

AN ACT

To amend sections 505.62, 709.02, 709.03, 709.032, 709.033, 709.04, 709.13, 709.14, 709.15, 709.19, 709.21, 929.02, and 5705.31; to enact new sections 709.031, 709.07, 709.11, and 709.16 and sections 709.013, 709.014, 709.015, 709.021, 709.022, 709.023, 709.024, 709.192, and 5705.315; and to repeal sections 709.031, 709.07, 709.08, 709.09, 709.11, 709.16, 709.17, and 709.18 of the Revised Code to revise the laws governing municipal annexations.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 505.62, 709.02, 709.03, 709.032, 709.033, 709.04, 709.13, 709.14, 709.15, 709.19, 709.21, 929.02, and 5705.31 be amended and new sections 709.031, 709.07, 709.11, and 709.16 and sections 709.013, 709.014, 709.015, 709.021, 709.022, 709.023, 709.024, 709.192, and 5705.315 of the Revised Code be enacted to read as follows:

Sec. 505.62. A board of township trustees may enter into a contract with, and may appropriate township general revenue fund moneys for the services of, an attorney to represent the township at annexation hearings before the board of county commissioners and upon any appeal of the board's decision pursuant to section 709.07 or Chapter 2506. of the Revised Code.

The board of township trustees of a township that includes territory that is proposed to be annexed has standing in any appeal of the board of county commissioners' decision on the annexation of township territory that is taken pursuant to section 709.07 or Chapter 2506. of the Revised Code, if the board of township trustees was represented at the annexation hearing before the board of county commissioners, expert witnesses, and other consultants as the board determines are necessary for any potential or pending annexation action, including proceedings before a board of county commissioners or any court. The board also may appropriate general revenue fund moneys for any other expenses it considers necessary that are

related to any potential or pending annexation actions.

Sec. 709.013. (A) If, after a petition for annexation is filed with the board of county commissioners, one or more other petitions are filed containing all or a part of the territory contained in the first petition, the board shall hear and decide the petitions in the order in which they were filed.

(B) The effect of granting any petition under division (A) of this section shall be to delete from any subsequently filed petition any territory contained in the petition that was granted.

(C) If two or more petitions for annexation are filed seeking to annex part or all of the same territory and appeals are subsequently filed under section 709.07 of the Revised Code, each court shall decide the appeal on the first-filed petition before considering the appeal in any subsequently filed petition.

Sec. 709.014. (A) The board of county commissioners may establish a reasonable fee or schedule of fees to cover its costs incurred in any annexation proceedings that take place under this chapter. The board also may require an initial deposit to be paid at the time a petition for annexation is filed under sections 709.02 to 709.21 of the Revised Code or promptly after that time. The clerk of the board shall maintain an accurate and detailed accounting of all funds received and expended in the processing of a petition for annexation filed under sections 709.02 to 709.21 of the Revised Code.

(B) Notwithstanding anything to the contrary in division (E) of section 709.024 and division (A) of section 709.03 of the Revised Code, the board of county commissioners, by resolution, may appoint the clerk of the board or the county administrator to set the date, time, and place for hearings, and to provide associated notices to the agent for the petitioners, required under those divisions instead of the board.

Sec. 709.015. The procedural requirements set forth in sections 709.02 to 709.21 of the Revised Code are directory in nature. Substantial compliance with the procedural requirements of those sections is sufficient to grant the board of county commissioners jurisdiction to hear and render its decision on a petition for annexation filed under those sections. The board shall cure a procedural defect and shall not deny a petition for annexation solely upon the basis of procedural defects.

Sec. 709.02. (A) The owners of real estate adjacent contiguous to a municipal corporation may, at their option, cause such territory to be annexed thereto; petition for annexation to a municipal corporation in the manner provided by sections ~~709.03~~ 709.02 to 709.11 of the Revised Code.

Application

~~(B) Application for such annexation shall be made by a petition, addressed to filed with the clerk of the board of county commissioners of the county in which the territory is located, and signed by a majority of the owners of real estate in such territory. Such~~

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

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

~~(B) A statement of the number of owners of real estate in the territory sought to be annexed;~~

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

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

~~(E) As used in sections 709.02 to 709.21 and, 709.38, and 709.39 of the Revised Code, "owner" or "owners" means any adult individual seized of a freehold estate in land who is legally competent, the state or any political subdivision as defined in section 5713.081 of the Revised Code, and any firm, trustee, or private corporation that, any of which is seized of a freehold estate in land; except that individuals, firms, and corporations holding~~

easements and any railroad, utility, street, and highway rights-of-way held in fee, by easement, or by dedication and acceptance are not included within such those meanings; and no person, firm, trustee, or private corporation, the state, or any political subdivision, that has become an owner of real estate by a conveyance, the primary purpose of which is to affect the number of owners required to sign an annexation a petition for annexation, is included within such those meanings. For purposes of sections 709.02 to 709.21, 709.38, and 709.39 of the Revised Code, the state or any political subdivision shall not be considered an owner and shall not be included in determining the number of owners needed to sign a petition unless an authorized agent of the state or the political subdivision signs the petition. The authorized agent for the state shall be the director of administrative services.

An owner is determined as of the date the petition is filed with the board of county commissioners. If the owner is a corporation, partnership, business trust, estate, trust, organization, association, group, institution, society, state, or political subdivision, the petition shall be signed by a person who is authorized to sign for that entity. A person who owns more than one parcel of real estate, either individually or as a tenant in common or by survivorship tenancy, shall be counted as one owner for purposes of this chapter.

Sec. 709.021. (A) When a petition signed by all of the owners of real estate in the unincorporated territory of a township proposed for annexation requests the annexation of that territory to a municipal corporation contiguous to that territory under one of the special procedures provided for annexation in sections 709.022, 709.023, and 709.024 of the Revised Code, the annexation proceedings shall be conducted under those sections to the exclusion of any other provisions of this chapter unless otherwise provided in this section or the special procedure section chosen.

(B) Application for annexation shall be made by a petition filed with the clerk of the board of county commissioners of the county in which the territory is located, and the procedures contained in divisions (C), (D), and (E) of section 709.02 of the Revised Code shall be followed, except that all owners, not just a majority of owners, shall sign the petition. To be valid, each petition circulated for the special procedure in section 709.022 or 709.023 of the Revised Code shall contain the notice provided for in division (B) of section 709.022 or division (A) of section 709.023 of the Revised Code, whichever is applicable.

(C) Except as otherwise provided in this section, only this section and sections 709.014, 709.015, 709.04, 709.10, 709.11, 709.12, 709.192, 709.20,

and 709.21 of the Revised Code apply to the granting of an annexation described in this section.

(D) As used in sections 709.022 and 709.024 of the Revised Code, "party" or "parties" means the municipal corporation to which annexation is proposed, each township any portion of which is included within the territory proposed for annexation, and the agent for the petitioners.

Sec. 709.022. (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 with the consent of all parties. The petition shall be accompanied by a certified copy of an annexation agreement provided for in section 709.192 of the Revised Code or of a cooperative economic development agreement provided for in section 701.07 of the Revised Code, that is entered into by the municipal corporation and each township any portion of which is included within the territory proposed for annexation. Upon the receipt of the petition and the applicable agreement, the board of county commissioners, at the board's next regular session, shall enter upon its journal a resolution granting the annexation, without holding a hearing.

(B) Owners who sign a petition requesting that the special procedure in this section be followed expressly waive their right to appeal any action taken by the board of county commissioners under this section. There is no appeal from the board's decision under this section in law or in equity.

The petition circulated to collect signatures for the special procedure in this section shall contain in boldface capital letters immediately above the heading of the place for signatures on each part of the petition the following: "WHOEVER SIGNS THIS PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL ANY ACTION ON THE PETITION TAKEN BY THE BOARD OF COUNTY COMMISSIONERS. THERE ALSO IS NO APPEAL FROM THE BOARD'S DECISION IN THIS MATTER IN LAW OR IN EQUITY."

(C) After the board of county commissioners grants the petition for annexation, the clerk of the board shall deliver a certified copy of the entire record of the annexation proceedings, including all resolutions of the board, signed by a majority of the members of the board, the petition, map, and all other papers on file, and the recording of the proceedings, if a copy is available, to the auditor or clerk of the municipal corporation to which annexation is proposed.

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 a variance that would relieve or exempt them from that buffer requirement.

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

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

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 territory and the adjacent land remaining within the township. For the purposes of this section, "buffer" includes open space, landscaping, fences, walls, and other structured elements; streets and street rights-of-way; and bicycle and pedestrian paths and sidewalks.

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

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

If the municipal corporation and each of those townships timely files an

ordinance or resolution consenting to the proposed annexation, the board at its next regular session shall enter upon its journal a resolution granting the proposed 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.

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

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

(F) Not less than thirty or more than forty-five days after the date that the petition is filed, if the petition is not granted under division (D) of this

section, the board of county commissioners, if it finds that each of the conditions specified in division (E) of this section has been met, shall enter upon its journal a resolution granting the annexation. If the board of county commissioners finds that one or more of the conditions specified in division (E) of this section have not been met, it shall enter upon its journal a resolution that states which of those conditions the board finds have not been met and that denies the petition.

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

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

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

Sec. 709.024. (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 for the purpose of undertaking a significant economic development project. As used in this section, "significant economic development project" means one or more economic development projects that can be classified as industrial, distribution, high technology, research and development, or commercial, which projects may include ancillary residential and retail uses and which projects shall satisfy all of the following:

(1) Total private real and personal property investment in a project shall be in excess of ten million dollars through land and infrastructure, new construction, reconstruction, installation of fixtures and equipment, or the addition of inventory, excluding investment solely related to the ancillary residential and retail elements, if any, of the project. As used in this division, "private real and personal property investment" does not include payments in lieu of taxes, however characterized, under Chapter 725. or 1728. or sections 5709.40 to 5709.43, 5709.73 to 5709.75, or 5709.78 to 5709.81 of the Revised Code.

(2) There shall be created by the project an additional annual payroll in excess of one million dollars, excluding payroll arising solely out of the retail elements, if any, of the project.

(3) The project has been certified by the state director of development as meeting the requirements of divisions (A)(1) and (2) of this section.

(B) Upon the filing of the petition under section 709.021 of the Revised Code in the office of the clerk of the board of county commissioners, the clerk shall cause the petition to be entered upon the journal of the board at its next regular session. This entry shall be the first official act of the board on the petition. Within five days after the filing of the petition, the agent for the petitioners shall notify in the manner and form specified in this division the clerk of the legislative authority of the municipal corporation to which annexation is proposed, the clerk of each township any portion of which is included within the territory proposed for annexation, the clerk of the board of county commissioners of each county in which the territory proposed for annexation is located other than the county in which the petition is filed, and the owners of property adjacent to the territory proposed for annexation or adjacent to a road that is adjacent to that territory and located directly across that road from that territory. The notice shall refer to the time and date when the petition was filed and the county in which it was filed and shall have attached or shall be accompanied by a copy of the petition and any attachments or documents accompanying the petition as filed.

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)(1) Within thirty days after the petition is filed, the legislative

authority of the municipal corporation to which annexation is proposed and each township any portion of which is included within the territory proposed for annexation may adopt and file with the board of county commissioners an ordinance or resolution consenting or objecting to the proposed annexation. An objection to the proposed annexation shall be based solely upon the petition's failure to meet the conditions specified in division (F) 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.

(2) Within twenty days after receiving the notice required by division (B) of this section, the legislative authority of the municipal corporation shall adopt, by ordinance or resolution, a statement indicating what services the municipal corporation will provide or cause to be provided, and an approximate date by which it will provide or cause them to be provided, to the territory proposed for annexation, upon annexation. If a hearing is to be conducted under division (E) of this section, the legislative authority shall file the statement with the clerk of the board of county commissioners at least twenty days before the date of the hearing.

(D) If all parties to the annexation proceedings consent to the proposed annexation, a hearing shall not be held, and the board, at its next regular session, shall enter upon its journal a resolution granting the annexation. There is no appeal in law or in equity from the board's entry of a resolution under this division. The clerk of the board shall proceed as provided in division (C)(1) of section 709.033 of the Revised Code.

(E) Unless the petition is granted under division (D) of this section, a hearing shall be held on the petition. The board of county commissioners shall hear the petition at its next regular session and shall notify the agent for the petitioners of the hearing's date, time, and place. The agent for the petitioners shall give, within five days after receipt of the notice of the hearing from the board, to the parties and property owners entitled to notice under division (B) of this section, notice of the date, time, and place of the hearing. 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. At the hearing, the parties and any owner of real estate within the territory proposed to be annexed are entitled to appear for the purposes described in division (C) of section 709.032 of the Revised Code.

(F) Within thirty days after a hearing under division (E) of this section, the board of county commissioners shall enter upon its journal a resolution granting or denying the proposed annexation. The resolution shall include

specific findings of fact as to whether or not each of the conditions listed in this division has been met. If the board grants the annexation, the clerk of the board shall proceed as provided in division (C)(1) of section 709.033 of the Revised Code.

The board shall enter a resolution granting the annexation if it finds, based upon a preponderance of the substantial, reliable, and probative evidence on the whole record, that 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 real estate located in the territory proposed to be annexed in the petition and constitute all of the owners of real estate in that territory.

(3) No street or highway will be divided or segmented by the boundary line between a township and the municipal corporation as to create a road maintenance problem, or if the street or highway will be so divided or segmented, the municipal corporation has agreed, as a condition of the annexation, that it will assume the maintenance of that street or highway. For the purposes of this division, "street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

(4) The municipal corporation to which the territory is proposed to be annexed has adopted an ordinance or resolution as required by division (C)(2) of this section.

(5) The state director of development has certified that the project meets the requirements of divisions (A)(1) and (2) of this section and thereby qualifies as a significant economic development project. The director's certification is binding on the board of county commissioners.

(G) An owner who signed the petition may appeal a decision of the board of county commissioners denying the proposed annexation under section 709.07 of the Revised Code. No other person has standing to appeal the board's decision in law or in equity. If the board grants the annexation, there shall be no appeal in law or in equity.

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

(I) A municipal corporation to which annexation is proposed is entitled in its sole discretion to provide to the territory proposed for annexation, upon annexation, services in addition to the services described in the ordinance or resolution adopted by the legislative authority of the municipal corporation under division (C)(2) of this section.

Sec. 709.03. ~~The (A) Once a petition required by described in section 709.02 of the Revised Code shall be is filed in, the office clerk of the board of county commissioners and the clerk shall cause the petition to be entered upon the record of proceedings journal of the board, which at its next regular session. This entry shall be the first official act of the board on the annexation petition, and shall cause the petition to be filed in the office of the county auditor, where it shall be subject to the inspection of any interested person. The agent for the petitioners shall cause written notice of the filing of the petition with the board of county commissioners and the date of such filing to be delivered to the clerk of the legislative authority of the municipal corporation to which annexation is proposed and to the clerk of each township any portion of which is included within the territory sought to be annexed. Any person. Within five days after the filing of the petition, the board shall set the date, time, and place for the hearing on the petition and shall notify the agent for the petitioners. The date for the hearing shall be not less than sixty or more than ninety days after the petition is filed with the clerk of the board.~~

(B) Upon being notified of the date of the hearing, the agent for the petitioners shall do all of the following:

(1) Within five days cause written notice of the filing of the petition with the board of county commissioners, the date and time of the filing, and the date, time, and place of the hearing, to be delivered to the clerk of the legislative authority of the municipal corporation to which annexation is proposed, to the clerk of each township any portion of which is included within the territory proposed for annexation, and to the clerk of the board of county commissioners of each county in which the territory proposed for annexation is located other than the county in which the petition is filed. The notice shall state the date and time when the petition was filed and the county in which it was filed and shall have attached or shall be accompanied by a copy of the petition and any attachments or documents accompanying the petition as filed. The notice shall be given by certified mail, return receipt requested, or by causing the notice to be personally served on the appropriate governmental officer, with proof of service being by affidavit of the person who delivered the notice. Within ten days after the date of completion of service, the agent for the petitioners shall file proof of service

of the notice with the board of county commissioners with which the petition was filed.

(2) Within ten days send by regular mail a copy of the notice of the board of county commissioners of the hearing to all owners of property within the territory proposed to be annexed, and to all owners of property adjacent to the territory proposed to be annexed or adjacent to a road that is adjacent to that territory and located directly across that road from that territory, whose names were provided by the agent for the petitioners under division (D) of section 709.02 of the Revised Code, along with a map of the territory proposed to be annexed and a statement indicating where the full petition for annexation can be reviewed. The notice also shall include a statement that any owner who signed the petition may remove the owner's signature by filing with the clerk of the board of county commissioners a written notice of withdrawal of the owner's signature within twenty-one days after the date the agent mails the notice; the agent shall include with each mailed notice a certification of the date of its mailing for this purpose. Within ten days after the mailing of the notices, the agent shall file with the board of county commissioners with which the petition was filed, a notarized affidavit that a notice was sent by regular mail to these property owners.

(3) Cause a notice containing the substance of the petition, and the date, time, and place of the hearing, to be published at least once and at least seven days prior to the date fixed for the hearing, in a newspaper of general circulation in each county in which territory proposed for annexation is situated. Within ten days after the date of completion of the publication or at the hearing, whichever comes first, the agent for the petitioners shall file proof of publication of the notice with the board of county commissioners with which the petition was filed.

(C) Any owner who signed the petition for annexation may remove his that signature by filing with the clerk of the board of county commissioners a written notice of withdrawal of his the owner's signature within twenty twenty-one days after such a notice of filing is delivered to the clerk of the township in which he resides the date the agent for the petitioners mailed the notice of the hearing to the owner as provided in division (B)(2) of this section. Thereafter, signatures may be withdrawn or removed only in the manner authorized by section 709.032 of the Revised Code.

(D) Upon receiving the notice described in division (B)(1) of this section, the legislative authority of the municipal corporation shall adopt, by ordinance or resolution, a statement indicating 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 statement shall be filed with the board of county commissioners at least twenty days before the date of the hearing. 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 the ordinance or resolution it adopts under this division.

Sec. 709.031. (A) Within five days after the petition for annexation is filed with the board of county commissioners, the clerk of the board shall refer the legal description of the perimeter and the map or plat of the territory proposed to be annexed to the county engineer for a report upon the accuracy of the legal description of the perimeter, map, or plat. Upon receiving these items, the county engineer shall file, at least twenty-five days before the hearing, a written report with the board based on the engineer's findings, which shall not be conclusive upon the board. Failure of the engineer to make the report shall not affect the jurisdiction or duty of the board to proceed.

(B) The petition may be amended without further notice by leave of the board of county commissioners and with the consent of the agent for the petitioners if the amendment does not add to the territory embraced in the original petition and is made at least fifteen days before the date of the hearing. The board may rerefer the legal description of the perimeter, map, or plat to the county engineer if revisions are made in them, for a report on their accuracy. Upon receiving these items, the county engineer shall file, on or before the date of the hearing, a written report with the board based on the engineer's findings, which shall not be conclusive upon the board. Failure of the engineer to make the report shall not affect the jurisdiction or duty of the board to proceed.

(C) The board of township trustees of any township containing any territory proposed for annexation and any owners of real estate in the territory proposed for annexation may request that reasonable proof be presented of the authority of a person signing the petition on behalf of any person other than a natural being, the state, or a political subdivision of the state. The request shall be in writing and be filed with the board of county commissioners and with the agent for the petitioners at least fifteen days prior to the hearing on the petition. When such a request is filed, the agent for the petitioners shall present to the board of county commissioners at the hearing held under section 709.032 of the Revised Code sufficient evidence by affidavit or testimony to establish that the owner is a person other than a natural being, the state, or a political subdivision of the state and that the owner authorized the person whose signature is on the petition to sign the

petition on its behalf. If the board does not find the evidence sufficient to establish this authority, it shall remove the signature from the petition.

Sec. 709.032. (A) As used in this section, "necessary party" means the municipal corporation to which annexation is proposed, each township any portion of which is included within the territory proposed for annexation, and the agent for the petitioners.

(B) The hearing provided for in section 709.031 709.03 of the Revised Code shall be public. Any The board of county commissioners may, or at the request of any necessary party shall, issue subpoenas for witnesses or for books, papers, correspondence, memoranda, agreements, or other documents or records relevant or material to the petition, directed to the sheriff of each county where the witnesses or documents or records are found, which subpoenas shall be served and returned in the same manner as those allowed by the court of common pleas in criminal cases. The fees and mileage of sheriffs and witnesses shall be the same as those allowed by the court of common pleas in criminal cases. The fee and mileage expenses incurred at the request of a party shall be paid in advance by the party, and the remainder of the expenses shall be paid out of fees charged by the board for the annexation proceedings. In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the court of common pleas of the county in which the disobedience, neglect, or refusal occurs, or any judge of that court, on application of the board, any member of the board, or a necessary party, may compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. An owner of a company, firm, partnership, association, or corporation that is subpoenaed may have an agent or attorney appear before the board on that owner's behalf in response to the subpoena.

The board of county commissioners shall make, by electronic means or some other suitable method, a record of the hearing. If a request, accompanied by a deposit to pay the costs, is filed with the board not later than seven days before the hearing, the board shall provide an official court reporter to record the hearing. The record of the hearing need not be transcribed unless a request, accompanied by an amount to cover the cost of transcribing the record, is filed with the board.

(C) Any person may appear, in person or by attorney; and, after being sworn, may support or contest the granting of the prayer of the petition provided for by section 709.02 of the Revised Code. Affidavits presented in support of or against the prayer of such petition shall be considered by the

board, but only if the affidavits are filed with the board and served as provided in the Rules of Civil Procedure upon the necessary parties to the annexation proceedings at least fifteen days before the date of the hearing; provided that the board shall accept an affidavit after the fifteen-day period if the purpose of the affidavit is only to establish the affiant's authority to sign the petition on behalf of the entity for which the affiant signed. Necessary parties or their representatives are entitled to present evidence, examine and cross-examine witnesses, and comment on all evidence, including any affidavits presented to the board under this division.

(D) At the hearing, any owner who signed the petition for annexation may appear; and, after being sworn as provided by section 305.21 of the Revised Code, testify orally that his the owner's signature was obtained by fraud, duress, misrepresentation, including any misrepresentation relating to the provision of municipal services to the territory proposed to be annexed, or undue influence. Any person may testify orally after being so sworn in support of or rebuttal to such the prior testimony by the owner. The commissioners, the agent for the petitioners or his attorney, and such owner or his attorney may examine such witnesses, including the owner. Any witnesses and owners who testify shall be subject to cross-examination by the necessary parties to the annexation proceedings. If a majority of the county commissioners find that such the owner's signature was obtained under circumstances that did constitute fraud, duress, misrepresentation, or undue influence, they shall find the signature to be void; and shall order it removed from the petition as of the time the petition was filed.

~~The petition may be amended without further notice by leave of the county commissioners with the consent of the agent for the petitioners where such amendment does not add to the territory embraced in the original petition. If any amendment is permitted, whereby territory not before embraced is added, the board shall appoint another time for the hearing, of which notice shall be given as specified in section 709.031 of the Revised Code.~~

Sec. 709.033. (A) After the hearing on a petition to annex for annexation, the board of county commissioners shall enter an order upon its journal allowing a resolution granting the annexation if it finds, based upon a preponderance of the substantial, reliable, and probative evidence on the whole record, that each of the following conditions has been met:

(A)(1) The petition contains all matter required in meets all the requirements set forth in, and was filed in the manner provided in, section 709.02 of the Revised Code.

(B) Notice has been published as required by section 709.031 of the

~~Revised Code.~~

~~(C)(2)~~ The persons ~~whose names are subscribed to~~ who signed the petition are owners of real estate located in the territory proposed to be annexed in the petition, and, as of the time the petition was filed with the board of county commissioners, the number of valid signatures on the petition constituted a majority of the owners of real estate in ~~the~~ that territory ~~proposed to be annexed~~.

~~(D)(3)~~ The municipal corporation to which the territory is proposed to be annexed has complied with division ~~(B)(D)~~ of section ~~709.031~~ 709.03 of the Revised Code.

~~(E)(4)~~ The territory ~~included in the annexation petition~~ proposed to be annexed is not unreasonably large; ~~the map or plat is accurate; and,~~

(5) On balance, the general good of the territory sought proposed to be annexed will be served, and the benefits to the territory proposed to be annexed and the surrounding area will outweigh the detriments to the territory proposed to be annexed and the surrounding area, if the annexation petition is granted. As used in division (A)(5) of this section, "surrounding area" means the territory within the unincorporated area of any township located one-half mile or less from any of the territory proposed to be annexed.

(6) No street or highway will be divided or segmented by the boundary line between a township and the municipal corporation as to create a road maintenance problem, or, if a street or highway will be so divided or segmented, the municipal corporation has agreed, as a condition of the annexation, that it will assume the maintenance of that street or highway. For the purposes of this division, "street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

(B) The board of county commissioners shall ~~grant~~ enter upon its journal a resolution granting or ~~deny~~ denying the petition for annexation within ~~ninety~~ thirty days after the hearing set pursuant to provided for in section ~~709.031~~ 709.032 of the Revised Code. The resolution shall include specific findings of fact as to whether each of the conditions listed in divisions (A)(1) to (6) of this section has been met. Upon journalization of the resolution, the clerk of the board shall send a certified copy of it to the agent for the petitioners, the clerk of the legislative authority of the municipal corporation to which annexation is proposed, the clerk of each township in which the territory proposed for annexation is located, and the clerk of the board of county commissioners of each county in which the territory proposed for annexation is located other than the county in which the petition is filed. The clerk of the board shall take no further action until

the expiration of thirty days after the date of journalization.

(C) After the expiration of that thirty-day period, if no appeal has been timely filed under section 709.07 of the Revised Code, the clerk of the board of county commissioners shall take one of the following actions:

(1) If the board of county commissioners grants granted the petition for annexation it, the clerk shall enter on its journal all the orders of the board relating to the annexation and deliver a certified transcript of copy of the entire record of the annexation proceedings, including all orders resolutions of the board, signed by a majority of the members of the board, the petition, map, and all other papers on file, the recording of the proceedings, if a copy is available, and exhibits presented at the hearing relating to the annexation proceedings, to the auditor or clerk of the municipal corporation to which annexation is proposed.

(2) If the board of county commissioners denies denied the petition for annexation, it the clerk shall send a certified copy of its order resolution denying the annexation to the agent for the petitioners and to the clerk of the municipal corporation to which the annexation was proposed. If, on any appeal of any such annexation denial, a court holds that the board's denial was contrary to law, and if the court orders the clerk of the board of county commissioners to enter on the journal of the board an order approving the annexation, then the clerk shall enter the order.

(D) If an appeal is filed in a timely manner under section 709.07 of the Revised Code from the determination of the board of county commissioners granting or denying the petition for annexation, the clerk of the board shall take further action only in accordance with that section.

Sec. 709.04. At the next regular session of the legislative authority of the municipal corporation to which annexation is proposed, after the expiration of sixty days from the date of ~~filing with him as the delivery~~ required by division (C) of section 709.022 or division (C)(1) of section 709.033 of the Revised Code, the auditor or clerk of ~~such that~~ municipal corporation shall lay the ~~transcript~~ resolution of the board granting the petition and the accompanying map or plat and petition ~~required by such section~~ before the legislative authority. ~~Thereupon the~~ The legislative authority, by resolution or ordinance, ~~then~~ shall accept or reject the ~~application~~ petition for annexation. If the legislative authority fails to pass an ordinance or resolution accepting the ~~application~~ petition for annexation within a period of one hundred twenty days after ~~the transcript is those documents are~~ laid before it by the auditor or clerk, the ~~application~~ petition for annexation shall be ~~deemed~~ considered rejected by the legislative authority, ~~unless it has been prevented from acting by a temporary~~

~~straining order, a temporary injunction, or some other order of a court.~~

Sec. 709.07. (A) The agent for the petitioners, any owner of real estate in the territory proposed for annexation, any township in which territory proposed for annexation is located, and the municipal corporation to which the territory is proposed to be annexed may file an appeal under Chapter 2506. of the Revised Code from a resolution of the board of county commissioners granting or denying the petition. The agent for the petitioners, any township in which the territory proposed for annexation is located, and any municipal corporation to which the territory is proposed to be annexed are necessary parties in an appeal. The filing of a notice of appeal with the clerk of the board of county commissioners shall operate as a stay of execution upon that clerk and all parties to the appeal, which stay shall not be lifted until the court having jurisdiction over the proceedings enters a final order affirming or reversing the decision of the board of county commissioners and the time limits for an appeal of that final order have passed without a notice of appeal being filed.

(B) Any party filing an appeal from the court of common pleas or court of appeals decision in an annexation matter shall serve on the clerk of the board of county commissioners a time-stamped copy of the notice of appeal. Upon issuance of a final order of any court regarding an annexation appeal, the clerk of the court shall forward a certified copy of the court's order to the clerk of the board of county commissioners that rendered the annexation decision that was appealed.

(C) If, after all appeals have been exhausted, the final determination of the court is that the petition for annexation should be granted, the board of county commissioners shall enter on its journal a resolution granting the annexation, if such a resolution has not already been journalized, and the clerk of the board shall deliver a certified copy of that journal entry and of the entire record of the annexation proceedings, including all resolutions of the board, signed by a majority of the members of the board, the petition, map, and all other papers on file, the transcript of the proceedings, and exhibits presented at the hearing relating to the annexation proceedings, to the auditor or clerk of the municipal corporation to which annexation is proposed. The municipal auditor or clerk shall lay these certified papers, along with the copy of the court's order, before the legislative authority at its next regular meeting. The legislative authority then shall proceed to accept or reject the petition for annexation as provided under section 709.04 of the Revised Code.

(D) If, after all appeals have been exhausted, the final determination of the court is that the petition for annexation should be denied, the board of

county commissioners shall enter on its journal a resolution denying the annexation, if such a resolution has not already been journalized.

Sec. 709.11. If the territory proposed for annexation under this chapter is situated in more than one county, the annexation proceedings shall be in the county in which the majority of acreage of the territory proposed for annexation is situated.

Sec. 709.13. The inhabitants, generally, of a municipal corporation may enlarge the limits of ~~such~~ the municipal corporation by the annexation of contiguous territory in the manner provided by sections 709.14 to 709.21, inclusive, 709.16 of the Revised Code.

Sec. 709.14. The legislative authority of a municipal corporation ~~which~~ that proposes to annex contiguous territory shall ~~pass~~, by a vote of not less than a majority of the members elected ~~thereto~~ to the legislative authority, ~~pass~~ an ordinance authorizing the annexation to be made; and directing the village solicitor or city director of law of the municipal corporation, or ~~some one~~ someone to be named in the ordinance, to prosecute the proceedings necessary to effect it.

Sec. 709.15. The application of a municipal corporation to the board of county commissioners requesting the annexation of contiguous territory under section 709.16 of the Revised Code shall be by a petition; setting forth that, under an ordinance of the legislative authority of the municipal corporation, the territory described in the petition was authorized to be annexed to the municipal corporation. The petition shall contain an accurate legal description of the ~~territory~~ perimeter and shall be accompanied by an accurate map or plat ~~thereof~~ of the territory proposed for annexation.

Sec. 709.16. (A) A municipal corporation may petition the board of county commissioners to annex contiguous territory owned only by the municipal corporation, a county, or the state. The clerk of the board shall cause the petition to be entered upon the board's journal at its next regular session. This entry shall be the first official act of the board upon the petition. Proceedings on the petition shall be conducted under this section to the exclusion of any other provisions of this chapter except for sections 709.014, 709.14, 709.15, 709.20, and 709.21 of the Revised Code.

(B) If the only territory to be annexed is contiguous territory owned by a municipal corporation, the board of county commissioners, by resolution, shall grant the annexation. The annexation shall be complete upon the entry upon the journal of the board of the resolution granting the annexation.

(C) If the only territory to be annexed is contiguous territory owned by a county, the board of county commissioners, by resolution, may grant or deny the annexation. The annexation shall be complete upon the entry upon

the journal of the board of a resolution granting the annexation.

(D) If the only territory to be annexed is contiguous territory owned by the state and the director of administrative services has filed a written consent to the granting of the annexation with the board of county commissioners, the board, by resolution, shall grant the annexation. The annexation shall be complete upon the entry upon the journal of the board of a resolution granting the annexation.

(E) The board of county commissioners shall act upon a petition for annexation filed under this section within thirty days after receipt of the petition.

(F) No appeal in law or in equity shall be allowed from the granting of an annexation under this section.

(G) When a municipal corporation purchases real property below an appraised fair market value and sells or agrees to sell the property back to the person that sold it to the municipal corporation, an annexation of that property completed under this section shall be void, and the annexed property shall become part of the township from which it was annexed, if it still exists. If the township no longer exists, the board of county commissioners shall attach the annexed territory to another township.

(H) Territory annexed under this section shall not be excluded from the township under section 503.07 of the Revised Code.

Sec. 709.19. (A) As used in this section:

~~(1) "Annexation period" means a period of one, two, or three consecutive twelve-month periods, whichever is less, during which one or more municipal corporations annex territory of a township that includes at least fifteen per cent but less than one hundred per cent of the total taxable value of the real, public utility, and tangible personal property subject to taxation in that township in the base year. No annexation period shall include a month that is part of another annexation period.~~

~~(2) "Base year" means the calendar year immediately preceding an annexation period.~~

~~(3) "Taxes" means the real and public utility property taxes charged by a township in the base year or, in an annexation under division (F) of this section, the real, public utility, and tangible personal property taxes that would have been charged by the township, if no annexation had occurred, in the year immediately preceding the year in which the payment is made, and payable after the reduction required by section 319.301 of the Revised Code but prior to the reduction required by section 319.302 of the Revised Code, and the taxes levied for such year by the township against tangible personal property. "Taxes" excludes taxes for the payment of debt charges.~~

~~(4) "Township taxes in the annexed territory" means the taxes against the real, public utility, and tangible personal property subject to taxation in the base year in territory annexed from the township to a municipal corporation during an annexation period or, in an annexation under division (F) of this section, the taxes against the real, public utility, and tangible personal property that would have been subject to taxation in the annexed territory in the year immediately preceding the year in which the payment is to be made, if no annexation had occurred.~~

~~(5) "International airport" means any airport that is:~~

~~(a) Designated as an international airport or a landing rights airport by the United States secretary of the treasury;~~

~~(b) Owned and operated by a municipal corporation;~~

~~(c) An unincorporated area not contiguous to the municipal corporation that owns it.~~

(2) "Commercial," "industrial," "residential," and "retail," in relation to property, mean property classified as such by the tax commissioner for the purposes of valuing property for taxation, except that "commercial," in relation to property, does not include any property classified as "retail."

~~(B) If the annexation of territory of any township by one or more municipal corporations under this chapter constitutes an annexation period of twelve consecutive months, except as provided in division (G) of this section, each municipal corporation that annexed territory of that township during that annexation period shall pay the township during each of the seven years following the annexation period:~~

~~(1) In each of the first three years, one hundred per cent of the township taxes in the annexed territory;~~

~~(2) In the fourth year, eighty per cent of the township taxes in the annexed territory;~~

~~(3) In the fifth year, sixty per cent of the township taxes in the annexed territory;~~

~~(4) In the sixth year, forty per cent of the township taxes in the annexed territory;~~

~~(5) In the seventh year, twenty per cent of the township taxes in the annexed territory.~~

~~(C) If the annexation of territory of any township by one or more municipal corporations under this chapter constitutes an annexation period of thirteen to twenty four consecutive months, except as provided in division (G) of this section, each municipal corporation that annexed territory of that township during that annexation period shall pay the township during each of the six years following the annexation period:~~

~~(1) In each of the first two years, one hundred per cent of the township taxes in the annexed territory;~~

~~(2) In the third year, eighty per cent of the township taxes in the annexed territory;~~

~~(3) In the fourth year, sixty per cent of the township taxes in the annexed territory;~~

~~(4) In the fifth year, forty per cent of the township taxes in the annexed territory;~~

~~(5) In the sixth year, twenty per cent of the township taxes in the annexed territory.~~

~~(D) If the annexation of territory of any township by one or more municipal corporations under this chapter constitutes an annexation period of twenty five to thirty six consecutive months, except as provided in division (G) of this section, each municipal corporation that annexed territory of that township during that annexation period shall pay the township during each of the five years following the annexation period:~~

~~(1) In the first year, one hundred per cent of the township taxes in the annexed territory;~~

~~(2) In the second year, eighty per cent of the township taxes in the annexed territory;~~

~~(3) In the third year, sixty per cent of the township taxes in the annexed territory;~~

~~(4) In the fourth year, forty per cent of the township taxes in the annexed territory;~~

~~(5) In the fifth year, twenty per cent of the township taxes in the annexed territory unincorporated territory is annexed to a municipal corporation and excluded from a township under section 503.07 of the Revised Code, upon exclusion of that territory, the municipal corporation that annexed the territory shall make payments to the township from which the territory was annexed only as provided in this section, except that, if the legislative authority of the municipal corporation enters into an agreement under section 701.07, 709.191, or 709.192 of the Revised Code with the township from which the territory was annexed that makes alternate provisions regarding payments by the municipal corporation, then the payment provisions in that agreement shall apply in lieu of the provisions of this section.~~

~~(C)(1) Except as provided in division (C)(2) of this section, the municipal corporation that annexed the territory shall make the following payments to the township from which the territory was annexed with respect to commercial and industrial real, personal, and public utility property taxes~~

using the property valuation for the year that the payment is due:

(a) In the first through third years following the annexation and exclusion of the territory from the township, eighty per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real, personal, and public utility property taxes if no annexation had occurred;

(b) In the fourth and fifth years following the annexation and the exclusion of the territory from the township, sixty-seven and one-half per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real, personal, and public utility property taxes if no annexation had occurred;

(c) In the sixth and seventh years following the annexation and exclusion of the territory from the township, sixty-two and one-half per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real, personal, and public utility property taxes if no annexation had occurred;

(d) In the eighth and ninth years following the annexation and exclusion of the territory from the township, fifty-seven and one-half per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real, personal, and public utility property taxes if no annexation had occurred;

(e) In the tenth through twelfth years following the annexation and exclusion of the territory from the township, forty-two and one-half per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real, personal, and public utility property taxes if no annexation had occurred.

(2) If there has been an exemption by the municipal corporation of commercial and industrial real, personal, or public utility property taxes pursuant to section 725.02, 1728.10, 3735.67, 5709.40, 5709.41, 5709.62, or 5709.88 of the Revised Code, there shall be no reduction in the payments owed to the township due to that exemption. The municipal corporation shall make payments to the township under division (C)(1) of this section, calculated as if the exemption had not occurred.

(D) The municipal corporation that annexed the territory shall make the following payments to the township from which the territory was annexed with respect to residential and retail real property taxes using the property valuation for the year that the payment is due:

(1) In the first through third years following the annexation and exclusion of the territory from the township, eighty per cent of the township taxes in the annexed territory that would have been due the township for

residential and retail real property taxes if no annexation had occurred;

(2) In the fourth and fifth years following the annexation and exclusion of the territory from the township, fifty-two and one-half per cent of the township taxes in the annexed territory that would have been due the township for residential and retail real property taxes if no annexation had occurred;

(3) In the sixth through tenth years following the annexation and exclusion of the territory from the township, forty per cent of the township taxes in the annexed territory that would have been due the township for residential and retail real property taxes if no annexation had occurred;

(4) In the eleventh and twelfth years following the annexation and exclusion of the territory from the township, twenty-seven and one-half per cent of the township taxes in the annexed territory that would have been due the township for residential and retail real property taxes if no annexation had occurred.

(E) If, pursuant to division (F) of this section, a municipal corporation annexes an international airport that it owns, the municipal corporation shall pay the township one hundred per cent of the township taxes in the annexed territory that would have been due the township; if no annexation had occurred; for each of the twenty-five years following the annexation.

(F)(1) Notwithstanding any other provision of this chapter, a board of county commissioners may authorize a municipal corporation to annex an international airport that the municipal corporation owns. Unless a contract is entered into pursuant to division (F)(2) of this section, any municipal corporation that annexes an international airport under this division shall make payments to the township from which the international airport is annexed, in the manner provided in division (E) of this section. No territory annexed pursuant to this division shall be considered part of the municipal corporation for the purposes of subsequent annexation, except that the board of county commissioners may authorize subsequent annexation under this division if the board determines that ~~such~~ subsequent annexation is necessary to the continued operation of the international airport.

(2) The chief executive of a municipal corporation that annexes territory pursuant to this division may enter into a contract with the board of township trustees of the township that loses the territory whereby the township agrees to provide the annexed territory with police, fire, or other services it is authorized to provide in exchange for specified consideration as agreed upon by the board of township trustees and the chief executive. In no instance shall the consideration received by the township be less than the payments that would be required under division (F)(1) of this section if no

contract were entered into.

~~(G) If after an annexation period for which payments are being made or are to be made to a township by one or more municipal corporations under division (B), (C), or (D) of this section, the remainder of the unincorporated territory of the township is annexed to another municipal corporation or incorporates as a municipal corporation, the balance of the payments due the township under division (B), (C), or (D) of this section shall be made to the municipal corporation to which the remainder of the township territory was annexed or to the municipal corporation incorporated from the remainder of the township territory.~~

~~No payment shall be made to a municipal corporation pursuant to this division unless the remainder of the unincorporated territory of the township referred to in this division constitutes at least fifty per cent of the area of the unincorporated area of the township prior to the annexation period.~~

~~(H) After consultation with the chief executive officer of the municipal corporation and the board of township trustees, the county auditor shall determine by which of the following methods the municipal corporations that annexed township territory shall pay the township the amounts prescribed in divisions (B) to (F) of this section, except that if the payments are made pursuant to division (G) of this section, they shall be made by the first method listed below:~~

~~(1) The county auditor shall issue a warrant semiannually against the taxes charged and payable against real and public utility property located in the municipal corporation and the taxes levied against tangible personal property located in the municipal corporation, and the county treasurer shall distribute such amount to the township or, pursuant to division (G) of this section, to the municipal corporation to which the remainder of the township territory was annexed or to the municipal corporation incorporated from the remainder of the township territory; or~~

~~(2) The county budget commission shall pay such amounts to the township from the amount apportioned to the municipal corporations from the undivided local government fund. The payment shall be over and above the amount apportioned to the township pursuant to section 5747.51 or 5747.53 of the Revised Code, and the apportionment of the municipal corporations shall be reduced by like amounts.~~

~~(I) Upon written notification to the county auditor and the chief executive officer of each municipal corporation that annexes township territory during an annexation period, a board of township trustees may decline to accept the payments required under divisions (B), (C), (D), and (F) of this section, and a municipal corporation may decline to accept the~~

~~payments required under division (G) of this section.~~

~~A municipal corporation need not make any payment required by this section if its legislative authority enters into an agreement under section 709.191 of the Revised Code.~~

Sec. 709.192. (A) The legislative authority of one municipal corporation, by ordinance or resolution, and the board of township trustees of one or more townships, by resolution, may enter into annexation agreements under this section.

(B) An annexation agreement may be entered into for any period of time and may be amended at any time in the same manner as it was initially authorized.

(C) Annexation agreements may provide for any of the following:

(1) The territory to be annexed;

(2) Any periods of time during which no annexations will be made and any areas that will not be annexed;

(3) Land use planning matters;

(4) The provision of joint services and permanent improvements within incorporated or unincorporated areas;

(5) The provision of services and improvements by a municipal corporation in the unincorporated areas;

(6) The provision of services and improvements by a township within the territory of a municipal corporation;

(7) The payment of service fees to a municipal corporation by a township;

(8) The payment of service fees to a township by a municipal corporation;

(9) The reallocation of the minimum mandated levies established pursuant to section 5705.31 of the Revised Code between a municipal corporation and a township in areas annexed after the effective date of this section;

(10) The issuance of notes and bonds and other debt obligations by a municipal corporation or township for public purposes authorized by or under an annexation agreement and provision for the allocation of the payment of the principal of, interest on, and other charges and costs of issuing and servicing the repayment of the debt;

(11) Agreements by a municipal corporation and township, with owners or developers of land to be annexed, or with both those landowners and land developers, concerning the provision of public services, facilities, and permanent improvements;

covered by the annexation agreement subsequent to its execution;

(13) Changing township boundaries under Chapter 503. of the Revised Code to exclude newly annexed territory from the original township and providing services to that territory;

(14) Payments in lieu of taxes, if any, to be paid to a township by a municipal corporation, which payments may be in addition to or in lieu of other payments required by law to be made to the township by that municipal corporation;

(15) Any other matter pertaining to the annexation or development of publicly or privately owned territory.

(D) Annexation agreements shall not be in derogation of the powers granted to municipal corporations by Article XVIII, Ohio Constitution, by any other provisions of the Ohio Constitution, or by the provisions of a municipal charter, nor shall municipal corporations and townships agree to share proceeds of any tax levy, although those proceeds may be used to make payments authorized in an annexation agreement.

(E) If any party to an annexation agreement believes another party has failed to perform its part of any provision of that agreement, including the failure to make any payment of moneys due under the agreement, that party shall give notice to the other party clearly stating what breach has occurred. The party receiving the notice has ninety days from the receipt of that notice to cure the breach. If the breach has not been cured within that ninety-day period, the party that sent the notice may sue for recovery of the money due under the agreement, sue for specific enforcement of the agreement, or terminate the agreement upon giving notice of termination to all the other parties.

(F) In order to promote economic development or to provide appropriate state functions and services to any part of the state, the state may become a party to an annexation agreement upon the approval of the director of development and with the written consent of the legislative authority of the municipal corporation and each of the boards of township trustees that are parties to the agreement.

(G) The board of county commissioners, by resolution, or any person, upon request, may become a party to an annexation agreement, but only upon the approval of the legislative authority of the municipal corporation and each of the boards of township trustees that are parties to the agreement, except that, if the state is a party to the agreement, the director of development is responsible for giving the approval.

(H) The powers granted by this section and any annexation agreement entered into under this section shall be liberally construed to allow parties to

these agreements to carry out the agreements' provisions relevant to government improvements, facilities, and services, and to promote and support economic development and the creation and preservation of economic opportunities.

Sec. 709.21. No error, irregularity, or defect in the proceedings under sections 709.01 to 709.20, ~~inclusive~~, of the Revised Code, shall render them invalid, ~~if once annexation has become final and~~ the annexed territory has been recognized as a part of the annexing municipal corporation, ~~and~~ taxes levied upon it as such have been paid, and it has been subjected to the authority of the legislative authority of ~~such~~ the annexing municipal corporation, ~~without objection from the inhabitants of such territory.~~

Sec. 929.02. (A) Any person who owns agricultural land may file an application with the county auditor to place the land in an agricultural district for five years if, during the three calendar years prior to the year in which that person files the application, the land has been devoted exclusively to agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government and if:

(1) The land is composed of tracts, lots, or parcels that total not less than ten acres; or

(2) The activities conducted on the land produced an average yearly gross income of at least twenty-five hundred dollars during that three-year period or the owner has evidence of an anticipated gross income of that amount from those activities. The owner shall submit with the application proof that the owner's land meets the requirements established under this division. If the county auditor determines that the application does not meet the requirements of this section, the county auditor shall deny the application and notify the applicant by certified mail, return receipt requested, within thirty days of the filing of the application. The applicant may appeal the denial of the application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice. If the county auditor determines that the application meets the requirements of this section, the county auditor shall approve the application and notify the applicant within thirty days of the filing of the application. An application that is not denied shall be deemed to be approved. The county auditor shall provide an applicant with a copy of an approved application within thirty days of the filing of the application. An application that is approved is effective upon the date of the filing of the application.

The county auditor shall keep a record of all land in the county that is

within an agricultural district, including a copy of the final action taken by a legislative body regarding applications modified by a legislative body pursuant to division (B) of this section.

(B) If the land of a person who files an application under division (A) of this section is within a municipal corporation or if an annexation petition that includes the land has been filed with the board of county commissioners under section ~~709.03~~ 709.02 of the Revised Code at the time of the filing, the owner also shall file a copy of the application for inclusion in an agricultural district with the clerk of the legislative body of the municipal corporation. No later than thirty days after the filing of an application; or, in the case of an annexation petition filed pursuant to section ~~709.03~~ 709.02 of the Revised Code, no later than thirty days after the petition has been granted, the legislative body shall conduct a public hearing on the application. The clerk of the legislative body shall cause a notice containing the substance of the application and the time and place where it will be heard to be published in a newspaper of general circulation in the county in which the application or annexation petition is filed no later than seven days prior to the time fixed for the hearing. The clerk of the legislative body also shall notify the applicant of the time and place of the hearing by certified mail sent no later than ten days prior to the hearing. Any interested person or representative of an interested person may appear in support of or to contest the granting of the application. Affidavits presented in support of or against the application shall be considered by the legislative body. Within thirty days of the hearing, the legislative body may approve the application, modify the application and approve the application as modified, or reject the application. An application that is not modified or rejected by a majority vote of the members of the legislative body shall be deemed to be approved. Prior to rejecting an application, the legislative body shall make every effort to modify the application. Modifications may include the length of time during which land is considered to be within an agricultural district, size of the agricultural district ~~as well as, and~~ any provisions of sections 929.03 to 929.05 of the Revised Code. If the applicant disapproves of the modifications made by the legislative body, the applicant may withdraw the application to place the land in an agricultural district. In rejecting or modifying an application to place land in an agricultural district, the legislative body shall demonstrate that the rejection or modification is necessary to prevent a substantial, adverse effect on the provision of municipal services within the municipal corporation, efficient use of land within the municipal corporation, the orderly growth and development of the municipal corporation, or the public health, safety, or welfare.

If an annexation petition is denied under section ~~709.03~~ 709.033 of the Revised Code, ~~or~~ if a legislative body fails to conduct a hearing in the time prescribed by this section, or if an application is approved, the application shall be deemed to have been approved and shall become effective as of the date the application was filed. An application approved with modifications shall become effective as of the date the application was filed unless the modification provides otherwise.

The clerk of the legislative body shall notify the applicant by certified mail, return receipt requested, sent within five days of the decision to approve, modify, or reject an application for inclusion of land in an agricultural district. The clerk of the legislative body shall also transmit a copy of the decision to approve, modify, or reject an application to the county auditor. An applicant may appeal a decision to modify or reject an application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice of modification or rejection.

(C) At any time after the first Monday in January and prior to the first Monday in March of the year during which an agricultural district terminates, the owner of land in the agricultural district may file a renewal application to continue the inclusion of all or part of the owner's land in an agricultural district for a period of time ending on the first Monday in April of the fifth year following the renewal application. The requirements for continued inclusion in the agricultural district and the renewal application procedure shall be the same as those required for the original application for placing land in an agricultural district. The county auditor shall notify owners of land in agricultural districts eligible to file a renewal application for continued inclusion in an agricultural district on or prior to the first Monday in February or the date upon which the county auditor notifies owners of land valued at agricultural use value for real property tax purposes of the necessity of filing a renewal application to continue valuing the land at agricultural use value. On or before the second Tuesday after the first Monday in March, the county auditor shall determine whether the owner of any land in an agricultural district eligible to file a renewal application failed to file a renewal application with respect to ~~such that~~ land and shall forthwith notify each ~~such~~ owner of the land by certified mail that unless a renewal application is filed prior to the first Monday in April, the land will be removed from the agricultural district upon its termination date. An approved renewal application is effective on the termination date of the preceding agricultural district. Failure of an owner to file a renewal application prior to the first Monday in April of the year during which the

owner's agricultural district terminates shall not prevent the owner from filing an application to include the owner's land in an agricultural district.

Land that is transferred to a new owner during the period in which the land is an agricultural district shall continue in the agricultural district under the terms of the existing district unless the new owner elects to discontinue inclusion in the agricultural district and files the election with the county auditor within sixty days after the transfer. Failure of the new owner to continue inclusion in the agricultural district for the duration of the period in which the land is in the agricultural district is withdrawal from an agricultural district subject to penalty.

(D) If, at any time during which land is in an agricultural district, the owner withdraws the land from the district, the owner shall notify the county auditor of the withdrawal and shall pay to the county auditor a withdrawal penalty calculated as follows:

(1) If the owner's action also disqualifies the owner's land for any tax savings that it had been receiving under sections 5713.30 to 5713.38 of the Revised Code, the owner shall pay a percentage of the amount charged under section 5713.34 of the Revised Code that is equal to the average bank prime rate at the time the amount charged under that section is required to be paid. The withdrawal penalty shall be in addition to the amount charged under that section.

(2) If the land had not been receiving any tax savings under those sections, or if the owner's action does not disqualify the land for tax savings under them, the owner shall pay a percentage of the amount that would have been charged under section 5713.34 of the Revised Code if the owner's land had been receiving tax savings and became disqualified for them in an amount that is equal to the average bank prime rate at the time the amount that would have been charged under that section would have been required to be paid.

For the purposes of divisions (D)(1) and (2) of this section, the county auditor shall determine the average bank prime rate using statistical release H.15, "selected interest rates," a weekly publication of the federal reserve board, or any successor publication. If the statistical release H.15, or its successor, ceases to contain the bank prime rate information or ceases to be published, the county auditor shall request a written statement of the average bank prime rate from the federal reserve bank of Cleveland or the federal reserve board.

The county auditor shall calculate the amount of the withdrawal penalty that is due and shall notify the owner of it. The auditor also shall note the withdrawal in the auditor's records.

The county auditor shall distribute the moneys collected under division (D) of this section in the manner provided in section 5713.35 of the Revised Code for moneys that the county auditor collects under that section.

(E) Land that is included in an agricultural district under this section and that is subsequently annexed by a municipal corporation shall not be subject to division (B) of this section either at the time of annexation or at the time of any subsequent application or renewal application for inclusion in the district if, at the time of annexation, its owner did not sign a petition favoring annexation under section 709.02 of the Revised Code ~~or vote for annexation in an election held in accordance with section 709.17 of the Revised Code~~. If its owner did sign a petition favoring annexation ~~or vote for annexation~~, as provided in ~~those sections~~ that section, or if the owner who opposed annexation has sold or transferred the land to another person who is keeping the land in the agricultural district, the land shall be subject to division (B) of this section at the time of any subsequent application or renewal application for inclusion in the district.

(F) The director of agriculture shall prescribe the application and renewal forms required under this section and shall furnish them to county auditors. In prescribing the forms, the director shall consult with the tax commissioner to determine if a single form can be developed for the purposes of this section and section 5713.31 of the Revised Code.

Sec. 5705.31. The county auditor shall present to the county budget commission the annual tax budgets submitted ~~to him~~ under sections 5705.01 to 5705.47 of the Revised Code, together with an estimate prepared by ~~such~~ the auditor of the amount of any state levy, the rate of any school tax levy as previously determined, the tax commissioner's estimate of the amount to be received in the county library and local government support fund, and such other information as the commission requests or the tax commissioner prescribes. The budget commission shall examine such budget and ascertain the total amount proposed to be raised in the county for the purposes of each subdivision and other taxing units ~~therein~~ in the county.

The commission shall ascertain that the following levies have been properly authorized and, if so authorized, shall approve them without modification:

(A) All levies in excess of the ten-mill limitation;

(B) All levies for debt charges not provided for by levies in excess of the ten-mill limitation, including levies necessary to pay notes issued for emergency purposes;

(C) The levies prescribed by division (B) of sections 742.33 and 742.34 of the Revised Code;

(D) ~~A~~ Except as otherwise provided in this division, a minimum levy within the ten-mill limitation for the current expense and debt service of each subdivision or taxing unit, which shall equal two-thirds of the average levy for current expenses and debt service allotted within the fifteen-mill limitation to such subdivision or taxing unit during the last five years the fifteen-mill limitation was in effect unless such subdivision or taxing unit requests an amount requiring a lower rate. Except as provided in section 5705.312 of the Revised Code, if the levies required in divisions (B) and (C) of this section for the subdivision or taxing unit equal or exceed the entire minimum levy of the subdivision as fixed, the minimum levies of the other subdivisions or taxing units shall be reduced by the commission to provide for the levies and an operating levy for the subdivision. Such additional levy shall be deducted from the minimum levies of each of the other subdivisions or taxing units, but the operating levy for a school district shall not be reduced below a figure equivalent to forty-five per cent of the millage available within the ten-mill limitation after all the levies in divisions (B) and (C) of this section have been provided for.

If a municipal corporation and a township have entered into an annexation agreement under section 709.192 of the Revised Code in which they agree to reallocate their shares of the minimum levies established under this division and if that annexation agreement is submitted along with the annual tax budget of both the township and the municipal corporation, then, when determining the minimum levy under this division, the auditor shall allocate, to the extent possible, the minimum levy for that municipal corporation and township in accordance with their annexation agreement.

(E) The levies prescribed by section 3709.29 of the Revised Code.

Divisions (A) to (E) of this section are mandatory and commissions shall be without discretion to reduce such minimum levies except as provided in such divisions.

If any debt charge is omitted from the budget, the commission shall include it therein.

Sec. 5705.315. With respect to annexations granted on or after the effective date of this section and during any tax year or years within which any territory annexed to a municipal corporation is part of a township, the minimum levy for the municipal corporation and township under section 5705.31 of the Revised Code shall not be diminished, except that in the annexed territory and only during those tax year or years, and in order to preserve the minimum levies of overlapping subdivisions under section 5705.31 of the Revised Code so that the full amount of taxes within the ten-mill limitation may be levied to the extent possible, the minimum levy

of the municipal corporation or township shall be the lowest of the following amounts:

(A) An amount that when added to the minimum levies of the other overlapping subdivisions equals ten mills;

(B) An amount equal to the minimum levy of the municipal corporation or township, provided the total minimum levy does not exceed ten mills.

The municipal corporation and the township may enter into an agreement to determine the municipal corporation's and the township's minimum levy under this section. If it cannot be determined what minimum levy is available to each and no agreement has been entered into by the municipal corporation and township, the municipal corporation and township shall each receive one-half of the millage available for use within the portion of the territory annexed to the municipal corporation that remains part of the township.

SECTION 2. That existing sections 505.62, 709.02, 709.03, 709.032, 709.033, 709.04, 709.13, 709.14, 709.15, 709.19, 709.21, 929.02, and 5705.31 and sections 709.031, 709.07, 709.08, 709.09, 709.11, 709.16, 709.17, and 709.18 of the Revised Code are hereby repealed.

SECTION 3. The provisions of Section 1 of this act shall apply only to annexation petitions filed on or after the effective date of this act. All annexation petitions filed before the effective date of this act shall be processed under the provisions of Chapter 709. of the Revised Code in effect at the time a particular petition was filed.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____