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S.B. 44*
135th General Assembly

Bill Analysis

Version: As Reported by House State and Local Government

Primary Sponsor: Sen. Brenner

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SUMMARY

Direct transfer of properties subject to tax foreclosure

- Imposes new requirements on the direct transfer of abandoned, tax-foreclosed property to a land bank or political subdivision without a foreclosure sale.

County engineer

- Allows a board of county commissioners, when the office of county engineer is vacant, to contract with another county's county engineer to perform the duties of county engineer in that county, and gives the county engineer supplemental compensation for doing so.
- Prohibits a county engineer from engaging in the private practice of engineering or surveying in a county in which the person is the county engineer or acting county engineer.
- Eliminates the compensation schedule applicable to county engineers with a private practice, and instead subjects all county engineers to the compensation schedule currently applicable to county engineers without a private practice.

County creation of additional port authority

- Regarding the current prohibition against a political subdivision being included in more than one port authority, creates a new exemption that allows a county that is included in an existing port authority to create a new port authority, provided both of the following apply:

* This analysis was prepared before the report of the House State and Local Government Committee appeared in the House Journal. Note that the legislative history may be incomplete.

- The existing port authority has an area of jurisdiction that includes more than one county; and
- The county creating the port authority within its jurisdiction has a population of 100,000 or less.

Electronic license applications

- Requires a state department, agency, or office that issues a license or another authorization to a person to practice a trade or profession to require applicants to apply through an electronic licensing system.
- Permits a department, agency, or office to adopt a policy allowing an applicant to apply for a license or another authorization using a paper application.

DETAILED ANALYSIS

Direct transfer of properties subject to tax foreclosure

The bill modifies a law that allows certain tax-foreclosed property to be transferred directly to a county land bank or political subdivision without a foreclosure sale. The change applies to abandoned property that is subject to continuing law's expedited administrative tax foreclosure process.

Expedited tax foreclosures

Under continuing law, county boards of revision (BORs) are authorized to adjudicate tax foreclosure complaints on abandoned property. This administrative option is in lieu of a judicial proceeding. The option is available for property that is unoccupied and that meets certain other criteria, such as the property is not receiving utility service or being boarded up.

Under the expedited procedure, if a property owner does not respond to a foreclosure complaint filed with the BOR, the BOR may adjudicate the foreclosure within 30 days after the complaint is filed. If the property owner files an answer, the BOR must conduct a hearing between 30 and 90 days after receiving the filing. Use of this alternative procedure shortens the timeline and abbreviates the administrative steps necessary to obtain a tax foreclosure judgment.

Disposition of property

Upon a property's foreclosure, the BOR must order that the property be sold at auction or otherwise conveyed to a political subdivision or county land bank. In general, property may only be transferred to a land bank or subdivision without a public sale if the delinquent taxes due and foreclosure costs exceed the property's fair market value. Otherwise, the property must be offered at a public sale.

However, there is an exception to this rule. A county may invoke an "alternative redemption period," which shortens the time within which a property owner may redeem the property by paying the delinquent taxes and foreclosure costs. When a county invokes the alternative redemption period, and the property owner does not respond within 28 days, the

county may transfer the property directly to a land bank or subdivision, without a public sale – even if the property’s fair market value exceeds the delinquent taxes due. When such a transfer occurs, the tax lien is extinguished.

New requirement for direct transfers

The bill imposes new requirements for direct transfers of expedited foreclosure property to land banks or subdivisions. These requirements apply regardless of whether the delinquent taxes due exceed the property’s fair market value.

Under the bill, when a political subdivision or land bank acquires property in a direct transfer, the subdivision or land bank must do all of the following:

1. Sell the property either at a public auction or through the public solicitation of bids.
2. Keep a record of the property’s previous tax delinquency, foreclosure costs, and the costs incurred by the subdivision or land bank while holding the property. The record must be kept for three years and is considered a public record.
3. If the sale price exceeds those total costs, forward the excess proceeds to the county treasurer where the property is located, who will notify the owner. The proceeds are treated the same as excess proceeds from a foreclosure sale. The county will hold the proceeds for three years. If the proceeds remain unclaimed after three years, the funds revert to either the land bank or, if no land bank exists, the county in which the property is located.¹

County engineer

County engineer vacancies

The bill allows a board of county commissioners, when the office of county engineer is vacant and cannot be filled, or when there is no person running for county engineer, to contract with another county’s county engineer to exercise the powers and perform the duties of county engineer for that county. The bill allows a person to serve as county engineer for more than one county under these circumstances.²

A county engineer so contracted receives supplemental compensation for the services rendered under the contract, equal to 80% to 100% of the statutory amount based on the population of the county in which the engineer is contracted to perform services. The contract must only be for the contract term, and may not extend beyond the last day of the term for which there is a vacancy.³

¹ R.C. 323.78 and 5721.20.

² R.C. 305.021(A). Note that a person is not eligible to be a county engineer unless the person is a registered professional engineer and a registered surveyor (R.C. 315.02, not in the bill).

³ R.C. 305.021(B).

The Ohio Constitution requires that vacancies in elected offices be filled for the unexpired term. For county offices, the Constitution allows the General Assembly to prescribe the manner of filling the vacancy.⁴

Private practice

The bill prohibits county engineers from engaging in the private practice of engineering or surveying work that would go before the office of county engineer in any county in which the person is serving as county engineer or acting county engineer. “Acting county engineer” refers to a county engineer serving a county other than the county in which they were elected.

The bill eliminates the procedures concerning conflicts of interest for a county engineer who currently also elects to work in private practice.⁵

County engineer compensation

The bill eliminates the compensation schedule applicable to county engineers with a private practice, and instead subjects all county engineers to the compensation schedule currently applicable to county engineers without a private practice. The bill also eliminates obsolete compensation schedules.⁶

The bill’s compensation change applies to a county engineer whose term of office begins on or after the bill’s effective date. In accordance with the Ohio Constitution, the bill requires a county engineer who is serving a term of office that began before the bill’s effective date to continue to receive compensation in accordance with the law in effect before that date for the remainder of that term of office.⁷

County creation of additional port authority

The bill creates a new exemption that allows a county that is included in an existing port authority to create a new port authority that encompasses only the territorial jurisdiction of that county, provided both of the following apply:

1. The existing port authority has an area of jurisdiction that includes more than one county; and
2. The county creating the port authority within its jurisdiction has a population of 100,000 or less.

Current law prohibits a political subdivision that has created a port authority or joined an existing port authority from being included in any other port authority except for either of the following:

⁴ Ohio Constitution, Article XVII, Section 2; see also R.C. 305.02, not in the bill.

⁵ R.C. 325.14(B), with conforming changes in R.C. 315.251(B) and 319.203.

⁶ R.C. 325.14(A).

⁷ Section 3.

1. A municipal corporation with a population of less than 100,000 that has joined an existing port authority in a county with a population of 500,000 or less may create a port authority within the territorial jurisdiction of the municipal corporation; and
2. A municipal corporation and a county jointly may create a new port authority if the municipal corporation created and the county joined a port authority after July 9, 1982, and those port authorities operate an airport.⁸

Electronic license applications

The bill requires a state department, agency, or office that issues a license, certificate, registration, or other authorization to a person to practice a trade or profession to require an applicant for an initial license or another authorization to apply through an electronic licensing system. A department, agency, or office also may adopt a policy that allows a person to submit a paper application. If the department, agency, or office adopts such a policy under the bill, it cannot require a person to submit a paper application and must accept an electronic application submitted through the electronic licensing system used by the department, agency, or office.

The Ohio Supreme Court is not subject to the bill's requirements when issuing initial licenses pursuant to rules governing admission to the practice of law.⁹

HISTORY

Action	Date
Introduced	02-07-23
Reported, S. Gov't Oversight	05-31-23
Passed Senate (31-0)	06-07-23
Reported, H. State & Local Gov't	---

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⁸ R.C. 4582.30.

⁹ R.C. 4743.06.