

**As Reported by the Senate State and Local Government and
Veterans Affairs Committee**

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

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**

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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 five electors of each ~~such~~ affected municipal 15
corporation, or the names of not less than five electors of the 16
unincorporated area of ~~such~~ the township and the names of not less 17

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

(B) The petition shall be filed with the board of elections 29
of the county in which the largest portion of the population of 30
the municipal corporation with which merger is proposed resides. 31
~~Such~~ The board of elections shall cause the validity of all 32
signatures to be ascertained and, in doing so, may require the 33
assistance of boards of elections of other counties as the case 34
requires. If the petition is sufficient, the board of elections of 35
the county in which the petition is required to be filed shall 36
submit the question: "Shall a commission be chosen to draw up a 37
statement of conditions for merger of the political subdivisions 38
of,, and,?" for the approval or 39
rejection of the electors of each political subdivision proposed 40
to be merged and the electors of the municipal corporation to 41
which merger is proposed at the next general election, in any 42
year, occurring subsequent to the period ending seventy-five days 43
after the filing of ~~such petitions~~ the petition with the board. 44
Provision shall be made on the ballot for the election, from each 45
of the component political subdivisions, of five electors who 46
shall constitute the commission to draw up the statement of 47
conditions for merger of the political subdivisions. If any of the 48
political subdivisions for which merger is proposed are located 49
wholly or partially in a county other than the one in which the 50

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

(C) In addition to the filing of the petition with the board 65
of elections as provided in division (B) of this section, a copy 66
of the petition shall be filed with the legislative authority of 67
each affected municipal corporation and, if applicable, the board 68
of township trustees of the affected township. At a public meeting 69
scheduled not less than thirty days before the date of the 70
election at which the question of merging goes before the 71
electors, each of those legislative authorities and, if 72
applicable, the board of township trustees shall state and explain 73
their position on the proposed merger. 74

Sec. 709.46. (A) If the question of merging one or more 75
municipal corporations and the unincorporated ~~territory~~ area of a 76
township, as provided in section 709.45 of the Revised Code, is 77
disapproved by a majority of those voting on it in the township or 78
a municipal corporation proposed to be merged or in the municipal 79
corporation with which merger is proposed, no further petitions 80
shall be filed under that section proposing the same merger for at 81
least three years after the date of ~~such~~ that disapproval. ~~If~~ 82

If the question of merging ~~as provided in section 709.45 of~~ 83
~~the Revised Code~~ is approved by a majority of those voting on it 84
in each political subdivision proposed to be merged and in the 85
municipal corporation with which merger is proposed, the five 86
candidates from each ~~such of those~~ political ~~subdivision~~ 87
subdivisions shall be elected to the commission to formulate the 88
conditions of merging the political subdivisions. The first 89
meeting of ~~such~~ the commission shall be held in the chamber of the 90
legislative authority of the municipal corporation ~~which~~ that has 91
the smallest population, or, in the case of a merger of the 92
unincorporated area of a township and one or more municipal 93
corporations, in the office of the board of township trustees, at 94
nine a.m. on the tenth day after the certification of the election 95
by the last of the respective boards of elections to make ~~such~~ 96
that certification, unless ~~such~~ that day is a Saturday, Sunday, or 97
holiday, in which case ~~such~~ the first meeting shall be held on the 98
next day thereafter which is not a Saturday, Sunday, or holiday. 99
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The clerk of the municipal legislative authority or of the 101
board of township trustees in whose chamber or office the first 102
meeting of the commission is held shall serve as temporary 103
~~chairman~~ chairperson until permanent officers are elected. The 104
commission shall elect its own permanent officers and shall 105
proceed to meet as often as necessary to formulate conditions for 106
merger that are satisfactory to a majority of the members of ~~such~~ 107
the commission from each political subdivision. 108

(B) In case of a vacancy on the commission, the vacancy shall 109
be filled by an appointee of the legislative authority of the 110
municipal corporation, or the board of township trustees of the 111
township, that the prior commissioner represented. The person 112
appointed to fill the vacancy shall be an elector of that 113
political subdivision and, if the person is representing a 114

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
district located wholly within the township to the school district
of the municipal corporation. As soon as the conditions have been~~

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~~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.~~

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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.

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(B) When a merger proposal includes the unincorporated area 179
of a township, the commission shall consider, among the other 180
issues it considers before adopting its proposed merger 181
conditions, both the increase and decrease of funding sources due 182
to the unincorporated township territory becoming incorporated 183
territory. 184

(C) The proposed merger conditions may provide for the 185
election, prior to the merger, of new officers to govern the 186
municipal corporation with which merger is proposed after the 187
merger is complete, provided that the provision does not conflict 188
with the charter of the municipal corporation with which merger is 189
proposed. If more than one municipal corporation is to be included 190
in the merger, the proposed conditions shall designate one of the 191
municipal corporations as the municipal corporation into which the 192
township and any other municipal corporations involved are being 193
merged. The proposed conditions also may provide that the 194
municipal corporation into which the other political subdivisions 195
are to be merged shall amend its existing charter to include 196
specified provisions and may state that the merger, if approved, 197
shall not become effective until the date on which that municipal 198
charter includes the required provisions. In the case of a merger 199
of a township with a single municipal corporation, the merger 200
conditions also may provide for the annexation of a school 201
district located wholly within the township to the school district 202
of the municipal corporation. 203

Sec. 709.462. (A) Once proposed merger conditions are 204
prepared, the members of the commission shall vote on them. 205

(B) If no proposed merger condition can be agreed upon by a 206
majority of the members of the commission from each political 207
subdivision, the members of the commission may vote on whether the 208
merger should not occur. If, in that situation, a majority of the 209

members of the commission from each political subdivision votes 210
against the merger, no further proceedings shall be had on the 211
petition filed under section 709.45 of the Revised Code, and no 212
further petitions shall be filed under that section proposing a 213
merger of any or all of the political subdivisions that were the 214
subjects of that petition for at least three years after the date 215
of the commission's vote. 216

(C) If proposed merger conditions are agreed upon by a 217
majority of the members of the commission from each political 218
subdivision, the commission shall issue a report listing the 219
conditions agreed to and the reasoning behind adopting each 220
condition. In addition, after the next general election occurring 221
after the election of the members of the commission, but not less 222
than seventy-five days preceding the second general election 223
occurring after the election of the members of the commission, the 224
commission, unless it has ceased to exist under division (D) of 225
this section, shall certify the fact of that agreement and a list 226
of the agreed-to merger conditions to the board of elections of 227
each of the counties in which the political subdivisions proposed 228
for merger are located. The question of the approval or rejection 229
of the merger conditions shall be submitted to the voters at that 230
second general election occurring after the election of the 231
members of the commission. The boards of elections shall submit 232
the merger conditions for the approval or rejection of the 233
electors in the portions of the political subdivisions within 234
their respective counties, and, upon the holding of the election, 235
each board of elections other than the board of the county in 236
which the petition is required to be filed shall certify its 237
results to the board of elections of the county in which the 238
petition is required to be filed. 239

(D) Regardless of whether a merger commission succeeds in 240
reaching an agreement, the commission shall cease to exist on the 241

seventy-fifth day preceding the next general election occurring 242
after the election of the members of the commission, unless the 243
commission requests an extension of time from the legislative 244
authority of each political subdivision involved and each of those 245
legislative authorities approves the extension. This extension of 246
time may be only until the seventy-fifth day preceding the second 247
general election occurring after the election of the members of 248
the commission. If the commission ceases to exist under this 249
division, no further petitions shall be filed under section 709.45 250
of the Revised Code proposing a merger of any or all of the 251
political subdivisions that were the subjects of the petition 252
considered by the commission for at least three years after the 253
date the commission ceases to exist. 254

Sec. 709.47. (A) If the merger conditions of merger agreed 255
upon by a merger commission of a township and one or more 256
municipal corporations are disapproved by a majority of those 257
voting on them in the township or a municipal corporation proposed 258
to be merged or in the municipal corporation with which merger is 259
proposed, no further petitions shall be filed under section 709.45 260
of the Revised Code proposing the ~~same~~ merger of any of the 261
territory within that proposed merger for at least three years 262
after the date of ~~such~~ that disapproval. ~~If the~~ 263

If merger conditions of merger are approved by a majority of 264
those voting on them in each political subdivision proposed to be 265
merged and in the municipal corporation with which merger is 266
proposed, the merger is effective on the first day of January of 267
the year following the certification of the results of the 268
election by the board of elections with which the petition is 269
required to be filed, unless the conditions specify a different 270
date, in which case the date specified is the effective date of 271
merger. On and after ~~such~~ the effective date, the territory of 272

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

(B) ~~The~~ municipal corporation with which merger is proposed 285
succeeds to the following interests of ~~the~~ each political 286
subdivision proposed to be merged in: 287

~~(A)~~(1) All moneys, taxes, and special assessments, whether 288
~~such~~ the moneys, taxes, or special assessments are in the 289
treasury, or in the process of collection; 290

~~(B)~~(2) All property and interests in property, whether real 291
or personal; 292

~~(C)~~(3) All rights and interests in contracts or in 293
securities, bonds, notes, or other instruments; 294

~~(D)~~(4) All accounts receivable and rights of action; 295

~~(E)~~(5) All other matters not included in ~~division (A),~~ 296
divisions (B), (C), or (D)(1) to (4) of this section. 297

(C) On and after ~~such~~ the merger's effective date, the 298
municipal corporation with which merger is proposed is liable for 299
all outstanding franchises, contracts, debts, and other legal 300
claims, actions, and obligations of the political ~~subdivision~~ 301
subdivisions proposed to be merged. 302

(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.

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(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.

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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:

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(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.

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(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.

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(C) The merger conditions ~~of merger~~ agreed upon by the merger
commission are defeated by a majority of the electors of any one

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of the municipal corporations or the unincorporated territory of 364
the township in which the election on the conditions is held. 365

Section 2. That existing sections 709.45, 709.46, 709.47, and 366
709.48 of the Revised Code are hereby repealed. 367