



Ohio Legislative Service Commission

Bill Analysis

Bethany Boyd

H.B. 277

130th General Assembly
(As Introduced)

Reps. Stautberg, Becker, Brown, Conditt, Hood, Terhar, Thompson

BILL SUMMARY

- Requires that the state or any political subdivision be considered an "owner" and be included in determining whether 100% of the landowners in the territory proposed for an expedited type II annexation have signed the annexation petition, 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.
- Establishes a procedure by which a property owner who signed an expedited type II annexation petition may remove the owner's signature from the petition.
- Includes, in the definition of "party," owners of land within the territory proposed for annexation, for purposes of expedited type I, expedited type II, and significant economic development project annexations.
- Changes, to the time of the hearing before the board of county commissioners, the time at which the determination is made as to whether a majority of the owners of real estate located in territory proposed for a regular annexation have signed the petition.

CONTENT AND OPERATION

Expedited type II annexations

"Owner" and petition signature requirements

The bill revises the expedited type II annexation procedure (see below for a description of this procedure) as it applies to the state and political subdivisions that own land in territory proposed for annexation into a municipal corporation, when that land is not to be excluded from the township. The expedited type II annexation

procedure requires that 100% of the owners of real estate in the unincorporated territory of a township that is proposed to be annexed sign the annexation petition. Under continuing law, the state and political subdivisions are considered to be "owners" if any of them are "seized of a freehold estate in land," except that easements and any railroad, utility, street, and highway right-of-ways held in fee, by easement, or by dedication and acceptance are not included within those meanings. But under current law, if the state or a political subdivision owns land located in the territory proposed to be annexed, it appears that the state or political subdivision, even though it is a property "owner," may object to the annexation only for failure of the petition or the territory proposed for annexation to meet certain requirements, for example, the petition was not filed properly. Thus, unlike other property owners, the state or a political subdivision cannot otherwise object to the annexation of its land or prevent its annexation.¹

Under the bill, the state or any political subdivision that owns a freehold estate in land that is in the territory proposed for annexation must be considered an "owner" and must be included in determining the number of owners needed to sign a petition for an expedited type II annexation, 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.² This provision expands the authority of the state or any political subdivision to object to the type II annexation of its land, but appears to limit the authority of the state and political subdivisions to object to the type II annexation of their land *if* the land is a road or road right-of-way. The bill does not change the "owner" definition as it pertains to other forms of annexation.

Under the bill, only the Director of Administrative Services, on behalf of the state, or an authorized agent, on behalf of a political subdivision, can sign a petition for an expedited type II annexation.

The political subdivisions that are "owners" under continuing law include 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.³

¹ R.C. 709.02(E), 709.021(A), and 709.023(D) and (E).

² R.C. 709.02(E)(3).

³ R.C. 5713.081, not in the bill.



Withdrawal of owner's signature from the petition for an expedited type II annexation

Generally, owners of property are determined as of the date a petition for annexation is filed with the board of county commissioners. Under the bill, an owner may remove the owner's signature from an expedited type II annexation petition and cannot be counted as a property owner. Within seven days after the date the notice of the filing of the annexation petition is mailed to or caused to be personally served on the various local government officials involved in the annexation, 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.⁴

Other special procedure annexations

"Parties" to annexation proceedings

For purposes of an expedited type I annexation, an expedited type II annexation, and a significant economic development project annexation, the bill revises the definition of "party" to include owners of land within the territory proposed for annexation.⁵ Because an expedited type I annexation procedure requires the consent of all "parties" for the annexation to occur, this revision requires the consent of the owners of land within the territory proposed for annexation for the annexation to occur.⁶

For an expedited type II annexation, making owners of land within the territory proposed for annexation a "party" results in the owners having the right to seek a writ of mandamus to compel the board of county commissioners to perform its statutory duties under the expedited type II annexation law.⁷

For a significant economic development project annexation, this revision includes owners of land within the territory proposed for annexation as "parties" to the annexation proceedings; if all "parties" to the annexation proceedings consent to the proposed annexation, a hearing is not held.⁸

⁴ R.C. 709.02(E)(4) and 709.023(B).

⁵ R.C. 709.021(D).

⁶ R.C. 709.022, not in the bill.

⁷ R.C. 709.023(G).

⁸ R.C. 709.024(D) and (E), not in the bill.



Signature determination

For a regular annexation, the bill changes the time at which the determination is made as to whether a majority of the owners of real estate located in the territory proposed for annexation signed the petition. Under the bill, that determination is made as of the time of the hearing before the board of county commissioners. Current law requires that the number of valid signatures be determined as of the time the petition is filed with the board.⁹

Expedited Type II Annexation

Enacted in 2002, the expedited type II annexation procedure is a special procedure for annexing not more than 500 acres of land in the unincorporated territory of a township into a municipal corporation. Unless otherwise provided in the annexation agreement or in a cooperative economic development agreement, the land annexed is not excluded from the township from which it is being annexed. Given that the annexed territory becomes part of a municipal corporation, but also remains part of a township, land in the territory is subject to real property taxation by both political subdivisions. The residents of the annexed territory are residents of both the municipal corporation and the township, and are entitled to vote on officers, issues, and tax levies of, and are subject to taxes levied by, both subdivisions.

To initiate an expedited type II annexation procedure, 100% of the owners of real estate in the unincorporated territory of the township area proposed for annexation must sign the annexation petition. If the municipal corporation and the township of the territory being annexed agree to the annexation, the board of county commissioners must approve it. The procedure is expedited in that there is no hearing and no right of the landowners who sign the annexation petition to file an appeal. The municipal corporation or a township may object to the annexation only for failure of the petition or the territory being annexed to meet several conditions specified in continuing law.¹⁰

HISTORY

ACTION	DATE
Introduced	09-30-13

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⁹ R.C. 709.033.

¹⁰ R.C. 709.021 and 709.023.

