

LSC 129 1215-1

**129th General Assembly
Regular Session
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Sub. H. B. No. 50

A BILL

To amend sections 701.07, 709.02, and 709.023 and to 1
enact section 701.071 of the Revised Code to 2
require that a political subdivision owner be 3
included in determining the number of owners 4
needed to sign a petition for an expedited type-II 5
annexation, to require a cooperative economic 6
development agreement instead of the continuation 7
of certain expedited type-II annexations, and to 8
require the participation of other political 9
subdivisions and state and municipal universities 10
as parties to such agreements in certain 11
circumstances. 12

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

Section 1. That sections 701.07, 709.02, and 709.023 be 13
amended and section 701.071 of the Revised Code be enacted to read 14
as follows: 15

Sec. 701.07. (A) The legislative authority of one or more 16
municipal corporations, by ordinance or resolution, and the board 17
of township trustees of one or more townships, by resolution, may 18
enter into a cooperative economic development agreement under this 19
section. The board of county commissioners of one or more counties 20
may become a party to a cooperative economic development agreement 21

upon the written consent of the legislative authority of each 22
municipal corporation and the board of township trustees of each 23
township that is a party to the agreement. The legislative 24
authorities or other governing bodies of state and municipal 25
universities and the political subdivisions specified in division 26
(I) of this section shall become parties to a cooperative economic 27
development agreement when a political subdivision owner is 28
included in a petition for annexation under section 709.023 of the 29
Revised Code and section 701.071 of the Revised Code applies. 30

Before entering into a cooperative economic development 31
agreement pursuant to this section, the parties to the agreement 32
shall jointly hold a public hearing concerning the agreement. The 33
parties shall provide to residents of the territory affected by 34
the agreement at least thirty days' public notice of the time and 35
place of the public hearing in one or more newspapers of general 36
circulation in that territory. During the thirty-day period prior 37
to the public hearing, each party to the agreement, except the 38
state or any state agency or any person or private entity that 39
becomes a party to the agreement under division (C)(10) or (F) of 40
this section, shall make available for public inspection a copy of 41
the proposed agreement. 42

(B) A cooperative economic development agreement may be 43
amended at any time in the same manner as it was initially 44
authorized. A cooperative economic development agreement shall 45
designate the territory the agreement covers. 46

(C) A cooperative economic development agreement may provide 47
for any of the following: 48

(1) The provision of joint services and permanent 49
improvements within incorporated or unincorporated areas; 50

(2) The provision of services and improvements by a municipal 51
corporation in unincorporated areas; 52

(3) The provision of services and improvements by a county or township within the territory of a municipal corporation;	53 54
(4) The payment of service fees to a municipal corporation by a township or county;	55 56
(5) The payment of service fees to a township or a county by a municipal corporation;	57 58
(6) The issuance of notes and bonds and other debt obligations by a municipal corporation, county, or township for public purposes authorized by or under a cooperative economic development 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;	59 60 61 62 63 64
(7) The issuance of industrial development notes, bonds, and debt obligations by a municipal corporation to finance projects in territory located outside the municipal corporation but located within the territory covered by a cooperative economic development 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. To implement division (C)(10) of this section, a municipal corporation may undertake projects under Chapter 165., 761., or 902. of the Revised Code even though the project is in territory located outside the municipal corporation.	65 66 67 68 69 70 71 72 73 74 75
(8) The territory to be annexed to a municipal corporation when agreed to by the municipal corporation to which annexation is proposed and the township in which the territory to be annexed is located;	76 77 78 79
(9) Any periods of time during which no annexations will occur and any areas that will not be annexed during the period when agreed to by the municipal corporation and township affected by the annexation moratorium;	80 81 82 83

(10) Agreements by a municipal corporation and a township, or 84
by a municipal corporation and a county, with landowners or 85
developers of land that is to be annexed, or with both such 86
landowners and land developers, concerning the provision of public 87
services, facilities, and permanent improvements. Any person or 88
other private entity described in division (C)(10) of this section 89
that enters into an agreement with a municipal corporation and a 90
township, or with a municipal corporation and a county, pursuant 91
to this division shall be considered to be a party to the 92
agreement. 93

(11) The application of tax abatement statutes within the 94
territory covered by the cooperative economic development 95
agreement; 96

(12) Changing township boundaries under Chapter 503. of the 97
Revised Code to exclude newly annexed territory from the original 98
township and providing services to that territory; 99

(13) The earmarking by a municipal corporation for its 100
general revenue fund of a portion of the utility charges it 101
collects in territory located outside the municipal corporation 102
but located within the territory covered by a cooperative economic 103
development agreement, but only if the cooperative economic 104
development agreement does not cover any matters relating to 105
annexation; 106

(14) Payments in lieu of taxes, if any, to be paid to a 107
township by a municipal corporation. These payments may be in 108
addition to or in lieu of other payments required by law to be 109
made to the township by that municipal corporation. 110

(15) Any other matter pertaining to the annexation or 111
development of territory, whether the territory is owned by a 112
governmental entity or a person or private entity. 113

As used in division (C)(2) of this section, "improvement" 114

includes, but is not limited to, sewers, roadways, public 115
utilities, and the acquisition of land. 116

(D) Cooperative economic development agreements shall not be 117
in derogation of the powers granted to municipal corporations by 118
Article XVIII, Ohio Constitution, or any other provisions of the 119
Ohio Constitution or of a municipal charter, nor shall municipal 120
corporations and townships, or municipal corporations and 121
counties, or any combination of two or more political subdivisions 122
agree to share proceeds of any tax levy, although such proceeds 123
may be used to make payments authorized in a cooperative economic 124
development agreement. 125

(E) If any party to a cooperative economic development 126
agreement believes any other party has failed to perform its part 127
of any provision of the agreement, including the failure to make 128
any payment of moneys due under the agreement, the complaining 129
party shall give notice to the other party clearly stating what 130
breach the complaining party believes has occurred. The party 131
receiving the notice has ninety days from the receipt of that 132
notice to cure the breach. If the breach has not been cured within 133
that ninety-day period, the complaining party may sue for the 134
recovery of the money due under the agreement, sue for specific 135
enforcement of the agreement, or terminate the agreement by giving 136
notice of termination to all other parties. 137

(F) In order to assist economic development or to provide 138
appropriate state functions and services to any part of the state, 139
the state or any state agency may become a party to a cooperative 140
economic development agreement upon the approval of the governor 141
and the written consent of the legislative authority or governing 142
board of each government entity that is a party to the agreement 143
and upon the approval of each person or private entity described 144
in division (C)(10) of this section that is party to the 145
agreement. 146

(G) A cooperative economic development agreement entered into 147
under this section is in addition to any other agreements 148
authorized by law between municipal corporations and counties or 149
between municipal corporations and townships. 150

(H) The powers and authorizations provided for under this 151
section and under any cooperative economic development agreement 152
entered into pursuant to this section shall be liberally construed 153
to allow parties to enter into cooperative economic development 154
agreements and to carry out such an agreement by providing 155
government improvements and facilities and services, by promoting 156
and supporting economic development, by creating and preserving 157
employment opportunities, and by allowing for the sharing by 158
counties and townships in the benefits of economic development 159
even if the economic development does not occur in an 160
unincorporated area. 161

(I) Any board of education of a school district or governing 162
board of an educational service center, governing body of a state 163
or municipal university, and board of park commissioners shall, by 164
resolution, become a party to a cooperative economic development 165
agreement under this section when section 701.071 of the Revised 166
Code applies. The agreement may include additional provisions to 167
those listed in division (C) of this section that are relevant to 168
these parties, provided none of those provisions are in derogation 169
of those provided in division (C) of this section. 170

Sec. 701.071. (A) As used in this section, "political 171
subdivision" has the meaning defined in section 5713.081 of the 172
Revised Code. 173

(B) When a petition for annexation under section 709.023 of 174
the Revised Code includes one or more political subdivision 175
owners, the annexation proceeding shall cease to continue and a 176
cooperative economic development agreement instead shall be 177

entered into by the affected municipal corporations, townships, 178
and counties, as provided in section 701.07 of the Revised Code, 179
except that if a state or municipal university or any of the 180
political subdivisions specified in division (I) of section 701.07 181
of the Revised Code are located in the area contemplated by a 182
proposed agreement under that section, the legislative authorities 183
or other governing bodies of those political subdivisions and 184
universities shall be notified and allowed to participate as 185
parties in the negotiations of the agreement between the other 186
parties and shall give final written approval of the agreement. No 187
annexation under section 709.023 of the Revised Code shall be 188
granted by a board of county commissioners when the petition for 189
annexation includes one or more political subdivision owners. 190

Sec. 709.02. (A) The owners of real estate contiguous to a 191
municipal corporation may petition for annexation to a municipal 192
corporation in the manner provided by sections 709.02 to 709.11 of 193
the Revised Code. 194

(B) Application for annexation shall be made by a petition 195
filed with the clerk of the board of county commissioners of the 196
county in which the territory is located. 197

(C) The petition required by this section shall contain the 198
following: 199

(1) The signatures of a majority of the owners of real estate 200
in the territory proposed for annexation. The person who signs or 201
the circulator of the petition also shall write the date the 202
signature was made next to the owner's name. No signature obtained 203
more than one hundred eighty days before the date on which the 204
petition is filed shall be counted in determining the number of 205
signers of the petition. Any owner who signed the petition may 206
have the signature removed before the document is filed by 207
delivering a signed statement to the agent for the petitioners 208

expressing the owner's wish to have the signature removed. Upon 209
receiving a signed statement, the agent for the petitioners shall 210
strike through the signature, causing the signature to be deleted 211
from the petition. 212

(2) An accurate legal description of the perimeter and an 213
accurate map or plat of the territory proposed for annexation; 214

(3) The name of a person or persons to act as agent for the 215
petitioners. The agent for the petitioners may be an official, 216
employee, or agent of the municipal corporation to which 217
annexation is proposed. 218

(D) At the time of filing the petition for annexation, the 219
agent for the petitioners also shall file with the clerk of the 220
board a list of all tracts, lots, or parcels in the territory 221
proposed for annexation, and all tracts, lots, or parcels located 222
adjacent to that territory or directly across the road from it 223
when the road is adjacent to it, including the name and mailing 224
address of the owner of each tract, lot, or parcel, and the 225
permanent parcel number from the county auditor's permanent parcel 226
numbering system established under section 319.28 of the Revised 227
Code for each tract, lot, or parcel. This list shall not be 228
considered to be a part of the petition for annexation, and any 229
error on the list shall not affect the validity of the petition. 230

(E) As used in sections 709.02 to 709.21, 709.38, and 709.39 231
of the Revised Code, "owner" or "owners" means any adult 232
individual who is legally competent, the state or any political 233
subdivision as defined in section 5713.081 of the Revised Code, 234
and any firm, trustee, or private corporation, any of which is 235
seized of a freehold estate in land; except that easements and any 236
railroad, utility, street, and highway rights-of-way held in fee, 237
by easement, or by dedication and acceptance are not included 238
within those meanings; and no person, firm, trustee, or private 239
corporation, the state, or any political subdivision, that has 240

become an owner of real estate by a conveyance, the primary 241
purpose of which is to affect the number of owners required to 242
sign a petition for annexation, is included within those meanings. 243
For purposes of sections 709.02, 709.021, 709.022, 709.024 to 244
709.21, 709.38, and 709.39 of the Revised Code, the state or any 245
political subdivision shall not be considered an owner and shall 246
not be included in determining the number of owners needed to sign 247
a petition unless an authorized agent of the state or the 248
political subdivision signs the petition. For purposes of section 249
709.023 of the Revised Code, the state shall be considered an 250
owner and shall be included in determining the number of owners 251
needed to sign a petition only if an authorized agent of the state 252
signs the petition. If an authorized agent of the state does not 253
sign a petition for purposes of section 709.023 of the Revised 254
Code, the state shall not be considered an owner and shall not be 255
included in determining the number of owners needed to sign a 256
petition. For purposes of section 709.023 of the Revised Code, a 257
political subdivision shall be considered an owner and shall be 258
included in determining the number of owners needed to sign a 259
petition. However, no annexation proceeding under that section 260
shall continue if a political subdivision owner is included on a 261
petition. The authorized agent for the state shall be the director 262
of administrative services. 263

An owner is determined as of the date the petition is filed 264
with the board of county commissioners. If the owner is a 265
corporation, partnership, business trust, estate, trust, 266
organization, association, group, institution, society, state, or 267
political subdivision, the petition shall be signed by a person 268
who is authorized to sign for that entity. A person who owns more 269
than one parcel of real estate, either individually or as a tenant 270
in common or by survivorship tenancy, shall be counted as one 271
owner for purposes of this chapter. 272

Sec. 709.023. (A) A petition filed under section 709.021 of 273
the Revised Code that requests to follow this section is for the 274
special procedure of annexing land into a municipal corporation 275
when, subject to division (H) of this section, the land also is 276
not to be excluded from the township under section 503.07 of the 277
Revised Code. The owners who sign this petition by their signature 278
expressly waive their right to appeal in law or equity from the 279
board of county commissioners' entry of any resolution under this 280
section, waive any rights they may have to sue on any issue 281
relating to a municipal corporation requiring a buffer as provided 282
in this section, and waive any rights to seek a variance that 283
would relieve or exempt them from that buffer requirement. 284

The petition circulated to collect signatures for the special 285
procedure in this section shall contain in boldface capital 286
letters immediately above the heading of the place for signatures 287
on each part of the petition the following: "WHOEVER SIGNS THIS 288
PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL IN LAW OR EQUITY 289
FROM THE BOARD OF COUNTY COMMISSIONERS' ENTRY OF ANY RESOLUTION 290
PERTAINING TO THIS SPECIAL ANNEXATION PROCEDURE, ALTHOUGH A WRIT 291
OF MANDAMUS MAY BE SOUGHT TO COMPEL THE BOARD TO PERFORM ITS 292
DUTIES REQUIRED BY LAW FOR THIS SPECIAL ANNEXATION PROCEDURE." 293

(B) Upon the filing of the petition in the office of the 294
clerk of the board of county commissioners, the clerk shall cause 295
the petition to be entered upon the board's journal at its next 296
regular session. This entry shall be the first official act of the 297
board on the petition. Within five days after the filing of the 298
petition, the agent for the petitioners shall notify in the manner 299
and form specified in this division the clerk of the legislative 300
authority of the municipal corporation to which annexation is 301
proposed, the fiscal officer of each township any portion of which 302
is included within the territory proposed for annexation, the 303
clerk of the board of county commissioners of each county in which 304

the territory proposed for annexation is located other than the 305
county in which the petition is filed, and the owners of property 306
adjacent to the territory proposed for annexation or adjacent to a 307
road that is adjacent to that territory and located directly 308
across that road from that territory. The notice shall refer to 309
the time and date when the petition was filed and the county in 310
which it was filed and shall have attached or shall be accompanied 311
by a copy of the petition and any attachments or documents 312
accompanying the petition as filed. 313

Notice to a property owner is sufficient if sent by regular 314
United States mail to the tax mailing address listed on the county 315
auditor's records. Notice to the appropriate government officer 316
shall be given by certified mail, return receipt requested, or by 317
causing the notice to be personally served on the officer, with 318
proof of service by affidavit of the person who delivered the 319
notice. Proof of service of the notice on each appropriate 320
government officer shall be filed with the board of county 321
commissioners with which the petition was filed. 322

(C) Within twenty days after the date that the petition is 323
filed, the legislative authority of the municipal corporation to 324
which annexation is proposed shall adopt an ordinance or 325
resolution stating what services the municipal corporation will 326
provide, and an approximate date by which it will provide them, to 327
the territory proposed for annexation, upon annexation. The 328
municipal corporation is entitled in its sole discretion to 329
provide to the territory proposed for annexation, upon annexation, 330
services in addition to the services described in that ordinance 331
or resolution. 332

If the territory proposed for annexation is subject to zoning 333
regulations adopted under either Chapter 303. or 519. of the 334
Revised Code at the time the petition is filed, the legislative 335
authority of the municipal corporation also shall adopt an 336

ordinance or resolution stating that, if the territory is annexed 337
and becomes subject to zoning by the municipal corporation and 338
that municipal zoning permits uses in the annexed territory that 339
the municipal corporation determines are clearly incompatible with 340
the uses permitted under current county or township zoning 341
regulations in the adjacent land remaining within the township 342
from which the territory was annexed, the legislative authority of 343
the municipal corporation will require, in the zoning ordinance 344
permitting the incompatible uses, the owner of the annexed 345
territory to provide a buffer separating the use of the annexed 346
territory and the adjacent land remaining within the township. For 347
the purposes of this section, "buffer" includes open space, 348
landscaping, fences, walls, and other structured elements; streets 349
and street rights-of-way; and bicycle and pedestrian paths and 350
sidewalks. 351

The clerk of the legislative authority of the municipal 352
corporation to which annexation is proposed shall file the 353
ordinances or resolutions adopted under this division with the 354
board of county commissioners within twenty days following the 355
date that the petition is filed. The board shall make these 356
ordinances or resolutions available for public inspection. 357

(D) Within twenty-five days after the date that the petition 358
is filed, the legislative authority of the municipal corporation 359
to which annexation is proposed and each township any portion of 360
which is included within the territory proposed for annexation may 361
adopt and file with the board of county commissioners an ordinance 362
or resolution consenting or objecting to the proposed annexation. 363
An objection to the proposed annexation shall be based solely upon 364
the petition's failure to meet the conditions specified in 365
division (E) of this section. 366

If the municipal corporation and each of those townships 367
timely files an ordinance or resolution consenting to the proposed 368

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 432
the Revised Code or in a cooperative economic development 433
agreement entered into pursuant to section 701.07 of the Revised 434
Code, territory annexed into a municipal corporation pursuant to 435
this section shall not at any time be excluded from the township 436
under section 503.07 of the Revised Code and, thus, remains 437
subject to the township's real property taxes. 438

(I) Any owner of land that remains within a township and that 439
is adjacent to territory annexed pursuant to this section who is 440
directly affected by the failure of the annexing municipal 441
corporation to enforce compliance with any zoning ordinance it 442
adopts under division (C) of this section requiring the owner of 443
the annexed territory to provide a buffer zone, may commence in 444
the court of common pleas a civil action against that owner to 445
enforce compliance with that buffer requirement whenever the 446
required buffer is not in place before any development of the 447
annexed territory begins. 448

(J) This section has no application if one or more of the 449
owners signing the petition for annexation is a political 450
subdivision owner. In that case, section 701.071 of the Revised 451
Code applies. 452

Section 2. That existing sections 701.07, 709.02, 709.023 of 453
the Revised Code are hereby repealed. 454