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Bill Analysis
Legislative Service Commission

H.B. 385

123rd General Assembly
(As Introduced)

Reps. Netzley, Logan, Buchy, Taylor, Van Vyven, Clancy, Williams, Hoops, Schuler, Olman, Jolivette, Grendell, Britton

BILL SUMMARY

- Permits school boards, when levying an income tax, to reduce property taxes on residential and agricultural real property by an equivalent amount, subject to voter approval.
- Each parcel of residential and agricultural (Class I) real property is entitled to a tax credit proportionate to its share of the total of Class I taxes.

CONTENT AND OPERATION

School district income tax--current law

(Chapter 5748.)

City, local, and exempted village school boards may levy income taxes, subject to voter approval. There is no limit on the rate of a school district income tax, but it must be levied in increments of 1/4%. School district income taxes apply only to residents of the school district; nonresidents who work in the district or otherwise receive income in the district are not subject to the tax.

Currently, a school board may reduce the rate of one or more property taxes when it levies an income tax. (Sec. 5748.02(B)(2).) In order to be reduced, a property tax must be a voter-approved, permanent levy for current expenses. The reduction in the property tax rate applies uniformly to all property--all tangible personal property and all real property, however classified.

Proposed property tax reduction for residential, agricultural property

(secs. 319.303, 5748.02(B)(3), 5748.03, 5748.04, and 5748.07)

The bill permits school boards to combine a school district income tax question with a proposal to reduce property taxes against real property classified as residential or agricultural.¹ The tax reduction is granted in the form of a credit against the property owner's property tax bill. The total amount of the property tax reduction for the district equals the total new school district income tax liability of school district residents for the preceding year. (In the first year of the income tax, the property tax reduction would be based on an estimate of the first year's income tax liability.) Each parcel of residential and agricultural property is entitled to its proportionate share of the total property tax reduction. For example, if the preceding year's income tax liability is \$1 million, and the total amount of property taxes charged against residential and agricultural property is \$10 million, each parcel is entitled to a 10% credit against its property tax bill. (The credit is computed on the basis of the net tax bill *after* the "H.B. 920" credit and the 10% rollback, but before the 2-1/2% rollback and the homestead exemption for qualifying residences.) The property tax reduction for a particular parcel is not necessarily related to school district income taxes paid by the owners or occupants of the parcel.

The reduction in property taxes is charged against the school district's tax collections for current expenses; other local taxing authorities are not affected.

A school board proposing to reduce residential and agricultural real property taxes may do so only in conjunction with a school district income tax levied for the purpose of paying current expenses. The resolution and the ballot proposing the income tax and the property tax reduction must state that property taxes will be reduced. Similarly, if an initiative petition calls for the repeal of an income tax that was approved in conjunction with a property tax reduction, the ballot must state that the repeal of the income tax also will repeal the property tax reduction.

Administration

Once a school district income tax ballot question is approved by voters, the Tax Commissioner must estimate the first year's school district income tax

¹ *The classification is based on the classification used for the purpose of computing separate tax reduction factors for residential/agricultural property ("Class I") and "other" real property ("Class II," consisting primarily of commercial and industrial real property). See COMMENT.*

liability, and certify it to the county auditor. The county auditor then must compute the property tax reduction percentage when the tax lists are compiled. In subsequent years, the Tax Commissioner must certify the actual income tax liability for the preceding year (no later than September 1), and the county auditor recomputes the tax reduction percentage for the current year when the tax lists are compiled. (For example, the tax bills for property tax year 2002, which are payable in early 2003, will reflect the income tax liability for 2001.)

COMMENT

The bill employs a distinction between residential and agricultural real property, on the one hand, and all other real property. Classifying property in this way may not be consistent with the requirement of Article XII, Section 2 of the Ohio Constitution that all real property be taxed uniformly. However, the Ohio Supreme Court has upheld similar classifications, and has said that the General Assembly has plenary power to determine exemptions from taxation, subject only to the Equal Protection Clause of the Ohio Constitution (see *State, ex rel. Swetland, v. Kenney* (1980), 62 Ohio State 2d 23).

HISTORY

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