

**As Passed by the Senate**

**125th General Assembly**

**Regular Session**

**2003-2004**

**Am. Sub. H. B. No. 256**

**Representatives Setzer, Fessler, McGregor, Allen, Seaver, Seitz, Sferra,  
Wolpert, Willamowski, Barrett, Carano, Chandler, Combs, C. Evans, Flowers,  
Hughes, Key, Martin, Otterman, T. Patton, Price, Schmidt, Webster  
Senator Jacobson**

—

**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 and to permit certain 3  
limited home rule government townships to present 4  
referendum petitions at specified special 5  
elections. 6

**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 7  
be amended and sections 709.461 and 709.462 of the Revised Code be 8  
enacted to read as follows: 9

**Sec. 709.45. (A)** A petition may be filed with the board of 10  
elections proposing that one or more municipal corporations be 11  
merged with another municipal corporation, or that the 12  
unincorporated area of a township be merged with one or more 13  
municipal corporations, as provided by section 709.44 of the 14  
Revised Code. ~~Such~~ The petition may be presented in separate 15  
petition papers. Each ~~such~~ petition paper shall contain, in 16  
concise language, the purpose of the petition and the names of not 17

less than five electors of each ~~such~~ affected municipal 18  
corporation, or the names of not less than five electors of the 19  
unincorporated area of ~~such~~ the township and the names of not less 20  
than five electors of each affected municipal corporation, to be 21  
nominated to serve as commissioners. The petition shall be 22  
governed by the rules of section 3501.38 of the Revised Code. ~~Such~~ 23  
The petition shall contain signatures of electors of each 24  
municipal corporation or of each municipal corporation and the 25  
unincorporated area of the township proposed to be merged and 26  
signatures of electors of the municipal corporation with which 27  
merger is proposed, numbering not less than ten per cent of the 28  
number of electors residing in each such political subdivision who 29  
voted for the office of governor at the most recent general 30  
election for ~~such~~ that office. ~~Such~~ 31

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

conditions for merger of the political subdivisions. If any of the 51  
political subdivisions for which merger is proposed are located 52  
wholly or partially in a county other than the one in which the 53  
petition is required to be filed, the board of elections of the 54  
county in which ~~such~~ the petition is filed shall, if the petition 55  
is found to be sufficient, certify the sufficiency of ~~such~~ the 56  
petition and the statement of the issue to be voted on to the 57  
boards of elections of ~~such~~ those other counties; i the boards of 58  
elections of ~~such~~ those other counties shall submit the question 59  
of merging and the names of candidates to be elected to the 60  
commission to draw up the statement of conditions for merger, for 61  
the approval or rejection of the electors in the portions of ~~such~~ 62  
those political subdivisions within their respective counties; i 63  
and, upon the holding of ~~such~~ the election, the boards of 64  
elections of those other counties shall certify the ~~result thereof~~ 65  
election results to the board of elections of the county in which 66  
the petition is required to be filed. 67

(C) In addition to the filing of the petition with the board 68  
of elections as provided in division (B) of this section, a copy 69  
of the petition shall be filed with the legislative authority of 70  
each affected municipal corporation and, if applicable, the board 71  
of township trustees of the affected township. At a public meeting 72  
scheduled not less than thirty days before the date of the 73  
election at which the question of merging goes before the 74  
electors, each of those legislative authorities and, if 75  
applicable, the board of township trustees shall state and explain 76  
their position on the proposed merger. 77

**Sec. 709.46.** (A) If the question of merging one or more 78  
municipal corporations and the unincorporated ~~territory~~ area of a 79  
township, as provided in section 709.45 of the Revised Code, is 80  
disapproved by a majority of those voting on it in the township or 81  
a municipal corporation proposed to be merged or in the municipal 82

corporation with which merger is proposed, no further petitions 83  
shall be filed under that section proposing the same merger for at 84  
least three years after the date of ~~such~~ that disapproval. ~~If~~ 85

If the question of merging ~~as provided in section 709.45 of~~ 86  
~~the Revised Code~~ is approved by a majority of those voting on it 87  
in each political subdivision proposed to be merged and in the 88  
municipal corporation with which merger is proposed, the five 89  
candidates from each ~~such of those~~ political ~~subdivision~~ 90  
subdivisions shall be elected to the commission to formulate the 91  
conditions of merging the political subdivisions. The first 92  
meeting of ~~such~~ the commission shall be held in the chamber of the 93  
legislative authority of the municipal corporation ~~which~~ that has 94  
the smallest population, or, in the case of a merger of the 95  
unincorporated area of a township and one or more municipal 96  
corporations, in the office of the board of township trustees, at 97  
nine a.m. on the tenth day after the certification of the election 98  
by the last of the respective boards of elections to make ~~such~~ 99  
that certification, unless ~~such~~ that day is a Saturday, Sunday, or 100  
holiday, in which case ~~such~~ the first meeting shall be held on the 101  
next day thereafter which is not a Saturday, Sunday, or holiday. 102  
~~The~~ 103

The clerk of the municipal legislative authority or of the 104  
board of township trustees in whose chamber or office the first 105  
meeting of the commission is held shall serve as temporary 106  
~~chairman~~ chairperson until permanent officers are elected. The 107  
commission shall elect its own permanent officers and shall 108  
proceed to meet as often as necessary to formulate conditions for 109  
merger that are satisfactory to a majority of the members of ~~such~~ 110  
the commission from each political subdivision. 111

(B) In case of a vacancy on the commission, the vacancy shall 112  
be filled by an appointee of the legislative authority of the 113  
municipal corporation, or the board of township trustees of the 114

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.

115  
116  
117  
118  
119

(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.

120  
121  
122  
123  
124  
125  
126  
127  
128

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

129  
130

~~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~~

131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146

~~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.~~

147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165

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

166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178

are drafted. If funding permits, the commission may contract with 179  
a dispute resolution expert to help make the process more 180  
collaborative. 181

(B) When a merger proposal includes the unincorporated area 182  
of a township, the commission shall consider, among the other 183  
issues it considers before adopting its proposed merger 184  
conditions, both the increase and decrease of funding sources due 185  
to the unincorporated township territory becoming incorporated 186  
territory. 187

(C) The proposed merger conditions may provide for the 188  
election, prior to the merger, of new officers to govern the 189  
municipal corporation with which merger is proposed after the 190  
merger is complete, provided that the provision does not conflict 191  
with the charter of the municipal corporation with which merger is 192  
proposed. If more than one municipal corporation is to be included 193  
in the merger, the proposed conditions shall designate one of the 194  
municipal corporations as the municipal corporation into which the 195  
township and any other municipal corporations involved are being 196  
merged. The proposed conditions also may provide that the 197  
municipal corporation into which the other political subdivisions 198  
are to be merged shall amend its existing charter to include 199  
specified provisions and may state that the merger, if approved, 200  
shall not become effective until the date on which that municipal 201  
charter includes the required provisions. In the case of a merger 202  
of a township with a single municipal corporation, the merger 203  
conditions also may provide for the annexation of a school 204  
district located wholly within the township to the school district 205  
of the municipal corporation. 206

**Sec. 709.462.** (A) Once proposed merger conditions are 207  
prepared, the members of the commission shall vote on them. 208

(B) If no proposed merger condition can be agreed upon by a 209

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.

210  
211  
212  
213  
214  
215  
216  
217  
218  
219

(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

220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241



petition is required to be filed.

242

(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.

243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257

**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

258  
259  
260  
261  
262  
263  
264  
265  
266

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

267  
268  
269  
270  
271  
272

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

(B) The municipal corporation with which merger is proposed 288  
succeeds to the following interests of ~~the~~ each political 289  
subdivision proposed to be merged in: 290

~~(A)~~(1) All moneys, taxes, and special assessments, whether 291  
~~such the~~ the moneys, taxes, or special assessments are in the 292  
treasury, or in the process of collection; 293

~~(B)~~(2) All property and interests in property, whether real 294  
or personal; 295

~~(C)~~(3) All rights and interests in contracts or in 296  
securities, bonds, notes, or other instruments; 297

~~(D)~~(4) All accounts receivable and rights of action; 298

~~(E)~~(5) All other matters not included in ~~division (A),~~ 299  
divisions (B), (C), or (D)(1) to (4) of this section. 300

(C) On and after ~~such the merger's effective date,~~ the 301  
municipal corporation with which merger is proposed is liable for 302  
all outstanding franchises, contracts, debts, and other legal 303

claims, actions, and obligations of the political ~~subdivision~~ 304  
subdivisions proposed to be merged. 305

(D) When a merger proposal includes the unincorporated area 306  
of a township, the board of county commissioners of the county in 307  
which the unincorporated area is located and the legislative 308  
authority of the municipal corporation with which merger is 309  
proposed shall negotiate an agreement requiring the county to 310  
continue providing within the unincorporated area for a determined 311  
period of time after the merger's effective date the county 312  
services it was providing within the unincorporated area on the 313  
day prior to the merger's effective date. During the negotiation 314  
process, each of the following shall occur: 315

(1) Before the merger's effective date, the board of county 316  
commissioners and the legislative authority of the municipal 317  
corporation shall each create a proposed transition plan that 318  
addresses, among other potential issues for agreement between the 319  
county and the municipal corporation, the following: 320

(a) The period of time the county will continue to provide 321  
the county services to the unincorporated area and the date upon 322  
which the municipal corporation will succeed to the county's 323  
responsibility of providing those services; 324

(b) Payment by the municipal corporation to the county for 325  
the continued provision of the county services to the 326  
unincorporated area during that period of time. 327

(2) On the merger's effective date, the board of county 328  
commissioners and the legislative authority of the municipal 329  
corporation shall exchange their proposed transition plans. 330

(3) Within thirty days after the merger's effective date, the 331  
board of county commissioners and the legislative authority of the 332  
municipal corporation shall meet to discuss the proposed 333  
transition plans and the creation of a compromise transition plan 334

that addresses, among other potential issues for agreement between  
the county and municipal corporation, the issues listed in  
division (D)(1) of this section.

335  
336  
337

(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.

338  
339  
340  
341  
342

**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:

343  
344  
345  
346  
347  
348  
349  
350  
351

(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.

352  
353  
354  
355  
356

(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.

357  
358  
359  
360  
361  
362  
363  
364

(C) The merger conditions ~~of merger~~ agreed upon by the merger 365  
commission are defeated by a majority of the electors of any one 366  
of the municipal corporations or the unincorporated territory of 367  
the township in which the election on the conditions is held. 368

**Section 2.** That existing sections 709.45, 709.46, 709.47, and 369  
709.48 of the Revised Code are hereby repealed. 370

**Section 3.** (A) Notwithstanding any provisions of sections 371  
504.14 and 731.29 of the Revised Code to the contrary, for one 372  
year after the effective date of this act, in any township with a 373  
population of fifty thousand or more that has adopted a limited 374  
home rule government, at the option of the board of township 375  
trustees, a referendum petition for the approval or rejection of a 376  
resolution adopted by the board may be submitted to the electors 377  
in the unincorporated territory of the township at a special 378  
election occurring earlier than the next general election. 379  
However, the special election must occur subsequent to 380  
seventy-five days after the township clerk certified the 381  
sufficiency and validity of the referendum petition to the board 382  
of elections. If a special election is chosen, the board of 383  
township trustees shall adopt a resolution so stating, and the 384  
clerk shall submit that resolution along with the referendum 385  
petition and the resolution that is being submitted for approval 386  
or rejection to the board of elections. Expenses of the special 387  
election shall be paid as provided in section 3501.17 of the 388  
Revised Code. 389

(B) Division (A) of this section shall apply only to a 390  
referendum petition that was certified as to its sufficiency and 391  
validity by a township clerk to a board of elections prior to the 392  
effective date of this act and that is pending submission to the 393  
electors in the unincorporated territory of the township on the 394  
effective date of this act. 395