



Ohio Legislative Service Commission

Final Analysis

Mackenzie Damon

Sub. H.B. 166

131st General Assembly
(As Passed by the General Assembly)

Reps. Green, Brenner, Blessing, Hambley, Becker, Amstutz, Anielski, Boose, Conditt, Cupp, Grossman, Hackett, T. Johnson, McClain, Reineke, Retherford, Rogers, Ruhl, Ryan, Sprague, Thompson, Young

Sens. Beagle, LaRose, Eklund, Hite, Patton, Peterson, Seitz, Uecker

Effective date: September 8, 2016

ACT SUMMARY

- Allows municipalities located in a charter county to certify garbage collection fees to the property tax list for collection in the same manner as property taxes.
- Specifies that property owned by an economic development corporation is not considered to be "publicly owned" unless the corporation obtains a property tax exemption based on the property's public use.
- Clarifies provisions of the law governing county land reutilization corporations, and allows such corporations to receive grants under the Abandoned Gas Station Cleanup Grant Program.
- Provides for the creation of a county special elections fund to accept a political subdivision's pre-payment of the estimated expenses of a special election.
- Extends the filing deadline for the homestead exemption and 2.5% property tax reduction until the end of the tax year to which the exemption or reduction applies.
- Extends the dates by which county auditors must take certain actions involving agricultural property enrolled in the CAUV program.
- Requires county auditors to advertise that the county board of revision has completed its annual property tax equalization once a week for two consecutive weeks, rather than for ten consecutive days.

- Eliminates the requirement that intracounty Local Government Fund allocations be reported by certified mail.
- Eliminates the requirement that county auditors certify interest rates to local courts and that the courts post the notice.
- Eliminates the requirement that notices be provided to local taxing authorities regarding pending applications for tax exemption of pollution control or energy conversion or conservation property used in industrial or commercial operations.
- Removes the requirement that statements submitted by persons contracting with local governments certifying whether they owe delinquent tangible personal property taxes in the county be incorporated into a contract if no delinquent tax is owed.
- Requires a party appealing the decision of the Board of Tax Appeals on a complaint originally filed with a county board of revision to submit a copy of the appellate notice to the board of revision and the county auditor.
- Eliminates statutory requirements requiring persons to obtain permits for traveling exhibitions and to obtain licenses and bonds to conduct public auctions of new merchandise.
- Removes a requirement that county auditors audit the contents of a safety deposit box held by a ward of the state before the ward's guardian may access the box.
- Modifies a provision that waives penalties for the late payment of property taxes under certain circumstances by specifying that the county treasurer, not the county auditor, be notified that the waiver requirements are met.

CONTENT AND OPERATION

Municipal garbage fee collection

The act allows municipalities that are located in a charter county to certify garbage collection fees for inclusion on a property owner's tax bill. Under the act, a municipality that imposes a garbage collection fee may certify the amount due for the service provided to a property to the county auditor, who must enter the fees on the property tax list. Such fees become a lien on the property and are then to be collected in the same manner as real property taxes.¹

¹ R.C. 710.10.



Charter municipalities certify garbage fees to the property tax list pursuant to a provision of continuing law that provides for assessments levied by such municipalities.² The act essentially extends this power to nonchartered municipalities that are located in a charter county. There are two counties that have adopted and operate under charters – Summit and Cuyahoga.

Community improvement corporations

The act makes several changes to the law governing community improvement corporations (CICs). CICs are nonprofit organizations organized to advance economic development in an area. One or more political subdivisions may designate a CIC to serve as the subdivisions' agent for economic development purposes.

There are two types of CICs: economic development corporations (EDCs), which are organized generally to advance economic development in a community, and county land reutilization corporations (CLRCs), which are organized more specifically to focus on the reutilization of distressed properties and communities.

EDC property ownership

The act specifies that EDC-owned property is not considered to be "publicly owned" unless the EDC obtains a property tax exemption based on the property's public use. The Board of Tax Appeals recently found that property held by an EDC qualified for exemption as "property used exclusively for public purposes" when the EDC held the property pursuant to an agreement to act as a township's agent for economic development purposes and the property was used exclusively for those purposes.³

Under the act, if an EDC does not apply for a public use exemption, the EDC's ownership of the property does not "constitute public ownership."⁴ Under continuing law, unaffected by the act, if an entity's ownership of property "constitutes public ownership," that entity is treated as a political subdivision for purposes of the collection of delinquent taxes due with respect to subdivision-owned property, meaning delinquent taxes charged against its property and not otherwise abated are deducted from its own revenues passing through the county treasury. In addition, such an entity is treated as a political subdivision for the purposes of annexation law, with the result that, if the entity does not wish to sign an annexation petition, the entity is not

² R.C. 701.05, not in the act.

³ *Union Township Community Improvement Corp. Inc. v. Testa*, BTA No. 2014-2658 (May 12, 2015).

⁴ R.C. 307.78 and 1724.02(C).



considered an "owner" for purposes of determining the number of owners needed to sign an annexation petition.⁵

CLRC share of foreclosure costs

The act reduces the share of foreclosure or forfeiture costs charged to a CLRC when tax-delinquent land is conveyed to a CLRC or a political subdivision that administers its own land reutilization program (both of which are commonly referred to as "land banks").

Under continuing law, all taxing units must pay the costs related to such a foreclosure or forfeiture in proportion to each taxing unit's interest in the unpaid taxes and penalties due with respect to the land. Prior law required that the CLRC pay the county's portion of such costs. The act instead requires that a CLRC need only pay the county's portion when it is the CLRC that acquires the property.

The act applies to pending and future conveyances, and also specifies that, if a CLRC has already paid a county's portion of such costs when the CLRC did not acquire the property, the CLRC is entitled to a refund of those payments.⁶

Abandoned Gas Station Cleanup Fund

The act allows CLRCs to receive grants under the Abandoned Gas Station Cleanup Grant Program. The Director of Development Services may award grants under that program for the cleanup and remediation of abandoned gas stations. Under continuing law, the grants are available to local governments and to organizations that have entered into a relevant agreement with a subdivision. The act adds CLRCs to this list of eligible grant recipients.⁷

Land bank property tax exemption

The act also makes various changes to the language that exempts property acquired by a land bank from taxation. Among such changes, the act eliminates a charge that is required to be levied against land bank property once it is sold or transferred to a person who will use the property for a nonexempt purpose. The former charge equaled the amount of additional taxes that would have been charged against the property if it had not been tax-exempt.

⁵ R.C. 709.02(E) and 5713.081, not in the act.

⁶ R.C. 5722.03 and 5722.04 and Section 5.

⁷ Sections 3 and 4.



The act requires that any such pending charges be removed from the tax list, and that, if a person has already paid such a charge, the person may apply to receive a refund of the amount paid.⁸

Fund for prepayment of special election expenses

Under continuing law, when a political subdivision places an item on the ballot at a special election, the political subdivision must pay at least some of the cost of holding the election. The subdivision must prepay 65% of the estimated amount of these costs before the election. Once the election is completed, the board of elections determines the actual cost of the election and charges the subdivision for the difference. (The costs borne by participating subdivisions vary depending on whether the election is held on the same day as a primary or general election and whether a statewide issue is on the ballot.)

The act requires a board of county commissioners to create a "special elections fund" to receive prepayments of special election expenses. Under prior law, such expenses were allocated to an "elections revenue fund," which boards may establish generally to accumulate revenue received by the county for election expenses.

Under the act, a board of county commissioners that has created a special elections fund may later rescind the fund and transfer any money remaining to the elections revenue fund or county general fund if (1) the costs of the special election have been settled and (2) the county has not received prepayments for any future special elections.⁹ (Other than costs borne by the state in some statewide elections, and costs borne by subdivisions, the expenses of the board of elections are paid from appropriations by the board of county commissioners from county funds.)

Homestead exemption and 2.5% reduction filing deadline

The act extends the filing deadline for the homestead exemption and the 2.5% residential property tax reduction from the first Monday in June to December 31 of the year the exemption or reduction applies to.¹⁰

⁸ R.C. 5709.12 and 5722.11 and Section 5.

⁹ R.C. 3501.17(I) and (J).

¹⁰ R.C. 323.153.



The 2.5% property tax reduction is allowed for residences occupied by the owner. The homeowner must apply for the reduction once, and it continues until the property no longer qualifies.¹¹

The homestead exemption is a reduction in taxes on residences owned and occupied by permanently and totally disabled persons or persons aged 65 or older (60 years for a spouse who survives a previously qualified recipient).¹² It must be applied for once, and the exemption continues until the homeowner no longer qualifies.

Agricultural property review deadline

The act extends the dates by which county auditors must take certain actions involving property that is valued for tax purposes according to its "current agricultural use value" (CAUV). To enroll in the CAUV program, property owners must apply to the county auditor before the first Monday in March. If the application includes all of the required information, the auditor must view the property and determine whether the property qualifies for inclusion in the CAUV program. Under prior law, the auditor must have completed these actions on or before the first Monday in June. The act extends this deadline to the first Monday in August.

Prior law also required that, if the auditor determined that a property did not qualify for the CAUV program, the auditor had to notify the property owner before the first Monday in August. The act extends this deadline to the first Monday in October.¹³

Board of Revision equalization publication

The act modifies the procedure that county auditors must follow to advertise that a county board of revision has completed its equalization and that property tax assessments are completed. Under continuing law, before the auditor may complete the tax list and duplicate, the board of revision must "equalize" the auditor's assessment of property by reviewing all assessments and correcting any incorrectly listed or improperly valued property. Once the board makes these corrections, the auditor must publish notice that the board's review is complete in a newspaper of general circulation in the county. Under prior law, the auditor was required to publish this notice daily for

¹¹ R.C. 323.152(B), not in the act.

¹² R.C. 323.151 and 323.152(A), not in the act.

¹³ R.C. 5713.31 and 5713.32.



ten days. The act instead requires publication only once a week for two consecutive weeks.¹⁴

Local Government Fund notification

The act eliminates a prior law requirement that county auditors use certified mail to notify local governments of their share of Local Government Fund (LGF) allocations. Instead, auditors may use ordinary mail or electronic mail.¹⁵

Continuing law requires county auditors to notify each local government of the amount of LGF money that the county budget commission has allocated to it. LGF money is distributed to each county treasury according to a formula that reflects past distributions and county population. In most counties, local governments in a county agree to a formula for allocating the money among them under the auspices of the county budget commission. In several counties that have not agreed to adopt their own formula, the budget commission applies the statutory distribution formula. In either case, the budget commission must notify local governments of their shares. The notification also is the official notice that serves as the basis of an appeal of the commission's allocation, which may be brought to the Ohio Board of Tax Appeals within 30 days after the local government receives the notice.

Certification of interest rate

The act eliminates a requirement that county auditors notify courts of the interest rate set annually by the Tax Commissioner.¹⁶ Under prior law, auditors were required to notify the clerks of the Court of Common Pleas, the county court, and each municipal court in the county. The courts were required to post the notice "in a conspicuous and public location" in or near the clerk's office. The act also repeals the posting requirement.¹⁷

The interest rate is set by the Tax Commissioner according to a statutory formula.¹⁸ Its principal purpose in law is to establish the amount of interest charged for unpaid state and local taxes and the interest to be paid on refunds of those taxes. The interest rate is posted on the Department of Taxation's website.

¹⁴ R.C. 5715.17.

¹⁵ R.C. 5747.51(J).

¹⁶ R.C. 319.19, repealed.

¹⁷ R.C. 1343.03; R.C. 1901.313, 1907.202, and 2303.25, repealed.

¹⁸ R.C. 5703.47, not in the act.



Notice of tax-exempt facility applications

The act eliminates a prior law requirement that county auditors notify local taxing authorities of pending tax exemption applications for certain kinds of pollution control and energy conversion or conservation property at industrial or commercial facilities.¹⁹ Prior law required auditors to notify taxing authorities of such applications and of the estimated value of the exempted taxes and the potential for refunds of already paid taxes.

Continuing law authorizes property tax exemption for property used in industrial or commercial operations to reduce air, water, or noise pollution, to convert energy from natural gas or fuel oil to another form, convert solid waste to energy, or to recover waste heat.²⁰ Much of the property qualifying for tax exemption on that basis is tangible personal property used in business, the taxation of which ended after 2009.

Contractors' certification of personal property tax payment status

The act modifies a requirement under continuing law that persons who have been awarded a contract by a local government through competitive bidding certify whether the person owes delinquent taxes on tangible personal property taxes used in business when the person submitted the bid. Under prior law, every certification became incorporated into the contract. The act instead requires the certification to be incorporated into a contract only if the contractor owes delinquent taxes.²¹

Appeals of county board of revision complaints

The act requires a party appealing a decision of the Board of Tax Appeals on a complaint originally filed with a county board of revision to submit a copy of the appellate notice to the board of revision and the county auditor within 30 days after the Board's decision is published. Under continuing law, most decisions of the Board of Tax Appeals may be appealed to the Ohio Supreme Court or the court of appeals encompassing the county in which the subject property is located or the taxpayer resides or has its principal place of business, provided a notice of appeal is filed with the court within 30 days after the Board's decision is published.²²

¹⁹ R.C. 5709.23, repealed.

²⁰ R.C. 5709.20 to 5709.27, not in the act.

²¹ R.C. 5719.042.

²² R.C. 5717.04.



County auditor-issued permits and licenses

The act eliminates prior law requirements governing two forms of permit or license that county auditors were responsible for issuing. One was a permit required for persons who intended to "exhibit a natural or artificial curiosity, or exhibit horsemanship in a circus, or otherwise, for a price" in a county.²³ The permit fee was between \$25 and \$60, and failure to pay was punishable by a \$100 forfeiture. Revenue from the fee was credited to the county general fund.

The other was a license to conduct a public auction to sell new merchandise.²⁴ The license fee was \$10 per day, to be credited to the county general fund. Failure to obtain the license was punishable by a fine of between \$200 and \$1,000 or imprisonment of between 30 and 180 days. A bond was also required in the amount of the new merchandise's value as surety for the payment of any taxes, judgments, or fines that might have become due from conducting the auction. A person conducting such an auction was also required to send prior notice of the sale to the Department of Taxation by registered mail. The act repeals the bond and notice requirement along with the licensing requirement.

County auditor audit of safety deposit boxes

Under prior law, county auditors were required to audit the contents of a safety deposit box held by a ward of the state before the ward's guardian could access the box. The act repeals this requirement. Instead, under the act, the probate court may allow the guardian to open the safety deposit box simply upon the guardian filing a request with the court to obtain access.²⁵

Notification of mortgage satisfaction to county treasurer

Continuing law specifies certain circumstances under which a county auditor is required to waive late payment penalties when property taxes are not paid on time. Am. Sub. H.B. 64 of the 131st General Assembly added a circumstance to this list: when a property owner pays off a mortgage, the lender fails to report that the mortgage was satisfied, and the tax bill is not mailed to the property owner (i.e., the bill is mailed instead to the lender). The penalty waiver applies only to the first tax bill after the mortgage is satisfied.

²³ R.C. 3765.01 to 3765.04, repealed.

²⁴ R.C. 1318.01 to 1318.08 and 1318.99, repealed.

²⁵ R.C. 2111.14.



H.B. 64 required that lenders provide the notification of mortgage satisfaction to the county auditor. The act changes this reference, instead requiring that the notification be sent to the county treasurer. (Under continuing law, county treasurers are responsible for preparing property tax bills and collecting tax payments.)²⁶

HISTORY

ACTION	DATE
Introduced	04-22-15
Reported, H. Ways & Means	11-17-15
Passed House (96-1)	01-26-16
Reported, S. Ways & Means	05-18-16
Passed Senate (30-0)	05-18-16
House concurred in Senate amendments (97-0)	05-24-16

16-HB166-131.docx/ks

²⁶ R.C. 5715.39.

