

As Introduced

**131st General Assembly
Regular Session
2015-2016**

H. B. No. 302

**Representatives Henne, Butler
Cosponsor: Representative Duffey**

A BILL

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

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

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

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

buffer as provided in this section, and waive any rights to seek 20
a variance that would relieve or exempt them from that buffer 21
requirement. 22

The petition circulated to collect signatures for the 23
special procedure in this section shall contain in boldface 24
capital letters immediately above the heading of the place for 25
signatures on each part of the petition the following: "WHOEVER 26
SIGNS THIS PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL IN 27
LAW OR EQUITY FROM THE BOARD OF COUNTY COMMISSIONERS' ENTRY OF 28
ANY RESOLUTION PERTAINING TO THIS SPECIAL ANNEXATION PROCEDURE, 29
ALTHOUGH A WRIT OF MANDAMUS MAY BE SOUGHT TO COMPEL THE BOARD TO 30
PERFORM ITS DUTIES REQUIRED BY LAW FOR THIS SPECIAL ANNEXATION 31
PROCEDURE." 32

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

shall have attached or shall be accompanied by a copy of the 51
petition and any attachments or documents accompanying the 52
petition as filed. 53

Notice to a property owner is sufficient if sent by 54
regular United States mail to the tax mailing address listed on 55
the county auditor's records. Notice to the appropriate 56
government officer shall be given by certified mail, return 57
receipt requested, or by causing the notice to be personally 58
served on the officer, with proof of service by affidavit of the 59
person who delivered the notice. Proof of service of the notice 60
on each appropriate government officer shall be filed with the 61
board of county commissioners with which the petition was filed. 62

(C) Within twenty days after the date that the petition is 63
filed, the legislative authority of the municipal corporation to 64
which annexation is proposed shall adopt an ordinance or 65
resolution stating what services the municipal corporation will 66
provide, and an approximate date by which it will provide them, 67
to the territory proposed for annexation, upon annexation. The 68
municipal corporation is entitled in its sole discretion to 69
provide to the territory proposed for annexation, upon 70
annexation, services in addition to the services described in 71
that ordinance or resolution. 72

If the territory proposed for annexation is subject to 73
zoning regulations adopted under either Chapter 303. or 519. of 74
the Revised Code at the time the petition is filed, the 75
legislative authority of the municipal corporation also shall 76
adopt an ordinance or resolution stating that, if the territory 77
is annexed and becomes subject to zoning by the municipal 78
corporation and that municipal zoning permits uses in the 79
annexed territory that the municipal corporation determines are 80

clearly incompatible with the uses permitted under current 81
county or township zoning regulations in the adjacent land 82
remaining within the township from which the territory was 83
annexed, the legislative authority of the municipal corporation 84
will require, in the zoning ordinance permitting the 85
incompatible uses, the owner of the annexed territory to provide 86
a buffer separating the use of the annexed territory and the 87
adjacent land remaining within the township. For the purposes of 88
this section, "buffer" includes open space, landscaping, fences, 89
walls, and other structured elements; streets and street rights- 90
of-way; and bicycle and pedestrian paths and sidewalks. 91

The clerk of the legislative authority of the municipal 92
corporation to which annexation is proposed shall file the 93
ordinances or resolutions adopted under this division with the 94
board of county commissioners within twenty days following the 95
date that the petition is filed. The board shall make these 96
ordinances or resolutions available for public inspection. 97

(D) Within twenty-five days after the date that the 98
petition is filed, the legislative authority of the municipal 99
corporation to which annexation is proposed and each township 100
any portion of which is included within the territory proposed 101
for annexation may adopt and file with the board of county 102
commissioners an ordinance or resolution consenting or objecting 103
to the proposed annexation. An objection to the proposed 104
annexation shall be based solely upon the petition's failure to 105
meet the conditions specified in division (E) of this section. 106

If the municipal corporation and each of those townships 107
timely files an ordinance or resolution consenting to the 108
proposed annexation, the board at its next regular session shall 109
enter upon its journal a resolution granting the proposed 110

annexation. If, instead, the municipal corporation or any of those townships files an ordinance or resolution that objects to the proposed annexation, the board of county commissioners shall proceed as provided in division (E) of this section. Failure of the municipal corporation or any of those townships to timely file an ordinance or resolution consenting or objecting to the proposed annexation shall be deemed to constitute consent by that municipal corporation or township to the proposed annexation.

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

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

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

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

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

(5) The annexation will not create an unincorporated area of the township that is completely surrounded by the territory

proposed for annexation. 140

(6) The municipal corporation to which annexation is 141
proposed has agreed to provide to the territory proposed for 142
annexation the services specified in the relevant ordinance or 143
resolution adopted under division (C) of this section. 144

(7) If a street or highway will be divided or segmented by 145
the boundary line between the township and the municipal 146
corporation as to create a road maintenance problem, the 147
municipal corporation to which annexation is proposed has agreed 148
as a condition of the annexation to assume the maintenance of 149
that street or highway or to otherwise correct the problem. As 150
used in this section, "street" or "highway" has the same meaning 151
as in section 4511.01 of the Revised Code. 152

(F) Not less than thirty or more than forty-five days 153
after the date that the petition is filed, if the petition is 154
not granted under division (D) of this section, the board of 155
county commissioners, if it finds that each of the conditions 156
specified in division (E) of this section has been met, shall 157
enter upon its journal a resolution granting the annexation. If 158
the board of county commissioners finds that one or more of the 159
conditions specified in division (E) of this section have not 160
been met, it shall enter upon its journal a resolution that 161
states which of those conditions the board finds have not been 162
met and that denies the petition. 163

(G) If a petition is granted under division (D) or (F) of 164
this section, the clerk of the board of county commissioners 165
shall proceed as provided in division (C)(1) of section 709.033 166
of the Revised Code, except that no recording or hearing 167
exhibits would be involved. There is no appeal in law or equity 168
from the board's entry of any resolution under this section, but 169

any party may seek a writ of mandamus to compel the board of 170
county commissioners to perform its duties under this section. 171

(H) ~~Notwithstanding anything to the contrary in section~~ 172
~~503.07 of the Revised Code, Except as provided in division (K)~~ 173
~~of this section, and~~ unless otherwise provided in an annexation 174
agreement entered into pursuant to section 709.192 of the 175
Revised Code or in a cooperative economic development agreement 176
entered into pursuant to section 701.07 of the Revised Code, 177
territory annexed into a municipal corporation pursuant to this 178
section shall not at any time be excluded from the township 179
under section 503.07 of the Revised Code and, thus, remains 180
subject to the township's real property taxes, notwithstanding 181
anything to the contrary in that section. 182

(I) Any owner of land that remains within a township and 183
that is adjacent to territory annexed pursuant to this section 184
who is directly affected by the failure of the annexing 185
municipal corporation to enforce compliance with any zoning 186
ordinance it adopts under division (C) of this section requiring 187
the owner of the annexed territory to provide a buffer zone, may 188
commence in the court of common pleas a civil action against 189
that owner to enforce compliance with that buffer requirement 190
whenever the required buffer is not in place before any 191
development of the annexed territory begins. 192

(J) Division (C) (18) of section 718.01 of the Revised Code 193
applies to the compensation paid to persons performing personal 194
services for a political subdivision on property owned by the 195
political subdivision after that property is annexed to a 196
municipal corporation under this section. 197

(K) (1) Except as provided in division (K) (2) of this 198
section, any tax levied for a purpose described in division (I), 199

(J), (U), or (JJ) of section 5705.19 of the Revised Code shall 200
be levied in territory annexed pursuant to this section only if 201
the subdivision that levies the tax provides the services for 202
which the levy is imposed within that annexed territory. 203

(2) Notwithstanding division (K)(1) of this section, a tax 204
levied for a purpose described in division (I), (J), (U), or 205
(JJ) of section 5705.19 of the Revised Code shall be levied in 206
an annexed territory for the tax year in which the petition is 207
granted under division (D) or (F) of this section with respect 208
to the territory and for the four tax years thereafter, provided 209
that the levy was in effect on the date the petition was 210
granted, and provided that, if the levy is renewed or replaced 211
under Chapter 5705. of the Revised Code after that date, the 212
renewal or replacement levy shall be levied in the annexed 213
territory only if the requirement of division (K)(1) of this 214
section is met. 215

Section 2. That existing section 709.023 of the Revised 216
Code is hereby repealed. 217

Section 3. The amendment by this act of section 709.023 of 218
the Revised Code applies to taxes levied for tax year 2015 or 219
thereafter. 220