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H.B. 496
135th General Assembly

Bill Analysis

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Version: As Reported by Senate Ways & Means

Primary Sponsor: Rep. Hoops

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SUMMARY

Property tax administration

- Modifies information a county auditor must certify in the process of submitting a property tax levy to voters, including information appearing on election notices and ballot language, as follows:
 - Requires rounding estimated revenue to the nearest \$1 rather than the nearest \$1,000.
 - Requires this estimate and rate estimates for bond and fixed-sum levies to be based on valuations on the last available tax list rather than a possible estimate.
 - Requires certifying the residential/agricultural effective rate of renewed or extended levies based on the last known rate, as opposed to an estimated effective rate that assumes the levy is approved.
- Repeals a recently enacted law that requires a county board of revision (BOR) to dismiss a property tax complaint filed by a political subdivision if the BOR does not render a decision on the complaint within one year.
- Modifies property tax counter-complaint filing deadlines.
- Modifies a requirement the owner of tax-exempt property inform the county auditor of changes in the property's exemption status, by instead requiring notification of changes in the property's use.
- Allows a county auditor to provide a waiver or refund of manufactured home taxes due to damage or destruction of a manufactured home on the auditor's own initiative, rather than only upon notice from a property owner or third party.

- Modifies how real property and manufactured home tax overpayments are apportioned to each taxing district, moving to a preceding-year basis rather than on the basis of taxing ratios in the year of overpayment.
- Clarifies that county treasurers and auditors may deduct their compensation for collecting property taxes from state homestead exemption and rollback reimbursements.
- Allows the county auditor to designate a location within the county where the sale of tax-foreclosed forfeited lands will occur.

Deputy county auditors

- Eliminates a requirement for the county auditor and county treasurer to keep records of all appointments and removals of deputy auditors.

Tax foreclosure sales limitation

- Prohibits the transfer of property sold at a tax foreclosure sale unless the purchaser supplies an affidavit stating that the purchaser or certain related parties do not own tax delinquent property in the state or that such delinquency is justified or erroneous.

Liens for unpaid Hamilton County lodging taxes

- Allows a county with a population greater than 800,000, but less than one million, i.e., Hamilton County, to enforce payment of delinquent lodging taxes by placing a property tax lien on the delinquent hotel.

DETAILED ANALYSIS

Property tax administration

Overview

Continuing law authorizes local governments to levy property taxes, and requires the Department of Taxation and several local officials to administer and enforce those taxes. Among the local officials charged with doing so are county auditors, though county auditors perform several other functions as well. The bill makes several changes to the law governing property taxation, particularly those laws administered by or affecting county auditors. The bill also makes a few administrative changes to the manner in which a county auditor's office operates. Several of the changes modify or clarify changes in legislation adopted in the 134th General Assembly.

Resolutions and ballot text

The bill makes several changes to the information that must be calculated for and presented on election notices and ballot language for property tax levies. In general, to submit a property tax levy to voters, a taxing authority certifies a resolution to the county board of elections, which prepares an election notice and ballot language describing the levy.¹ Under

¹ See, e.g., R.C. 5705.25.

continuing law, before taking that step, the subdivision must ask the county auditor for either (1) an estimate of the revenue the tax would generate from a specified millage rate or (2) the millage rate necessary to generate a specified amount of revenue. Upon receiving such information, the subdivision may submit the levy to voters by certifying a resolution to the appropriate county board of elections. The bill's modifications change or clarify earlier modifications made to that language by H.B. 140 of the 134th General Assembly.

First, the bill requires a county auditor, when certifying to a taxing authority the estimated annual collections of a proposed levy – a required element of election notices and ballot language – to round that estimated revenue to the nearest \$1 rather than the nearest \$1,000. Second, the bill requires this estimate and an estimate of tax rates for bond and fixed-sum levies to be calculated based on property valuations appearing on the most recently finalized tax list, rather than on the tax list for the current year or an estimated amount for that year calculated by the county auditor.²

Third, the bill requires the auditor to certify, in the case of a renewal levy or a question to extend an existing levy to new territory, that levy's effective rate, as opposed to an estimated effective rate. In general, effective rates are not the actual voted rate of a tax levy, but reflect the reductions in a levy's collections through operation of the H.B. 920 tax reduction factor, which, is designed to prevent most types of levies from generating additional collections as property values increase due to inflation. Effective rates tend to give a more accurate measure of what a property owner is actually paying on a voted levy. There are two separate effective rates for each levy – one that applies to residential and agricultural property (Class 1) and one that applies to other real property (Class 2).

Continuing law, enacted by H.B. 140, requires election notices and ballot language for a renewal or extension levy to display the effective rate that applies to Class 1 property in dollars for each \$100,000 of a property's appraised value. But current law requires a county auditor to calculate this rate by using an estimate of the total taxable value and tax collections in the first year the renewed or extended levy would apply. The bill instead requires the auditor to make this determination by using the last available Class 1 effective rate or the levy, based on last available property values. In other words, the displayed rate per \$100,000 of value will be based on existing data rather than an estimate that assumes the levy's passage.³

Finally, the bill corrects typographical errors in sections amended by H.B. 140.⁴ All of these changes apply to elections held on or after 100 days after the bill's 90-day effective date.⁵

² R.C. 133.18, 5705.03(B)(2)(e), 5705.195, 5705.212, 5705.213, 5705.215, and 5748.04.

³ R.C. 5705.01, 5705.03(B)(2)(c) and (3), with conforming changes in 306.32, 306.322, 505.37, 505.48, 505.481, 511.28, 513.18, 755.181, 1545.21, 3311.50, 3318.01, 3318.061, 3381.03, 4582.024, 4582.26, 5705.215, 5705.25, 5705.251, 5705.261, 5748.01, 5748.02, 5748.03, and 5748.04.

⁴ R.C. 3318.45 and 5705.21.

⁵ Section 3(A).

Property tax challenges

The bill makes two changes to the process for filing property tax complaints with the county board of revision (BOR). Both provisions relate to recent changes made to the law in H.B. 126 of the 134th General Assembly. The changes apply to any complaint filed for a tax year ending on or after the bill's 90-day effective date.⁶

Dismissal of BOR cases

Current law, enacted in H.B. 126, requires a BOR to render a decision on a property tax complaint within one year if the complaint is filed by any person other than the property owner, such as a political subdivision. If the BOR does not decide the case within that one-year period, it must dismiss the case. Before H.B. 126, the BOR was supposed to render its decision within 180 days, but could continue the case indefinitely beyond that deadline. That law still applies to complaints filed by the property's owner.

The bill removes this one-year dismissal requirement. The bill allows BORs to dismiss a complaint after one year, but such dismissal would be at the discretion of the BOR, and a BOR could continue a complaint beyond the one-year point if it chooses.⁷

Counter-complaint filing deadline

Continuing law allows school districts to file counter-complaints to an original property tax complaint that alleges a change in value of at least \$50,000 in fair market value. Before H.B. 126, county auditors were required to notify school districts of such complaints by April 30, and the school district could file a counter-complaint within 30 days of receiving that notice. H.B. 126 removed the notice requirement, and instead required districts to file counter-complaints within 30 days after the original complaint is filed.

The bill modifies this deadline to authorize school districts to file a counter-complaint against any original complaint by the later of (a) 30 days after the date the original complaint was filed or (b) April 30, which is 30 days after the March 31 filing deadline.⁸

Notification of change in exemption status

The bill modifies a law requiring owners of tax-exempt property to inform the county auditor of changes in the property's exemption status. Ohio law authorizes various property tax exemptions. To receive an exemption, property owners must generally apply to the Department of Taxation, who approves the exemption and notifies the county auditor to remove the property from the tax list.

Current law requires property owners to notify the auditor when a property "ceases to qualify" for exemption, so the auditor can return the property to the tax list. The owner must

⁶ Section 3(B).

⁷ R.C. 5715.19(C).

⁸ R.C. 5715.19(B).

report this information before the end of the tax year and, if the owner fails to so, the auditor may impose a penalty.

The bill requires, instead, that owners of exempt property notify the auditor when the “use of the property changes.” This language, in comparison to current law, does not require owners to make a determination regarding the eligibility of the property for exemption.⁹

Waiver of taxes on destroyed or damaged manufactured home

Under continuing law, the county auditor is required to refund or waive payment of manufactured home taxes if a manufactured home is damaged or destroyed and the auditor receives notice of the casualty. Current law allows the notice to come from the oath of the manufactured home’s owner or owners, or the affidavit of two disinterested people who reside in the same township or municipal corporation in which the manufactured home is located. The bill removes the oath and affidavit requirement and replaces them with notice on a form prescribed by the Department of Taxation. It also allows the auditor to fill out the form on behalf of an owner if no form is submitted but the auditor inspects and investigates a manufactured home and it appears to have been damaged or destroyed.¹⁰

The bill does not change the amount of taxes that may be waived or refunded. Under continuing law, the auditor must determine the reduction in the manufactured home’s market value due to the damage or destruction. The ratio determined by comparing the reduced value to the initial value is the same ratio by which the taxes are reduced if the damage or destruction occurred in the first half of a year. If in the second half of the year, one-half of the ratio is applied to determine the reduction.

The bill’s changes make this process similar to a process under continuing law for reporting damage to real property. That law was recently modified by H.B. 51 of the 134th General Assembly in a manner similar to this bill, except it only changed the real property casualty reporting process and not the process applicable to manufactured homes.¹¹

Distribution of property tax overpayments and collections

The bill modifies how property and manufactured home tax overpayments that are refunded to taxpayers are to be apportioned to each taxing district, i.e., deducted from future tax distributions. Under current law, such refunds are apportioned on the basis of which subdivisions received the taxes that were refunded, i.e., in proportion to how the tax revenue was allocated at the time the overpayment was made. The bill modifies this so that those refunds are apportioned on the basis of taxes levied by each subdivision in the preceding year (or current year for manufactured home taxes) compared to the taxes levied by all subdivisions in that year.

⁹ R.C. 5713.083.

¹⁰ R.C. 4503.0611.

¹¹ R.C. 319.38, not in the bill.

In other words, refunds are allocated on the basis of how taxes were distributed in that year, rather than the year in which the overpayment was made.¹²

Auditor and treasurer compensation

The bill clarifies that county treasurers and auditors are each entitled to a percentage of funds they handle when administering reimbursements the state pays counties for tax revenue loss from the homestead exemption, 2.5% owner-occupancy credit, and the 10% nonbusiness credit. Auditors and treasurers are entitled to these fees as compensation for collecting property taxes, and they are calculated based on a percentage of the amount collected, which varies according to total tax collections in the county, which the bill does not change. The bill rather clarifies that state reimbursements count as property tax collections for the purpose of determining this compensation.¹³

Location for sale of forfeited lands

While current law requires the county auditor to conduct the sale of forfeited lands at the courthouse, the bill instead allows the county auditor to designate a location within the county where the sale will occur. Under ongoing law, if tax-delinquent property is offered at a tax sale twice but it does not sell, it is forfeited to the state or a political subdivision. When land is forfeited, all the right, title, claim, and interest of the former owner is transferred to the state, a political subdivision, school district, or county land reutilization corporation.¹⁴

Deputy county auditors

The bill eliminates a requirement for the county auditor and county treasurer to keep records of all appointments and removals of deputy auditors. Under continuing law, the county auditor may appoint deputies to aid in the performance of the auditor's official duties.¹⁵

Tax foreclosure sales limitation

Under continuing law, after real property accrues delinquent taxes, it may be foreclosed upon pursuant to one of several tax foreclosure proceedings. After the property is foreclosed, it may be sold by the county sheriff or another authorized selling officer, usually at an auction, to cover the amount of delinquent taxes. The bill prohibits the selling officer from transferring the property to the purchaser unless the purchaser or an authorized representative provides an affidavit relating to the purchaser's ownership of tax delinquent property or such interests held by others who also hold interests in the purchaser. The following specific statements of fact must be included in this affidavit:

- Both of the following, if the purchaser is not a pass-through entity (PTE), such as a limited liability company or partnership:

¹² R.C. 4503.06, 4503.066, and 5715.22.

¹³ R.C. 319.54 and 321.26, with conforming changes in R.C. 321.24, 323.156, and 4503.068.

¹⁴ R.C. 5723.05, 5723.06, and 5723.10; R.C. 5723.01, not in the bill.

¹⁵ R.C. 319.05.

- That the affiant, i.e., the person making the affidavit, has inquired with the county treasurer in each county where the purchaser, or a PTE in which the purchaser directly or indirectly owns or holds at least a 10% interest, owns property and was informed that neither the purchaser nor any such PTE owns property with delinquent taxes in those counties.
- That, to the best of the affiant's knowledge, neither the purchaser nor such a PTE own property in Ohio with delinquent taxes.
- Both of the following, if the purchaser is a PTE:
 - That the affiant has made the same inquiry as required for non-PTE purchasers and been informed that neither the purchaser, nor a person that directly or indirectly owns a 10% or greater interest in the purchaser, owns property with delinquent taxes in the applicable counties.
 - That, to the best of the affiant's knowledge, neither the purchaser nor a person who directly or indirectly owns or holds a 10% or greater interest in the purchaser own property in Ohio with delinquent taxes.

If a purchaser, or an authorized representative, is informed by a county treasurer that delinquent taxes are owed, the affiant may alternatively state one of the following:

- That the delinquency was misassigned to the purchaser due to a name change, pending property transfer, or error in the county recorder's office. If an error by the county recorder is stated, an affidavit or other documentation from the recorder supporting the statement must be included with the affidavit.
- That the property against which delinquent taxes are assessed is the subject of litigation or other proceedings that challenge the property's ownership and which may absolve the taxpayer of the delinquency.
- There are other circumstances the affiant believes demonstrate that the delinquency does not result from the intentional action or inaction on the part of the purchaser. If the affiant claims such circumstances, supporting documentation must be included with the affidavit.

If an affiant claims one of the alternative circumstances allowed when a delinquency is present, the officer in charge of the sale must review the affidavit and any supporting documentation. The officer may then approve or deny the transfer based on the validity of the circumstances and documentation. Delinquencies that are being paid in installments pursuant to a delinquent tax contract with the county treasurer are not considered delinquent taxes for purposes of the affidavit.

A knowingly made false statement on the affidavit is falsification, which in this case is a first degree misdemeanor.¹⁶

¹⁶ R.C. 323.28(G), 323.74(H), 5721.19(J), and 5723.06(E).

An affidavit is only required for property purchased at a foreclosure sale – it is not required if a person purchases a tax certificate authorizing the person to enforce the state’s lien for delinquent taxes. So a person that owns tax-delinquent property may still be able to purchase tax certificates.

Liens for unpaid Hamilton County lodging taxes

Under continuing law, counties, municipalities, townships, convention facility authorities, and lake facility authorities are authorized to levy taxes on short-term lodging in hotels, e.g., businesses offering five or more rooms as temporary sleeping accommodations to guests.¹⁷ Counties, townships, and municipalities may extend lodging taxes to other places of accommodation, i.e., those that let out fewer than five rooms.¹⁸

The bill allows a county with a population greater than 800,000, but less than one million – currently only Hamilton County – to pursue payment of delinquent lodging taxes by placing a property tax lien on the delinquent hotel or other place of accommodation, if applicable. When an amount owed for lodging taxes is not paid when due, the county that levies the tax may certify the delinquent sum, including any applicable penalties and interest, to the county auditor. Once the unpaid amount is certified, the county auditor places the certified amount on the property tax list against the hotel or establishment. The lien is released immediately upon payment of the delinquent amount. The county must spend any amount repaid in the same manner as revenue from the tax that was the basis for the delinquency. If the amount is not repaid, the county auditor may enforce the unpaid delinquency in the same manner as other property tax liens, e.g., the hotel may be sold at a tax foreclosure sale or the lien may be sold to a third party in a tax certificate sale.¹⁹

Under continuing law, a county levying a lodging tax is generally allowed to adopt local legislation on how the tax will be administered. However, there is no mechanism that currently allows for the conversion of delinquent lodging taxes to property tax liens.

HISTORY

| Action | Date |
|---------------------------|----------|
| Introduced | 04-22-24 |
| Reported, H. Ways & Means | 06-12-24 |
| Passed House (95-0) | 06-26-24 |
| Reported, S. Ways & Means | 12-16-24 |

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¹⁷ R.C. 5739.01; R.C. 351.021, 353.06, 5739.08, and 5739.09, not in the bill.

¹⁸ R.C. 5739.091, not in the bill.

¹⁹ R.C. 5739.094.