

AN ACT

To amend sections 709.45 to 709.48 and to enact sections 709.461 and 709.462 of the Revised Code to revise the Merger Law and to permit certain limited home rule government townships to present referendum petitions at specified special elections.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 709.45, 709.46, 709.47, and 709.48 be amended and sections 709.461 and 709.462 of the Revised Code be enacted to read as follows:

Sec. 709.45. (A) A petition may be filed with the board of elections proposing that one or more municipal corporations be merged with another municipal corporation, or that the unincorporated area of a township be merged with one or more municipal corporations, as provided by section 709.44 of the Revised Code. ~~Such~~ The petition may be presented in separate petition papers. Each ~~such~~ petition paper shall contain, in concise language, the purpose of the petition and the names of not less than five electors of each ~~such~~ affected municipal corporation, or the names of not less than five electors of the unincorporated area of ~~such~~ the township and the names of not less than five electors of each affected municipal corporation, to be nominated to serve as commissioners. The petition shall be governed by the rules of section 3501.38 of the Revised Code. ~~Such~~ The petition shall contain signatures of electors of each municipal corporation or of each municipal corporation and the unincorporated area of the township proposed to be merged and signatures of electors of the municipal corporation with which merger is proposed, numbering not less than ten per cent of the number of electors residing in each such political subdivision who voted for the office of governor at the most recent general election for ~~such~~ that office. ~~Such~~

(B) ~~The~~ petition shall be filed with the board of elections of the county in which the largest portion of the population of the municipal corporation with which merger is proposed resides. ~~Such~~ The board of elections shall cause the validity of all signatures to be ascertained and, in doing so, may

require the assistance of boards of elections of other counties as the case requires. If the petition is sufficient, the board of elections of the county in which the petition is required to be filed shall submit the question: "Shall a commission be chosen to draw up a statement of conditions for merger of the political subdivisions of,, and"?" for the approval or rejection of the electors of each political subdivision proposed to be merged and the electors of the municipal corporation to which merger is proposed at the next general election, in any year, occurring subsequent to the period ending seventy-five days after the filing of ~~such petitions~~ the petition with the board. Provision shall be made on the ballot for the election, from each of the component political subdivisions, of five electors who shall constitute the commission to draw up the statement of conditions for merger of the political subdivisions. If any of the political subdivisions for which merger is proposed are located wholly or partially in a county other than the one in which the petition is required to be filed, the board of elections of the county in which ~~such~~ the petition is filed shall, if the petition is found to be sufficient, certify the sufficiency of ~~such~~ the petition and the statement of the issue to be voted on to the boards of elections of ~~such~~ those other counties; the boards of elections of ~~such~~ those other counties shall submit the question of merging and the names of candidates to be elected to the commission to draw up the statement of conditions for merger, for the approval or rejection of the electors in the portions of ~~such~~ those political subdivisions within their respective counties; and, upon the holding of ~~such~~ the election, the boards of elections of those other counties shall certify the ~~result thereof~~ election results to the board of elections of the county in which the petition is required to be filed.

(C) In addition to the filing of the petition with the board of elections as provided in division (B) of this section, a copy of the petition shall be filed with the legislative authority of each affected municipal corporation and, if applicable, the board of township trustees of the affected township. At a public meeting scheduled not less than thirty days before the date of the election at which the question of merging goes before the electors, each of those legislative authorities and, if applicable, the board of township trustees shall state and explain their position on the proposed merger.

Sec. 709.46. (A) If the question of merging one or more municipal corporations and the unincorporated ~~territory~~ area of a township, as provided in section 709.45 of the Revised Code, is disapproved by a majority of those voting on it in the township or a municipal corporation proposed to be merged or in the municipal corporation with which merger is proposed, no further petitions shall be filed under that section proposing the same merger

for at least three years after the date of ~~such that~~ disapproval. ~~If~~

~~If the question of merging as provided in section 709.45 of the Revised Code is approved by a majority of those voting on it in each political subdivision proposed to be merged and in the municipal corporation with which merger is proposed, the five candidates from each such of those political subdivision subdivisions shall be elected to the commission to formulate the conditions of merging the political subdivisions. The first meeting of such the commission shall be held in the chamber of the legislative authority of the municipal corporation ~~which that~~ has the smallest population; or, in the case of a merger of the unincorporated area of a township and one or more municipal corporations, in the office of the board of township trustees, at nine a.m. on the tenth day after the certification of the election by the last of the respective boards of elections to make such that certification, unless such that day is a Saturday, Sunday, or holiday, in which case such the first meeting shall be held on the next day thereafter which is not a Saturday, Sunday, or holiday. ~~The~~~~

~~The~~ clerk of the municipal legislative authority or of the board of township trustees in whose chamber or office the first meeting of the commission is held shall serve as temporary ~~chairman~~ chairperson until permanent officers are elected. The commission shall elect its own permanent officers and shall proceed to meet as often as necessary to formulate conditions for merger that are satisfactory to a majority of the members of such the commission from each political subdivision.

(B) In case of a vacancy on the commission, the vacancy shall be filled by an appointee of the legislative authority of the municipal corporation, or the board of township trustees of the township, that the prior commissioner represented. The person appointed to fill the vacancy shall be an elector of that political subdivision and, if the person is representing a township, shall reside in the unincorporated area of that township.

(C) The costs of the commission shall be divided among the participating political subdivisions in proportion to the population that each participating political subdivision bears to the total population of the territory proposed to be merged. For these purposes, a township's population shall be based solely upon the population of the unincorporated area of the township proposed to be merged. It shall be a proper public purpose for a municipal corporation or township to expend general fund moneys for these payments.

(D) All meetings of a merger the commission shall be subject to the requirements of section 121.22 of the Revised Code.

~~The conditions of merger may provide for the election, prior to the~~

~~merger, of new officers to govern the municipal corporation with which merger is proposed after the merger is complete, provided that such a provision does not conflict with the charter of the municipal corporation with which merger is proposed. If more than one municipal corporation is to be included in the merger, the conditions of merger shall designate one of the municipal corporations as the municipal corporation into which the township and any other municipal corporations involved are being merged. The conditions of merger may also provide that the municipal corporation into which the other political subdivisions are to be merged shall amend its existing charter to include specified provisions and may state that the merger, if approved, shall not become effective until the date on which that municipal charter includes the required provisions. In the case of a merger of a township with a single municipal corporation, the merger conditions may also provide for the annexation of a school district located wholly within the township to the school district of the municipal corporation. As soon as the conditions have been agreed upon by a majority of the members of the commission from each political subdivision, this fact shall be reported to the board of elections of each of the counties in which the political subdivisions proposed for merger are located and the question shall be submitted to the voters at the next general election occurring after the commission is elected. Regardless of whether a merger commission of a township and a municipal corporation succeeds in reaching agreement, the commission shall cease to exist on the seventy fifth day prior to the next general election after the commission is elected. The boards of elections shall submit the conditions of proposed merger for the approval or rejection of the electors in the portions of such political subdivisions within their respective counties and, upon the holding of such election, shall certify the results thereof to the board of elections of the county in which the petition is required to be filed.~~

Sec. 709.461. (A) In formulating the proposed merger conditions, the commission shall attempt to work in a collaborative process that results in a consensus of its members as to the best proposal for all of the political subdivisions involved. To this end, the commission shall adopt rules for the orderly operation of commission meetings that permit all commission members to be coleaders, as appropriate, so that overall no one member has more authority than any of the other members in determining the proposed conditions. These rules may create a framework for building agreement among the members to adopt proposed conditions. The commission also shall seek the advice of both public and private sources to help the commission fully study the merger situation so that appropriate conditions

are drafted. If funding permits, the commission may contract with a dispute resolution expert to help make the process more collaborative.

(B) When a merger proposal includes the unincorporated area of a township, the commission shall consider, among the other issues it considers before adopting its proposed merger conditions, both the increase and decrease of funding sources due to the unincorporated township territory becoming incorporated territory.

(C) The proposed merger conditions may provide for the election, prior to the merger, of new officers to govern the municipal corporation with which merger is proposed after the merger is complete, provided that the provision does not conflict with the charter of the municipal corporation with which merger is proposed. If more than one municipal corporation is to be included in the merger, the proposed conditions shall designate one of the municipal corporations as the municipal corporation into which the township and any other municipal corporations involved are being merged. The proposed conditions also may provide that the municipal corporation into which the other political subdivisions are to be merged shall amend its existing charter to include specified provisions and may state that the merger, if approved, shall not become effective until the date on which that municipal charter includes the required provisions. In the case of a merger of a township with a single municipal corporation, the merger conditions also may provide for the annexation of a school district located wholly within the township to the school district of the municipal corporation.

Sec. 709.462. (A) Once proposed merger conditions are prepared, the members of the commission shall vote on them.

(B) If no proposed merger condition can be agreed upon by a majority of the members of the commission from each political subdivision, the members of the commission may vote on whether the merger should not occur. If, in that situation, a majority of the members of the commission from each political subdivision votes against the merger, no further proceedings shall be had on the petition filed under section 709.45 of the Revised Code, and no further petitions shall be filed under that section proposing a merger of any or all of the political subdivisions that were the subjects of that petition for at least three years after the date of the commission's vote.

(C) If proposed merger conditions are agreed upon by a majority of the members of the commission from each political subdivision, the commission shall issue a report listing the conditions agreed to and the reasoning behind adopting each condition. In addition, after the next general election occurring after the election of the members of the commission, but

not less than seventy-five days preceding the second general election occurring after the election of the members of the commission, the commission, unless it has ceased to exist under division (D) of this section, shall certify the fact of that agreement and a list of the agreed-to merger conditions to the board of elections of each of the counties in which the political subdivisions proposed for merger are located. The question of the approval or rejection of the merger conditions shall be submitted to the voters at that second general election occurring after the election of the members of the commission. The boards of elections shall submit the merger conditions for the approval or rejection of the electors in the portions of the political subdivisions within their respective counties, and, upon the holding of the election, each board of elections other than the board of the county in which the petition is required to be filed shall certify its results to the board of elections of the county in which the petition is required to be filed.

(D) Regardless of whether a merger commission succeeds in reaching an agreement, the commission shall cease to exist on the seventy-fifth day preceding the next general election occurring after the election of the members of the commission, unless the commission requests an extension of time from the legislative authority of each political subdivision involved and each of those legislative authorities approves the extension. This extension of time may be only until the seventy-fifth day preceding the second general election occurring after the election of the members of the commission. If the commission ceases to exist under this division, no further petitions shall be filed under section 709.45 of the Revised Code proposing a merger of any or all of the political subdivisions that were the subjects of the petition considered by the commission for at least three years after the date the commission ceases to exist.

Sec. 709.47. (A) If the merger conditions of merger agreed upon by a merger commission of a township and one or more municipal corporations are disapproved by a majority of those voting on them in the township or a municipal corporation proposed to be merged or in the municipal corporation with which merger is proposed, no further petitions shall be filed under section 709.45 of the Revised Code proposing the same merger of any of the territory within that proposed merger for at least three years after the date of such that disapproval. If the

If merger conditions of merger are approved by a majority of those voting on them in each political subdivision proposed to be merged and in the municipal corporation with which merger is proposed, the merger is effective on the first day of January of the year following the certification of

the results of the election by the board of elections with which the petition is required to be filed, unless the conditions specify a different date, in which case the date specified is the effective date of merger. On and after ~~such~~ the effective date, the territory of each political subdivision proposed to be merged is annexed to and included in the territory and corporate boundaries of the municipal corporation with which the merger is proposed. The form of government, ordinances, resolutions, and other rules of the municipal corporation with which merger is proposed apply throughout ~~such~~ the newly included territories to the extent they are not in conflict with the conditions approved by the electors. The charter, if any, of the municipal corporation with which merger is proposed applies throughout the newly included territories. The corporate existence and the offices of the municipal corporations or of the township proposed to be merged terminate on ~~such~~ that date. ~~The~~

(B) ~~The~~ municipal corporation with which merger is proposed succeeds to the following interests of ~~the~~ each political subdivision proposed to be merged in:

~~(A)~~(1) All moneys, taxes, and special assessments, whether ~~such~~ the moneys, taxes, or special assessments are in the treasury; or in the process of collection;

~~(B)~~(2) All property and interests in property, whether real or personal;

~~(C)~~(3) All rights and interests in contracts or in securities, bonds, notes, or other instruments;

~~(D)~~(4) All accounts receivable and rights of action;

~~(E)~~(5) All other matters not included in ~~division (A)~~, divisions (B), ~~(C)~~, or ~~(D)~~(1) to (4) of this section.

(C) On and after ~~such~~ the merger's effective date, the municipal corporation with which merger is proposed is liable for all outstanding franchises, contracts, debts, and other legal claims, actions, and obligations of the political ~~subdivision~~ subdivisions proposed to be merged.

(D) When a merger proposal includes the unincorporated area of a township, the board of county commissioners of the county in which the unincorporated area is located and the legislative authority of the municipal corporation with which merger is proposed shall negotiate an agreement requiring the county to continue providing within the unincorporated area for a determined period of time after the merger's effective date the county services it was providing within the unincorporated area on the day prior to the merger's effective date. During the negotiation process, each of the following shall occur:

(1) Before the merger's effective date, the board of county

commissioners and the legislative authority of the municipal corporation shall each create a proposed transition plan that addresses, among other potential issues for agreement between the county and the municipal corporation, the following:

(a) The period of time the county will continue to provide the county services to the unincorporated area and the date upon which the municipal corporation will succeed to the county's responsibility of providing those services;

(b) Payment by the municipal corporation to the county for the continued provision of the county services to the unincorporated area during that period of time.

(2) On the merger's effective date, the board of county commissioners and the legislative authority of the municipal corporation shall exchange their proposed transition plans.

(3) Within thirty days after the merger's effective date, the board of county commissioners and the legislative authority of the municipal corporation shall meet to discuss the proposed transition plans and the creation of a compromise transition plan that addresses, among other potential issues for agreement between the county and municipal corporation, the issues listed in division (D)(1) of this section.

(4) Within sixty days after the date of the meeting between the board of county commissioners and the legislative authority of the municipal corporation under division (D)(3) of this section, the board and the legislative authority shall agree upon a compromise transition plan.

Sec. 709.48. On and after the date on which a petition is filed with the board of elections under section 709.45 of the Revised Code for the election of a merger commission for the merger of one or more municipal corporations and the unincorporated territory of a township, no petition for the annexation of any part of the unincorporated territory of the township shall be filed with a board of county commissioners under section 709.03 or 709.15 of the Revised Code, until one of the following occurs:

(A) The question of forming a merger commission is defeated at the election provided for under section 709.45 of the Revised Code by a majority of the electors of any one of the municipal corporations or the unincorporated territory of the township in which the election is held.

(B) The merger commission elected pursuant to section 709.45 of the Revised Code fails to reach agreement on merger conditions ~~of merger~~ no later than by the seventy-fifth day prior to preceding the next general election occurring after the election of the members of the commission was elected or, if the time for the commission's existence is extended under

division (D) of section 709.462 of the Revised Code, by the date that extension ceases, whichever is later.

(C) The merger conditions ~~of merger~~ agreed upon by the merger commission are defeated by a majority of the electors of any one of the municipal corporations or the unincorporated territory of the township in which the election on the conditions is held.

SECTION 2. That existing sections 709.45, 709.46, 709.47, and 709.48 of the Revised Code are hereby repealed.

Section 3. (A) Notwithstanding any provisions of sections 504.14 and 731.29 of the Revised Code to the contrary, for one year after the effective date of this act, in any township with a population of fifty thousand or more that has adopted a limited home rule government, at the option of the board of township trustees, a referendum petition for the approval or rejection of a resolution adopted by the board may be submitted to the electors in the unincorporated territory of the township at a special election occurring earlier than the next general election. However, the special election must occur subsequent to seventy-five days after the township clerk certified the sufficiency and validity of the referendum petition to the board of elections. If a special election is chosen, the board of township trustees shall adopt a resolution so stating, and the clerk shall submit that resolution along with the referendum petition and the resolution that is being submitted for approval or rejection to the board of elections. Expenses of the special election shall be paid as provided in section 3501.17 of the Revised Code.

(B) Division (A) of this section shall apply only to a referendum petition that was certified as to its sufficiency and validity by a township clerk to a board of elections prior to the effective date of this act and that is pending submission to the electors in the unincorporated territory of the township on the effective date of this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____