

**As Introduced**

**125th General Assembly  
Regular Session  
2003-2004**

**H. B. No. 256**

**Representatives Setzer, Fessler, McGregor, Allen, Seaver**

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**A B I L L**

To amend sections 709.45 to 709.48 and to enact 1  
sections 709.461 and 709.462 of the Revised Code 2  
to revise the Merger Law. 3

**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 4  
be amended and sections 709.461 and 709.462 of the Revised Code be 5  
enacted to read as follows: 6

**Sec. 709.45.** (A) A petition may be filed with the board of 7  
elections proposing that one or more municipal corporations be 8  
merged with another municipal corporation, or that the 9  
unincorporated area of a township be merged with one or more 10  
municipal corporations, as provided by section 709.44 of the 11  
Revised Code. ~~Such~~ The petition may be presented in separate 12  
petition papers. Each ~~such~~ petition paper shall contain, in 13  
concise language, the purpose of the petition and ~~the names of not~~ 14  
~~less than~~ shall state that five electors of each ~~such~~ affected 15  
municipal corporation, or ~~the names of not less than~~ five electors 16  
of the unincorporated area of ~~such~~ the township and ~~the names of~~ 17  
~~not less than five electors~~ of each affected municipal 18  
corporation, ~~to be nominated~~ shall be appointed by the municipal 19  
legislative authority or board of township trustees of those 20

political subdivisions to serve as commissioners. The petition 21  
shall be governed by the rules of section 3501.38 of the Revised 22  
Code. ~~Such~~ The petition shall contain signatures of electors of 23  
each municipal corporation or of each municipal corporation and 24  
the unincorporated area of the township proposed to be merged and 25  
signatures of electors of the municipal corporation with which 26  
merger is proposed, numbering not less than ten per cent of the 27  
number of electors residing in each such political subdivision who 28  
voted for the office of governor at the most recent general 29  
election for ~~such~~ that office. ~~Such~~ 30

(B) The petition shall be filed with the board of elections 31  
of the county in which the largest portion of the population of 32  
the municipal corporation with which merger is proposed resides. 33  
~~Such~~ The board of elections shall cause the validity of all 34  
signatures to be ascertained and, in doing so, may require the 35  
assistance of boards of elections of other counties as the case 36  
requires. If the petition is sufficient, the board of elections of 37  
the county in which the petition is required to be filed shall 38  
submit the question: "Shall a commission be chosen to draw up a 39  
statement of conditions for merger of the political subdivisions 40  
of ....., ....., and ....."? for the approval or 41  
rejection of the electors of each political subdivision proposed 42  
to be merged and the electors of the municipal corporation to 43  
which merger is proposed at the next general election, in any 44  
year, occurring subsequent to the period ending seventy-five days 45  
after the filing of ~~such petitions~~ the petition with the board. 46  
~~Provision shall be made on the ballot for the election, from each~~ 47  
~~of the component political subdivisions, of five electors who~~ 48  
~~shall constitute the commission to draw up the statement of~~ 49  
~~conditions for merger of the political subdivisions.~~ If any of the 50  
political subdivisions for which merger is proposed are located 51  
wholly or partially in a county other than the one in which the 52

petition is required to be filed, the board of elections of the 53  
county in which ~~such~~ the petition is filed shall, if the petition 54  
is found to be sufficient, certify the sufficiency of ~~such~~ the 55  
petition and the statement of the issue to be voted on to the 56  
boards of elections of ~~such~~ those other counties; ~~the~~ boards of 57  
elections of ~~such~~ those other counties shall submit the question 58  
of merging ~~and the names of candidates to be elected to the~~ 59  
~~commission to draw up the statement of conditions~~ for the approval 60  
or rejection of the electors in the portions of ~~such~~ those 61  
political subdivisions within their respective counties; ~~and,~~ 62  
upon the holding of ~~such~~ the election, the boards of elections of 63  
those other counties shall certify the ~~result thereof~~ election 64  
results to the board of elections of the county in which the 65  
petition is required to be filed. 66

(C) In addition to the filing of the petition with the board 67  
of elections as provided in division (B) of this section, a copy 68  
of the petition shall be filed with the legislative authority of 69  
each affected municipal corporation and, if applicable, the board 70  
of township trustees of the affected township. At a public meeting 71  
scheduled not less than thirty days before the date of the 72  
election at which the question of merging goes before the 73  
electors, each of those legislative authorities and, if 74  
applicable, the board of township trustees shall state and explain 75  
their position on the proposed merger. 76

**Sec. 709.46.** (A) If the question of merging one or more 77  
municipal corporations and the unincorporated ~~territory~~ area of a 78  
township, as provided in section 709.45 of the Revised Code, is 79  
disapproved by a majority of those voting on it in the township or 80  
a municipal corporation proposed to be merged or in the municipal 81  
corporation with which merger is proposed, no further petitions 82  
shall be filed under that section proposing the same merger for at 83  
least three years after the date of ~~such~~ that disapproval. ~~If~~ 84

If the question of merging ~~as provided in section 709.45 of~~ 85  
~~the Revised Code~~ is approved by a majority of those voting on it 86  
in each political subdivision proposed to be merged and in the 87  
municipal corporation with which merger is proposed, ~~the five~~ 88  
~~candidates~~ electors from each ~~such of those~~ political ~~subdivision~~ 89  
subdivisions shall be ~~elected~~ appointed to the commission by the 90  
appropriate municipal legislative authority or board of township 91  
trustees, within sixty days after the approval, to formulate the 92  
conditions of merging the political subdivisions. The first 93  
meeting of ~~such~~ the commission shall be held in the chamber of the 94  
legislative authority of the municipal corporation ~~which that~~ has 95  
the smallest population, ~~or,~~ in the case of a merger of the 96  
unincorporated area of a township and one or more municipal 97  
corporations, in the office of the board of township trustees, at 98  
nine a.m. on the tenth day after the certification of the election 99  
by the last of the respective boards of elections to make ~~such~~ 100  
that certification, unless ~~such that~~ day is a Saturday, Sunday, or 101  
holiday, in which case ~~such the~~ first meeting shall be held on the 102  
next day thereafter which is not a Saturday, Sunday, or holiday. 103  
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The clerk of the municipal legislative authority or of the 105  
board of township trustees in whose chamber or office the first 106  
meeting of the commission is held shall serve as temporary 107  
~~chairman~~ chairperson until permanent officers are elected. The 108  
commission shall elect its own permanent officers and shall 109  
proceed to meet as often as necessary to formulate conditions for 110  
merger that are satisfactory to a majority of the members of ~~such~~ 111  
the commission from each political subdivision. 112

(B) In case of a vacancy on the commission, the vacancy shall 113  
be filled by an appointee of the legislative authority of the 114  
municipal corporation, or the board of township trustees of the 115  
township, that the prior commissioner represented. The person 116

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.

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(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.

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

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~~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~~

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~~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 co-leaders, 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 181  
collaborative. 182

(B) When a merger proposal includes the unincorporated area 183  
of a township, among the issues for the commission to consider 184  
before adopting its proposed merger conditions are the following: 185

(1) The effects upon the merged territory of no longer 186  
receiving county services within the territory currently located 187  
in the unincorporated area of the township; 188

(2) Both the increase and decrease of funding sources due to 189  
the unincorporated township territory becoming incorporated 190  
territory. 191

(C) The proposed merger conditions may provide for the 192  
election, prior to the merger, of new officers to govern the 193  
municipal corporation with which merger is proposed after the 194  
merger is complete, provided that the provision does not conflict 195  
with the charter of the municipal corporation with which merger is 196  
proposed. If more than one municipal corporation is to be included 197  
in the merger, the proposed conditions shall designate one of the 198  
municipal corporations as the municipal corporation into which the 199  
township and any other municipal corporations involved are being 200  
merged. The proposed conditions also may provide that the 201  
municipal corporation into which the other political subdivisions 202  
are to be merged shall amend its existing charter to include 203  
specified provisions and may state that the merger, if approved, 204  
shall not become effective until the date on which that municipal 205  
charter includes the required provisions. In the case of a merger 206  
of a township with a single municipal corporation, the merger 207  
conditions also may provide for the annexation of a school 208  
district located wholly within the township to the school district 209  
of the municipal corporation. 210

Sec. 709.462. (A) Once proposed merger conditions are 211  
prepared, the members of the commission shall vote on them. 212

(B) If no proposed merger condition can be agreed upon by a 213  
majority of the members of the commission from each political 214  
subdivision, the members of the commission may vote on whether the 215  
merger should not occur. If, in that situation, a majority of the 216  
members of the commission from each political subdivision votes 217  
against the merger, no further proceedings shall be had on the 218  
petition filed under section 709.45 of the Revised Code; however, 219  
another petition may subsequently be filed proposing a merger of 220  
any or all of the political subdivisions that were the subjects of 221  
that petition. 222

(C) If proposed merger conditions are agreed upon by a 223  
majority of the members of the commission from each political 224  
subdivision, the commission shall issue a report listing the 225  
conditions agreed to and the reasoning behind adopting each 226  
condition. In addition, after the next general election occurring 227  
after the appointment of all the members of the commission, but 228  
not less than seventy-five days preceding the second general 229  
election occurring after the appointment of all the members of the 230  
commission, the commission, unless it has ceased to exist under 231  
division (D) of this section, shall certify the fact of that 232  
agreement and a list of the agreed-to merger conditions to the 233  
board of elections of each of the counties in which the political 234  
subdivisions proposed for merger are located. The question of the 235  
approval or rejection of the merger conditions shall be submitted 236  
to the voters at that second general election occurring after the 237  
appointment of all the members of the commission. The boards of 238  
elections shall submit the merger conditions for the approval or 239  
rejection of the electors in the portions of the political 240  
subdivisions within their respective counties, and, upon the 241



holding of the election, each board of elections other than the 242  
board of the county in which the petition is required to be filed 243  
shall certify its results to the board of elections of the county 244  
in which the petition is required to be filed. 245

(D) Regardless of whether a merger commission succeeds in 246  
reaching an agreement, the commission shall cease to exist on the 247  
seventy-fifth day preceding the next general election occurring 248  
after the appointment of all the members of the commission, unless 249  
the commission requests an extension of time from the legislative 250  
authority of each political subdivision involved and each of those 251  
legislative authorities approves the extension. This extension of 252  
time may be only until the seventy-fifth day preceding the second 253  
general election occurring after the appointment of all the 254  
members of the commission. If the commission ceases to exist under 255  
this division, another petition proposing a merger of any or all 256  
of the political subdivisions that were the subjects of the 257  
petition considered by the commission may subsequently be filed 258  
under section 709.45 of the Revised Code. 259

**Sec. 709.47.** (A) If the merger conditions of merger agreed 260  
upon by a merger commission of a township and one or more 261  
municipal corporations are disapproved by a majority of those 262  
voting on them in the township or a municipal corporation proposed 263  
to be merged or in the municipal corporation with which merger is 264  
proposed, no further petitions shall be filed under section 709.45 265  
of the Revised Code proposing the ~~same~~ merger of any of the 266  
territory within that proposed merger for at least three years 267  
after the date of ~~such~~ that disapproval. ~~If the~~ 268

If merger conditions of merger are approved by a majority of 269  
those voting on them in each political subdivision proposed to be 270  
merged and in the municipal corporation with which merger is 271  
proposed, the merger is effective on the first day of January of 272

the year following the certification of the results of the 273  
election by the board of elections with which the petition is 274  
required to be filed, unless the conditions specify a different 275  
date, in which case the date specified is the effective date of 276  
merger. On and after ~~such~~ the effective date, the territory of 277  
each political subdivision proposed to be merged is annexed to and 278  
included in the territory and corporate boundaries of the 279  
municipal corporation with which the merger is proposed. The form 280  
of government, ordinances, resolutions, and other rules of the 281  
municipal corporation with which merger is proposed apply 282  
throughout ~~such~~ the newly included territories to the extent they 283  
are not in conflict with the conditions approved by the electors. 284  
The charter, if any, of the municipal corporation with which 285  
merger is proposed applies throughout the newly included 286  
territories. The corporate existence and the offices of the 287  
municipal corporations or of the township proposed to be merged 288  
terminate on ~~such~~ that date. ~~The~~ 289

(B) ~~The~~ municipal corporation with which merger is proposed 290  
succeeds to the following interests of ~~the~~ each political 291  
subdivision proposed to be merged in: 292

~~(A)~~ (1) All moneys, taxes, and special assessments, whether 293  
~~such~~ the moneys, taxes, or special assessments are in the 294  
treasury, or in the process of collection; 295

~~(B)~~ (2) All property and interests in property, whether real 296  
or personal; 297

~~(C)~~ (3) All rights and interests in contracts or in 298  
securities, bonds, notes, or other instruments; 299

~~(D)~~ (4) All accounts receivable and rights of action; 300

~~(E)~~ (5) All other matters not included in ~~division (A),~~ 301  
divisions (B), (C), or (D) (1) to (4) of this section. 302

(C) On and after ~~such~~ the merger's effective date, the 303

municipal corporation with which merger is proposed is liable for 304  
all outstanding franchises, contracts, debts, and other legal 305  
claims, actions, and obligations of the political ~~subdivision~~ 306  
subdivisions proposed to be merged. 307

**Sec. 709.48.** On and after the date on which a petition is 308  
filed with the board of elections under section 709.45 of the 309  
Revised Code for the election of a merger commission for the 310  
merger of one or more municipal corporations and the 311  
unincorporated territory of a township, no petition for the 312  
annexation of any part of the unincorporated territory of the 313  
township shall be filed with a board of county commissioners under 314  
section 709.03 or 709.15 of the Revised Code, until one of the 315  
following occurs: 316

(A) The question of forming a merger commission is defeated 317  
at the election provided for under section 709.45 of the Revised 318  
Code by a majority of the electors of any one of the municipal 319  
corporations or the unincorporated territory of the township in 320  
which the election is held. 321

(B) The merger commission elected pursuant to section 709.45 322  
of the Revised Code fails to reach agreement on merger conditions 323  
~~of merger no later than~~ by the seventy-fifth day ~~prior to~~ 324  
preceding the next general election after the appointment of all 325  
the members of the commission was elected or, if the time for the 326  
commission's existence is extended under division (D) of section 327  
709.462 of the Revised Code, by the date that extension ceases, 328  
whichever is later. 329

(C) The merger conditions ~~of merger~~ agreed upon by the merger 330  
commission are defeated by a majority of the electors of any one 331  
of the municipal corporations or the unincorporated territory of 332  
the township in which the election on the conditions is held. 333

**Section 2.** That existing sections 709.45, 709.46, 709.47, and 334

709.48 of the Revised Code are hereby repealed.

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