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Am. H. B. No. 277

Representative Stautberg

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

Speaker Batchelder

A B I L L

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

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

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

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

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

(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.

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

(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)(1) As used in this section and in sections 709.02, 709.021 to 709.21, 709.38, and 709.39 of the Revised Code, "owner" or "owners" means any adult individual 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, any of which is seized of a freehold estate in land; except that 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 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 a petition for annexation, is included within those meanings. Fee

(2) For purposes of this section and sections 709.02, 709.021, 709.022, 709.024 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.

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

(4) An owner is determined as of the date the petition is filed with the board of county commissioners, except that any owner whose signature has been removed from the petition pursuant to division (B) of section 709.023 of the Revised Code shall not be counted as an owner under division (B)(2) of that section. 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.

(5) 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. 709.023. (A) A petition filed under section 709.021 of the Revised Code that requests to follow this section is for the special procedure of annexing land into a municipal corporation when, subject to division (H) of this section, the land also is not to be excluded from the township under section 503.07 of the Revised Code. The owners who sign this petition by their signature expressly waive their right to appeal in law or equity from the board of county commissioners' entry of any resolution under this section, waive any rights they may have to sue on any issue relating to a municipal corporation requiring a buffer as provided in this section, and waive any rights to seek 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 fiscal officer 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.

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

(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.

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

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