

644

645

646

647

648

649

650

651

652

653

654

655

(B) The petition may be amended without further notice by leave of the board of county commissioners and with the consent of the agent for the petitioners if the amendment does not add to the territory embraced in the original petition and is made at least fifteen days before the date of the hearing. The board may rerefer the legal description of the perimeter, map, or plat to the county engineer if revisions are made in them, for a report on their accuracy. Upon receiving these items, the county engineer shall file, on or before the date of the hearing, a written report with the board based on the engineer's findings, which shall not be conclusive upon the board. Failure of the engineer to make the report shall not affect the jurisdiction or duty of the board to proceed.

656

657

658

659

660

661

662

663

664

665

666

667

668

(C) The board of township trustees of any township containing any territory proposed for annexation and any owners of real estate in the territory proposed for annexation may request that reasonable proof be presented of the authority of a person signing the petition on behalf of any person other than a natural being,

669

670

671

672

673

the state, or a political subdivision of the state. The request shall be in writing and be filed with the board of county commissioners and with the agent for the petitioners at least fifteen days prior to the hearing on the petition. When such a request is filed, the agent for the petitioners shall present to the board of county commissioners at the hearing held under section 709.032 of the Revised Code sufficient evidence by affidavit or testimony to establish that the owner is a person other than a natural being, the state, or a political subdivision of the state and that the owner authorized the person whose signature is on the petition to sign the petition on its behalf. If the board does not find the evidence sufficient to establish this authority, it shall remove the signature from the petition.

674
675
676
677
678
679
680
681
682
683
684
685
686

Sec. 709.032. (A) As used in this section, "necessary party" means the municipal corporation to which annexation is proposed, each township any portion of which is included within the territory proposed for annexation, and the agent for the petitioners.

687
688
689
690
691

(B) The hearing provided for in section ~~709.031~~ 709.03 of the Revised Code shall be public. ~~Any~~ The board of county commissioners may, or at the request of any necessary party shall, issue subpoenas for witnesses or for books, papers, correspondence, memoranda, agreements, or other documents or records relevant or material to the petition, directed to the sheriff of each county where the witnesses or documents or records are found, which subpoenas shall be served and returned in the same manner as those allowed by the court of common pleas in criminal cases. The fees and mileage of sheriffs and witnesses shall be the same as those allowed by the court of common pleas in criminal cases. The fee and mileage expenses incurred at the request of a party shall be paid in advance by the party, and the remainder of the expenses shall be paid out of fees charged by the

692
693
694
695
696
697
698
699
700
701
702
703
704
705

board for the annexation proceedings. In case of disobedience or 706
neglect of any subpoena served on any person, or the refusal of 707
any witness to testify to any matter regarding which the witness 708
may be lawfully interrogated, the court of common pleas of the 709
county in which the disobedience, neglect, or refusal occurs, or 710
any judge of that court, on application of the board, any member 711
of the board, or a necessary party, may compel obedience by 712
attachment proceedings for contempt as in the case of disobedience 713
of the requirements of a subpoena issued from the court or a 714
refusal to testify in the court. An owner of a company, firm, 715
partnership, association, or corporation that is subpoenaed may 716
have an agent or attorney appear before the board on that owner's 717
behalf in response to the subpoena. 718

The board of county commissioners shall make, by electronic 719
means or some other suitable method, a record of the hearing. If a 720
request, accompanied by a deposit to pay the costs, is filed with 721
the board not later than seven days before the hearing, the board 722
shall provide an official court reporter to record the hearing. 723
The record of the hearing need not be transcribed unless a 724
request, accompanied by an amount to cover the cost of 725
transcribing the record, is filed with the board. 726

(C) Any person may appear, in person or by attorney, and, 727
after being sworn, may support or contest the granting of the 728
prayer of the petition provided for by section 709.02 of the 729
Revised Code. Affidavits presented in support of or against the 730
prayer of such petition shall be considered by the board, but only 731
if the affidavits are filed with the board and served as provided 732
in the Rules of Civil Procedure upon the necessary parties to the 733
annexation proceedings at least fifteen days before the date of 734
the hearing; provided that the board shall accept an affidavit 735
after the fifteen-day period if the purpose of the affidavit is 736
only to establish the affiant's authority to sign the petition on 737

behalf of the entity for which the affiant signed. Necessary 738
parties or their representatives are entitled to present evidence, 739
examine and cross-examine witnesses, and comment on all evidence, 740
including any affidavits presented to the board under this 741
division. 742

(D) At the hearing, any owner who signed the petition for 743
annexation may appear, and, after being sworn as provided by 744
section 305.21 of the Revised Code, testify orally that ~~his~~ the 745
owner's signature was obtained by fraud, duress, 746
misrepresentation, including any misrepresentation relating to the 747
provision of municipal services to the territory proposed to be 748
annexed, or undue influence. Any person may testify orally after 749
being so sworn in support of of or rebuttal to ~~such~~ the prior 750
testimony by the owner. ~~The commissioners, the agent for the~~ 751
~~petitioners or his attorney, and such owner or his attorney may~~ 752
~~examine such witnesses, including the owner~~ Any witnesses and 753
owners who testify shall be subject to cross-examination by the 754
necessary parties to the annexation proceedings. If a majority of 755
the county commissioners find that ~~such~~ the owner's signature was 756
obtained under circumstances that did constitute fraud, duress, 757
misrepresentation, or undue influence, they shall find the 758
signature to be void, and shall order it removed from the petition 759
as of the time the petition was filed. 760

~~The petition may be amended without further notice by leave~~ 761
~~of the county commissioners with the consent of the agent for the~~ 762
~~petitioners where such amendment does not add to the territory~~ 763
~~embraced in the original petition. If any amendment is permitted,~~ 764
~~whereby territory not before embraced is added, the board shall~~ 765
~~appoint another time for the hearing, of which notice shall be~~ 766
~~given as specified in section 709.031 of the Revised Code.~~ 767

Sec. 709.033. (A) After the hearing on a petition ~~to annex~~ 768
for annexation, the board of county commissioners shall enter ~~an~~ 769

order upon its journal allowing a resolution granting the 770
annexation if it finds, based upon a preponderance of the 771
substantial, reliable, and probative evidence on the whole record, 772
that each of the following conditions has been met: 773

~~(A)(1)~~ The petition ~~contains all matter required in~~ meets all 774
the requirements set forth in, and was filed in the manner 775
provided in, section 709.02 of the Revised Code. 776

~~(B)~~ Notice ~~has been published as required by section 709.031~~ 777
~~of the Revised Code.~~ 778

~~(C)(2)~~ The persons ~~whose names are subscribed to~~ who signed 779
the petition are owners of real estate located in the territory 780
proposed to be annexed in the petition, and, as of the time the 781
petition was filed with the board of county commissioners, the 782
number of valid signatures on the petition constituted a majority 783
of the owners of real estate in ~~the~~ that territory ~~proposed to be~~ 784
annexed. 785

~~(D)(3)~~ The municipal corporation to which the territory is 786
proposed to be annexed has complied with division ~~(B)(D)~~ of 787
section ~~709.031~~ 709.03 of the Revised Code. 788

~~(E)(4)~~ The territory ~~included in the annexation petition~~ 789
proposed to be annexed is not unreasonably large; ~~the map or plat~~ 790
~~is accurate; and.~~ 791

(5) On balance, the general good of the territory ~~sought~~ 792
proposed to be annexed will be served, and the benefits to the 793
territory proposed to be annexed and the surrounding area will 794
outweigh the detriments to the territory proposed to be annexed 795
and the surrounding area, if the annexation petition is granted. 796
As used in division (A)(5) of this section, "surrounding area" 797
means the territory within the unincorporated area of any township 798
located one-half mile or less from any of the territory proposed 799
to be annexed. 800

(6) No street or highway will be divided or segmented by the boundary line between a township and the municipal corporation as to create a road maintenance problem, or, if a street or highway will be so divided or segmented, the municipal corporation has agreed, as a condition of the annexation, that it will assume the maintenance of that street or highway. For the purposes of this division, "street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

(B) The board of county commissioners shall ~~grant~~ enter upon its journal a resolution granting or ~~deny~~ denying the petition for annexation within ~~ninety~~ thirty days after the hearing ~~set~~ pursuant to ~~provided for in~~ section ~~709.031~~ 709.032 of the Revised Code. The resolution shall include specific findings of fact as to whether each of the conditions listed in divisions (A)(1) to (6) of this section has been met. Upon journalization of the resolution, the clerk of the board shall send a certified copy of it to the agent for the petitioners, the clerk of the legislative authority of the municipal corporation to which annexation is proposed, the clerk of each township in which the territory proposed for annexation is located, and the clerk of the board of county commissioners of each county in which the territory proposed for annexation is located other than the county in which the petition is filed. The clerk of the board shall take no further action until the expiration of thirty days after the date of journalization.

(C) After the expiration of that thirty-day period, if no appeal has been timely filed under section 709.07 of the Revised Code, the clerk of the board of county commissioners shall take one of the following actions:

(1) If the board of county commissioners ~~grants~~ granted the petition for annexation it, the clerk shall ~~enter on its journal~~ all the orders of the board relating to the annexation and deliver

a certified ~~transcript of~~ copy of the entire record of the 833
annexation proceedings, including all orders resolutions of the 834
board, signed by a majority of the members of the board, the 835
petition, map, and all other papers on file, the recording of the 836
proceedings, if a copy is available, and exhibits presented at the 837
hearing relating to the annexation proceedings, to the auditor or 838
clerk of the municipal corporation to which annexation is 839
proposed. 840

(2) If the board ~~of county commissioners denies~~ denied the 841
petition for annexation, ~~it~~ the clerk shall send a certified copy 842
of its ~~order~~ resolution denying the annexation to the agent for 843
the petitioners and to the clerk of the municipal corporation to 844
which the annexation was proposed. ~~If, on any appeal of any such~~ 845
~~annexation denial, a court holds that the board's denial was~~ 846
~~contrary to law, and if the court orders the clerk of the board of~~ 847
~~county commissioners to enter on the journal of the board an order~~ 848
~~approving the annexation, then the clerk shall enter the order.~~ 849

(D) If an appeal is filed in a timely manner under section 850
709.07 of the Revised Code from the determination of the board of 851
county commissioners granting or denying the petition for 852
annexation, the clerk of the board shall take further action only 853
in accordance with that section. 854

Sec. 709.04. At the next regular session of the legislative 855
authority of the municipal corporation to which annexation is 856
proposed, after the expiration of sixty days from the date of 857
~~filing with him as~~ the delivery required by division (C) of 858
section 709.022 or division (C)(1) of section 709.033 of the 859
Revised Code, the auditor or clerk of ~~such~~ that municipal 860
corporation shall lay the ~~transcript~~ resolution of the board 861
granting the petition and the accompanying map or plat and 862
petition ~~required by such section~~ before the legislative 863
authority. ~~Thereupon the~~ The legislative authority, by resolution 864

or ordinance, then shall accept or reject the application petition 865
for annexation. If the legislative authority fails to pass an 866
ordinance or resolution accepting the application petition for 867
annexation within a period of one hundred twenty days after the 868
~~transcript is~~ those documents are laid before it by the auditor or 869
clerk, the application petition for annexation shall be ~~deemed~~ 870
considered rejected by the legislative authority, ~~unless it has~~ 871
~~been prevented from acting by a temporary restraining order, a~~ 872
~~temporary injunction, or some other order of a court.~~ 873

Sec. 709.07. (A) The agent for the petitioners, any owner of 874
real estate in the territory proposed for annexation, any township 875
in which territory proposed for annexation is located, and the 876
municipal corporation to which the territory is proposed to be 877
annexed may file an appeal under Chapter 2506. of the Revised Code 878
from a resolution of the board of county commissioners granting or 879
denying the petition. The agent for the petitioners, any township 880
in which the territory proposed for annexation is located, and any 881
municipal corporation to which the territory is proposed to be 882
annexed are necessary parties in an appeal. The filing of a notice 883
of appeal with the clerk of the board of county commissioners 884
shall operate as a stay of execution upon that clerk and all 885
parties to the appeal, which stay shall not be lifted until the 886
court having jurisdiction over the proceedings enters a final 887
order affirming or reversing the decision of the board of county 888
commissioners and the time limits for an appeal of that final 889
order have passed without a notice of appeal being filed. 890

(B) Any party filing an appeal from the court of common pleas 891
or court of appeals decision in an annexation matter shall serve 892
on the clerk of the board of county commissioners a time-stamped 893
copy of the notice of appeal. Upon issuance of a final order of 894
any court regarding an annexation appeal, the clerk of the court 895

shall forward a certified copy of the court's order to the clerk
of the board of county commissioners that rendered the annexation
decision that was appealed.

896
897
898

(C) If, after all appeals have been exhausted, the final
determination of the court is that the petition for annexation
should be granted, the board of county commissioners shall enter
on its journal a resolution granting the annexation, if such a
resolution has not already been journalized, and the clerk of the
board shall deliver a certified copy of that journal entry and of
the entire record of the annexation proceedings, including all
resolutions of the board, signed by a majority of the members of
the board, the petition, map, and all other papers on file, the
transcript of the proceedings, and exhibits presented at the
hearing relating to the annexation proceedings, to the auditor or
clerk of the municipal corporation to which annexation is
proposed. The municipal auditor or clerk shall lay these certified
papers, along with the copy of the court's order, before the
legislative authority at its next regular meeting. The legislative
authority then shall proceed to accept or reject the petition for
annexation as provided under section 709.04 of the Revised Code.

899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916

(D) If, after all appeals have been exhausted, the final
determination of the court is that the petition for annexation
should be denied, the board of county commissioners shall enter on
its journal a resolution denying the annexation, if such a
resolution has not already been journalized.

917
918
919
920
921

Sec. 709.11. If the territory proposed for annexation under
this chapter is situated in more than one county, the annexation
proceedings shall be in the county in which the majority of
acreage of the territory proposed for annexation is situated.

922
923
924
925

Sec. 709.13. The inhabitants, generally, of a municipal corporation may enlarge the limits of ~~such~~ the municipal corporation by the annexation of contiguous territory in the manner provided by sections 709.14 to ~~709.21, inclusive,~~ 709.16 of the Revised Code.

Sec. 709.14. The legislative authority of a municipal corporation ~~which~~ that proposes to annex contiguous territory shall pass, by a vote of not less than a majority of the members elected ~~thereto~~ to the legislative authority, ~~pass~~ an ordinance authorizing the annexation to be made, and directing the village solicitor or city director of law of the municipal corporation, or ~~some one~~ someone to be named in the ordinance, to prosecute the proceedings necessary to effect it.

Sec. 709.15. The application of a municipal corporation to the board of county commissioners requesting the annexation of contiguous territory under section 709.16 of the Revised Code shall be by a petition, setting forth that, under an ordinance of the legislative authority of the municipal corporation, the territory described in the petition was authorized to be annexed to the municipal corporation. The petition shall contain an accurate legal description of the ~~territory~~ perimeter and shall be accompanied by an accurate map or plat ~~thereof~~ of the territory proposed for annexation.

Sec. 709.16. (A) A municipal corporation may petition the board of county commissioners to annex contiguous territory owned only by the municipal corporation, a county, or the state. The clerk of the board shall cause the petition to be entered upon the board's journal at its next regular session. This entry shall be the first official act of the board upon the petition. Proceedings

on the petition shall be conducted under this section to the 955
exclusion of any other provisions of this chapter except for 956
sections 709.014, 709.14, 709.15, 709.20, and 709.21 of the 957
Revised Code. 958

(B) If the only territory to be annexed is contiguous 959
territory owned by a municipal corporation, the board of county 960
commissioners, by resolution, shall grant the annexation. The 961
annexation shall be complete upon the entry upon the journal of 962
the board of the resolution granting the annexation. 963

(C) If the only territory to be annexed is contiguous 964
territory owned by a county, the board of county commissioners, by 965
resolution, may grant or deny the annexation. The annexation shall 966
be complete upon the entry upon the journal of the board of a 967
resolution granting the annexation. 968

(D) If the only territory to be annexed is contiguous 969
territory owned by the state and the director of administrative 970
services has filed a written consent to the granting of the 971
annexation with the board of county commissioners, the board, by 972
resolution, shall grant the annexation. The annexation shall be 973
complete upon the entry upon the journal of the board of a 974
resolution granting the annexation. 975

(E) The board of county commissioners shall act upon a 976
petition for annexation filed under this section within thirty 977
days after receipt of the petition. 978

(F) No appeal in law or in equity shall be allowed from the 979
granting of an annexation under this section. 980

(G) When a municipal corporation purchases real property 981
below an appraised fair market value and sells or agrees to sell 982
the property back to the person that sold it to the municipal 983
corporation, an annexation of that property completed under this 984

section shall be void, and the annexed property shall become part
of the township from which it was annexed, if it still exists. If
the township no longer exists, the board of county commissioners
shall attach the annexed territory to another township.

985
986
987
988

(H) Territory annexed under this section shall not be
excluded from the township under section 503.07 of the Revised
Code.

989
990
991

Sec. 709.19. (A) As used in this section:

992

~~(1) "Annexation period" means a period of one, two, or three
consecutive twelve-month periods, whichever is less, during which
one or more municipal corporations annex territory of a township
that includes at least fifteen per cent but less than one hundred
per cent of the total taxable value of the real, public utility,
and tangible personal property subject to taxation in that
township in the base year. No annexation period shall include a
month that is part of another annexation period.~~

993
994
995
996
997
998
999
1000

~~(2) "Base year" means the calendar year immediately preceding
an annexation period.~~

1001
1002

~~(3) "Taxes" means the real and public utility property taxes
charged by a township in the base year or, in an annexation under
division (F) of this section, the real, public utility, and
tangible personal property taxes that would have been charged by
the township, if no annexation had occurred, in the year
immediately preceding the year in which the payment is made, and
payable after the reduction required by section 319.301 of the
Revised Code but prior to the reduction required by section
319.302 of the Revised Code, and the taxes levied for such year by
the township against tangible personal property. "Taxes" excludes
taxes for the payment of debt charges.~~

1003
1004
1005
1006
1007
1008
1009
1010
1011
1012
1013

~~(4) "Township taxes in the annexed territory" means the taxes~~

1014

~~against the real, public utility, and tangible personal property~~ 1015
~~subject to taxation in the base year in territory annexed from the~~ 1016
~~township to a municipal corporation during an annexation period~~ 1017
~~or, in an annexation under division (F) of this section, the taxes~~ 1018
~~against the real, public utility, and tangible personal property~~ 1019
~~that would have been subject to taxation in the annexed territory~~ 1020
~~in the year immediately preceding the year in which the payment is~~ 1021
~~to be made, if no annexation had occurred.~~ 1022

~~(5) "International airport" means any airport that is:~~ 1023

~~(a) Designated as an international airport or a landing~~ 1024
~~rights airport by the United States secretary of the treasury;~~ 1025

~~(b) Owned and operated by a municipal corporation;~~ 1026

~~(c) An unincorporated area not contiguous to the municipal~~ 1027
~~corporation that owns it.~~ 1028

~~(2) "Commercial," "industrial," "residential," and "retail,"~~ 1029
~~in relation to property, mean property classified as such by the~~ 1030
~~tax commissioner for the purposes of valuing property for~~ 1031
~~taxation, except that "commercial," in relation to property, does~~ 1032
~~not include any property classified as "retail."~~ 1033

~~(B) If the annexation of territory of any township by one or~~ 1034
~~more municipal corporations under this chapter constitutes an~~ 1035
~~annexation period of twelve consecutive months, except as provided~~ 1036
~~in division (G) of this section, each municipal corporation that~~ 1037
~~annexed territory of that township during that annexation period~~ 1038
~~shall pay the township during each of the seven years following~~ 1039
~~the annexation period:~~ 1040

~~(1) In each of the first three years, one hundred per cent of~~ 1041
~~the township taxes in the annexed territory;~~ 1042

~~(2) In the fourth year, eighty per cent of the township taxes~~ 1043
~~in the annexed territory;~~ 1044

(3) In the fifth year, sixty per cent of the township taxes	1045
in the annexed territory;	1046
(4) In the sixth year, forty per cent of the township taxes	1047
in the annexed territory;	1048
(5) In the seventh year, twenty per cent of the township	1049
taxes in the annexed territory.	1050
(C) If the annexation of territory of any township by one or	1051
more municipal corporations under this chapter constitutes an	1052
annexation period of thirteen to twenty-four consecutive months,	1053
except as provided in division (G) of this section, each municipal	1054
corporation that annexed territory of that township during that	1055
annexation period shall pay the township during each of the six	1056
years following the annexation period;	1057
(1) In each of the first two years, one hundred per cent of	1058
the township taxes in the annexed territory;	1059
(2) In the third year, eighty per cent of the township taxes	1060
in the annexed territory;	1061
(3) In the fourth year, sixty per cent of the township taxes	1062
in the annexed territory;	1063
(4) In the fifth year, forty per cent of the township taxes	1064
in the annexed territory;	1065
(5) In the sixth year, twenty per cent of the township taxes	1066
in the annexed territory.	1067
(D) If the annexation of territory of any township by one or	1068
more municipal corporations under this chapter constitutes an	1069
annexation period of twenty-five to thirty-six consecutive months,	1070
except as provided in division (G) of this section, each municipal	1071
corporation that annexed territory of that township during that	1072
annexation period shall pay the township during each of the five	1073
years following the annexation period;	1074

(1) In the first year, one hundred per cent of the township taxes in the annexed territory;	1075
	1076
(2) In the second year, eighty per cent of the township taxes in the annexed territory;	1077
	1078
(3) In the third year, sixty per cent of the township taxes in the annexed territory;	1079
	1080
(4) In the fourth year, forty per cent of the township taxes in the annexed territory;	1081
	1082
(5) In the fifth year, twenty per cent of the township taxes in the annexed territory <u>unincorporated territory is annexed to a municipal corporation and excluded from a township under section 503.07 of the Revised Code, upon exclusion of that territory, the municipal corporation that annexed the territory shall make payments to the township from which the territory was annexed only as provided in this section, except that, if the legislative authority of the municipal corporation enters into an agreement under section 701.07, 709.191, or 709.192 of the Revised Code with the township from which the territory was annexed that makes alternate provisions regarding payments by the municipal corporation, then the payment provisions in that agreement shall apply in lieu of the provisions of this section.</u>	1083
	1084
	1085
	1086
	1087
	1088
	1089
	1090
	1091
	1092
	1093
	1094
	1095
(C)(1) <u>Except as provided in division (C)(2) of this section, the municipal corporation that annexed the territory shall make the following payments to the township from which the territory was annexed with respect to commercial and industrial real, personal, and public utility property taxes using the property valuation for the year that the payment is due:</u>	1096
	1097
	1098
	1099
	1100
	1101
(a) <u>In the first through third years following the annexation and exclusion of the territory from the township, eighty per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real,</u>	1102
	1103
	1104
	1105

personal, and public utility property taxes if no annexation had occurred; 1106
1107

(b) In the fourth and fifth years following the annexation and the exclusion of the territory from the township, sixty-seven and one-half per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real, personal, and public utility property taxes if no annexation had occurred; 1108
1109
1110
1111
1112
1113

(c) In the sixth and seventh years following the annexation and exclusion of the territory from the township, sixty-two and one-half per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real, personal, and public utility property taxes if no annexation had occurred; 1114
1115
1116
1117
1118
1119

(d) In the eighth and ninth years following the annexation and exclusion of the territory from the township, fifty-seven and one-half per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real, personal, and public utility property taxes if no annexation had occurred; 1120
1121
1122
1123
1124
1125

(e) In the tenth through twelfth years following the annexation and exclusion of the territory from the township, forty-two and one-half per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real, personal, and public utility property taxes if no annexation had occurred. 1126
1127
1128
1129
1130
1131

(2) If there has been an exemption by the municipal corporation of commercial and industrial real, personal, or public utility property taxes pursuant to section 725.02, 1728.10, 3735.67, 5709.40, 5709.41, 5709.62, or 5709.88 of the Revised Code, there shall be no reduction in the payments owed to the 1132
1133
1134
1135
1136

township due to that exemption. The municipal corporation shall 1137
make payments to the township under division (C)(1) of this 1138
section, calculated as if the exemption had not occurred. 1139

(D) The municipal corporation that annexed the territory 1140
shall make the following payments to the township from which the 1141
territory was annexed with respect to residential and retail real 1142
property taxes using the property valuation for the year that the 1143
payment is due: 1144

(1) In the first through third years following the annexation 1145
and exclusion of the territory from the township, eighty per cent 1146
of the township taxes in the annexed territory that would have 1147
been due the township for residential and retail real property 1148
taxes if no annexation had occurred; 1149

(2) In the fourth and fifth years following the annexation 1150
and exclusion of the territory from the township, fifty-two and 1151
one-half per cent of the township taxes in the annexed territory 1152
that would have been due the township for residential and retail 1153
real property taxes if no annexation had occurred; 1154

(3) In the sixth through tenth years following the annexation 1155
and exclusion of the territory from the township, forty per cent 1156
of the township taxes in the annexed territory that would have 1157
been due the township for residential and retail real property 1158
taxes if no annexation had occurred; 1159

(4) In the eleventh and twelfth years following the 1160
annexation and exclusion of the territory from the township, 1161
twenty-seven and one-half per cent of the township taxes in the 1162
annexed territory that would have been due the township for 1163
residential and retail real property taxes if no annexation had 1164
occurred. 1165

(E) If, pursuant to division (F) of this section, a municipal 1166
corporation annexes an international airport that it owns, the 1167

municipal corporation shall pay the township one hundred per cent 1168
of the township taxes in the annexed territory that would have 1169
been due the township, if no annexation had occurred, for each of 1170
the twenty-five years following the annexation. 1171

(F)(1) Notwithstanding any other provision of this chapter, a 1172
board of county commissioners may authorize a municipal 1173
corporation to annex an international airport that the municipal 1174
corporation owns. Unless a contract is entered into pursuant to 1175
division (F)(2) of this section, any municipal corporation that 1176
annexes an international airport under this division shall make 1177
payments to the township from which the international airport is 1178
annexed, in the manner provided in division (E) of this section. 1179
No territory annexed pursuant to this division shall be considered 1180
part of the municipal corporation for the purposes of subsequent 1181
annexation, except that the board of county commissioners may 1182
authorize subsequent annexation under this division if the board 1183
determines that ~~such~~ subsequent annexation is necessary to the 1184
continued operation of the international airport. 1185

(2) The chief executive of a municipal corporation that 1186
annexes territory pursuant to this division may enter into a 1187
contract with the board of township trustees of the township that 1188
loses the territory whereby the township agrees to provide the 1189
annexed territory with police, fire, or other services it is 1190
authorized to provide in exchange for specified consideration as 1191
agreed upon by the board of township trustees and the chief 1192
executive. In no instance shall the consideration received by the 1193
township be less than the payments that would be required under 1194
division (F)(1) of this section if no contract were entered into. 1195

~~(G) If after an annexation period for which payments are 1196
being made or are to be made to a township by one or more 1197
municipal corporations under division (B), (C), or (D) of this 1198
section, the remainder of the unincorporated territory of the 1199~~

~~township is annexed to another municipal corporation or
incorporates as a municipal corporation, the balance of the
payments due the township under division (B), (C), or (D) of this
section shall be made to the municipal corporation to which the
remainder of the township territory was annexed or to the
municipal corporation incorporated from the remainder of the
township territory.~~

~~No payment shall be made to a municipal corporation pursuant
to this division unless the remainder of the unincorporated
territory of the township referred to in this division constitutes
at least fifty per cent of the area of the unincorporated area of
the township prior to the annexation period.~~

~~(H) After consultation with the chief executive officer of
the municipal corporation and the board of township trustees, the
county auditor shall determine by which of the following methods
the municipal corporations that annexed township territory shall
pay the township the amounts prescribed in divisions (B) to (F) of
this section, except that if the payments are made pursuant to
division (G) of this section, they shall be made by the first
method listed below:~~

~~(1) The county auditor shall issue a warrant semiannually
against the taxes charged and payable against real and public
utility property located in the municipal corporation and the
taxes levied against tangible personal property located in the
municipal corporation, and the county treasurer shall distribute
such amount to the township or, pursuant to division (G) of this
section, to the municipal corporation to which the remainder of
the township territory was annexed or to the municipal corporation
incorporated from the remainder of the township territory; or~~

~~(2) The county budget commission shall pay such amounts to
the township from the amount apportioned to the municipal
corporations from the undivided local government fund. The payment~~

~~shall be over and above the amount apportioned to the township
pursuant to section 5747.51 or 5747.53 of the Revised Code, and
the apportionment of the municipal corporations shall be reduced
by like amounts.~~

~~(I) Upon written notification to the county auditor and the
chief executive officer of each municipal corporation that annexes
township territory during an annexation period, a board of
township trustees may decline to accept the payments required
under divisions (B), (C), (D), and (F) of this section, and a
municipal corporation may decline to accept the payments required
under division (G) of this section.~~

~~A municipal corporation need not make any payment required by
this section if its legislative authority enters into an agreement
under section 709.191 of the Revised Code.~~

Sec. 709.192. (A) The legislative authority of one municipal
corporation, by ordinance or resolution, and the board of township
trustees of one or more townships, by resolution, may enter into
annexation agreements under this section.

(B) An annexation agreement may be entered into for any
period of time and may be amended at any time in the same manner
as it was initially authorized.

(C) Annexation agreements may provide for any of the
following:

(1) The territory to be annexed;

(2) Any periods of time during which no annexations will be
made and any areas that will not be annexed;

(3) Land use planning matters;

(4) The provision of joint services and permanent
improvements within incorporated or unincorporated areas;

<u>(5) The provision of services and improvements by a municipal corporation in the unincorporated areas;</u>	1261 1262
<u>(6) The provision of services and improvements by a township within the territory of a municipal corporation;</u>	1263 1264
<u>(7) The payment of service fees to a municipal corporation by a township;</u>	1265 1266
<u>(8) The payment of service fees to a township by a municipal corporation;</u>	1267 1268
<u>(9) The reallocation of the minimum mandated levies established pursuant to section 5705.31 of the Revised Code between a municipal corporation and a township in areas annexed after the effective date of this section;</u>	1269 1270 1271 1272
<u>(10) The issuance of notes and bonds and other debt obligations by a municipal corporation or township for public purposes authorized by or under an annexation agreement and provision for the allocation of the payment of the principal of, interest on, and other charges and costs of issuing and servicing the repayment of the debt;</u>	1273 1274 1275 1276 1277 1278
<u>(11) Agreements by a municipal corporation and township, with owners or developers of land to be annexed, or with both those landowners and land developers, concerning the provision of public services, facilities, and permanent improvements;</u>	1279 1280 1281 1282
<u>(12) The application of tax abatement statutes within the territory covered by the annexation agreement subsequent to its execution;</u>	1283 1284 1285
<u>(13) Changing township boundaries under Chapter 503. of the Revised Code to exclude newly annexed territory from the original township and providing services to that territory;</u>	1286 1287 1288
<u>(14) Payments in lieu of taxes, if any, to be paid to a township by a municipal corporation, which payments may be in</u>	1289 1290

addition to or in lieu of other payments required by law to be 1291
made to the township by that municipal corporation; 1292

(15) Any other matter pertaining to the annexation or 1293
development of publicly or privately owned territory. 1294

(D) Annexation agreements shall not be in derogation of the 1295
powers granted to municipal corporations by Article XVIII, Ohio 1296
Constitution, by any other provisions of the Ohio Constitution, or 1297
by the provisions of a municipal charter, nor shall municipal 1298
corporations and townships agree to share proceeds of any tax 1299
levy, although those proceeds may be used to make payments 1300
authorized in an annexation agreement. 1301

(E) If any party to an annexation agreement believes another 1302
party has failed to perform its part of any provision of that 1303
agreement, including the failure to make any payment of moneys due 1304
under the agreement, that party shall give notice to the other 1305
party clearly stating what breach has occurred. The party 1306
receiving the notice has ninety days from the receipt of that 1307
notice to cure the breach. If the breach has not been cured within 1308
that ninety-day period, the party that sent the notice may sue for 1309
recovery of the money due under the agreement, sue for specific 1310
enforcement of the agreement, or terminate the agreement upon 1311
giving notice of termination to all the other parties. 1312

(F) In order to promote economic development or to provide 1313
appropriate state functions and services to any part of the state, 1314
the state may become a party to an annexation agreement upon the 1315
approval of the director of development and with the written 1316
consent of the legislative authority of the municipal corporation 1317
and each of the boards of township trustees that are parties to 1318
the agreement. 1319

(G) The board of county commissioners, by resolution, or any 1320
person, upon request, may become a party to an annexation 1321

agreement, but only upon the approval of the legislative authority 1322
of the municipal corporation and each of the boards of township 1323
trustees that are parties to the agreement, except that, if the 1324
state is a party to the agreement, the director of development is 1325
responsible for giving the approval. 1326

(H) The powers granted by this section and any annexation 1327
agreement entered into under this section shall be liberally 1328
construed to allow parties to these agreements to carry out the 1329
agreements' provisions relevant to government improvements, 1330
facilities, and services, and to promote and support economic 1331
development and the creation and preservation of economic 1332
opportunities. 1333

Sec. 709.21. No error, irregularity, or defect in the 1334
proceedings under sections 709.01 to 709.20, ~~inclusive,~~ of the 1335
Revised Code, shall render them invalid, if once annexation has 1336
become final and the annexed territory has been recognized as a 1337
part of the annexing municipal corporation, ~~and~~ taxes levied upon 1338
it as such have been paid, and it has been subjected to the 1339
authority of the legislative authority of ~~such~~ the annexing 1340
municipal corporation, ~~without objection from the inhabitants of~~ 1341
~~such territory.~~ 1342

Sec. 929.02. (A) Any person who owns agricultural land may 1343
file an application with the county auditor to place the land in 1344
an agricultural district for five years if, during the three 1345
calendar years prior to the year in which that person files the 1346
application, the land has been devoted exclusively to agricultural 1347
production or devoted to and qualified for payments or other 1348
compensation under a land retirement or conservation program under 1349
an agreement with an agency of the federal government and if: 1350

(1) The land is composed of tracts, lots, or parcels that 1351

total not less than ten acres; or

1352

(2) The activities conducted on the land produced an average yearly gross income of at least twenty-five hundred dollars during that three-year period or the owner has evidence of an anticipated gross income of that amount from those activities. The owner shall submit with the application proof that the owner's land meets the requirements established under this division. If the county auditor determines that the application does not meet the requirements of this section, the county auditor shall deny the application and notify the applicant by certified mail, return receipt requested, within thirty days of the filing of the application. The applicant may appeal the denial of the application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice. If the county auditor determines that the application meets the requirements of this section, the county auditor shall approve the application and notify the applicant within thirty days of the filing of the application. An application that is not denied shall be deemed to be approved. The county auditor shall provide an applicant with a copy of an approved application within thirty days of the filing of the application. An application that is approved is effective upon the date of the filing of the application.

1353

1354

1355

1356

1357

1358

1359

1360

1361

1362

1363

1364

1365

1366

1367

1368

1369

1370

1371

1372

1373

1374

The county auditor shall keep a record of all land in the county that is within an agricultural district, including a copy of the final action taken by a legislative body regarding applications modified by a legislative body pursuant to division (B) of this section.

1375

1376

1377

1378

1379

(B) If the land of a person who files an application under division (A) of this section is within a municipal corporation or if an annexation petition that includes the land has been filed with the board of county commissioners under section ~~709.03~~ 709.02

1380

1381

1382

1383

of the Revised Code at the time of the filing, the owner also 1384
shall file a copy of the application for inclusion in an 1385
agricultural district with the clerk of the legislative body of 1386
the municipal corporation. No later than thirty days after the 1387
filing of an application, or, in the case of an annexation 1388
petition filed pursuant to section ~~709.03~~ 709.02 of the Revised 1389
Code, no later than thirty days after the petition has been 1390
granted, the legislative body shall conduct a public hearing on 1391
the application. The clerk of the legislative body shall cause a 1392
notice containing the substance of the application and the time 1393
and place where it will be heard to be published in a newspaper of 1394
general circulation in the county in which the application or 1395
annexation petition is filed no later than seven days prior to the 1396
time fixed for the hearing. The clerk of the legislative body also 1397
shall notify the applicant of the time and place of the hearing by 1398
certified mail sent no later than ten days prior to the hearing. 1399
Any interested person or representative of an interested person 1400
may appear in support of or to contest the granting of the 1401
application. Affidavits presented in support of or against the 1402
application shall be considered by the legislative body. Within 1403
thirty days of the hearing, the legislative body may approve the 1404
application, modify the application and approve the application as 1405
modified, or reject the application. An application that is not 1406
modified or rejected by a majority vote of the members of the 1407
legislative body shall be deemed to be approved. Prior to 1408
rejecting an application, the legislative body shall make every 1409
effort to modify the application. Modifications may include the 1410
length of time during which land is considered to be within an 1411
agricultural district, size of the agricultural district ~~as well~~ 1412
~~as,~~ and any provisions of sections 929.03 to 929.05 of the Revised 1413
Code. If the applicant disapproves of the modifications made by 1414
the legislative body, the applicant may withdraw the application 1415
to place the land in an agricultural district. In rejecting or 1416

modifying an application to place land in an agricultural 1417
district, the legislative body shall demonstrate that the 1418
rejection or modification is necessary to prevent a substantial, 1419
adverse effect on the provision of municipal services within the 1420
municipal corporation, efficient use of land within the municipal 1421
corporation, the orderly growth and development of the municipal 1422
corporation, or the public health, safety, or welfare. 1423

If an annexation petition is denied under section ~~709.03~~ 1424
709.033 of the Revised Code, ~~or~~ if a legislative body fails to 1425
conduct a hearing in the time prescribed by this section, or if an 1426
application is approved, the application shall be deemed to have 1427
been approved and shall become effective as of the date the 1428
application was filed. An application approved with modifications 1429
shall become effective as of the date the application was filed 1430
unless the modification provides otherwise. 1431

The clerk of the legislative body shall notify the applicant 1432
by certified mail, return receipt requested, sent within five days 1433
of the decision to approve, modify, or reject an application for 1434
inclusion of land in an agricultural district. The clerk of the 1435
legislative body shall also transmit a copy of the decision to 1436
approve, modify, or reject an application to the county auditor. 1437
An applicant may appeal a decision to modify or reject an 1438
application to the court of common pleas of the county in which 1439
the application was filed within thirty days of the receipt of the 1440
notice of modification or rejection. 1441

(C) At any time after the first Monday in January and prior 1442
to the first Monday in March of the year during which an 1443
agricultural district terminates, the owner of land in the 1444
agricultural district may file a renewal application to continue 1445
the inclusion of all or part of the owner's land in an 1446
agricultural district for a period of time ending on the first 1447
Monday in April of the fifth year following the renewal 1448

application. The requirements for continued inclusion in the agricultural district and the renewal application procedure shall be the same as those required for the original application for placing land in an agricultural district. The county auditor shall notify owners of land in agricultural districts eligible to file a renewal application for continued inclusion in an agricultural district on or prior to the first Monday in February or the date upon which the county auditor notifies owners of land valued at agricultural use value for real property tax purposes of the necessity of filing a renewal application to continue valuing the land at agricultural use value. On or before the second Tuesday after the first Monday in March, the county auditor shall determine whether the owner of any land in an agricultural district eligible to file a renewal application failed to file a renewal application with respect to ~~such~~ that land and shall forthwith notify each ~~such~~ owner of the land by certified mail that unless a renewal application is filed prior to the first Monday in April, the land will be removed from the agricultural district upon its termination date. An approved renewal application is effective on the termination date of the preceding agricultural district. Failure of an owner to file a renewal application prior to the first Monday in April of the year during which the owner's agricultural district terminates shall not prevent the owner from filing an application to include the owner's land in an agricultural district.

Land that is transferred to a new owner during the period in which the land is an agricultural district shall continue in the agricultural district under the terms of the existing district unless the new owner elects to discontinue inclusion in the agricultural district and files the election with the county auditor within sixty days after the transfer. Failure of the new owner to continue inclusion in the agricultural district for the

duration of the period in which the land is in the agricultural 1481
district is withdrawal from an agricultural district subject to 1482
penalty. 1483

(D) If, at any time during which land is in an agricultural 1484
district, the owner withdraws the land from the district, the 1485
owner shall notify the county auditor of the withdrawal and shall 1486
pay to the county auditor a withdrawal penalty calculated as 1487
follows: 1488

(1) If the owner's action also disqualifies the owner's land 1489
for any tax savings that it had been receiving under sections 1490
5713.30 to 5713.38 of the Revised Code, the owner shall pay a 1491
percentage of the amount charged under section 5713.34 of the 1492
Revised Code that is equal to the average bank prime rate at the 1493
time the amount charged under that section is required to be paid. 1494
The withdrawal penalty shall be in addition to the amount charged 1495
under that section. 1496

(2) If the land had not been receiving any tax savings under 1497
those sections, or if the owner's action does not disqualify the 1498
land for tax savings under them, the owner shall pay a percentage 1499
of the amount that would have been charged under section 5713.34 1500
of the Revised Code if the owner's land had been receiving tax 1501
savings and became disqualified for them in an amount that is 1502
equal to the average bank prime rate at the time the amount that 1503
would have been charged under that section would have been 1504
required to be paid. 1505

For the purposes of divisions (D)(1) and (2) of this section, 1506
the county auditor shall determine the average bank prime rate 1507
using statistical release H.15, "selected interest rates," a 1508
weekly publication of the federal reserve board, or any successor 1509
publication. If the statistical release H.15, or its successor, 1510
ceases to contain the bank prime rate information or ceases to be 1511
published, the county auditor shall request a written statement of 1512

the average bank prime rate from the federal reserve bank of 1513
Cleveland or the federal reserve board. 1514

The county auditor shall calculate the amount of the 1515
withdrawal penalty that is due and shall notify the owner of it. 1516
The auditor also shall note the withdrawal in the auditor's 1517
records. 1518

The county auditor shall distribute the moneys collected 1519
under division (D) of this section in the manner provided in 1520
section 5713.35 of the Revised Code for moneys that the county 1521
auditor collects under that section. 1522

(E) Land that is included in an agricultural district under 1523
this section and that is subsequently annexed by a municipal 1524
corporation shall not be subject to division (B) of this section 1525
either at the time of annexation or at the time of any subsequent 1526
application or renewal application for inclusion in the district 1527
if, at the time of annexation, its owner did not sign a petition 1528
favoring annexation under section 709.02 of the Revised Code ~~or~~ 1529
~~vote for annexation in an election held in accordance with section~~ 1530
~~709.17 of the Revised Code.~~ If its owner did sign a petition 1531
favoring annexation ~~or vote for annexation~~, as provided in ~~those~~ 1532
~~sections~~ that section, or if the owner who opposed annexation has 1533
sold or transferred the land to another person who is keeping the 1534
land in the agricultural district, the land shall be subject to 1535
division (B) of this section at the time of any subsequent 1536
application or renewal application for inclusion in the district. 1537

(F) The director of agriculture shall prescribe the 1538
application and renewal forms required under this section and 1539
shall furnish them to county auditors. In prescribing the forms, 1540
the director shall consult with the tax commissioner to determine 1541
if a single form can be developed for the purposes of this section 1542
and section 5713.31 of the Revised Code. 1543

Sec. 5705.31. The county auditor shall present to the county 1544
budget commission the annual tax budgets submitted to him under 1545
sections 5705.01 to 5705.47 of the Revised Code, together with an 1546
estimate prepared by ~~such~~ the auditor of the amount of any state 1547
levy, the rate of any school tax levy as previously determined, 1548
the tax commissioner's estimate of the amount to be received in 1549
the county library and local government support fund, and such 1550
other information as the commission requests or the tax 1551
commissioner prescribes. The budget commission shall examine such 1552
budget and ascertain the total amount proposed to be raised in the 1553
county for the purposes of each subdivision and other taxing units 1554
therein in the county. 1555

The commission shall ascertain that the following levies have 1556
been properly authorized and, if so authorized, shall approve them 1557
without modification: 1558

(A) All levies in excess of the ten-mill limitation; 1559

(B) All levies for debt charges not provided for by levies in 1560
excess of the ten-mill limitation, including levies necessary to 1561
pay notes issued for emergency purposes; 1562

(C) The levies prescribed by division (B) of sections 742.33 1563
and 742.34 of the Revised Code; 1564

(D) ~~A~~ Except as otherwise provided in this division, a 1565
minimum levy within the ten-mill limitation for the current 1566
expense and debt service of each subdivision or taxing unit, which 1567
shall equal two-thirds of the average levy for current expenses 1568
and debt service allotted within the fifteen-mill limitation to 1569
such subdivision or taxing unit during the last five years the 1570
fifteen-mill limitation was in effect unless such subdivision or 1571
taxing unit requests an amount requiring a lower rate. Except as 1572
provided in section 5705.312 of the Revised Code, if the levies 1573
required in divisions (B) and (C) of this section for the 1574

subdivision or taxing unit equal or exceed the entire minimum levy 1575
of the subdivision as fixed, the minimum levies of the other 1576
subdivisions or taxing units shall be reduced by the commission to 1577
provide for the levies and an operating levy for the subdivision. 1578
Such additional levy shall be deducted from the minimum levies of 1579
each of the other subdivisions or taxing units, but the operating 1580
levy for a school district shall not be reduced below a figure 1581
equivalent to forty-five per cent of the millage available within 1582
the ten-mill limitation after all the levies in divisions (B) and 1583
(C) of this section have been provided for. 1584

If a municipal corporation and a township have entered into 1585
an annexation agreement under section 709.192 of the Revised Code 1586
in which they agree to reallocate their shares of the minimum 1587
levies established under this division and if that annexation 1588
agreement is submitted along with the annual tax budget of both 1589
the township and the municipal corporation, then, when determining 1590
the minimum levy under this division, the auditor shall allocate, 1591
to the extent possible, the minimum levy for that municipal 1592
corporation and township in accordance with their annexation 1593
agreement. 1594

(E) The levies prescribed by section 3709.29 of the Revised 1595
Code. 1596

Divisions (A) to (E) of this section are mandatory and 1597
commissions shall be without discretion to reduce such minimum 1598
levies except as provided in such divisions. 1599

If any debt charge is omitted from the budget, the commission 1600
shall include it therein. 1601

Sec. 5705.315. With respect to annexations granted on or 1602
after the effective date of this section and during any tax year 1603
or years within which any territory annexed to a municipal 1604
corporation is part of a township, the minimum levy for the 1605

municipal corporation and township under section 5705.31 of the 1606
Revised Code shall not be diminished, except that in the annexed 1607
territory and only during those tax year or years, and in order to 1608
preserve the minimum levies of overlapping subdivisions under 1609
section 5705.31 of the Revised Code so that the full amount of 1610
taxes within the ten-mill limitation may be levied to the extent 1611
possible, the minimum levy of the municipal corporation or 1612
township shall be the lowest of the following amounts: 1613

(A) An amount that when added to the minimum levies of the 1614
other overlapping subdivisions equals ten mills; 1615

(B) An amount equal to the minimum levy of the municipal 1616
corporation or township, provided the total minimum levy does not 1617
exceed ten mills. 1618

The municipal corporation and the township may enter into an 1619
agreement to determine the municipal corporation's and the 1620
township's minimum levy under this section. If it cannot be 1621
determined what minimum levy is available to each and no agreement 1622
has been entered into by the municipal corporation and township, 1623
the municipal corporation and township shall each receive one-half 1624
of the millage available for use within the portion of the 1625
territory annexed to the municipal corporation that remains part 1626
of the township. 1627

Section 2. That existing sections 505.62, 709.02, 709.03, 1628
709.032, 709.033, 709.04, 709.13, 709.14, 709.15, 709.19, 709.21, 1629
929.02, and 5705.31 and sections 709.031, 709.07, 709.08, 709.09, 1630
709.11, 709.16, 709.17, and 709.18 of the Revised Code are hereby 1631
repealed. 1632

Section 3. The provisions of Section 1 of this act shall 1633
apply only to annexation petitions filed on or after the effective 1634
date of this act. All annexation petitions filed before the 1635

effective date of this act shall be processed under the provisions	1636
of Chapter 709. of the Revised Code in effect at the time a	1637
particular petition was filed.	1638