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S.B. 19 (L_134_0072-1)
134th General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 19's Bill Analysis

Version: In House Ways and Means

Primary Sponsor: Sen. Schaffer

Local Impact Statement Procedure Required: Yes

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Highlights

- Exempting from state and local use taxes certain watercraft seasonally stored, maintained, or repaired in Ohio will reduce state and permissive county and transit authorities' use taxes by an undetermined amount. Under codified law, state sales and use tax receipts are distributed to the GRF (96.68%), while the Local Government Fund (LGF, Fund 7069) and Public Library Fund (PLF, Fund 7065) each receive 1.66%.
- Creating a new property tax exemption for wetlands or water quality improvement projects would reduce tax revenue to at least some school districts and political subdivisions. The extent of such revenue losses under this provision appears uncertain.
- The bill extends a current real property tax exemption for fraternal organizations operating under a state governing body to similar organizations operating under a national governing body, resulting in a loss of tax revenue to local governments.
- The bill changes the process for lowering taxable property valuations for damage or loss, allowing a county auditor to initiate an adjustment.
- The bill creates a review process for dwelling property tax exemptions including the 2.5% rollback for owner-occupied primary residences and the homestead exemption. This provision creates administrative costs for county auditors, county treasurers, and the Department of Taxation. To the extent the process reveals properties that are no longer eligible for an exemption, it would also result in reduced GRF expenditures.
- The bill modifies the content of a required annual property tax rate statement published in a newspaper or enclosed with each tax bill. This change will have no fiscal effect.

Detailed Analysis

S.B. 19 provides an exemption from the state use tax and makes several changes to property tax law.

Use tax exemption for certain watercraft seasonally stored or maintained in Ohio

The bill exempts from state and local use taxes certain watercraft. A qualifying watercraft has to meet the following conditions: (1) the owner paid sales or use tax on the watercraft to another state or under R.C. section 5739.027, unless the watercraft is used and titled or registered in a jurisdiction that does not impose a sales or use tax or similar excise tax on the ownership or use of the watercraft, (2) the watercraft is in Ohio only for storage and maintenance, (3) the watercraft is not used or stored in Ohio in May through September, and (4) the watercraft is not required to be registered in Ohio under section 1547.54 of the Revised Code.[1] The exemption would go into effect on the first day of the first month following the effective date of the applicable section of the bill.

In general, use tax is imposed on items purchased outside Ohio and used and stored in the state if no Ohio sales tax was paid.[2] No information is available on the potential use tax avoidance by out-of-state boat owners or Ohio marinas or watercraft maintenance and repair shops; LBO has not been able to obtain relevant data to estimate state and permissive county and transit authority sales tax revenue losses that would result from the bill. However, LBO also believes that such revenue decreases may be relatively small, primarily because language in the bill requires that the watercraft owner would have already paid state taxes, where required, on the purchase of an exempted watercraft.

This assessment is based on the assumption that most watercraft potentially liable for Ohio use tax were purchased in neighboring states, all of which have higher state sales and use tax rates than Ohio's rate of 5.75%, so any additional liability for out-of-state watercraft owners would likely result from use taxes for permissive local taxes.[3] When use tax is due on the purchase of motor vehicles or watercraft out of state, or for storage and use in Ohio, a credit allowance is given for the amount of tax paid on that tangible personal property to another state. When the amount of tax paid to another state is established, it is to be deducted from the total amount of use tax due Ohio. If the credit equals or exceeds the Ohio use tax due, no additional tax payment

[1] The registration requirement applies to all vessels operating on the waters in this state, unless otherwise provided. A watercraft is principally using the waters in this state if the owner so declares, regardless of the owner's state of residence, or if the watercraft is registered in another state or documented by the United States Coast Guard and is used within this state for more than 60 days.

[2] This use tax requirement applies whether or not the tangible personal property is required to be registered or titled.

[3] State sales and use tax rates are 7% for Indiana, and 6% for Kentucky, Michigan, Pennsylvania, and West Virginia, however Indiana, Kentucky, and Michigan do not have local sales taxes, unlike Ohio, so the combined state and local sales and use tax rate in Ohio counties may be higher than the sales tax rates in those states.

is required; if not, the taxpayer is required to pay additional tax at the combined state and local sales tax rate on the purchase.[4] However, compliance with use tax law is generally low, particularly for tangible property not required to be titled or registered with government agencies.

Under codified law, state sales tax receipts are distributed to the GRF (96.68%), the LGF (1.66%), and the PLF (1.66%). During the FY 2020-FY 2021 biennium, the LGF and PLF receive 1.68% and 1.7%, respectively.

Sales and use taxation of watercraft

On January 1, 2000, Ohio sales tax law on personal watercraft changed. All personal watercraft sold on or after January 1, 2000, are required to be titled and sales or use tax paid to the local clerk of courts, unless the purchaser is entitled to claim exception or exemption.[5] Prior to January 1, 2000, only dealer sales of personal watercraft were subject to Ohio sales/use tax, and the tax was required to be collected by the dealer and remitted directly to the Treasurer of State, not to the clerk of courts. Nondealer sales of personal watercraft made prior to January 1, 2000, were not subject to the sales or use tax since they were not required to be titled and they qualified for the "casual sale" sales and use tax exemption. State sales and use tax revenues from watercraft sales totaled $24 million in FY 2020, and exceed $31 million in the first 11 months of FY 2021.[6]

Titling of watercraft and outboard motors

According to R.C. sections 1548.01 and 1548.03, the following items require an Ohio certificate of title: an outboard motor of ten horsepower or greater, a watercraft 14 feet or greater in length, and a watercraft less than 14 feet in length with a permanently affixed mechanical means of propulsion of ten horsepower or greater (e.g., personal watercraft such as Jet Ski, Sea-Doo, etc.). A number of watercraft are exempt from the titling requirement, including canoes, boats from other countries, motors less than ten horsepower, and vessels documented by the United States Coast Guard.

Possible indirect effects of this bill provision

Witness testimony for H.B. 314 of the 134th General Assembly, which included this provision, indicates that some out-of-state boat owners, knowing that seasonal storage, maintenance, or repair of watercraft in Ohio may result in use tax charges for the value of the vessel, choose when possible to avoid having such services provided in this state. The bill may result in such owners instead having these services performed in Ohio. The extent of such behavioral changes and resulting sales tax revenues is unknown.

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[4] If the amount of Ohio and local use tax exceeds the amount paid to in another state, the difference is to be allocated between the state and local jurisdictions in proportion to the respective tax rates.

[5] No tax applies, for example, to purchases for resale or interstate commerce, purchases by political subdivisions and certain nonprofits, and transfers with no consideration (such as gifts).

[6] Ohio Administrative Knowledge System.

Property tax exemption for wetlands

The bill creates a new property tax exemption for land classified as wetlands or for water quality improvement projects. In Ohio law, wetlands are areas inundated or saturated by water that support vegetation typically adapted for life in such soil conditions, and include swamps, marshes, bogs, and similar areas.[7] Under the bill, only property held by 501(c)(3) charitable organizations qualifies for the exemption. Such entities must be organized for the purpose of conservation of natural resources or improving water quality. In addition, the property must be subject to an environmental response project.

The environmental response project must be a plan or work performed for environmental remediation of real property or for protection of ecological features associated with real property, and conducted in response to a mitigation requirement under Ohio's section 401 water quality certification program or isolated wetland program.[8] The Ohio Environmental Protection Agency administers the state's water quality certification program under the federal Clean Water Act's section 401, pertaining to discharge of dredged or fill material into streams, lakes, and wetlands.

A nature water project involves a natural water system, and will improve water quality by reducing levels of phosphorus, nitrogen, or sediment in the water. The project may involve research, technology, design, construction, best management practices, conservation, or maintenance, including creation, maintenance, or restoration of wetlands, flood plains, flood control systems, and buffers.

Under current law, nature preserves are tax exempt.[9] A number of nature preserves are wetlands or include wetlands. Qualification for this exemption depends on the use of the land, not whether its owner is a charitable organization. In addition, the land must be dedicated to the state as specified in R.C. 1517.05, generally requiring that the dedication contain terms restricting the use of the land that adequately provide for its preservation and protection against modification or encroachment resulting from occupation, development, or other use that would destroy its natural or aesthetic conditions. The acceptability of the terms of each dedication in protecting the land is evaluated by the Director of Natural Resources, whose approval must be obtained for the land to be tax exempt.

S.B. 19 may allow some wetlands to qualify for tax exemption that are not dedicated to the state as required under R.C. 1517.05. The extent of real property that is or may become taxable under current law, but that would be tax exempted under the bill, appears uncertain. Revenue losses to some political subdivisions could begin as early as FY 2022. Alternatively, the bill may allow landowners to gain tax exemption on wetlands without the restrictions on future use that would be imposed under a dedication conforming to the requirements in R.C. 1517.05.

The changes would apply to tax years ending on or after the effective date of the bill, so could go into effect in tax year 2021. Real property taxes are paid a year in arrears.

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[7] R.C. 6111.02(P), unchanged by the bill.

[8] Laws governing Ohio's isolated wetland program are specified in R.C. Chapter 6111.

[9] Under R.C. 5709.09 and 1517.05.

Fraternal organization property tax exemption

Under current law, real property of a fraternal organization that operates under a state governing body, that has been operating in this state for at least 85 years, and that meets other requirements is exempt from taxation. The bill extends this tax exemption to those operating in this state for at least 85 years under a national governing body.

This change will result in loss of property tax revenue to school districts and other units of local government. The amount of this revenue loss is uncertain. The change applies to tax year 2021 and every tax year thereafter.

Lowering taxable property value for damage or loss

When property is damaged or destroyed, the property owner may request that the county auditor lower the valuation used for tax purposes. Such a request may also be made by two disinterested persons who are residents of the township or municipal corporation where the property is located. The bill in addition allows the county auditor to initiate the inspection of the property and adjust the valuation. This change appears unlikely to alter local government costs significantly, and would be permissive for the county auditor.

Under the bill, the Department of Taxation is to prescribe a form to be used for this purpose. The form is to be filed by the property owner or two disinterested persons with the county auditor, or the auditor may complete the form on behalf of the owner. The Department already has such a form, so would incur no additional cost to comply with this requirement of the bill.

Review process for dwelling property tax exemptions

The bill requires the Tax Commissioner to notify county auditors and treasurers in counties conducting sexennial appraisals or triennial updates in the upcoming year that they are to provide the Commissioner with a list for each county of parcels of real property and manufactured or mobile homes that receive either the 2.5% tax rollback for owner-occupied homes or the homestead exemption. In addition, the Commissioner may request from counties additional information to determine the eligibility of the properties for those exemptions. County auditors and treasurers would be required to provide the lists and additional information.

The Commissioner would compare each list with other information, including but not limited to motor vehicle registrations, vital statistics, and the Department's internal records. Based on this review, the Commissioner would provide each county auditor with a report including a list of any properties in the county for which evidence or documentation suggests that the property may not be eligible for one or both of the dwelling tax exemptions it receives. The report would include a brief explanation of the evidence and copies of any documentation supporting the parcel's or home's inclusion in the report. Auditors would be required to keep this information confidential, except as specified in the following paragraph.

The bill requires county auditors to investigate parcels and homes the Commissioner includes on the list of properties that may not be eligible for tax exemptions received. The auditors are to report back to the Commissioner, and also to the Auditor of State, those properties that the auditors determine to be either eligible for the dwelling tax exemptions they received, or not eligible for one or more of the tax exemptions received. A third list could include any parcels and homes in the Commissioner's report for which the county auditor has not yet

made a final determination. County auditors would have three years in which to conduct these investigations and submit these reports.

The commissioner would be required to compile a report summarizing the findings of those reports, and describing the prevalence of ineligible parcels and homes receiving one or more dwelling tax exemptions. The report may include savings to the state from discovery and disqualification of ineligible parcels and homes previously receiving such exemptions, and data limitations the Commissioner encountered while assessing the eligibility of parcels and homes. Copies of this report are to go to the General Assembly, the Auditor of State, and the Governor. The bill provides that the Auditor of State would be authorized to audit this study.

County auditors and treasurers would incur costs to provide the required information and subsequently to conduct investigations. The Department of Taxation would incur costs for the review of the lists submitted by counties against other records, and for preparation of annual summary reports. The Auditor of State may incur costs for the discretionary audit of the Department of Taxation's summary report. To the extent the review process reveals properties that are no longer eligible for a tax reduction, this provision would reduce GRF expenditures by the state.

These reviews would start in the first year commencing after the bill's effective date. Each county in the state would be subject to this review every three years.

Property tax rate schedules

The bill modifies as follows, beginning for tax year 2022, the content of a property tax rate statement required annually to be published by the county treasurer in the newspaper or enclosed with each tax bill: (1) It removes a requirement to list tax reduction factors in the statement, though county auditors could include tax reduction factors in the statement at their discretion. Tax reduction factors are the percentage reductions to voted millage rates resulting from application of H.B. 920 tax reduction factor credits, which result in effective tax rates, (2) It requires effective tax rates, expressed as a percentage of market value, to be included in the statement for the two classes of property to which separate tax reduction factors apply, (a) residential and agricultural real property and (b) all other real property. Under continuing law, both voted rates and effective rates must be expressed as mills for each one dollar of taxable value, (3) It removes the requirement that effective tax rates be printed in bold face type.

These changes will have no fiscal effect.

Synopsis of Fiscal Effect Changes

The substitute bill adds several provisions to the introduced bill, including: (1) the use tax exemption and its GRF revenue loss, (2) the expansion of the fraternal organization property tax exemption and its revenue loss for school districts and political subdivisions, and (3) the review process for dwelling property tax exemptions with its potential reduction in GRF expenditures. The other additions made by the substitute bill have no direct fiscal effects.

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