



Am. H.B. 91

123rd General Assembly

(As Reported by H. Local Gov't & Townships)

Reps. Terwilleger, Luebbers, Taylor, Krebs, Opfer, Vesper, Schuler, Young, Roman, Evans, Hoops, Cates, Clancy, O'Brien, Barrett, Verich, Sykes, Carey, Peterson

BILL SUMMARY

- Requires that a township remain intact when reduced to less than 22 square miles after a municipal corporation petitions for a change of township boundaries, unless a petition to partition the reduced township is filed by the township electors.
- Provides a method for township electors to petition to have their township attached to other townships or create a new township, and, if a township to be partitioned has adopted a limited self-government form of government, provides for an election in that township to determine whether the township will remain intact.
- Permits electors in the unincorporated territory of a township to petition to have that territory separated from the incorporated territory in the township.

CONTENT AND OPERATION

Background--separating unincorporated township territory from incorporated township territory

Current law permits separation of unincorporated township territory from incorporated township territory by either of two methods: by petition of a municipal corporation or by petition of freeholders in the unincorporated territory.

Under the *municipal petition method*, the legislative authority of either a city or village may petition the board of county commissioners to change township lines in order to make them identical (in whole or in part) with the limits of the municipal corporation or to erect a new township out of the portion of the

township within the municipal corporation. The board of county commissioners must approve such a petition from a city and may approve such a petition from a village. (Sec. 503.07.) If such a boundary change is made and the new township located outside the municipal borders is less than 22 square miles, the board of county commissioners may either annex that territory to any contiguous township or annex territory from a contiguous township to that territory and erect a new township (sec. 503.08).

A *procedure* also is provided for *freehold electors* in the unincorporated area of a township to petition the board of county commissioners to have the unincorporated territory erected into a new township, thus separating it from the incorporated portion of the township. In this case, the new township may be less than 22 square miles.¹ Once such a new township is created, the township territory that was located within the municipal corporation is no longer considered to be located in any township. (Sec. 503.09.) This procedure, however, which permits those in the unincorporated area of the township to petition for separation, has been found by at least one court to be unconstitutional as a violation of the Equal Protection Clause of the United States Constitution since only landowners and not all residents (including renters) may file the petition. *Cunningham v. Crabbe* (1992), 73 Ohio App.3d 596 (Ct. App. 7th Dist.).

Background--partitioning an existing township

In addition to the procedures mentioned above, current law also provides a procedure for householders in a township to petition the board of county commissioners to partition the township. This partition may be accomplished by (1) attaching a part of one township to another, (2) dividing one township and attaching the parts to other townships, or (3) laying off and designating a new township from the territory of one or more townships of the same county or from territory not before included in a civil township. This process is initiated by the filing of a petition signed by a majority of the householders residing in the townships affected by the partition or division, explaining why it is necessary or expedient to make the change. If township territory is divided or partitioned, the funds in that township's treasury are to be apportioned to the townships to which portions are attached or to the new townships, to the extent the funds are collected from that territory. (Secs. 503.02 and 503.03.)

¹ *Subject to certain exceptions, Township Law generally requires townships to have at least 22 square miles (sec. 503.03).*

Changes proposed by the bill

The bill changes the laws described above in the following ways:

(1) It permits *townships boundaries* to be changed so as to reduce the township territory *below 22 square miles*, but still requires that *new townships* be at *least 22 square miles* unless a specific exemption in the law applies (sec. 503.03).

(2) It removes the requirement that, when a municipal corporation separates incorporated township territory from unincorporated township territory, the *remaining township reduced below 22 square miles* be attached to another township or have territory attached to it to create a new township. Instead, under the bill, that remaining reduced township continues in existence unless a petition for partition as described in (3) below is filed and approved. Further, if the municipal petition results in the remaining township acquiring a new name, the bill requires the board of county commissioners to name that township and record that name as required when a partition petition by township householders is filed, with the limitation that no two townships in any county may have the same name. (Sec. 503.08.)

(3) It changes the township householder petition procedure described under "**Background--partitioning an existing township**," above, in the following ways:

(a) A majority of *electors*, not householders, residing in the relevant townships must file the petition, and the total number of electors is determined by the number of votes cast in the relevant townships for the office of Governor at the most recent general election for that office (sec. 503.02(A)).

(b) If the petition is to partition a *township that has adopted a limited self-government form of government*, the board of county commissioners must certify the question of whether or not the township is to remain intact to the board of elections for a determination on the validity and sufficiency of the signatures. If there are enough valid signatures, the board of elections must place that question on the ballot at a special election to be held on the day of the next general or primary election in the township occurring at least 75 days after the petition is filed. If a majority of those voting vote against keeping the township intact, the board of county commissioners must proceed to partition the township; otherwise, the township must remain intact. (Sec. 503.02(A).)

(4) It changes who may petition under the procedure provided for freehold electors in the unincorporated area of a township to petition to have the unincorporated territory erected into a new township, from "freehold electors" to

simply "electors," in an attempt to address the constitutional problem identified in the *Cunningham* case (sec. 503.09).

(5) If township territory is divided or partitioned, changes the current procedure for the apportionment of the funds in the township treasury to the townships to which portions are attached or to the new townships established, *to the extent the funds are collected from that territory*. Instead, the bill gives the board of county commissioners *discretion* on how to apportion the funds in the township's treasury to the township to which portions of the divided or partitioned township are attached, or to the new townships established, suggesting that such factors as taxable property valuation, population, or size of the portions created by the division or partition be taken into account. (Secs. 503.02(B) and 503.03.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-28-99	p. 118
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