

As Introduced

**130th General Assembly
Regular Session
2013-2014**

H. B. No. 461

Representatives Henne, Butler

Cosponsors: Representatives Brenner, Hood, Sprague, Stebelton, Terhar

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A B I L L

To amend section 709.023 of the Revised Code to 1
provide that, beginning five years after a type-II 2
annexation is approved, the annexed territory is 3
subject to a fire, police, or EMS tax levy only if 4
the levy is imposed by the subdivision that 5
provides the fire, police, or EMS service to the 6
territory. 7

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

Section 1. That section 709.023 of the Revised Code be 8
amended to read as follows: 9

Sec. 709.023. (A) A petition filed under section 709.021 of 10
the Revised Code that requests to follow this section is for the 11
special procedure of annexing land into a municipal corporation 12
when, subject to division (H) of this section, the land also is 13
not to be excluded from the township under section 503.07 of the 14
Revised Code. The owners who sign this petition by their signature 15
expressly waive their right to appeal in law or equity from the 16
board of county commissioners' entry of any resolution under this 17
section, waive any rights they may have to sue on any issue 18
relating to a municipal corporation requiring a buffer as provided 19

in this section, and waive any rights to seek a variance that 20
would relieve or exempt them from that buffer requirement. 21

The petition circulated to collect signatures for the special 22
procedure in this section shall contain in boldface capital 23
letters immediately above the heading of the place for signatures 24
on each part of the petition the following: "WHOEVER SIGNS THIS 25
PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL IN LAW OR EQUITY 26
FROM THE BOARD OF COUNTY COMMISSIONERS' ENTRY OF ANY RESOLUTION 27
PERTAINING TO THIS SPECIAL ANNEXATION PROCEDURE, ALTHOUGH A WRIT 28
OF MANDAMUS MAY BE SOUGHT TO COMPEL THE BOARD TO PERFORM ITS 29
DUTIES REQUIRED BY LAW FOR THIS SPECIAL ANNEXATION PROCEDURE." 30

(B) Upon the filing of the petition in the office of the 31
clerk of the board of county commissioners, the clerk shall cause 32
the petition to be entered upon the board's journal at its next 33
regular session. This entry shall be the first official act of the 34
board on the petition. Within five days after the filing of the 35
petition, the agent for the petitioners shall notify in the manner 36
and form specified in this division the clerk of the legislative 37
authority of the municipal corporation to which annexation is 38
proposed, the fiscal officer of each township any portion of which 39
is included within the territory proposed for annexation, the 40
clerk of the board of county commissioners of each county in which 41
the territory proposed for annexation is located other than the 42
county in which the petition is filed, and the owners of property 43
adjacent to the territory proposed for annexation or adjacent to a 44
road that is adjacent to that territory and located directly 45
across that road from that territory. The notice shall refer to 46
the time and date when the petition was filed and the county in 47
which it was filed and shall have attached or shall be accompanied 48
by a copy of the petition and any attachments or documents 49
accompanying the petition as filed. 50

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

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

If the territory proposed for annexation is subject to zoning regulations adopted under either Chapter 303. or 519. of the Revised Code at the time the petition is filed, the legislative authority of the municipal corporation also shall adopt an ordinance or resolution stating that, if the territory is annexed and becomes subject to zoning by the municipal corporation and that municipal zoning permits uses in the annexed territory that the municipal corporation determines are clearly incompatible with the uses permitted under current county or township zoning regulations in the adjacent land remaining within the township from which the territory was annexed, the legislative authority of the municipal corporation will require, in the zoning ordinance permitting the incompatible uses, the owner of the annexed

territory to provide a buffer separating the use of the annexed 83
territory and the adjacent land remaining within the township. For 84
the purposes of this section, "buffer" includes open space, 85
landscaping, fences, walls, and other structured elements; streets 86
and street rights-of-way; and bicycle and pedestrian paths and 87
sidewalks. 88

The clerk of the legislative authority of the municipal 89
corporation to which annexation is proposed shall file the 90
ordinances or resolutions adopted under this division with the 91
board of county commissioners within twenty days following the 92
date that the petition is filed. The board shall make these 93
ordinances or resolutions available for public inspection. 94

(D) Within twenty-five days after the date that the petition 95
is filed, the legislative authority of the municipal corporation 96
to which annexation is proposed and each township any portion of 97
which is included within the territory proposed for annexation may 98
adopt and file with the board of county commissioners an ordinance 99
or resolution consenting or objecting to the proposed annexation. 100
An objection to the proposed annexation shall be based solely upon 101
the petition's failure to meet the conditions specified in 102
division (E) of this section. 103

If the municipal corporation and each of those townships 104
timely files an ordinance or resolution consenting to the proposed 105
annexation, the board at its next regular session shall enter upon 106
its journal a resolution granting the proposed annexation. If, 107
instead, the municipal corporation or any of those townships files 108
an ordinance or resolution that objects to the proposed 109
annexation, the board of county commissioners shall proceed as 110
provided in division (E) of this section. Failure of the municipal 111
corporation or any of those townships to timely file an ordinance 112
or resolution consenting or objecting to the proposed annexation 113
shall be deemed to constitute consent by that municipal 114

corporation or township to the proposed annexation. 115

(E) Unless the petition is granted under division (D) of this 116
section, not less than thirty or more than forty-five days after 117
the date that the petition is filed, the board of county 118
commissioners shall review it to determine if each of the 119
following conditions has been met: 120

(1) The petition meets all the requirements set forth in, and 121
was filed in the manner provided in, section 709.021 of the 122
Revised Code. 123

(2) The persons who signed the petition are owners of the 124
real estate located in the territory proposed for annexation and 125
constitute all of the owners of real estate in that territory. 126

(3) The territory proposed for annexation does not exceed 127
five hundred acres. 128

(4) The territory proposed for annexation shares a contiguous 129
boundary with the municipal corporation to which annexation is 130
proposed for a continuous length of at least five per cent of the 131
perimeter of the territory proposed for annexation. 132

(5) The annexation will not create an unincorporated area of 133
the township that is completely surrounded by the territory 134
proposed for annexation. 135

(6) The municipal corporation to which annexation is proposed 136
has agreed to provide to the territory proposed for annexation the 137
services specified in the relevant ordinance or resolution adopted 138
under division (C) of this section. 139

(7) If a street or highway will be divided or segmented by 140
the boundary line between the township and the municipal 141
corporation as to create a road maintenance problem, the municipal 142
corporation to which annexation is proposed has agreed as a 143
condition of the annexation to assume the maintenance of that 144

street or highway or to otherwise correct the problem. As used in 145
this section, "street" or "highway" has the same meaning as in 146
section 4511.01 of the Revised Code. 147

(F) Not less than thirty or more than forty-five days after 148
the date that the petition is filed, if the petition is not 149
granted under division (D) of this section, the board of county 150
commissioners, if it finds that each of the conditions specified 151
in division (E) of this section has been met, shall enter upon its 152
journal a resolution granting the annexation. If the board of 153
county commissioners finds that one or more of the conditions 154
specified in division (E) of this section have not been met, it 155
shall enter upon its journal a resolution that states which of 156
those conditions the board finds have not been met and that denies 157
the petition. 158

(G) If a petition is granted under division (D) or (F) of 159
this section, the clerk of the board of county commissioners shall 160
proceed as provided in division (C)(1) of section 709.033 of the 161
Revised Code, except that no recording or hearing exhibits would 162
be involved. There is no appeal in law or equity from the board's 163
entry of any resolution under this section, but any party may seek 164
a writ of mandamus to compel the board of county commissioners to 165
perform its duties under this section. 166

(H) ~~Notwithstanding anything to the contrary in section~~ 167
~~503.07 of the Revised Code, Except as provided in division (K) of~~ 168
~~this section, and~~ unless otherwise provided in an annexation 169
agreement entered into pursuant to section 709.192 of the Revised 170
Code or in a cooperative economic development agreement entered 171
into pursuant to section 701.07 of the Revised Code, territory 172
annexed into a municipal corporation pursuant to this section 173
shall not at any time be excluded from the township under section 174
503.07 of the Revised Code and, thus, remains subject to the 175
township's real property taxes, notwithstanding anything to the 176

contrary in that section. 177

(I) Any owner of land that remains within a township and that 178
is adjacent to territory annexed pursuant to this section who is 179
directly affected by the failure of the annexing municipal 180
corporation to enforce compliance with any zoning ordinance it 181
adopts under division (C) of this section requiring the owner of 182
the annexed territory to provide a buffer zone, may commence in 183
the court of common pleas a civil action against that owner to 184
enforce compliance with that buffer requirement whenever the 185
required buffer is not in place before any development of the 186
annexed territory begins. 187

(J) Division (H)(12) of section 718.01 of the Revised Code 188
applies to the compensation paid to persons performing personal 189
services for a political subdivision on property owned by the 190
political subdivision after that property is annexed to a 191
municipal corporation under this section. 192

(K)(1) Except as provided in division (K)(2) of this section, 193
any tax levied for a purpose described in division (I), (J), (U), 194
or (JJ) of section 5705.19 of the Revised Code shall be levied in 195
territory annexed pursuant to this section only if the subdivision 196
that levies the tax provides the services for which the levy is 197
imposed within that annexed territory. 198

(2) Notwithstanding division (K)(1) of this section, a tax 199
levied for a purpose described in division (I), (J), (U), or (JJ) 200
of section 5705.19 of the Revised Code shall be levied in an 201
annexed territory for the tax year in which the petition is 202
granted under division (D) or (F) of this section with respect to 203
the territory and for the four tax years thereafter, provided that 204
the levy was in effect on the date the petition was granted, and 205
provided that, if the levy is renewed or replaced under Chapter 206
5705. of the Revised Code after that date, the renewal or 207
replacement levy shall be levied in the annexed territory only if 208

the requirement of division (K)(1) of this section is met. 209

Section 2. That existing section 709.023 of the Revised Code 210
is hereby repealed. 211

Section 3. The amendment by this act of section 709.023 of 212
the Revised Code applies to taxes levied for tax year 2015 or 213
thereafter. 214