



Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

Author: Alyssa Bethel, Attorney
Reviewer: Amber Hardesty, Division Chief

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Township and Municipal Merger Laws

Ohio law allows mergers of municipal corporations, mergers of townships and municipal corporations, and mergers of townships. A merger can be initiated by the electors or by the legislative authority of a township or municipal corporation, depending on the type. Under all types, voter approval is required. Ohio law does not allow only a portion of territory to be merged; merger is always the entire territory such that the absorbed township or municipal corporation ceases to exist. For information about annexation, when only a portion of unincorporated township territory is annexed to a municipal corporation, see [LSC's Members Brief on Annexation \(PDF\)](#), available at lsc.ohio.gov.

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Traditional and expedited merger

Ohio has two processes for merging two municipal corporations, or for merging a municipal corporation and a township: traditional and expedited.

The **traditional process** can be used to merge the territory of one or more municipal corporations into the territory of an adjacent municipal corporation, or to merge the unincorporated area of a township into one or more municipal corporations.¹ The result is always a municipal corporation; the traditional process cannot be used to have a township absorb a municipal corporation. Under the **expedited process**, created by the General Assembly in 2011,

¹ R.C 709.44 and 709.45

the above combinations are possible and an additional combination exists: merging one or more municipal corporations into a township (meaning the township absorbs the municipal corporation).²

Traditional process

Petition

The traditional merger begins with the presentation of petition signatures of at least 10% of the electors in each affected municipality and, as applicable, township.³ The petition is filed with the board of elections of the county in which the largest portion of the population of the resulting municipality resides. If the signatures are valid and the petition is sufficient, the board of elections must submit the question of whether a commission should be chosen to draw up a statement of conditions of merger for approval or rejection by the voters. The ballot must provide for the election of five commissioners from each of the political subdivisions. The question will appear on the ballot at the next general election that happens after 90 days after the petition was filed.⁴

At the same time the merger petition is submitted to the board of elections, it also must be filed with the affected political subdivisions. The legislative authorities of each must present their position on the proposed merger at a public meeting held not less than 30 days before the election. The consent of the legislative authorities is not required, though; it is the sufficiency of the electors' petitions that initiates the merger process.⁵

Commission to form conditions

An election is held and, if the question of creating a merger commission is approved by a majority of those voting on it in each political subdivision, the five candidates from each will be elected to the commission to formulate the conditions of the proposed merger.⁶ The commission will cease to exist 90 days before the next general election (approximately nine months after its creation), unless granted an extension (of up to an additional year) by the legislative authorities of each political subdivision involved—even if the commission has already issued a report on its proposed conditions. If an extension is approved, the commission then can certify its report to the board of elections, which will place the merger question and the conditions on the ballot at the general election that is two years after the general election that created the commission. Though, the commission can terminate its proceedings at any time, thereby ending the possible

² R.C. 709.44 and 709.451. See H.B. 153 of the 129th General Assembly, which added this combination. Because that act did not amend the traditional process to include this combination (R.C. 709.45(A)), it appears the traditional process cannot be used to merge a municipal corporation into an adjacent township. There are no cases or Attorney General opinions addressing the matter.

³ This percentage is based on the number who voted for the office of Governor at the most recent general election for the office.

⁴ R.C. 709.45(A) and (B). If the question involving a township is not approved, another merger cannot be proposed by petition for three years. R.C. 709.46(A).

⁵ R.C. 709.45(C).

⁶ R.C. 709.46(A).

merger. If that happens, or if the commission sunsets without having certified its report to the board of elections, no merger petitions can be filed for three years.⁷

Approval or disapproval

If merger conditions agreed upon by a merger commission are placed on the ballot and approved by a majority of the voters in each political subdivision, the merger is effective on January 1 of the year following the certification of the elections result or on the date specified in the merger conditions. If a merger involved a township, and the voters of any involved political subdivision disapproved the merger, another merger cannot be proposed for three years.⁸

No annexation allowed

During the period when a merger is in question – and that merger involves a township – nobody can petition to annex the unincorporated territory of the township. After the question of merger is resolved (the question to form a commission is disapproved, the merger commission terminates itself or sunsets, or the question of merger is disapproved), annexation becomes allowable.⁹

Unincorporated territory cannot be annexed while merger is being contemplated.

After the merger

On the effective date of the merger, the existence and offices of the absorbed political subdivision(s) cease to exist. The resulting municipal corporation succeeds to all of the other political subdivision's money, taxes, and special assessments; real and personal property; rights and interests; rights of action; and all other matters. The resulting municipality also is liable for all outstanding franchises, contracts, debts, and other legal claims, actions and obligations of the other political subdivisions. The resulting municipality's charter, if any, applies throughout the newly included territory and the municipality's ordinances and rules apply as well unless they conflict with a condition approved by the voters.¹⁰

If a township merged into a municipal corporation, the municipality and the county must enter into an agreement requiring the county to continue providing services within the unincorporated area for a period of time, for which the municipality will pay the county.¹¹

Expedited process

Under the expedited and abbreviated procedure enacted in 2011, there is no petition or election of commission members. Instead, the process starts when the legislative authorities of each political subdivision adopt, by a two-thirds vote of each legislative authority, an ordinance or resolution proposing a merger. Then, the legislative authorities have 120 days to enter into a merger agreement that specifies the conditions, in identical ordinances/resolutions adopted by

⁷ R.C. 709.462(B), (C), and (D).

⁸ R.C. 709.47(A) and (B).

⁹ R.C. 709.48.

¹⁰ R.C. 709.47(A), (B), and (C).

¹¹ R.C. 709.47(D).

a simple majority vote of each legislative authority. At a minimum, the proposed merger agreement must include all of the following:

- The names of the political subdivisions proposing the merger.
- The territorial boundaries of the resulting municipal corporation or township.
- The date the proposed merger will take effect.
- A procedure for the efficient and timely transition to the resulting municipal corporation or township of specified services, functions, and responsibilities from the merging municipal corporation or township and its respective departments and agencies.
- A transition plan and schedule.¹²

Then, the political subdivisions must submit the question of merger to their voters after certifying their respective ordinance(s) or resolution(s) that adopted the merger agreement to the board of elections. The question of merger will be on the ballot at a special election on the day of the next primary or general election in the county that occurs not less than 90 days after the ordinance(s) or resolution(s) are certified to the board of elections. If approved by a majority of those voting in each affected political subdivision, the merger agreement takes immediate effect.¹³

If a municipal corporation's charter addresses merger in a way that varies from this process set forth in the Revised Code, the charter prevails.¹⁴

Merging two townships

The traditional and expedited procedures do not provide for merging two townships. The General Assembly enacted a separate procedure in 2011 under which two or more contiguous townships can merge to create a *new* township. This is unique because a new political subdivision is created. In the other forms of merger – traditional and expedited – an existing subdivision simply absorbs the other(s).¹⁵ There are two ways to begin this process: (1) 10% of electors from each affected township file a petition proposing merger,¹⁶ or (2) the boards of townships trustees of the townships interested in merging adopt resolutions proposing the merger.¹⁷ The merger appears on the ballot at the next general election occurring after 90 days after the petition or

¹² R.C. 709.451.

¹³ R.C. 709.452(A) and (C).

¹⁴ R.C. 709.452(D).

¹⁵ R.C. 523.01. See H.B. 153 of the 129th General Assembly.

¹⁶ R.C. 523.02(A). This percentage is based on the number who voted for the office of Governor at the most recent general election for the office.

¹⁷ R.C. 523.03.

resolutions are certified.¹⁸ If disapproved, another merger cannot be considered for three years.¹⁹ If approved, the merger takes effect 120 days later.²⁰

During those 120 days, the townships must enter into a merger agreement with the specific terms and conditions of the merger, including all of the following:

- The names of the former townships that were merged;
- The name and boundaries of the new township;
- The place where the principal office of the new township will be located or the manner in which it may be selected;
- The date the merger takes effect;
- The governmental operations and organization for the new township, including a plan for electing officers at the next general election that is held not later than 90 after the merger agreement is finalized;
- A procedure for the efficient and timely transition of specific services, functions, and responsibilities from each township and its offices to the new township;
- Terms for the disposition of the assets and property of each township, if necessary;
- The liquidation of existing indebtedness for each township, if necessary;
- A plan for the common administration and enforcement of resolutions of the townships merged, to be enforced uniformly within the new township;
- A provision that specifies whether there will be any zoning changes as a result of the merger, if applicable;
- A plan regarding any special purpose district that exists within the new township (e.g., a police district).

If the townships are unable to reach an agreement that includes all of these terms, Ohio law sets forth default, detailed terms (e.g., that the zoning regulations in effect before the merger would continue in effect).²¹

Ohio law specifies default terms and conditions that apply if the merging townships cannot agree.

The new township acquires the old townships' money, taxes, and special assessments; real and personal property; rights and interests; rights of action; and all other matters. The new township also is liable for all outstanding franchises, contracts, debts, and other legal claims, actions and obligations of the old townships.²²

¹⁸ R.C. 523.03(A) and 731.28 (referenced in R.C. 523.02 as the applicable process).

¹⁹ R.C. 523.07.

²⁰ R.C. 523.02(B) and 523.03(C).

²¹ R.C. 523.06.

²² R.C. 523.05.