



H.B. 22

123rd General Assembly
(As Introduced)

Reps. Mottley, Corbin, Lawrence, Schuler, Terwilleger, Core, Padgett, Winkler, Opfer, Bender, Logan, D. Miller, Pringle, Carey, Metzger, Sykes, Jones, Allen, Britton, Patton, Mead, O'Brien, Metelsky, Haines, Roberts, Olman, Boyd, Krupinski, Ford, Boggs, Womer Benjamin, Jerse, Schuring, Jolivette, Healy, Beatty

BILL SUMMARY

- Permits school district voters to approve a property tax that is not subject to reduction under the tax reduction factor law.
- Provides school boards the option of limiting the revenue growth from such a tax to a specified annual percentage of 3% or more.
- Exempts such a tax from the tax reduction factor "floor," thus permitting school districts at or near the floor to levy the tax without subjecting other current expense millage to reduction under the tax reduction factors.

CONTENT AND OPERATION

Tax levied within 1% limitation, outside ten-mill limitation

(secs. 319.301, 5705.02, 5705.214, and 5705.219)

The 1% and ten-mill limitations

Article XII, Section 2 of the Ohio Constitution prohibits taxing property at a rate greater than 1% of its "true value in money" (generally, appraised market value), unless the rate in excess of 1% is approved by voters. A parallel provision of the Revised Code also prohibits levying property taxes in excess of ten mills (ten mills is equivalent to 1%) unless the rate in excess of ten mills is approved by voters; moreover, references in the Revised Code to this "ten-mill limitation" are deemed by statute to refer to and include the constitutional 1% limitation. (Sec. 5705.02.) But a significant difference exists between these constitutional

and statutory provisions; where the Constitution's 1% limitation is based on the "true value" of the property, the statutory ten mill (or 1%) limitation is based instead on the "assessed value" of the property, which is only 35% of "true value." (Ten mills represents only 0.35% of true value.) Therefore, the tax rate on real property hypothetically could be increased to about 28.57 mills--which equals 1% of true value if property is taxed on only 35% of true value--without exceeding the 1% limitation imposed by the Ohio Constitution.¹

Tax reduction factor

Generally, the tax reduction factor law prevents appreciation in real property values from resulting in proportionate increases in taxes charged against that property. (The tax reduction factor is often referred to as the "920 credit" after H.B. 920 of the 111th General Assembly, which enacted the current tax reduction law.) Currently, only certain tax levies are exempted from reduction under the tax reduction factor: levies to repay debt or to raise a fixed sum of money, levies imposed under the charter of a municipal corporation, and levies within the constitutional 1% limitation.

Since the tax reduction factor does not apply to taxes levied within the 1% limitation, when real property appreciates in value, greater growth in revenue is realized from these taxes than from taxes levied in excess of the limitations.

Voter approved tax not subject to tax reduction factor

The bill would permit city, local, and exempted village school boards to levy a property tax outside the statutory ten-mill limitation but within the constitutional 1% limitation. The tax would have to be approved by voters. As a tax within the 1% limitation, the tax would be exempt from reduction under the current tax reduction factor law. Under the bill, the school board proposing the tax could choose to allow the revenue to grow in proportion to increases in property values, or to limit the revenue growth to a fixed annual percentage. The fixed annual growth percentage would have to be 3% or more. The resolution proposing the tax and any notices announcing the election on the tax would have to specify whether revenue growth would be limited or unlimited and, if limited, the percentage by which revenue from real property could grow each year. The growth percentage would have to be the same for the two classes of real property

¹ *This proposition has never been tested before the courts. It should also be noted that with respect to certain public utility personal property, fewer additional inside mills are hypothetically available within the 1% limit, because it is assessed at a rate nearer its true value than is real property.*

recognized under the tax reduction factor law--residential/agricultural and commercial/industrial.

Limited growth tax

If a school board proposes a tax levy with limited revenue growth, revenue from the tax would have to be reduced in any year that real property values in either class increase by more than the growth percentage fixed by the school board. (Increases in the total value of a class do not include property newly added to the tax list.) The reduction would be made in a manner similar to the current tax reduction factor law, except that revenue would be reduced only to the level at which the revenue growth equals the school board's percentage limit. Thus, if the limit on growth is 5%, revenue raised from each class of real property could increase by only 5%; if property values in either class increase by more than 5% in a year (excluding increases attributable to new property), then a tax reduction factor would have to be applied so that the revenue produced from property in that class does not exceed the preceding year's revenue by more than 5%.

Rate of tax

The total tax rate levied under the new authority could not be greater than 5 mills. This would prevent the total rate that would be exempted from the tax reduction factor, 15 mills, from exceeding the 1% limitation (which, when property is taxed on 35% of true value, is equivalent to about 28.57 mills).

Purpose of tax; submission to voters

The new tax could be levied for current expenses or for permanent improvements. The tax could be levied for a specified number of years up to five years, or permanently if the tax is levied for current expenses. The procedure for submitting the tax to voters would be substantially identical to the procedure for submitting other property taxes to voters. The ballot proposition would have to state the term of the levy and the rate of the tax. If revenue growth from the levy is not to be limited, the ballot would have to state that revenue from real property would increase as the value of the property increases. If revenue growth from the levy is to be limited to a percentage fixed by the school board, the ballot would have to state that revenue from real property would not increase by more than that percentage. The tax would be subject to existing limits on the number of times property taxes may be proposed to voters in a single year (three times). (Secs. 5705.214 and 5705.219.)

Renewal or replacement taxes; anticipation notes; repeal

The tax could be renewed upon its expiration. The tax also could be used to replace one or more existing property taxes. Tax anticipation notes could be issued by the school board, subject to existing limitations on the principal amount of the notes (50% of the first year's revenue). If such a tax is levied permanently, it could be repealed by referendum as may other school district property taxes. (Sec. 5705.219.)

Tax is exempted from tax reduction factor "floor"

(sec. 319.301(E)(1))

Revenue reductions made under the tax reduction factor law are prevented from reducing property taxes for current expenses below 2% (20 mills) of a school district's taxable property valuation. This so-called "20-mill floor" guarantees that a school district that levies 20 mills for operating expenses raises at least 20 mills in taxes for that purpose, even if increases in the value of property otherwise would warrant tax reduction factors great enough to cause the level of taxation to fall below 20 mills.²

Once a school district's revenue has been reduced to the 20-mill floor, the school district's revenue will "grow" in the sense that the district will receive 2% of its real property valuation, regardless of how rapidly that valuation appreciates from year to year. This is in contrast to a school district receiving revenue above the 20-mill floor--such a district's revenue growth will not respond to appreciation in real property values (other than from new property development). One of the implications of the 20-mill floor is that if a school district that has had its current expense revenue reduced to 20 mills levies an additional tax for current expenses, the additional tax revenue exposes some of the district's previously authorized tax revenue to reduction under the tax reduction factor law. Consequently, the district's revenue will not grow in response to appreciation in property values, even though the district would receive more revenue from the additional tax.

Under the bill, revenue from the new tax would not be counted toward the 20-mill floor. Thus, if a school district that has its revenue reduced to the 20-mill floor levies such a tax, its existing current expense revenue would not be exposed to further reduction under the tax reduction factor law, and therefore would continue to increase with increases in real property values.

² *If the rate of tax levied for current expenses is less than 20 mills, then the floor is equal to the rate levied for current expenses.*



HISTORY

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