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H.B. 344
135th General Assembly

Bill Analysis

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Version: As Reported by House Ways and Means

Primary Sponsors: Reps. Mathews and Hall

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SUMMARY

- Eliminates the authority of political subdivisions to levy replacement property tax levies, beginning with elections held on or after October 1, 2024.
- Modifies the requirements governing when political subdivisions can file property tax complaints and counter-complaints.
- Requires subdivisions that fail to comply with property tax complaint filing requirements to pay the attorney's fees and costs incurred by the property owner in connection with the complaint.

DETAILED ANALYSIS

Replacement property tax levies

The bill eliminates the authority of political subdivisions to levy replacement property tax levies, beginning with elections held on or after October 1, 2024.¹

Under current law, a subdivision may propose a replacement levy to extend the term of an existing levy. A replacement levy is imposed at the same original millage rate of the levy it is replacing. By contrast, subdivisions may also propose renewal levies, which extend the term of an existing levy at its current effective millage rate – i.e., its rate after reductions resulting from the H.B. 920 tax reduction factors. The tax reduction factors have the effect of lowering a levy's effective millage over time, since they are designed to prevent a subdivision's tax revenue from growing at the same rate as property values. Consequently, unlike a renewal levy, a

¹ R.C. 5705.192, repealed and conforming changes in R.C. 319.301, 319.302, 523.06, 1545.21, 3316.041, 3316.06, 3358.11, 3505.06, 5705.03, 5705.218, 5705.2111, 5705.221, 5705.233, 5705.261, and 5705.412; Section 4(A) and (B).

replacement levy allows subdivisions to receive the benefit of any growth in property tax values that occurred during the life of the existing levy.

Limitations on property tax challenges

The bill modifies a recent law that imposed limits on the filing of property tax complaints by parties other than property owners. Among other changes, H.B. 126 of the 134th General Assembly limited the situations in which political subdivisions can file property tax complaints or appeal the decisions of a board of revision (BOR) regarding those complaints.

Filing of property tax complaints

Sale requirement

Under current law, as enacted in H.B. 126, political subdivisions may only file a property tax complaint with respect to property the subdivision does not own if (a) the property was sold in an arm's length transaction before the tax year for which the complaint is filed and (b) that sale price was at least 10% and \$500,000 more than the auditor's current valuation. The \$500,000 threshold increases each year for inflation, beginning in tax year 2023. These limits also apply to third party property owners in the county who do not own or lease the property in question ("third party complainants").

The bill further narrows this sale requirement, by specifying that a conveyance fee statement for the sale must have been filed with the county auditor within the two years preceding the year for which the complaint is filed. Current law requires that the property was sold before that year, but does not expressly include any limit on when that sale occurred.²

Resolution

Existing law also requires that, before filing a complaint, a subdivision must adopt a resolution authorizing the complaint. The bill specifies that such a resolution is also required if the complaint is filed by a third party complainant who is "acting on behalf of a subdivision." A person is considered to be "acting on behalf of a subdivision" if the person is an official or employee of the subdivision or was directed to file the complaint by an official or employee.

Under the bill, all third party complainants must submit an affidavit, with the complaint, certifying whether the person is or is not acting on behalf of a subdivision. The falsification of such an affidavit is a first degree misdemeanor.³

Penalty for illegal filing

Under continuing law, if a subdivision files a complaint that does not meet the sale and resolution requirements, the BOR will dismiss the complaint. The bill adds that, in such cases, the BOR must also order the subdivision to pay any attorney's fees and costs incurred by the property owner in connection with the complaint. The amounts must be paid to the property

² R.C. 5715.19(A)(6)(a).

³ R.C. 5715.19(A)(6)(b) and (8) and (L).

owner, through the BOR. If the subdivision fails to pay the amount due, the BOR may refer the case to the county prosecuting attorney for collection.⁴

Application

The bill's new complaint filing limits and penalty apply to complaints filed on or after the bill's 90-day effective date.⁵

Counter-complaints

Under continuing law, if a property tax complaint alleges a change in value of at least \$50,000 in fair market value (\$17,500 in taxable value), a school district may join the case by filing a counter-complaint. The bill provides that a school district may only file such a counter-complaint if the original complaint was filed by the owner or lessee of the property. Essentially, the bill prohibits school districts from filing counter-complaints when the original complaint is filed by another political subdivision or by a third party complainant. This change applies to counter-complaints filed with respect to tax year 2022 and after.⁶

Appeals of BOR decisions

The bill expands an existing law, also enacted in H.B. 126, that prohibits political subdivisions from appealing BOR decisions on property they do not own to the Board of Tax Appeals (BTA). Under the bill, these appeal limitations also apply to third party complainants. In addition, the bill expressly prohibits a subdivision from appealing a BOR decision regarding a complaint filed by a third party complainant. This latter prohibition applies to appeals of BOR decisions issued on or after July 21, 2022 (H.B. 126's effective date). The limit on third party complainants applies to appeals of BOR decisions issued after the bill's 90-day effective date.⁷

Private payment agreements

Continuing law prohibits a political subdivision from entering into a private payment agreement with a property owner whereby the owner agrees to pay the political subdivision to dismiss, not file, or settle a complaint or counter-complaint. The bill extends this prohibition to any agreement that a property owner would enter into with a person who is acting on behalf of a political subdivision. This prohibition applies to complaints filed on or after the bill's 90-day effective date.⁸

⁴ R.C. 5715.19(K).

⁵ Section 4(C)(1) and (4).

⁶ R.C. 5715.19(B); Section 4(C)(2).

⁷ R.C. 5717.01; Section 4(D).

⁸ R.C. 5715.19(I); Section 4(C)(3).

HISTORY

Action	Date
Introduced	11-29-23
Reported, H. Ways & Means	05-01-24
