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# OHIO LEGISLATIVE SERVICE COMMISSION

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Office

S.B. 19  
134<sup>th</sup> General Assembly

## Bill Analysis

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**Version:** As Passed by the House

**Primary Sponsor:** Sen. Schaffer

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### SUMMARY

- Authorizes a property tax exemption for certain property used for wetland conservation or water quality improvement projects.
- Removes a requirement that community schools file an annual statement with the Tax Commissioner after an initial property tax exemption application is approved as a condition of retaining a property tax exemption.
- Requires the Tax Commissioner, in coordination with county auditors, to periodically assess and report on the continued eligibility of real property and manufactured homes that receive one or more homestead tax incentives.
- Allows a county auditor to initiate the property valuation adjustment process for destroyed or damaged property.
- Requires the Department of Taxation to prescribe a form to be used to request a valuation adjustment.
- Modifies the content and format of property tax rate statements required annually to be published in the newspaper or enclosed with each tax bill.
- Delays the effective date new territory may be added to certain regional transit authorities (RTAs) after the approval of such inclusion by voters, resulting in the addition of that territory no earlier than 12 months after such approval.
- Limits, from 1.5% to 0.3%, the maximum sales and use tax rate that may be levied by such an RTA as part of a combined question to expand the RTA and convert its property taxes to a sales and use tax.

- Authorizes, in any other context, such as an RTA to levy sales and use tax above 0.3% if each local government with territory in the RTA, except nonmember counties, approves the higher rate.
- Prohibits such an RTA from levying any property tax in any year in which it levies and collects sales and use tax.
- Exempts from state and local use tax the following watercraft that are seasonally stored or repaired in Ohio:
  - Watercraft purchased outside the state;
  - Watercraft purchased in Ohio but titled, registered, or used outside the state, even if the jurisdiction of titling or registration does not tax the sale, use, or ownership of the watercraft;
  - Watercraft purchased by a nonresident who paid a portion of Ohio sales tax at the time of purchase.
- Specifies that the exemption does not apply to watercraft storage, repair, or installation services.
- Purports to expand an existing property tax exemption for fraternal organizations to include the property of such organizations with national governing bodies. (H.B. 110 of the 134<sup>th</sup> General Assembly enacted an identical expansion.)

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## **DETAILED ANALYSIS**

### **Private wetlands property tax exemption**

The bill authorizes a property tax exemption for certain property used for wetland conservation or water quality improvement projects. To qualify, the property must be owned or held by a 501(c)(3) organization that is dedicated to the conservation of natural resources or improving water quality. Additionally, the property must either be subject to (a) a federal or state environmental response plan for wetland conservation or mitigation or (b) a project to improve the quality of the state's natural waters that receives funding through the H2Ohio program.<sup>1</sup>

The exemption applies to tax years ending on or after the provision's effective date.<sup>2</sup>

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<sup>1</sup> R.C. 5709.09(B). The H2Ohio program provides funding for water quality improvement projects. The bill applies to "nature water projects," which are projects that will help reduce the levels of phosphorus, nitrogen, or sediment in the state's natural waters. R.C. 126.60, not in the bill.

<sup>2</sup> Section 3.

## Community school property tax exemption applications

Under current law, recently enacted in H.B. 166 of the 133<sup>rd</sup> General Assembly, a community school seeking a tax exemption for its property is excused from the requirement to file an exemption application with the Tax Commissioner as a condition of obtaining the exemption after its initial application is approved, but must instead file an annual statement with the Commissioner affirming that it continues to qualify for the exemption. This bill discontinues this provision.

Under continuing law, property used for an educational purpose, including property used as a community school, qualifies for a property tax exemption.<sup>3</sup> To obtain a property tax exemption, a property owner, including a community school, is required to apply to the Tax Commissioner, by the last day of the taxable year for which the exemption is sought, to obtain the exemption, with only a few exceptions. The Commissioner evaluates each application and decides whether to approve the exemption. If approved, the Commissioner will order the county auditor to remove the property from the tax list.

H.B. 166 changed the exemption process for a community school. Instead of being required to obtain the Tax Commissioner's approval for any year after the Commissioner approves the initial application, a community school is excused from refileing an application for any future year, so long as the community school submits an annual statement to the Commissioner attesting that its property continues to qualify for the educational purpose exemption.

By discontinuing this provision, the bill again requires community schools to follow the same exemption application procedures applicable to other schools and most other property owners seeking a tax exemption.<sup>4</sup>

The change begins to apply in tax year 2022.<sup>5</sup>

## Homestead incentive study program

The bill requires the Tax Commissioner to evaluate and report on whether real property and manufactured homes in a county that receive one or more homestead-related tax incentives continue to be eligible for those incentives. These studies, executed in coordination with county auditors, must be conducted for property in each county every three years.

### Homestead property tax incentives

Continuing law authorizes two property tax incentives for real property and manufactured homes that function as a homeowner's personal residence, i.e., a homestead. The first is a property tax credit that equals 2.5% of certain property taxes assessed against a homestead, often referred to as the "2.5% rollback." The second incentive, often referred to as

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<sup>3</sup> R.C. 5709.07(A), not in the bill.

<sup>4</sup> R.C. 5713.08 and 5715.27.

<sup>5</sup> Section 3.

the “homestead exemption” is an exemption that equals the taxes on a portion of the value (either \$25,000 or \$50,000) of a homestead owned by senior citizens, persons and veterans with a disability, and the spouses of public service officers killed in the line of duty. In some cases, the owner’s income must be less than a certain amount to qualify. To obtain either incentive, the homeowner must file an application with the county auditor. If the property no longer qualifies for the incentive, the owner must notify the county auditor.<sup>6</sup>

### **Tax Commissioner’s study**

The bill requires the Commissioner to annually study and assess whether properties in a county that receive a homestead incentive (referred to as a “dwelling tax exemption” by the bill) continue to qualify for the incentive. The Commissioner initiates the study process in January of each year by requesting that the county auditor of each county subject to a reappraisal or update of its property values in that year (see “**Valuation reappraisal and update years,**” below) provide a list of properties subject to one or more dwelling tax exemptions and any other information the Commissioner might require to evaluate such properties’ eligibility for those exemptions. Within a reasonable amount of time, the auditor must send this information electronically to the Commissioner, in the form and manner prescribed by the Commissioner in consultation with the County Auditors Association of Ohio.<sup>7</sup>

Upon receipt of this property list and information, the Commissioner must compare it to state and local records, including tax, Bureau of Motor Vehicle, and vital statistics records, to determine whether the exemptions validly apply to each listed property. The Commissioner must notify county auditors of any property whose eligibility for a dwelling tax exemption is inconsistent with these records. Any information conveyed to a county auditor is confidential and not a public record.<sup>8</sup>

A county auditor has three years, until the beginning of the next tax year in which the county is subject to a reappraisal or update, to investigate properties flagged by the Tax Commissioner and report to the Commissioner those properties for which the auditor is able to determine dwelling tax exemption eligibility or ineligibility and those for which the auditor is unable to make a determination. The Commissioner must evaluate the auditors’ findings and, within three months (by April 1), submit to the General Assembly, Governor, and Auditor of State a report detailing savings from the discovery and disqualification of ineligible properties, as well as any data limitations encountered by the Commissioner in the process.<sup>9</sup>

The bill specifically authorizes the Auditor of State to audit these studies and reports.<sup>10</sup>

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<sup>6</sup> R.C. 323.152(A) and (B) and 323.153, not in the bill.

<sup>7</sup> R.C. 323.18(B).

<sup>8</sup> R.C. 323.18(C) and (D) and 5703.21.

<sup>9</sup> R.C. 323.18(E), (F), and (G).

<sup>10</sup> R.C. 323.18(H).

## **Valuation reappraisal and update years**

The bill requires the dwelling tax exemption study to be undertaken in each county beginning in a year in which it undergoes a property valuation reappraisal or update. Under continuing law, property is valued, or appraised, by county auditors for property tax purposes every six years, a process commonly referred to as a “sexennial reappraisal.”<sup>11</sup> Every third year of that cycle, the Tax Commissioner updates property values by comparing recent sales of comparable properties in the same neighborhood, a process commonly referred to as a “triennial update.”<sup>12</sup> The reappraisal and update cycle is staggered for each county so that roughly one-third of Ohio counties undergoes a reappraisal or update in any year. Thus, for any county, the bill’s study will occur every three years, and each study will cover about one-third of Ohio counties.

## **Valuation adjustment for damaged property**

Under continuing law, the taxable value of property that is injured or damaged may be reduced by the county auditor to account for the casualty, either pursuant to a request made by the property owner or two disinterested residents of the same township or municipal corporation. The bill adds a third way for obtaining such a valuation adjustment by authorizing the county auditor to initiate a property valuation adjustment for destroyed or damaged property without receiving a request from the owner or two disinterested persons.

Additionally, the bill requires the Department of Taxation to prescribe a form for requesting a valuation adjustment. Current law requires the owner or two disinterested persons to apply by filing an oath (in the case of the owner) or an affidavit (in the case of the two disinterested persons). Under the bill, the auditor may initiate the adjustment by filing this form on behalf of the property owner.<sup>13</sup>

## **Calculation of adjustment**

Under continuing law, the amount of the valuation adjustment depends not only on the extent of the damage, which must be at least \$100 in order to qualify for an adjustment, but also the date the damage occurred. Depending on the calendar quarter in which the damage occurred, the valuation adjustment may range from the full extent of the damage to only 25% of the total amount of the damage. The table below summarizes the amount of the damage that may be deducted from the property’s valuation based on the calendar quarter the damage occurred.

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<sup>11</sup> R.C. 5713.01, not in the bill.

<sup>12</sup> R.C. 5715.24, not in the bill.

<sup>13</sup> R.C. 319.38.

If the injury or destruction occurs during. . .	Then the county auditor must deduct from the property's valuation . . .
The first calendar quarter	An amount that fairly represents the extent of the injury or destruction
The second calendar quarter	75% of that amount
The third calendar quarter	50% of that amount
The fourth calendar quarter	25% of that amount

## Property tax rate statements

Under continuing law, after the county auditor compiles and certifies to the county treasurer, no later than the first Monday in August of each year, the real property tax list, the auditor must provide to the treasurer a statement of property tax rates applicable to each taxing district in the county.<sup>14</sup> The treasurer must then publish the statement in the newspaper or enclose it with each tax bill. Under current law, the statement must include, for each district, voted tax rates, effective tax rates, and tax reduction factors.

The bill makes several modifications to the content and format of the statement. First, the bill makes optional the requirement to list tax reduction factors in the statement. The tax reduction factor is a tax credit against most levies that generally prevents increases in the tax due to appreciation in property value, except appreciation resulting from new construction. A separate reduction factor is calculated for each class of property – residential/agricultural and commercial/industrial. The tax reduction factor is a property tax credit, so it does not actually affect the voted rate of a levy. However, it does impact the collections that may otherwise be generated by a particular levy. These reduced collections may be converted to an effective property tax rate by dividing them by the total taxable value in the applicable class of property. In essence, a levy's voted tax rate minus the tax reduction factor for each class of property equals each class's effective tax rate.

Second, the bill requires effective tax rates to be expressed as a percentage of true, or market, value for each class of property.

Third, both the voted tax rates and effective tax rates must be expressed in mills per one dollar of taxable value, which is 35% of true value. Under continuing law, both rates must be expressed in dollars for each \$1,000 of taxable value.

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<sup>14</sup> R.C. 319.28, not in the bill.

Lastly, the bill removes the requirement that effective tax rates be printed in bold face type.<sup>15</sup>

The bill's changes to the content and format of property tax rate statements apply to tax year 2022 and every tax year thereafter.<sup>16</sup>

## **Transit authority membership and taxation**

The bill makes several modifications to the law authorizing the expansion and modifying the taxing authority of a regional transit authority (RTA) that (1) levies a property tax and (2) includes in its membership political subdivisions located in a county with a population of at least 400,000 (referred to in this analysis as a "qualifying RTA"). The Toledo Area RTA appears to be the only RTA that meets both of these criteria.

### **Membership expansion**

A temporary procedure in continuing law, recently modified and reauthorized until the end of 2022 in H.B. 74 of the 134<sup>th</sup> General Assembly, allows a county, municipal corporation, or township to join a qualifying RTA for either three years or without time limit. If a majority of the political subdivisions that are members of the qualifying RTA approve the addition of the new territory, and if a majority of voters in the subdivision proposing to join the RTA subsequently approve of inclusion in the RTA, the inclusion of the additional subdivision is effective six months from the date the election results are certified, at which time the RTA may extend any existing property tax levy to the new territory. The bill extends the effective date of the inclusion of the new territory by six months, making the expansion effective 12 months after that certification date.<sup>17</sup>

Instead of authorizing a vote in the joined subdivision to expand the qualifying RTA's property tax to the new territory, continuing law, also enacted in H.B. 74, alternatively authorizes a qualifying RTA to submit a combined question to voters in the entire RTA territory, as it would be enlarged, to not only allow the new subdivision to join, but to repeal all property taxes levied by the RTA and to instead levy a sales and use tax. This alternative procedure is only available if the additional political subdivision proposes to join without the three-year time limit.<sup>18</sup> Under current law, the inclusion of the additional territory is effective the date the election results are certified. The bill extends that time period, making the effective date January 1 of the year that is at least 12 months after that certification date.<sup>19</sup>

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<sup>15</sup> R.C. 323.08.

<sup>16</sup> Section 3.

<sup>17</sup> R.C. 306.322(H).

<sup>18</sup> R.C. 306.322(K).

<sup>19</sup> R.C. 306.322(L)(1).

## Taxing authority

Continuing law authorizes an RTA that includes all area of the most populous county that is part of the RTA to levy sales and use tax of up to 1.5% for a specified number of years or for a continuing period of time. The bill limits the maximum sales and use tax rate that a qualifying RTA may levy to 0.3%, even if the voters of the RTA approve of a higher tax rate before the effective date of the provision. But the qualifying RTA may levy a higher rate, but only (1) after the RTA expands to the entire area of the most populous county that is part of the RTA and (2) each county that is a member of the RTA and each municipal corporation and township with territory included in the RTA, even if not formal RTA members, approves the higher rate before the tax is submitted to voters. Since the higher rate may be levied only after the qualifying RTA expands to the entire area of the most populous county that is part of the RTA, a sales and use tax levied pursuant to a combined question under the alternative procedure to add new territory to a qualifying RTA and to convert the qualifying RTA's property tax to a sales and use tax may not exceed 0.3% (see "**Membership expansion**," above).<sup>20</sup>

Under that alternative procedure, voters may approve a sales and use tax to begin before the effective date of the inclusion of the new territory, as that date is extended by the bill. In such a situation, if the voters approve a sales and use tax for a specific number of years, the bill authorizes the qualifying RTA to levy the tax for the full number of years authorized by voters, beginning the date the new territory is added to the RTA.<sup>21</sup>

Continuing law requires a qualifying RTA to appropriate from the first sales and use tax collections amounts required to pay debt charges on any bonds or notes issued in anticipation of collecting property tax. If sales and use tax revenue is insufficient to pay those debt charges, current law requires the qualifying RTA to continue to levy and collect property tax, but only to the extent necessary to pay those debt charges. (The requirement to continue to levy and collect property tax mirrors a similar requirement in continuing law that is applicable to any other RTA that levies sales and use tax.) The bill prohibits a qualifying RTA from levying any property tax, whether an operating levy or a bond levy, in a year that it levies and collects sales and use tax, even if the tax is necessary to pay those debt charges.<sup>22</sup>

Ohio law generally authorizes local governments that issue bonds or notes secured by anticipated property tax collections to continue to levy and collect that tax after it is repealed or reduced, but only if required and to the extent necessary to pay the debt charges on those bonds or notes, thereby preventing the local government from defaulting on that debt obligation.<sup>23</sup>

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<sup>20</sup> R.C. 306.322(L)(3) and 5739.023(A)(1) and (3); R.C. 5741.022, not in the bill.

<sup>21</sup> R.C. 306.322(K) and (L)(2).

<sup>22</sup> R.C. 306.322(L)(4) and 5739.023(A)(3) and (B).

<sup>23</sup> See, e.g., R.C. 5705.261 and 5748.04, not in the bill.



## Watercraft use tax exemption

The bill exempts certain watercraft from state and local use taxes. In general, use tax is imposed on items purchased outside Ohio and used or stored in the state if no Ohio sales tax was paid. The use tax is assessed at the same state and local (i.e., county and transit authority) rates as the corresponding sales tax and applies to most purchases of tangible personal property, including watercraft.

Under the bill, a watercraft purchased outside the state or, in some cases, in the state is specifically exempted from use tax if all of the following apply:

- The watercraft is in Ohio only for storage or maintenance (e.g., cleaning, repairing, or installing equipment, fixtures, or technology);
- The watercraft is not used or stored in Ohio from May through September of any year;
- The watercraft does not have to be registered in Ohio (e.g., the watercraft is registered in another state and used in Ohio for fewer than 60 days);
- The owner paid one of the following:
  - Sales or use taxes in another jurisdiction (i.e., another state, a political subdivision of another state, or the District of Columbia) on the watercraft, or would have paid that tax if that jurisdiction taxed the sale, use, or ownership of the watercraft;
  - Any Ohio sales taxes imposed on the watercraft at the time of purchase, as authorized under and subject to the conditions of continuing law and calculated on the basis of a sales or use tax credit offered by another state.<sup>24</sup> Continuing law permits a nonresident who purchases a watercraft in Ohio and who satisfies certain criteria, including registering or titling the watercraft in another jurisdiction that levies tax on the sale, use, or ownership of the watercraft at a lower rate, to pay sales tax in Ohio at that lower rate, provided that other state offers a credit for sales taxes charged by Ohio. Under current law, if that owner brings the watercraft back to this state for storage or maintenance, then the watercraft becomes subject to Ohio's full use tax rate above that already-remitted lower rate.<sup>25</sup>

Under continuing law, a watercraft on which sales or use tax has been paid to another jurisdiction is taxable in Ohio only to the extent that Ohio's use tax rate exceeds the rate paid to the other jurisdiction or, if the watercraft was purchased by a nonresident who paid Ohio sales tax at the lower rate levied in the jurisdiction of titling or registration, the lower rate paid to Ohio, as described above.<sup>26</sup> Tangible personal property "halted temporarily" in Ohio is subject

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<sup>24</sup> R.C. 5741.02(C)(11).

<sup>25</sup> R.C. 1547.53(B), 1547.531(B), and 5739.027, not in the bill.

<sup>26</sup> R.C. 5741.02(C)(5).

to use tax, unless the use is specifically exempted by law.<sup>27</sup> There is a limited exemption for a nonresident's transient use of property in the state.<sup>28</sup>

The bill specifies that the use tax exemption does not apply to watercraft storage, repair, or installation services themselves, which are subject to sales and use tax under continuing law.<sup>29</sup>

The use tax exemption applies to all such watercraft beginning on the first day of the first month that begins on or after the exemption's effective date.<sup>30</sup>

## **Fraternal organization property tax exemption**

The bill purports to expand an existing property tax exemption for fraternal organizations to include the property of such organizations with national governing bodies.<sup>31</sup> However, an identical provision has already been enacted by H.B. 110 of the 134<sup>th</sup> General Assembly. For a detailed analysis of that provision, see LSC's bill and final analyses of that act, available at <https://www.legislature.ohio.gov/legislation/legislation-documents?id=GA134-HB-110>.

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## **HISTORY**

<b>Action</b>	<b>Date</b>
Introduced	01-26-21
Reported, S. Ways & Means	02-23-21
Passed Senate (31-0)	02-24-21
Reported, H. Ways & Means	06-23-21
Passed House (61-36)	06-28-21

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<sup>27</sup> *Beatrice Foods Co. v. Lindley*, 70 Ohio St.2d 29, 33 (1982) (stating that use tax levied on tangible personal property brought permanently to or halted temporarily in the state does not violate the Commerce Clause of Article I, Section 8 of the U.S. Constitution).

<sup>28</sup> R.C. 5741.02(C)(4).

<sup>29</sup> R.C. 5741.02(C)(11)(c); R.C. 5739.01(B)(3)(a) and (b), (B)(7), and (B)(9), not in the bill.

<sup>30</sup> Section 3.

<sup>31</sup> R.C. 5709.17; Section 3.