

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 509**

**Representative Scherer**

**Cosponsors: Representatives Becker, Brenner, Grossman, Perales, Rogers, Ruhl**

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**A BILL**

To amend sections 307.94, 703.20, and 703.21 of the Revised Code to allow electors of a village to petition the board of elections, as an alternative to the legislative authority, for the dissolution of the village, to provide for the timely transfer of village property and services with the assistance of the Auditor of State, to require the Auditor of State to perform and complete an audit or agreed-upon procedures before transferring any cash balances to a township following a village dissolution, and to modify the deadline to file a county charter petition with the board of county commissioners.

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

**Section 1.** That sections 307.94, 703.20, and 703.21 of the Revised Code be amended to read as follows:

**Sec. 307.94.** Electors of a county, equal in number to ten per cent of the number who voted for governor in the county at

the most recent gubernatorial election, may file, not later than 19  
one hundred ~~ten~~fifteen days before the date of a general 20  
election, a petition with the board of county commissioners 21  
asking that the question of the adoption of a county charter in 22  
the form attached to the petition be submitted to the electors 23  
of the county. The petition shall be available for public 24  
inspection at the offices of the county commissioners during 25  
regular business hours until four p.m. of the one hundred 26  
eleventh day before the election, at which time the board shall, 27  
by resolution, certify the petition to the board of elections of 28  
the county for submission to the electors of the county, unless 29  
the signatures are insufficient or the petitions otherwise 30  
invalid, at the next general election. 31

Such electors may, in the alternative not later than the 32  
one hundred thirtieth day before the date of a general election, 33  
file such a petition with the board of elections of the county. 34  
In such case the board of elections shall immediately proceed to 35  
determine whether the petition and the signatures on the 36  
petition meet the requirements of law and to count the number of 37  
valid signatures and to note opposite each invalid signature the 38  
reason for the invalidity. The board of elections shall complete 39  
its examination of the petition and the signatures and shall 40  
submit a report to the board of county commissioners not later 41  
than the one hundred twentieth day before the date of the 42  
general election certifying whether the petition is valid or 43  
invalid and, if invalid, the reasons for invalidity, whether 44  
there are sufficient valid signatures, and the number of valid 45  
and invalid signatures. The petition and a copy of the report to 46  
the board of county commissioners shall be available for public 47  
inspection at the board of elections. If the petition is 48  
certified by the board of elections to be valid and to have 49

sufficient valid signatures, the board of county commissioners 50  
shall forthwith and not later than four p.m. on the one hundred 51  
eleventh day before the general election, by resolution, certify 52  
the petition to the board of elections for submission to the 53  
electors of the county at the next general election. If the 54  
petition is certified by the board of elections to be invalid or 55  
to have insufficient valid signatures, or both, the petitioners' 56  
committee may protest such findings or solicit additional 57  
signatures as provided in section 307.95 of the Revised Code, or 58  
both, or request that the board of elections proceed to 59  
establish the validity or invalidity of the petition and the 60  
sufficiency or insufficiency of the signatures in an action 61  
before the court of common pleas in the county. Such action must 62  
be brought within three days after the request has been made, 63  
and the case shall be heard forthwith by a judge or such court 64  
whose decision shall be certified to the board of elections and 65  
to the board of county commissioners in sufficient time to 66  
permit the board of county commissioners to perform its duty to 67  
certify the petition, if it is determined by the court to be 68  
valid and contain sufficient valid signatures, to the board of 69  
elections not later than four p.m. on the one hundred eleventh 70  
day prior to the general election for submission to the electors 71  
at such general election. 72

A county charter to be submitted to the voters by petition 73  
shall be considered to be attached to the petition if it is 74  
printed as a part of the petition. A county charter petition may 75  
consist of any number of separate petition papers. Each part 76  
shall have attached a copy of the charter to be submitted to the 77  
electors, and each part shall otherwise meet all the 78  
requirements of law for a county charter petition. Section 79  
3501.38 of the Revised Code applies to county charter petitions. 80

The petitioners shall designate in the petition the names 81  
and addresses of a committee of not fewer than three nor more 82  
than five persons who will represent them in all matters 83  
relating to the petition. Notice of all matters or proceedings 84  
pertaining to such petitions may be served on the committee, or 85  
any of them, either personally or by certified mail, or by 86  
leaving it at the usual place of residence of each of them. 87

**Sec. 703.20.** (A) Villages may surrender their corporate 88  
powers upon the petition to the legislative authority or, in the 89  
alternative, to the board of elections of the village as 90  
provided in division (B)(1) of this section, of at least ~~forty~~ 91  
~~thirty~~ per cent of the electors thereof, to be determined by the 92  
number voting at the last regular municipal ~~election~~ election and 93  
by an affirmative vote of a majority of ~~such the~~ electors at a 94  
special election, which shall be provided for by the legislative 95  
authority or, in the alternative, the board of elections, and 96  
conducted, canvassed, and the result certified and made known as 97  
at regular municipal elections. If the result of the election is 98  
in favor of ~~such the~~ surrender, the village clerk or, in the 99  
alternative, the board of elections shall certify the result to 100  
the secretary of state, the auditor of state, and the county 101  
recorder, who shall record it in their respective offices, ~~and~~ 102  
~~thereupon the~~. The corporate powers of such the village shall 103  
cease upon the recording in the county recorder's office. 104

(B)(1) If the legislative authority of a village fails to 105  
act upon the petition within thirty days after receipt of the 106  
petition, the electors may present the petition to the board of 107  
elections to determine the validity and sufficiency of the 108  
signatures. The petition shall be governed by the rules of 109  
section 3501.38 of the Revised Code. The petition shall be filed 110  
with the board of elections of the county in which the largest 111

portion of the population of the village resides. If the 112  
petition is sufficient, the board of elections shall submit the 113  
question "Shall the village of ..... surrender its 114  
corporate powers?" for the approval or rejection of the electors 115  
of the village at the next general or special election, in any 116  
year, occurring after the period ending ninety days after the 117  
filing of the petition with the board. If the result of the 118  
election is in favor of the surrender, the board of elections 119  
shall certify the results to the secretary of state, the auditor 120  
of state, and the county recorder, who shall record it in their 121  
respective offices. The corporate powers of the village shall 122  
cease upon the recording in the county recorder's office. 123

(2) In addition to filing the petition with the board of 124  
elections as provided in division (B)(1) of this section, a copy 125  
of the petition shall be filed with the board of township 126  
trustees of each township affected by the surrender. 127

(C) The auditor of state shall assist in facilitating a 128  
timely and systematic manner for complying with the requirements 129  
of section 703.21 of the Revised Code. 130

**Sec. 703.21.** (A) The surrender of corporate powers by a 131  
village under section 703.20 or 703.201 of the Revised Code does 132  
not affect vested rights or accrued liabilities of the village, 133  
or the power to settle claims, dispose of property, or levy and 134  
collect taxes to pay existing obligations. But, after the 135  
presentation of the petition mentioned in section 703.20 of the 136  
Revised Code or receipt of the audit report and notice mentioned 137  
in section 703.201 of the Revised Code, the legislative 138  
authority of the village shall not create any new liability 139  
until the result of the election under section 703.20 of the 140  
Revised Code is declared or the decision of the court of common 141

pleas under division (C) of section 703.201 of the Revised Code 142  
is declared, or thereafter, if the result, in either case, is 143  
for the surrender of the village's corporate powers. If the 144  
auditor of state notifies the village that the attorney general 145  
may file a legal action under section 703.201 of the Revised 146  
Code, but the attorney general does not file such an action, the 147  
village shall not create any new liability for thirty days after 148  
receipt of the auditor of state's notice. 149

(B) Due and unpaid taxes may be collected after the 150  
surrender of corporate powers, and all moneys or property 151  
remaining after the surrender belongs to the township or 152  
townships located wholly or partly within the village, subject 153  
to the agreements entered into as provided for in this section 154  
for the timely transfer of real and personal property and 155  
subject to the report of an audit or, at the discretion of the 156  
auditor of state, agreed-upon procedures performed by the 157  
auditor of state under section 117.11 or 117.114 of the Revised 158  
Code. The auditor of state shall commence the audit or agreed- 159  
upon procedures within thirty days after receipt of the notice 160  
of dissolution as provided in division (E) of section 117.10 of 161  
the Revised Code. Cash balances shall be transferred at the 162  
completion of the audit or agreed-upon procedures performed by 163  
the auditor of state. ~~If Except as otherwise provided by~~ 164  
agreement of the affected village and townships, if more than 165  
one township is to receive the remaining money or property, the 166  
money and property shall be divided among the townships in 167  
proportion to the amount of territory that each township has 168  
within the village boundaries as compared to the total territory 169  
within the village. 170

(C) (1) Village real and personal property, other than 171  
electric, water and sewer utility property, shall be transferred 172

in a timely manner in accordance with agreements between or 173  
among the affected village and township or townships. If no such 174  
agreements have been reached within sixty days after the 175  
certificate of dissolution is filed with the county recorder, 176  
title to real and personal property other than any electric and 177  
water and sewer utility property vests by operation of law in 178  
the affected township or townships. If more than one township is 179  
affected, and agreements have not been reached within sixty days 180  
after the certificate of dissolution is filed, title vests by 181  
operation of law in proportion to the amount of territory that 182  
each township has within the village boundaries as compared to 183  
the total territory within the village. 184

(2) Any agreements entered into under this section 185  
regarding the transfer of real property shall be recorded with 186  
the county recorder of the county in which the affected real 187  
property is situated along with affidavits stating facts 188  
relating to title as provided for in section 5301.252 of the 189  
Revised Code. The county recorder shall make appropriate 190  
notations in the county records to reflect the conveyance of the 191  
village's interest in real property in accordance with the 192  
recorded agreements resulting from the surrender of corporate 193  
powers. The notations shall include a reference to the county's 194  
recorded certificate of dissolution. 195

In the absence of any agreements and upon the recording of 196  
affidavits relating to title, the county recorder shall make 197  
appropriate notations in the county records to reflect the 198  
conveyance of the village's interest in real property and to 199  
evidence that title vested by operation of law in the township 200  
or townships as otherwise provided for in this section and as a 201  
result of the surrender of corporate powers. The recording of a 202  
certificate of dissolution or a certified copy of it, any 203

agreements regarding the transfer of real property, and 204  
supporting affidavits serve as sufficient evidence of a transfer 205  
of title from the former village to a township or townships. 206  
These documents shall be recorded in the same manner as a deed 207  
of conveyance, except that the affected township or townships 208  
are exempt from any fees specified under section 317.32 of the 209  
Revised Code. 210

(3) Cash balances shall be transferred at the completion 211  
of the audit, or, at the discretion of the auditor of state, 212  
agreed-upon procedures performed by the auditor of state. 213

(D) Electric, water and sewer utility property shall be 214  
transferred by agreement entered into by the village and the 215  
entity that will be taking over the electric, water and sewer 216  
utility property and assets. Cash balances shall be transferred 217  
at the completion of the audit, or, at the discretion of the 218  
auditor of state, agreed-upon procedures performed by the 219  
auditor of state. The provision of utility and other services 220  
shall be uninterrupted during the transition period following 221  
the surrender of corporate powers. 222

(E) As used in division (C) of this section, "certificate 223  
of dissolution" means the certified election results approving 224  
the surrender of corporate powers as recorded by the county 225  
recorder. 226

After the surrender of corporate powers, all resolutions 227  
of the township or townships into which the village's territory 228  
was dissolved shall apply throughout the township's newly 229  
included territory. 230

**Section 2.** That existing sections 307.94, 703.20, and 231  
703.21 of the Revised Code are hereby repealed. 232