



# Ohio Municipal League

*Our Cities and Villages ★ Bringing Ohio to Life*

## WHY HB 50 SHOULD NOT BE ENACTED

### I.

RC. 709.022 Provides for the annexation with the consent of the municipality and township with a certified copy of an annexation agreement provided in RC. 709.129 or a cooperative economic development agreement provided for in RC. 701.07.

In this procedure, the County Commissioners shall (in its next meeting) enter a resolution granting the annexation upon its journal at its next meeting without holding a hearing.

This is a preferred method of annexation, but it requires cooperation by both the township and municipality. See RC. 709.192, the annexation agreement.

This is a preferred method of annexation if the township and municipality can agree on an annexation agreement. As you see by reviewing RC. 709.192, the township and municipality have broad authority to reach an agreement with respect to many matters.

### II.

But you must remember that it is neither the municipality or township who's rights are at stake. It is the non government owner of the land that is the party who's interests are protected. Under RC. 709.022, the non government owner of the land works with the municipality and the township to achieve its rights.

But not all proposed annexations are acceptable to the township and the municipality. At this point you must understand who's rights are at stake. It is the rights of the non government owner of the land that is stake. A right that needs protection by the statutes of the State of Ohio. It is the General Assembly's primary responsibility to recognize and protect the non governmental owner's rights—not the municipality's or township's views. Members of the General Assembly need to view annexation not from the municipality's or township's point of view but to provide protection to non governmental property owners; since municipalities and townships may disagree over issues not germane to the non governmental owner's rights.

That is the purpose of RC. 709.023 often referred as the "100% owners type II Annexation". We submit that the committees of the Ohio House and Senate have a duty to protect the rights of the non governmental owners of the land; and not the views of the municipality or township.

### III.

For that reason HB 50 should not be enacted. HB 50 is designed to eliminate Type II Annexations.

HB 50 beginning at line 48 provides that the definition of an “owner” or “owners” as set fourth in Division ( C) of RC 5113.081 shall be followed. Division ( C) of RC. 5713.081 provides as follows:

“( C) — political subdivision includes townships, municipalities, counties, school districts, boards of education, all state and municipal universities, park boards, and any other entity whose ownership of real property would constitute public ownership.”

To use that provision to define an owner for purposes of annexation is not appropriate. As a practical matter the bill as written would eliminate Type II annexations.

Given the fact that most annexations are Type II Annexations pursuant to RC. 709.023, HB 50 would stop annexations with out regard to non governmental owners rights.

#### IV.

1. First and foremost, in a Type II 100% owners annexation, a city or village may not cause the land annexed to be excluded from the township. This assures the continued existence of the Township with the boundaries that existed prior to the annexation.

2. Under RC. 709.023 (B) notice of the proposed annexation must be given to the township fiscal officer and to the owners of property adjacent to the territory proposed for annexation or located directly across the road from the territory proposed to be annexed, giving the time and date the petition was filed.

3. Within twenty days after the petition is filed, the municipality’s legislative authority shall adopt an ordinance or resolution stating what services will be provided by the municipality and the approximate date by which it will provide those services.

4. With respect to zoning, the municipality must provide a buffer separating the use of the annexed area and adjacent land.

5. Within twenty days after the petition for annexation is filed, the legislative authority of the municipality to which annexation is proposed and each township may adopt and file with the Board of County Commissioners an ordinance or resolution consenting or objecting the proposed annexation. If the municipality and the township timely consent, the Board of County Commissioners shall enter on its journal a resolution granting the proposed annexation.

6. If there is an objection filed by the municipality or township then the Board of County Commissioners shall review it to determine if each of the following conditions has been met.

(1) Petition meets all requirements

(2) The persons that signed the petition to annex are owners of real estate located in the territory proposed to be annexed and constitute all of the owners of real estate in that territory

(3) The territory proposed for annexation does not exceed 500 acres.

(4) The territory proposed for annexation shares a contiguous boundary with the municipal corporation for a continuous perimeter of the territory proposed for annexation for a continuous length of at least 5% 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 annexing municipality has agreed to provide the services specified previously.

(7) If a street or highway will be divided or segmented by the boundary line between the township and municipality as to create a road maintenance problem, the municipal corporation to which annexation is proposed has agreed as a condition to the annexation to assume the maintenance or otherwise correct the problem.

If the County Commissioners determine the seven conditions have been met, they shall grant the annexation.

7. There is no appeal in law or equity from the Board of County Commissioners, but mandamus is available to require the County commissioners to perform its duties.

8. Unless agreed to in an annexation agreement or a cooperative economic development agreement, territory annexed pursuant to Type II 100% owners petition method shall not be excluded from the township under RC. 503.07 and thus remains subject to the townships real property taxes.

#### V.

Section 709.192 gives very broad authority for townships and municipalities to enter into annexation agreements. We believe this statute leads the way by which municipalities and townships may work together on a cooperative basis.

The enactment of HB 50 would be destructive to local cooperation between municipalities and townships. Each of the two forms of local government need to cooperate. HB 50 is the wrong approach and should not be enacted by the General Assembly.

Respectfully Submitted,

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