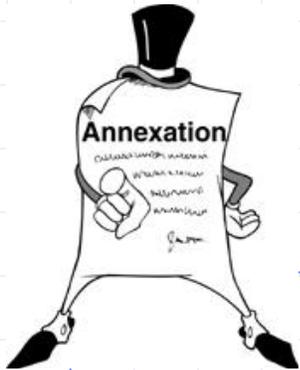


THE ANNEXATION LAW IN OHIO



NEW ANNEXATION LAW

The new law includes five different types of annexation:

- Expedited One
- Expedited Two
- Expedited Three
- Municipal Initiated
- Regular (Majority)

EXPEDITED PROCEDURES

- ◆ Provided when all landowners in an area seek to annex their property to a municipality.
- ◆ New law provides three options to expedite the annexation **if 100% of the landowners** seek annexation.

EXPEDITED PROCEDURES

First Option [R.C. 709.022]



- Township and city must enter into an annexation agreement under R.C. 709.192 or a CEDA under R.C. 701.07.
- Petition signed by all owners and agreement shall be filed with the commissioners.
- Agent for petitioners must file a list of all owners adjacent to and directly across the street from the territory to be annexed.

EXPEDITED PROCEDURES

First Option [R.C. 709.022]



- Notice by agent under R.C. 709.021 is waived.
- **There is no hearing.**
- Commissioners must approve the annexation at their next regular meeting.
- There is no appeal by anyone.

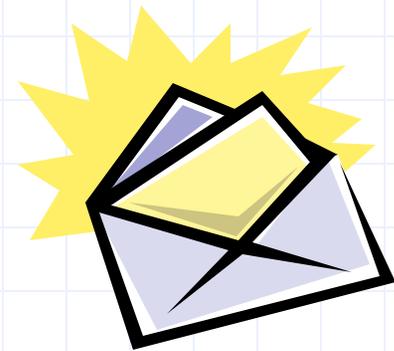
EXPEDITED PROCEDURES

Second Option [R.C. 709.023]

- **Petition Requirements**

- Agent must notify twp(s) and city within 5 days of filing the petition.

- Agent must notify property owners adjacent to and directly across the street from territory to be annexed within 5 days of filing petition.



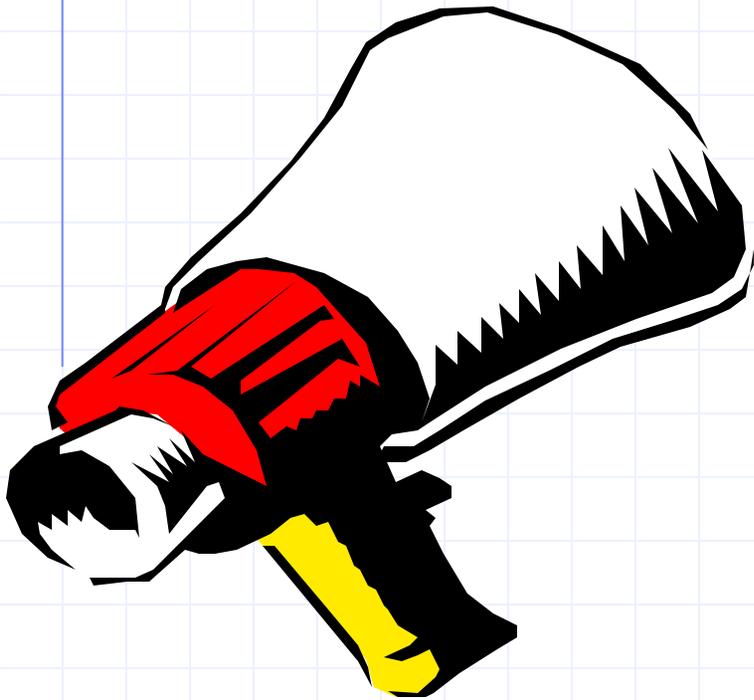
EXPEDITED PROCEDURES

Second Option [R.C. 709.023]

- City must file its statement of services, including approximate date services to be provided, within 20 days of filing.
- City must file ordinance stating that if municipal zoning adopted would allow a clearly incompatible use as compared to the use in the surrounding unincorporated area, the city agrees to require a buffer between the uses.
- Twp. & City may file, within 25 days of petition's filing, ordinance/resolution consenting or objecting.

EXPEDITED PROCEDURES

Second Option [R.C. 709.023]



***** IF NO ACTION
IS TAKEN, IT
IS DEEMED AS
CONSENT TO THE
PROPOSED
ANNEXATION.*****

EXPEDITED PROCEDURES

Second Option [R.C. 709.023]

If the township and the city consent:

- ◆ No hearing
- ◆ Commissioners must approve the annexation at their next regular meeting
- ◆ No appeal by anyone

EXPEDITED PROCEDURES

Second Option [R.C. 709.023]

If the township or the city objects:

- Limited in objections; and
- No hearing.

EXPEDITED PROCEDURES

Second Option [R.C. 709.023]

The commissioners determine if the following conditions have been met:

- Petition was properly filed;
- All owners signed;
- Annexation territory does not exceed 500 acres;
- 5% of the perimeter of the annexation territory shares a contiguous and continuous boundary with the city;
- No islands of unincorporated territory surrounded by annexed territory;
- City has agreed to provide services; and
- City has agreed to assume any road maintenance problem.

EXPEDITED PROCEDURES

Second Option [R.C. 709.023]

- ◆ Commissioners must act between 30 and 45 days of filing.
- ◆ If all conditions met, commissioners shall grant annexation.
- ◆ If all conditions not met, commissioners shall deny the petition.
- ◆ No appeal by anyone.

EXPEDITED PROCEDURES

Second Option [R.C. 709.023]

If annexed:

- The adjacent property owners can sue to enforce the provision of buffers; and

EXPEDITED PROCEDURES

Third Option [R.C. 709.024]

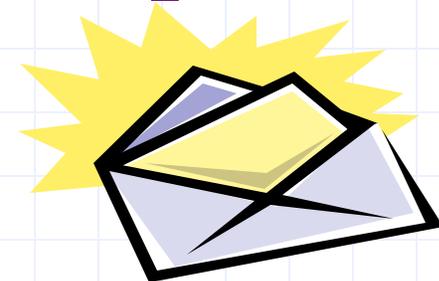


- ◆ Significant economic development project can be used if:
 - Project would increase the tax base by \$10 million and add annual payroll, excluding retail payroll, in excess of \$1 million;
 - ◆ Project can include residential and retail uses but they are not included in the minimum thresholds.
 - Director of Development certifies it meets these minimums.

EXPEDITED PROCEDURES

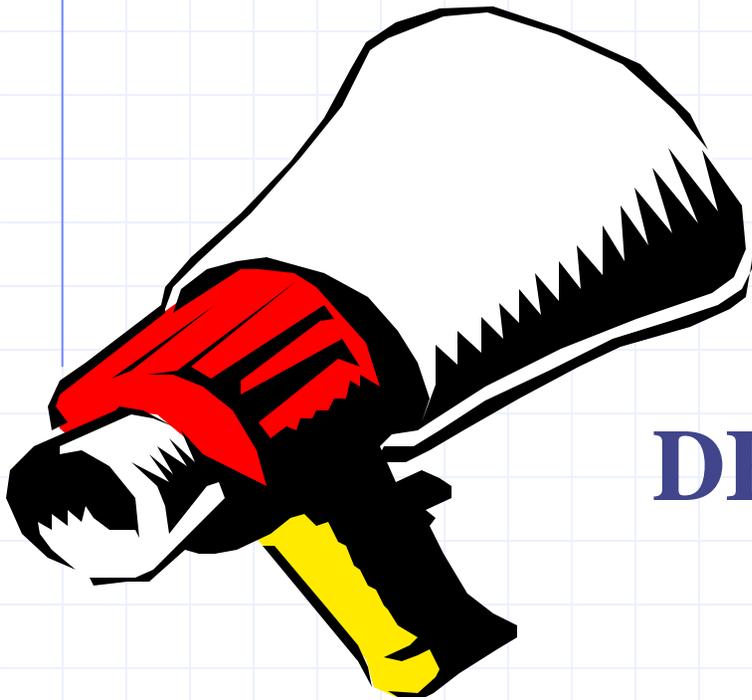
Third Option [R.C. 709.024]

- Agent must notify twp. and city within 5 days of filing.
- ◆ Agent must notify property owners adjacent to and directly across the street from territory to be annexed within 5 days of filing.
- ◆ City must adopt its statement of services within 20 days of receiving notice.
- ◆ Twp. and city may file, within 30 days of petition's filing, resolution/ordinance consenting or objecting to the annexation.



EXPEDITED PROCEDURES

Third Option [R.C. 709.024]



***** IF NO ACTION
IS TAKEN BY
A TOWNSHIP, IT IS
DEEMED AS CONSENT
TO THE PROPOSED
ANNEXATION.*****

EXPEDITED PROCEDURES

Third Option [R.C. 709.024]

If the township and city consent:

- No hearing;
- Commissioners must approve the annexation at next regular meeting; and
- No appeal by anyone.



EXPEDITED PROCEDURES

Third Option [R.C. 709.024]

- ◆ If the township or the city objects:
 - Hearing at the next regular meeting of the board of county commissioners;
 - Agent must notify twp(s) and city within 5 days of being notified of hearing date; and
 - City must file service resolution 20 days prior to hearing.

EXPEDITED PROCEDURES

Third Option [R.C. 709.024]

The commissioners will decide if:

- Petition filing requirements were met;
- Petition signed by 100% of the owners;
- City has agreed to maintain roads to eliminate any road maintenance problems created;
- City has timely filed a statement of the services;
and
- Director of Development has certified the project meets the threshold requirements for a significant economic development project.

EXPEDITED PROCEDURES

Third Option [R.C. 709.024]

- ◆ Commissioners must act within 30 days of the hearing.
- ◆ Commissioners must issue findings of fact.
- ◆ If evidence shows that 5 conditions are met, commissioners must approve and there is no appeal.
- ◆ If evidence shows 5 conditions are not met, commissioners must deny and only the owner(s) can appeal.

ANNEXATION BY PETITION OF MUNICIPALITY [R.C. 709.13-.16]

New law requires:

- ◆ Only contiguous land owned by city, county or state to be annexed by this method; and
- ◆ Annexed territory to remain a part of the township (land may not be excluded).

ANNEXATION BY PETITION OF MUNICIPALITY

[R.C. 709.13-.16]

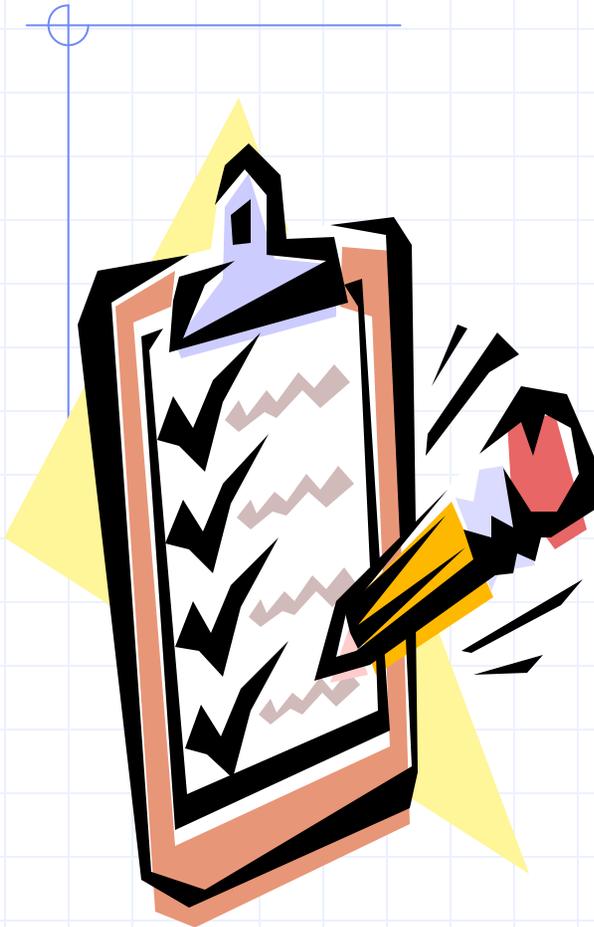
Annexation under this method will be voided if:

- Municipality purchases land below fair market value; and
- Sells or agrees to sell back to original owner.

ANNEXATION BY PETITION OF MUNICIPALITY [R.C. 709.13-.16]

- ⊘ If voided, land will become part of township from which it was annexed.
- ⊘ If township does not exist, the board of county commissioners must attach the land to another township.

MAJORITY "REGULAR" PROCEDURE



The regular procedure will be followed when less than 100% of the owners in the proposed territory seek annexation or when the requirements for one of the expedited procedures are not met.

REGULAR PROCEDURE FILING & NOTICE PROCEDURES



- ✓ Petition requirements
- ✓ Notice by agent to city and township within 5 days of agent being notified of hearing date.
- ✓ Notice by agent by regular mail, within 10 days of agent receiving notice of hearing date, to all landowners within the proposed annexation area, and must tell can remove signature within 21 days of date notice was mailed.

REGULAR PROCEDURE FILING & NOTICE PROCEDURES

- ✓ Notice to property owners adjacent to and directly across the street from proposed territory within 10 days of agent receiving notice of hearing date.
- ✓ City service resolution, including approximate date services to be provided, must be filed at least 20 days before hearing.
- ✓ Affidavits must be filed and served at least 15 days prior to the hearing.
- ✓ Notice by publication at least 7 days prior to hearing.

REGULAR PROCEDURE HEARING PROCEDURES

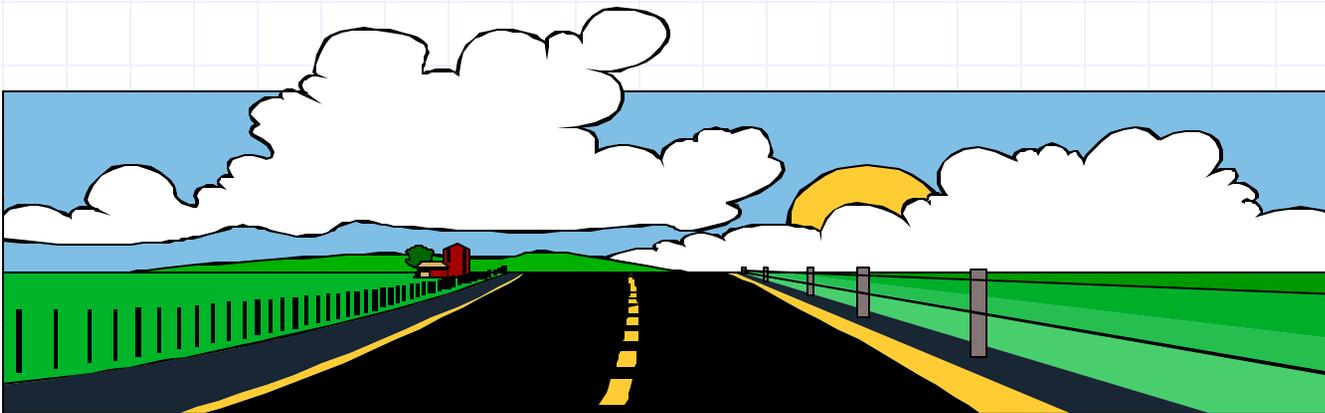
- ◆ Hearing must be held between 60 and 90 days after petition filed.
- ◆ Twp(s) and city are necessary parties.
- ◆ Record must be made.

REGULAR PROCEDURE HEARING PROCEDURE

- ◆ Court reporter must be provided if requested at least 7 days prior to hearing and paid for by party requesting.
- ◆ Witnesses are to be sworn.
- ◆ Agent, city, and twp. can examine and cross-examine witnesses.

REGULAR PROCEDURE COMMISSIONERS' DISCRETION

- ◆ Commissioners can consider:
 - Matters they can currently consider; and
 - Whether maintenance of bordering roads has been provided for.



REGULAR PROCEDURE COMMISSIONERS' DISCRETION

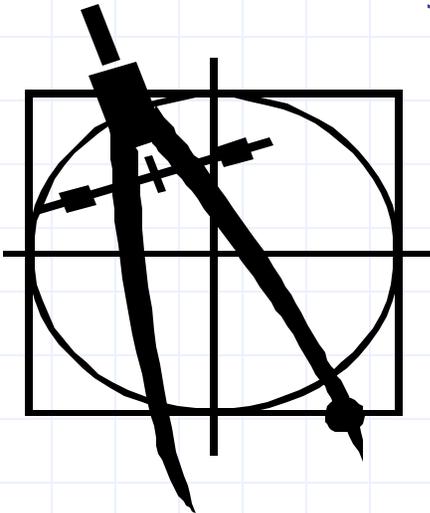
The new “general good” test will be:

- On balance, the general good of the territory proposed to be annexed will be served, and the benefits to the territory proposed to be annexed and the surrounding area will outweigh the detriments to the territory proposed to be annexed and the surrounding area, if the annexation petition is granted.

REGULAR PROCEDURE COMMISSIONERS' DISCRETION

Surrounding area is defined as:

- ◆ “the territory within the unincorporated area of any township located one-half mile or less from any of the territory proposed to be annexed.”



REGULAR PROCEDURE COMMISSIONERS' DECISION

Commissioners must:

- ◆ Grant or deny annexation petition within thirty days of the close of the hearing; and
- ◆ set out specific findings on each criteria.

REGULAR PROCEDURE



- ◆ Appeal can be brought pursuant to RC 2506 and must be filed within 30 days of journalization of commissioners' decision.
- ◆ Decision is automatically stayed, if appealed. Stay lifted when all appeals are exhausted.
- ◆ If no appeal filed, clerk sends papers to the city clerk at end of thirty day period, if annexation was approved.
- ◆ If no appeal, clerk sends notice to agent at end of thirty day period, if annexation was denied.

REVENUES

REGULAR PROCEDURE

If annexed and excluded from the township [R.C. 709.19]

- City pays township any real, personal and public utility property taxes the township would have received, using the current year property valuation.
- Tax abatement by the city does not affect city's obligation to make payments.



REVENUES

REGULAR PROCEDURE

◆ Commercial/Industrial Property

Years 1 - 3	80.0%
Years 4 - 5	67.5%
Years 6 - 7	62.5%
Years 8 - 9	57.5%
Years 10 - 12	42.5%

◆ Residential/Retail Property

Years 1 - 3	80.0%
Years 4 - 5	52.5%
Years 6 - 10	40.0%
Years 11 - 12	27.5%



EXPEDITED PROCEDURES & MUNICIPAL ANNEXATION

If annexed:

- Unless Annexation Agreement provides otherwise.
- Territory must remain within the township and, thus, subject to township real property taxes.



OLD ANNEXATION AGREEMENTS

R.C. 709.191

- ◆ Known as Non-Conformity Agreements
- ◆ Still valid law
- ◆ Limited applicability because of new annexation law (R.C. 709.192)

AGREEMENTS

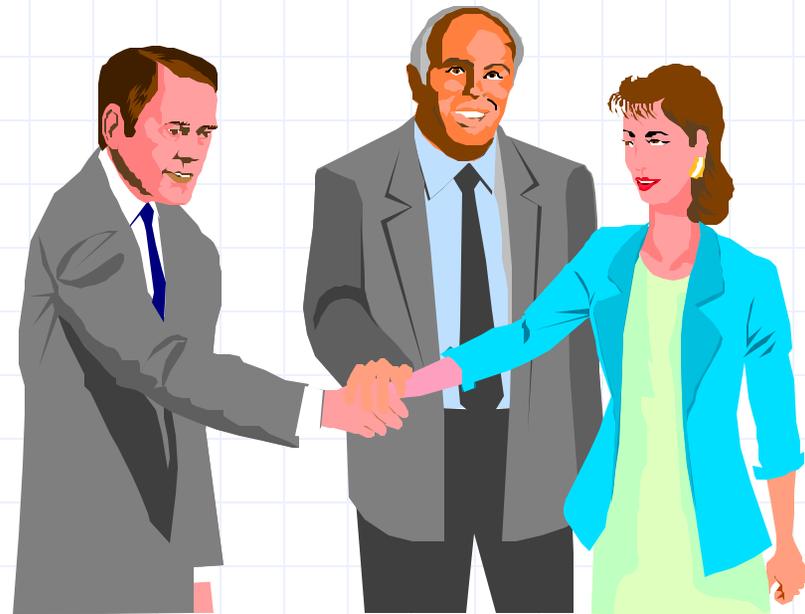
R.C. 709.192



- ◆ Newly created in SB 5
- ◆ If agreement is achieved, annexation is automatic under Expedited One
- ◆ If agreement is achieved, can affect ban to detachment

COOPERATIVE ECONOMIC DEVELOPMENT AGREEMENTS

- ◆ Created in 1999
- ◆ If agreement is achieved, annexation is automatic under Expedited One



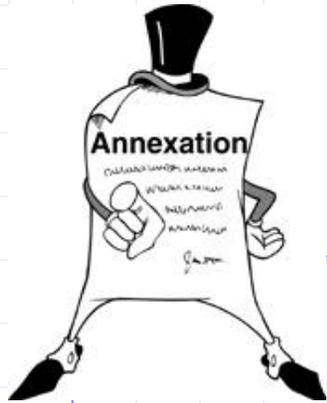
JOINT ECONOMIC DEVELOPMENT AGREEMENTS

- ◆ Created in 1995
- ◆ Annexation usually prohibited when land is included in JEDD



CONTENTS OF AGREEMENTS

- ◆ Agreements may contain the following:
 - ★ Identified territory
 - ★ Identified services to be provided by each entity
 - ★ Identified areas to be annexed, or not annexed
 - ★ Determination of service fees (split taxes)
 - ★ Withdrawal of land from township
 - ★ Tax abatement
 - ★ Any other matters related to development or annexation
- **Very liberal construction**



AFTER THE ANNEXATION LAW

Part Two

EXPEDITED PROCEDURES

Second Option [R.C. 709.023]

The commissioners determine if the following conditions have been met:

- Petition was properly filed;
- All owners signed;
- Annexation territory does not exceed 500 acres;
- 5% of the perimeter of the annexation territory shares a contiguous and continuous boundary with the city;
- No islands of unincorporated territory surrounded by annexed territory;
- City has agreed to provide services; and
- City has agreed to assume any road maintenance problem.

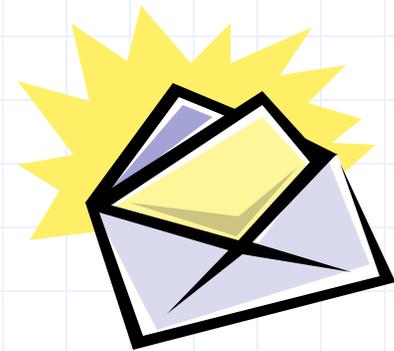
EXPEDITED PROCEDURES

Second Option [R.C. 709.023]

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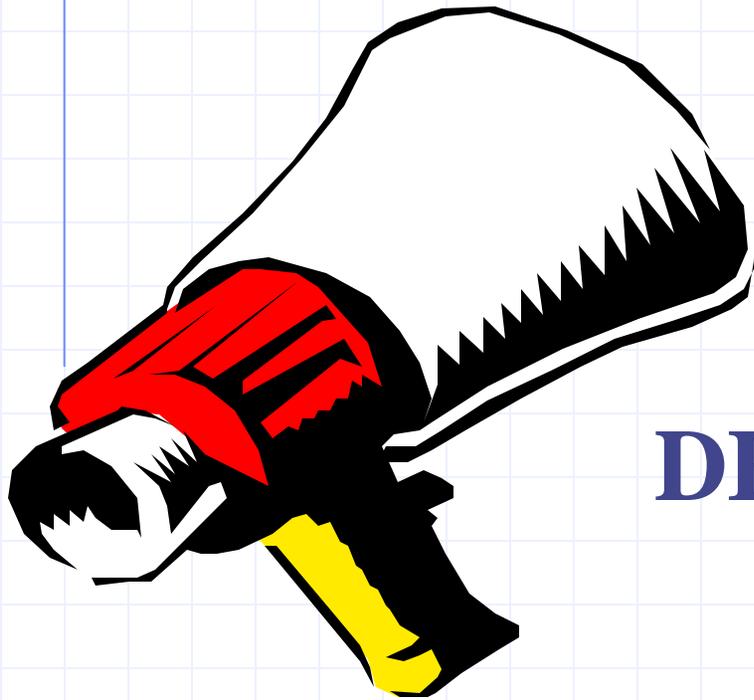
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Second Option [R.C. 709.023]

If the township and the city consent:

- ◆ No hearing
- ◆ Commissioners must approve the annexation at their next regular meeting
- ◆ No appeal by anyone

EXPEDITED PROCEDURES

Second Option [R.C. 709.023]

If the township or the city objects:

- Limited in objections; and
- No hearing.

SUMMARY: WHEN A HEARING MUST BE HELD

ANNEXATION TYPE	HEARING REQUIRED
◆ Expedited One	No
◆ Expedited Two	No
◆ Expedited Three	No (If both parties agree) Yes (If twp. or municipality objects)
◆ Municipal Initiated	No
◆ Regular (Majority)	Yes

SUMMARY: WHEN APPEAL RIGHTS ARE GRANTED

ANNEXATION TYPE

RIGHT of APPEAL

◆ Expedited One

No

◆ Expedited Two

No

◆ Expedited Three

No (If all parties consent)

Yes (If hearing is required-only owners)

◆ Municipal Initiated

No

◆ Regular(Majority)

Yes

OTHER WAYS TO CHALLENGE

- ◆ Mandamus Action
- ◆ Writ of Prohibition
- ◆ Declaratory Judgment Action
- ◆ Preliminary Injunction

EFFECTIVE DATE

◆ October 26, 2001

◆ March 27, 2002

