



Ohio Revised Code

Section 715.72 Alternative procedures and requirements for creating joint economic development district.

Effective: September 13, 2016

Legislation: House Bill 182 - 131st General Assembly

(A) As used in this section:

- (1) "Contracting parties" means one or more municipal corporations, one or more townships, and, under division (D) of this section, one or more counties that have entered into a contract under this section to create a joint economic development district.
- (2) "District" means a joint economic development district created under this section.
- (3) "Contract for utility services" means a contract under which a municipal corporation agrees to provide to a township or another municipal corporation water, sewer, electric, or other utility services necessary to the public health, safety, and welfare.
- (4) "Business" means a sole proprietorship, a corporation for profit, a pass-through entity as defined in section 5733.04 of the Revised Code, the federal government, the state, the state's political subdivisions, a nonprofit organization, or a school district.
- (5) "Owner" means a partner of a partnership, a member of a limited liability company, a majority shareholder of an S corporation, a person with a majority ownership interest in a pass-through entity, or any officer, employee, or agent with authority to make decisions legally binding upon a business.
- (6) "Record owner" means the person or persons in whose name a parcel is listed on the tax list or exempt list compiled by the county auditor under section 319.28 or 5713.08 of the Revised Code.
- (7) A business "operates within" a district if the net profits of the business or the income of employees of the business would be subject to an income tax levied within the district.
- (8) An employee is "employed within" a district if any portion of the employee's income would be



subject to an income tax levied within the district.

(9) "Mixed-use development" means a real estate project that tends to mitigate traffic and sprawl by integrating some combination of retail, office, residential, hotel, recreation, and other functions in a pedestrian-oriented environment that maximizes the use of available space by allowing members of the community to live, work, and play in one architecturally expressive area with multiple amenities.

(B) This section provides alternative procedures and requirements to those set forth in sections 715.70 and 715.71 of the Revised Code for creating and operating a joint economic development district. This section applies to municipal corporations and townships that are located in the same county or in adjacent counties.

(C) One or more municipal corporations, one or more townships, and, under division (D) of this section, one or more counties may enter into a contract pursuant to which they designate one or more areas as a joint economic development district for the purpose of facilitating economic development and redevelopment, to create or preserve jobs and employment opportunities, and to improve the economic welfare of the people in this state and in the area of the contracting parties.

(1) Except as otherwise provided in division (C)(2) of this section, the territory of each of the contracting parties shall be contiguous to the territory of at least one other contracting party, or contiguous to the territory of a township, municipal corporation, or county that is contiguous to another contracting party, even if the intervening township or municipal corporation is not a contracting party.

(2) Contracting parties that have entered into a contract under section 715.70 or 715.71 of the Revised Code creating a joint economic development district prior to November 15, 1995, may enter into a contract under this section even if the territory of each of the contracting parties is not contiguous to the territory of at least one other contracting party, or contiguous to the territory of a township or municipal corporation that is contiguous to another contracting party as otherwise required under division (C)(1) of this section. The contract and district shall meet the requirements of this section.

(D) If, on or after December 30, 2008, but on or before June 30, 2009, one or more municipal



corporations and one or more townships enter into a contract or amend an existing contract under this section, one or more counties in which all of those municipal corporations or townships are located also may enter into the contract as a contracting party or parties.

(E)(1) The area or areas to be included in a joint economic development district shall meet all of the following criteria:

(a) The area or areas shall be located within the territory of one or more of the contracting parties and may consist of all of the territory of any or all of the contracting parties.

(b) No electors, except those residing in a mixed-use development, shall reside within the area or areas on the effective date of the contract creating the district.

(c) The area or areas shall not include any parcel of land owned in fee by or leased to a municipal corporation or township, unless the municipal corporation or township is a contracting party or has given its consent to have the parcel of land included in the district by the adoption of an ordinance or resolution.

(2) The contracting parties may designate excluded parcels within the boundaries of the joint economic development district. Excluded parcels are not part of the district and persons employed or residing on such parcels shall not be subject to any income tax imposed within the district under division (F)(5) of this section.

(F)(1) The contract creating a joint economic development district shall provide for the amount or nature of the contribution of each contracting party to the development and operation of the district and may provide for the sharing of the costs of the operation of and improvements for the district. The contributions may be in any form to which the contracting parties agree and may include, but are not limited to, the provision of services, money, real or personal property, facilities, or equipment.

(2) The contract may provide for the contracting parties to share revenue from taxes levied by one or more of the contracting parties if those revenues may lawfully be applied to that purpose under the legislation by which those taxes are levied.



(3) The contract shall include an economic development plan for the district that consists of a schedule for the provision of new, expanded, or additional services, facilities, or improvements. The contract may provide for expanded or additional capacity for or other enhancement of existing services, facilities, or improvements.

(4) The contract shall enumerate the specific powers, duties, and functions of the board of directors of the district described under division (P) of this section and shall designate procedures consistent with that division for appointing members to the board. The contract shall enumerate rules to govern the board in carrying out its business under this section.

(5)(a) The contract may grant to the board the power to adopt a resolution to levy an income tax within the entire district or within portions of the district designated by the contract. The income tax shall be used to carry out the economic development plan for the district or the portion of the district in which the tax is levied and for any other lawful purpose of the contracting parties pursuant to the contract, including the provision of utility services by one or more of the contracting parties.

(b) An income tax levied under this section shall be based on both the income earned by persons employed or residing within the district and the net profit of businesses operating within the district.

Except as provided in this section, the income tax levied within the district is subject to Chapter 718. of the Revised Code, except that no vote shall be required. The rate of the income tax shall be no higher than the highest rate being levied by a municipal corporation that is a contracting party.

(c) If the board adopts a resolution to levy an income tax, it shall enter into an agreement with a municipal corporation that is a contracting party to administer, collect, and enforce the income tax on behalf of the district.

(d) A resolution levying an income tax under this section shall require the contracting parties to annually set aside a percentage, to be stated in the resolution, of the amount of the income tax collected for the long-term maintenance of the district.

(e) An income tax levied under this section shall apply in the district or the portion of the district in which the contract authorizes an income tax throughout the term of the contract creating the district.



The tax shall not apply to any persons employed or residing on a parcel excluded from the district under division (E)(2) of this section.

(6) If there is unincorporated territory in the district, the contract shall specify that restrictions on annexation proceedings under division (R) of this section apply to such unincorporated territory. The contract may prohibit proceedings under Chapter 709. of the Revised Code proposing the annexation to, merger of, or consolidation with a municipal corporation that is a contracting party of any unincorporated territory within a township that is a contracting party during the term of the contract regardless of whether that territory is located within the district.

(7) The contract may designate property as a community entertainment district, or may be amended to designate property as a community entertainment district, as prescribed in division (D) of section 4301.80 of the Revised Code. A contract or amendment designating a community entertainment district shall include all information and documentation described in divisions (B)(1) to (6) of section 4301.80 of the Revised Code. The public notice required under division (I) of this section shall specify that the contract designates a community entertainment district and describe the location of that district. Except as provided in division (F) of section 4301.80 of the Revised Code, an area designated as a community entertainment district under a joint economic development district contract shall not lose its designation even if the contract is canceled or terminated.

(G) The contract creating a joint economic development district shall continue in existence throughout its term and shall be binding on the contracting parties and on any parties succeeding to the contracting parties, whether by annexation, merger, or consolidation. Except as provided in division (H) of this section, the contract may be amended, renewed, or terminated with the approval of the contracting parties or any parties succeeding to the contracting parties. If the contract is amended to add or remove an area to or from an existing district, the amendment shall be adopted in the manner prescribed under division (L) of this section.

(H) If two or more contracting parties previously have entered into a separate contract for utility services, then amendment, renewal, or termination of the separate contract for utility services shall not constitute any part of the consideration for the contract creating a joint economic development district. A contract creating a joint economic development district shall be rebuttably presumed to violate this division if it is entered into within two years prior or five years subsequent to the



amendment, renewal, or termination of a separate contract for utility services that two or more contracting parties previously have entered into. The presumption stated in this division may be rebutted by clear and convincing evidence of both of the following:

- (1) That other substantial consideration existed to support the contract creating a joint economic development district;
- (2) That the contracting parties entered into the contract creating a joint economic development district freely and without duress or coercion related to the amendment, renewal, or termination of the separate contract for utility services.

A contract creating a joint economic development district that violates this division is void and unenforceable.

(I)(1) Before the legislative authority of any of the contracting parties adopts an ordinance or resolution approving a contract to create a district, the legislative authority of each of the contracting parties shall hold a public hearing concerning the contract and district. Each legislative authority shall provide at least thirty days' public notice of the time and place of the public hearing in a newspaper of general circulation in the municipal corporation, township, or county, as applicable. During the thirty-day period prior to the public hearing and until the date that an ordinance or resolution is adopted under division (K) of this section to approve the joint economic development district contract, all of the following documents shall be available for public inspection in the office of the clerk of the legislative authority of a municipal corporation and county that is a contracting party and in the office of the fiscal officer of a township that is a contracting party:

- (a) A copy of the contract creating the district, including the economic development plan for the district and the schedule for the provision of new, expanded, or additional services, facilities, or improvements described in division (F)(3) of this section;
- (b) A description of the area or areas to be included in the district, including a map in sufficient detail to denote the specific boundaries of the area or areas and to indicate any zoning restrictions applicable to the area or areas, and the parcel number, provided for under section 319.28 of the Revised Code, of any parcel located within the boundaries of the joint economic development district



and excluded from the district under division (E)(2) of this section;

(c) If the contract authorizes the board of directors of the district to adopt a resolution to levy an income tax within the district or within portions of the district, a schedule for the collection of the tax.

(2) A public hearing held under this division shall allow for public comment and recommendations on the contract and district. The contracting parties may include in the contract any of those recommendations prior to approval of the contract.

(J) Before any of the contracting parties approves a contract under division (K) of this section, the contracting parties shall circulate one or more petitions to record owners of real property located within the proposed joint economic development district and owners of businesses operating within the proposed district. The petitions shall state that all of the documents described in divisions (I)(1)(a) to (c) of this section are available for public inspection in the office of the clerk of the legislative authority of each municipal corporation and county that is a contracting party or the office of the fiscal officer of each township that is a contracting party. The petitions shall clearly indicate that, by signing the petition, the record owner or owner consents to the proposed joint economic development district.

A contracting party may send written notice of the petitions by certified mail with return receipt requested to the last known mailing addresses of any or all of the record owners of real property located within the proposed district or the owners of businesses operating within the proposed district. The contracting parties shall equally share the costs of complying with this division.

(K)(1) After the public hearings required under division (I) of this section have been held and the petitions described in division (J) of this section have been signed by the majority of the record owners of real property located within the proposed joint economic development district and by a majority of the owners of businesses, if any, operating within the proposed district, each contracting party may adopt an ordinance or resolution approving the contract to create a joint economic development district. Not later than ten days after all of the contracting parties have adopted ordinances or resolutions approving the district contract, each contracting party shall give notice of the proposed district to all of the following:



(a) Each record owner of real property to be included in the district and in the territory of that contracting party who did not sign the petitions described in division (J) of this section;

(b) An owner of each business operating within the district and in the territory of that contracting party no owner of which signed the petitions described in division (J) of this section.

(2) Such notices shall be given by certified mail and shall specify that the property or business is located within an area to be included in the district and that all of the documents described in divisions (I)(1)(a) to (c) of this section are available for public inspection in the office of the clerk of the legislative authority of each municipal corporation and county that is a contracting party or the office of the fiscal officer of each township that is a contracting party. The contracting parties shall equally share the costs of complying with division (K) of this section.

(L)(1) The contracting parties may amend the joint economic development district contract to add any area that was not originally included in the district if the area satisfies the criteria prescribed under division (E) of this section. The contracting parties may also amend the district contract to remove any area originally included in the district or exclude one or more parcels located within the district pursuant to division (E)(2) of this section.

(2) An amendment adding an area to a district, removing an area from the district, or excluding one or more parcels from the district may be approved only by a resolution or ordinance adopted by each of the contracting parties. The contracting parties shall conduct public hearings on the amendment and provide notice in the manner required under division (I) of this section for original contracts. The contracting parties shall make available for public inspection a copy of the amendment, a description of the area to be added, removed, or excluded to or from the district, and a map of that area in sufficient detail to denote the specific boundaries of the area and to indicate any zoning restrictions applicable to the area.

(3) Before adopting a resolution or ordinance approving the addition of an area to the district, the contracting parties shall circulate petitions to the record owners of real property located within the proposed addition to the district and owners of businesses operating within the proposed addition to the district in the same manner required under division (J) of this section for original contracts. The



contracting parties may notify such record owners of real property and owners of businesses that the petitions are available for signing in the same manner provided by that division. The contracting parties shall equally share the costs of complying with this division.

(4) The contracting parties to a joint economic development district may vote to approve an amendment to the district contract under this division after the public hearings required under division (L)(2) of this section are completed and, if the amendment adds an area or areas to the district, the petitions required under division (L)(3) of this section have been signed by the majority of record owners of real property located within the area or areas added to the district and by a majority of the owners of businesses, if any, operating within the proposed addition to the district.

(5) Not later than ten days after all of the contracting parties have adopted ordinances or resolutions approving an amendment adding one or more areas to the district, each contracting party shall give notice of the addition to all of the following:

- (a) Each record owner of real property to be included in the addition to the district and in the territory of that contracting party who did not sign the petitions described in division (L)(3) of this section;
- (b) An owner of each business operating within the addition to the district and in the territory of that contracting party no owner of which signed the petitions described in division (L)(3) of this section.

The contracting parties shall equally share the costs of complying with division (L)(5) of this section.

(M)(1) A board of township trustees that is a party to a contract creating a joint economic development district may choose not to submit its resolution approving the contract to the electors of the township if all of the following conditions are satisfied:

- (a) The resolution has been approved by a unanimous vote of the members of the board of township trustees or, if a county is one of the contracting parties under division (D) of this section, the resolution has been approved by a majority vote of the members of the board of township trustees;
- (b) The contracting parties have circulated petitions as required under division (J) of this section and obtained the signatures required under division (L) of this section;



(c) The territory to be included in the proposed district is zoned in a manner appropriate to the function of the district.

(2) If the board of township trustees has not invoked its authority under division (M)(1) of this section, the board, at least ninety days before the date of the election, shall file its resolution approving the district contract with the board of elections for submission to the electors of the township for approval at the next succeeding general, primary, or special election.

(3) Any contract creating a district in which a board of township trustees is a party shall provide that the contract is not effective before the thirty-first day after its approval, including approval by the electors of the township if required by this section.

(4) If the board of township trustees invokes its authority under division (M)(1) of this section and does not submit the district contract to the electors for approval, the resolution of the board of township trustees approving the contract is subject to a referendum of the electors of the township when requested through a petition. When signed by ten per cent of the number of electors in the township who voted for the office of governor at the most recent general election, a referendum petition asking that the resolution be submitted to the electors of the township may be presented to the board of township trustees. Such a petition shall be presented within thirty days after the board of township trustees adopts the resolution approving the district contract. The board of township trustees shall, not later than four p.m. of the tenth day after receipt of the petition, certify the text of the resolution to the board of elections. The board of elections shall submit the resolution to the electors of the township for their approval or rejection at the next general, primary, or special election occurring at least ninety days after certification of the resolution.

(N) The ballot respecting a resolution to create a district or a referendum of such a resolution shall be in the following form:

"Shall the resolution of the board of township trustees approving the contract with _____ (here insert name of every other contracting party) for the creation of a joint economic development district be approved?"



FOR THE RESOLUTION AND CONTRACT

AGAINST THE RESOLUTION AND CONTRACT

If a majority of the electors of the township voting on the issue vote for the resolution and contract, the resolution shall become effective immediately and the contract shall go into effect on the thirty-first day after the election or thereafter in accordance with terms of the contract.

(O) Upon the creation of a district under this section, one of the contracting parties shall file a copy of each of the following documents with the director of development services:

(1) All of the documents described in divisions (I)(1)(a) to (c) of this section;

(2) Certified copies of the ordinances and resolutions of the contracting parties relating to the contract and district;

(3) Documentation from each contracting party that the public hearings required by division (I) of this section have been held, the date of the hearings, and evidence that notice of the hearings was published as required by that division;

(4) A copy of the signed petitions required under divisions (J) and (K) of this section.

(P) A board of directors shall govern each district created under this section.

(1) If there are businesses operating and persons employed within the district, the board shall be composed of the following members:

(a) One member representing the municipal corporations that are contracting parties;

(b) One member representing the townships that are contracting parties;

(c) One member representing the owners of businesses operating within the district;



(d) One member representing the persons employed within the district;

(e) One member representing the counties that are contracting parties, or, if no contracting party is a county, one member selected by the members described in divisions (P)(1)(a) to (d) of this section.

The members of the board shall be appointed as provided in the district contract. Of the members initially appointed to the board, the member described in division (P)(1)(a) of this section shall serve a term of one year; the member described in division (P)(1)(b) of this section shall serve a term of two years; the member described in division (P)(1)(c) of this section shall serve a term of three years; and the members described in divisions (P)(1)(d) and (e) of this section shall serve terms of four years. Thereafter, terms for each member shall be for four years, each term ending on the same day of the same month of the year as did the term that it succeeds. A member may be reappointed to the board, but no member shall serve more than two consecutive terms on the board.

The member described in division (P)(1)(e) of this section shall serve as chairperson of the board described under division (P)(1) of this section.

(2) If there are no businesses operating or persons employed within the district, the board shall be composed of the following members:

(a) One member representing the municipal corporations that are contracting parties;

(b) One member representing the townships that are contracting parties;

(c) One member representing the counties that are contracting parties, or if no contracting party is a county, one member selected by the members described in divisions (P)(2)(a) and (b) of this section.

The members of the board shall be appointed as provided in the district contract. Of the members initially appointed to the board, the member described in division (P)(2)(a) of this section shall serve a term of one year; the member described in division (P)(2)(b) of this section shall serve a term of two years; and the member described in division (P)(2)(c) of this section shall serve a term of three years. Thereafter, terms for each member shall be for four years, each term ending on the same day of the same month of the year as did the term that it succeeds. A member may be reappointed to the



board, but no member shall serve more than two consecutive terms on the board.

The member described in division (P)(2)(c) of this section shall serve as chairperson of a board described under division (P)(2) of this section.

(3) A board described under division (P)(1) or (2) of this section has no powers except as described in this section and in the contract creating the district.

(4) Membership on the board of directors of a joint economic development district created under this section is not the holding of a public office or employment within the meaning of any section of the Revised Code prohibiting the holding of other public office or employment. Membership on such a board is not a direct or indirect interest in a contract or expenditure of money by a municipal corporation, township, county, or other political subdivision with which a member may be affiliated. Notwithstanding any provision of law to the contrary, no member of a board of directors of a joint economic development district shall forfeit or be disqualified from holding any public office or employment by reason of membership on the board.

(5) The board of directors of a joint economic development district is a public body for the purposes of section 121.22 of the Revised Code. Chapter 2744. of the Revised Code applies to such a board and the district.

(Q)(1) On or before the date occurring six months after the effective date of the district contract, an owner of a business operating within the district may, on behalf of the business and its employees, file a complaint with the court of common pleas of the county in which the majority of the territory of the district is located requesting exemption from any income tax imposed by the board of directors of the district under division (F)(5) of this section if all of the following apply:

(a) The business operated within an unincorporated area of the district before the effective date of the district contract;

(b) No owner of the business signed a petition described in division (J) of this section;

(c) Neither the business nor its employees has derived or will derive any material benefit from the



new, expanded, or additional services, facilities, or improvements described in the economic development plan for the district, or the material benefit that has, or will be, derived is negligible in comparison to the income tax revenue generated from the net profits of the business and the income of employees of the business.

The legislative authority of each contracting party shall be made a party to the proceedings and the business owner filing the complaint shall serve notice of the complaint by certified mail to each such contracting party. The court shall not accept any complaint filed more than six months after the effective date of the district contract.

(2) Any or all of the contracting parties may submit a written answer to the complaint submitted under division (Q)(1) of this section to the court within thirty days after notice of the complaint was served upon them. Such a contracting party shall submit to the court, along with the answer, documentation sufficient to prove that the contracting party sent copies of the answer to the owner of the business who filed the complaint.

(3) The court shall review each complaint submitted by a business owner under division (Q)(1) of this section and each answer submitted by a contracting party under division (Q)(2) of this section. The court may make a determination on the record and the evidence thus submitted, or it may conduct a hearing and request the presence of the business owner and the contracting parties to present evidence relevant to the complaint. The court shall make a determination on the complaint not sooner than thirty days but not later than sixty days after the complaint is filed by the business owner. The court may make a determination more than sixty days after the complaint is filed if the business owner and all contracting parties to the district consent.

(4) The court shall grant the exemption requested in the complaint if all of the criteria described in divisions (Q)(1)(a) to (c) of this section are met.

(5) If all the criteria described in divisions (Q)(1)(a) to (c) of this section are not met, the court shall deny the complaint and the exemption.

(6) The court shall send notice of the determination with respect to the complaint to the owner of the business and each contracting party. If the court grants the exemption, the net profits of the business



from operations within the district and the income of its employees from employment within the district are exempt from any income tax imposed by the board of directors of the district. If the court denies the exemption, the net profits of the business and the income of its employees shall be taxed according to the terms of the district contract and any taxes, penalties, and interest accrued before the date of the court's determination shall be paid in full. In addition, no owner of the business may submit another complaint under division (Q)(1) of this section for the same district contract. The court's determination on a complaint filed under division (Q) of this section is final.

(7) Chapter 2506. of the Revised Code does not apply to the proceedings described in division (Q) of this section.

(R)(1) No proceeding pursuant to Chapter 709. of the Revised Code that proposes the annexation to, merger of, or consolidation with a municipal corporation of any unincorporated territory within a joint economic development district may be commenced at any time between the effective date of the contract creating the district and the date the contract expires, terminates, or is otherwise rendered unenforceable. This division does not apply if each board of township trustees whose territory is included within the district and whose territory is proposed to be annexed, merged, or consolidated adopts a resolution consenting to the commencement of the proceeding. Each such board of township trustees shall file a copy of the resolution with the clerk of the legislative authority of each county within which a contracting party is located.

(2) The contract creating a joint economic development district may prohibit any annexation proceeding by a contracting municipal corporation of any unincorporated territory within the district or zone beyond the period described in division (R)(1) of this section.

(3) No contracting party is divested or relieved of its rights or obligations under the contract creating a joint economic development district because of annexation, merger, or consolidation.

(S) Contracting parties may enter into agreements pursuant to the contract creating a joint economic development district with respect to the substance and administration of zoning and other land use regulations, building codes, permanent public improvements, and other regulatory and proprietary matters determined to be for a public purpose. No contract, however, shall exempt the territory within the district from the procedures of land use regulation applicable pursuant to municipal



corporation, township, and county regulations, including, but not limited to, zoning procedures.

(T) The powers granted under this section are in addition to and not in the derogation of all other powers possessed by or granted to municipal corporations, townships, and counties pursuant to law.

(1) When exercising a power or performing a function or duty under a contract entered into under this section, a municipal corporation may exercise all the powers of a municipal corporation, and may perform all the functions and duties of a municipal corporation, within the district, pursuant to and to the extent consistent with the contract.

(2) When exercising a power or performing a function or duty under a contract entered into under division (D) of this section, a county may exercise all of the powers of a county, and may perform all the functions and duties of a county, within the district pursuant to and to the extent consistent with the contract.

(3) When exercising a power or performing a function or duty under a contract entered into under this section, a township may exercise all the powers of a township, and may perform all the functions and duties of a township, within the district, pursuant to and to the extent consistent with the contract.

(U) No political subdivision shall grant any tax exemption under Chapter 1728. or section 3735.67, 5709.62, 5709.63, or 5709.632 of the Revised Code on any property located within the district without the consent of all the contracting parties. The prohibition against granting a tax exemption under this section does not apply to any exemption filed, pending, or approved before the effective date of the contract entered into under this section.