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Am. H. B. No. 277

Representative Stautberg

**Cosponsors: Representatives Becker, Brown, Conditt, Hood, Terhar,
Thompson, Blair, Blessing, Burkley, McClain, O'Brien, Ruhl, Sprague
Speaker Batchelder**

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A B I L L

To amend sections 709.02 and 709.023 of the Revised 1
Code to require that the state or a political 2
subdivision real estate owner be included in 3
determining the number of owners needed to sign a 4
petition for an expedited type-II annexation, 5
unless the real estate is a road or road 6
right-of-way, and to make other changes regarding 7
that type of annexation. 8

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

Section 1. That sections 709.02 and 709.023 of the Revised 9
Code be amended to read as follows: 10

Sec. 709.02. (A) The owners of real estate contiguous to a 11
municipal corporation may petition for annexation to a municipal 12
corporation in the manner provided by sections 709.02 to 709.11 of 13
the Revised Code. 14

(B) Application for annexation shall be made by a petition 15
filed with the clerk of the board of county commissioners of the 16
county in which the territory is located. 17

(C) The petition required by this section shall contain the 18
following: 19

(1) The signatures of a majority of the owners of real estate 20
in the territory proposed for annexation. The person who signs or 21
the circulator of the petition also shall write the date the 22
signature was made next to the owner's name. No signature obtained 23
more than one hundred eighty days before the date on which the 24
petition is filed shall be counted in determining the number of 25
signers of the petition. Any owner who signed the petition may 26
have the signature removed before the document is filed by 27
delivering a signed statement to the agent for the petitioners 28
expressing the owner's wish to have the signature removed. Upon 29
receiving a signed statement, the agent for the petitioners shall 30
strike through the signature, causing the signature to be deleted 31
from the petition. 32

(2) An accurate legal description of the perimeter and an 33
accurate map or plat of the territory proposed for annexation; 34

(3) The name of a person or persons to act as agent for the 35
petitioners. The agent for the petitioners may be an official, 36
employee, or agent of the municipal corporation to which 37
annexation is proposed. 38

(D) At the time of filing the petition for annexation, the 39
agent for the petitioners also shall file with the clerk of the 40
board a list of all tracts, lots, or parcels in the territory 41
proposed for annexation, and all tracts, lots, or parcels located 42
adjacent to that territory or directly across the road from it 43
when the road is adjacent to it, including the name and mailing 44
address of the owner of each tract, lot, or parcel, and the 45
permanent parcel number from the county auditor's permanent parcel 46
numbering system established under section 319.28 of the Revised 47
Code for each tract, lot, or parcel. This list shall not be 48
considered to be a part of the petition for annexation, and any 49

error on the list shall not affect the validity of the petition. 50

(E)(1) As used in this section and in sections 709.02 709.021 51
to 709.21, 709.38, and 709.39 of the Revised Code, "owner" or 52
"owners" means any adult individual who is legally competent, the 53
state or any political subdivision as defined in section 5713.081 54
of the Revised Code, and any firm, trustee, or private 55
corporation, any of which is seized of a freehold estate in land; 56
except that easements and any railroad, utility, street, and 57
highway rights-of-way held in fee, by easement, or by dedication 58
and acceptance are not included within those meanings; and no 59
person, firm, trustee, or private corporation, the state, or any 60
political subdivision, that has become an owner of real estate by 61
a conveyance, the primary purpose of which is to affect the number 62
of owners required to sign a petition for annexation, is included 63
within those meanings. ~~For~~ 64

(2) For purposes of this section and sections 709.02 709.021, 65
709.022, 709.024 to 709.21, 709.38, and 709.39 of the Revised 66
Code, the state or any political subdivision shall not be 67
considered an owner and shall not be included in determining the 68
number of owners needed to sign a petition unless an authorized 69
agent of the state or the political subdivision signs the 70
petition. The authorized agent for the state shall be the director 71
of administrative services. 72

(3) For purposes of section 709.023 of the Revised Code, the 73
state or any political subdivision shall be considered an owner 74
and shall be included in determining the number of owners needed 75
to sign an annexation petition filed under that section, unless 76
the only real estate in the territory proposed for annexation that 77
is owned by the state or a political subdivision is a road or road 78
right-of-way. Only the director of administrative services, on 79
behalf of the state as an owner, or an authorized agent, on behalf 80
of a political subdivision as an owner, may sign a petition filed 81

under section 709.023 of the Revised Code. 82

(4) An owner is determined as of the date the petition is 83
filed with the board of county commissioners, except that any 84
owner whose signature has been removed from the petition pursuant 85
to division (B) of section 709.023 of the Revised Code shall not 86
be counted as an owner under division (E)(2) of that section. If 87
the owner is a corporation, partnership, business trust, estate, 88
trust, organization, association, group, institution, society, 89
state, or political subdivision, the petition shall be signed by a 90
person who is authorized to sign for that entity. A 91

(5) A person who owns more than one parcel of real estate, 92
either individually or as a tenant in common or by survivorship 93
tenancy, shall be counted as one owner for purposes of this 94
chapter. 95

Sec. 709.023. (A) A petition filed under section 709.021 of 96
the Revised Code that requests to follow this section is for the 97
special procedure of annexing land into a municipal corporation 98
when, subject to division (H) of this section, the land also is 99
not to be excluded from the township under section 503.07 of the 100
Revised Code. The owners who sign this petition by their signature 101
expressly waive their right to appeal in law or equity from the 102
board of county commissioners' entry of any resolution under this 103
section, waive any rights they may have to sue on any issue 104
relating to a municipal corporation requiring a buffer as provided 105
in this section, and waive any rights to seek a variance that 106
would relieve or exempt them from that buffer requirement. 107

The petition circulated to collect signatures for the special 108
procedure in this section shall contain in boldface capital 109
letters immediately above the heading of the place for signatures 110
on each part of the petition the following: "WHOEVER SIGNS THIS 111
PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL IN LAW OR EQUITY 112

FROM THE BOARD OF COUNTY COMMISSIONERS' ENTRY OF ANY RESOLUTION 113
PERTAINING TO THIS SPECIAL ANNEXATION PROCEDURE, ALTHOUGH A WRIT 114
OF MANDAMUS MAY BE SOUGHT TO COMPEL THE BOARD TO PERFORM ITS 115
DUTIES REQUIRED BY LAW FOR THIS SPECIAL ANNEXATION PROCEDURE." 116

(B) Upon the filing of the petition in the office of the 117
clerk of the board of county commissioners, the clerk shall cause 118
the petition to be entered upon the board's journal at its next 119
regular session. This entry shall be the first official act of the 120
board on the petition. Within five days after the filing of the 121
petition, the agent for the petitioners shall notify in the manner 122
and form specified in this division the clerk of the legislative 123
authority of the municipal corporation to which annexation is 124
proposed, the fiscal officer of each township any portion of which 125
is included within the territory proposed for annexation, the 126
clerk of the board of county commissioners of each county in which 127
the territory proposed for annexation is located other than the 128
county in which the petition is filed, and the owners of property 129
adjacent to the territory proposed for annexation or adjacent to a 130
road that is adjacent to that territory and located directly 131
across that road from that territory. The notice shall refer to 132
the time and date when the petition was filed and the county in 133
which it was filed and shall have attached or shall be accompanied 134
by a copy of the petition and any attachments or documents 135
accompanying the petition as filed. 136

Notice to a property owner is sufficient if sent by regular 137
United States mail to the tax mailing address listed on the county 138
auditor's records. Notice to the appropriate government officer 139
shall be given by certified mail, return receipt requested, or by 140
causing the notice to be personally served on the officer, with 141
proof of service by affidavit of the person who delivered the 142
notice. Proof of service of the notice on each appropriate 143
government officer shall be filed with the board of county 144

commissioners with which the petition was filed. 145

Within seven days after the date the agent for the 146
petitioners mails or causes to be personally served the notices 147
required by this division, any property owner who signed the 148
petition may remove the owner's signature from the petition by 149
filing with the clerk of the board of county commissioners a 150
written notice of withdrawal of the owner's signature. 151

(C) Within twenty days after the date that the petition is 152
filed, the legislative authority of the municipal corporation to 153
which annexation is proposed shall adopt an ordinance or 154
resolution stating what services the municipal corporation will 155
provide, and an approximate date by which it will provide them, to 156
the territory proposed for annexation, upon annexation. The 157
municipal corporation is entitled in its sole discretion to 158
provide to the territory proposed for annexation, upon annexation, 159
services in addition to the services described in that ordinance 160
or resolution. 161

If the territory proposed for annexation is subject to zoning 162
regulations adopted under either Chapter 303. or 519. of the 163
Revised Code at the time the petition is filed, the legislative 164
authority of the municipal corporation also shall adopt an 165
ordinance or resolution stating that, if the territory is annexed 166
and becomes subject to zoning by the municipal corporation and 167
that municipal zoning permits uses in the annexed territory that 168
the municipal corporation determines are clearly incompatible with 169
the uses permitted under current county or township zoning 170
regulations in the adjacent land remaining within the township 171
from which the territory was annexed, the legislative authority of 172
the municipal corporation will require, in the zoning ordinance 173
permitting the incompatible uses, the owner of the annexed 174
territory to provide a buffer separating the use of the annexed 175
territory and the adjacent land remaining within the township. For 176

the purposes of this section, "buffer" includes open space, 177
landscaping, fences, walls, and other structured elements; streets 178
and street rights-of-way; and bicycle and pedestrian paths and 179
sidewalks. 180

The clerk of the legislative authority of the municipal 181
corporation to which annexation is proposed shall file the 182
ordinances or resolutions adopted under this division with the 183
board of county commissioners within twenty days following the 184
date that the petition is filed. The board shall make these 185
ordinances or resolutions available for public inspection. 186

(D) Within twenty-five days after the date that the petition 187
is filed, the legislative authority of the municipal corporation 188
to which annexation is proposed and each township any portion of 189
which is included within the territory proposed for annexation may 190
adopt and file with the board of county commissioners an ordinance 191
or resolution consenting or objecting to the proposed annexation. 192
An objection to the proposed annexation shall be based solely upon 193
the petition's failure to meet the conditions specified in 194
division (E) of this section. 195

If the municipal corporation and each of those townships 196
timely files an ordinance or resolution consenting to the proposed 197
annexation, the board at its next regular session shall enter upon 198
its journal a resolution granting the proposed annexation. If, 199
instead, the municipal corporation or any of those townships files 200
an ordinance or resolution that objects to the proposed 201
annexation, the board of county commissioners shall proceed as 202
provided in division (E) of this section. Failure of the municipal 203
corporation or any of those townships to timely file an ordinance 204
or resolution consenting or objecting to the proposed annexation 205
shall be deemed to constitute consent by that municipal 206
corporation or township to the proposed annexation. 207

(E) Unless the petition is granted under division (D) of this 208

section, not less than thirty ~~or~~ nor more than forty-five days 209
after the date that the petition is filed, the board of county 210
commissioners shall review it to determine if each of the 211
following conditions has been met: 212

(1) The petition meets all the requirements set forth in, and 213
was filed in the manner provided in, section 709.021 of the 214
Revised Code. 215

(2) The persons who signed the petition are owners of the 216
real estate located in the territory proposed for annexation and 217
constitute all of the owners of real estate in that territory. 218

(3) The territory proposed for annexation does not exceed 219
five hundred acres. 220

(4) The territory proposed for annexation shares a contiguous 221
boundary with the municipal corporation to which annexation is 222
proposed for a continuous length of at least five per cent of the 223
perimeter of the territory proposed for annexation. 224

(5) The annexation will not create an unincorporated area of 225
the township that is completely surrounded by the territory 226
proposed for annexation. 227

(6) The municipal corporation to which annexation is proposed 228
has agreed to provide to the territory proposed for annexation the 229
services specified in the relevant ordinance or resolution adopted 230
under division (C) of this section. 231

(7) If a street or highway will be divided or segmented by 232
the boundary line between the township and the municipal 233
corporation as to create a road maintenance problem, the municipal 234
corporation to which annexation is proposed has agreed as a 235
condition of the annexation to assume the maintenance of that 236
street or highway or to otherwise correct the problem. As used in 237
this section, "street" or "highway" has the same meaning as in 238
section 4511.01 of the Revised Code. 239

(F) Not less than thirty or more than forty-five days after 240
the date that the petition is filed, if the petition is not 241
granted under division (D) of this section, the board of county 242
commissioners, if it finds that each of the conditions specified 243
in division (E) of this section has been met, shall enter upon its 244
journal a resolution granting the annexation. If the board of 245
county commissioners finds that one or more of the conditions 246
specified in division (E) of this section have not been met, it 247
shall enter upon its journal a resolution that states which of 248
those conditions the board finds have not been met and that denies 249
the petition. 250

(G) If a petition is granted under division (D) or (F) of 251
this section, the clerk of the board of county commissioners shall 252
proceed as provided in division (C)(1) of section 709.033 of the 253
Revised Code, except that no recording or hearing exhibits would 254
be involved. There is no appeal in law or equity from the board's 255
entry of any resolution under this section, but any party may seek 256
a writ of mandamus to compel the board of county commissioners to 257
perform its duties under this section. 258

(H) Notwithstanding anything to the contrary in section 259
503.07 of the Revised Code, unless otherwise provided in an 260
annexation agreement entered into pursuant to section 709.192 of 261
the Revised Code or in a cooperative economic development 262
agreement entered into pursuant to section 701.07 of the Revised 263
Code, territory annexed into a municipal corporation pursuant to 264
this section shall not at any time be excluded from the township 265
under section 503.07 of the Revised Code and, thus, remains 266
subject to the township's real property taxes. 267

(I) Any owner of land that remains within a township and that 268
is adjacent to territory annexed pursuant to this section who is 269
directly affected by the failure of the annexing municipal 270
corporation to enforce compliance with any zoning ordinance it 271

adopts under division (C) of this section requiring the owner of 272
the annexed territory to provide a buffer zone, may commence in 273
the court of common pleas a civil action against that owner to 274
enforce compliance with that buffer requirement whenever the 275
required buffer is not in place before any development of the 276
annexed territory begins. 277

(J) Division (H)(12) of section 718.01 of the Revised Code 278
applies to the compensation paid to persons performing personal 279
services for a political subdivision on property owned by the 280
political subdivision after that property is annexed to a 281
municipal corporation under this section. 282

Section 2. That existing sections 709.02 and 709.023 of the 283
Revised Code are hereby repealed. 284