



## **Sub. H.B. 129**

124th General Assembly  
(As Passed by the General Assembly)

**Reps. Webster, Boccieri, Peterson, Cates, Jolivette, Hughes, Allen, Husted, Calvert, Hoops, Faber, Carey, Carano, Coates, D. Miller, Schmidt, Ogg, Hartnett, Seitz, Hagan, Collier, Sulzer, Perry, Raga, Otterman, Barrett, Niehaus, Sferra, Schneider, Flowers, Fedor, Young**

**Sens. Blessing, Shoemaker, Hagan**

**Effective date: June 3, 2002**

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### **ACT SUMMARY**

- Permits county budget commissions to waive the requirement that local governments adopt annual tax budgets.
- Accelerates the time frame in which a school district's base-cost payment is recomputed when a portion of its real and personal property tax revenue is not collectable because a corporate taxpayer is in bankruptcy reorganization.
- Requires that if a school district receives a grant from the Catastrophic Expenditures Account under the same circumstances for which its state aid is adjusted or recomputed, the state aid amount must be reduced by the amount of the grant it received.
- Modifies the procedure by which notification is made of a school district's potential to incur a deficit during the first three years of its five-year projections of revenues and expenditures.
- Revises the percentages of the kilowatt-hour and natural gas excise tax receipts that are credited to the School District Property Tax Replacement Fund and the Local Government Property Tax Replacement Fund.
- Corrects printing errors in county official classification and compensation schedules.

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## CONTENT AND OPERATION

### Waiving tax budgets

(sec. 5705.281)

Under prior law, local taxing authorities had to adopt an annual tax budget unless the county budget commission voted to waive the requirement. The budget commission could waive the requirement only for subdivisions entitled to a share of Local Government Fund (LGF) and Local Government Revenue Assistance Fund (LGRAF) distributions, and only if LGF and LGRAF moneys were apportioned among subdivisions in the county under an "alternative" distribution method (i.e., alternative to the statutory formula).<sup>\*</sup> In lieu of waiving the requirement entirely, the budget commission could permit subdivisions to adopt modified tax budgets that contained only the information needed by the commission to determine how the funds were to be distributed under the alternative method. School district tax budgets, for example, could not be waived or adopted in a modified form because they were not entitled to any LGF or LGRAF money.

The act permits county budget commissions to waive the tax budget requirement for any kind of subdivision and regardless of whether LGF and LGRAF money is distributed under an alternative method. In lieu of a tax budget, a budget commission may require a subdivision to submit any information the commission needs to perform its statutory duties, including dividing the rates of each of the subdivision's tax levies (as classified according to the purpose of the tax and whether it is a voted or unvoted tax).

References throughout the Revised Code to tax budgets (secs. 118.13, 3315.40, 3316.12, 3318.07, 5705.29, 5705.30, 5705.31, 5705.32, 5705.34, 5705.35, 5705.38, and 5705.51) are eliminated or modified, as appropriate, to reflect the possibility that a subdivision may not have adopted a tax budget (for example, in the law governing subdivisions in a state of fiscal watch or fiscal emergency). In the case of taxpayer appeals to the Board of Tax Appeals under

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<sup>\*</sup> *LGF and LGRAF money originates from various state taxes, including the personal income, corporation franchise, sales/use, and public utilities gross receipts taxes. The money is allocated among the 88 counties, at which point it is distributed among subdivisions in the county either on the basis of a "default" statutory formula or, as in the case of almost every county, on the basis of an alternative method approved by the board of county commissioners, the most populous city in the county, and a majority of the other municipal corporations and townships in the county under the auspices of the county budget commission.*

section 5705.341 (alleging excessive or insufficient subdivision property tax rates to support the budget), an appeal may be based on any information that a county budget commission requires the subdivision to submit in lieu of the tax budget.

**Background--tax budgets and county budget commissions**

Tax budgets contain information regarding expenditures and estimated receipts, classified according to the purpose of the expenditure and the source of the receipts. Under the law, tax budgets serve a number of functions, including determining whether unvoted taxes (without any adjustment by the budget commission) exceed the ten-mill limitation (secs. 5705.31 to 5705.312 and 5705.32); indicating the amount of money available for expenditure or appropriation from each of a subdivision's funds (sec. 5705.35); serving as the basis for taxpayer appeals from allegedly excessive or insufficient tax rates and tax collections (taxpayers are required to refer to the tax rates and budget needs as set forth in the tax budget) (sec. 5705.341); and providing a basis on which LGF and LGRAF money is distributed among subdivisions in a county when the statutory distribution formula is used instead of an alternative method (secs. 5747.51 and 5747.62).

In practice, the tax budget is not necessarily the only source of information available to serve these functions. For example, certificates of estimated resources, which are based on actual balances and receipts rather than the early estimates contained in tax budgets, may be a more accurate indicator of the funds available for appropriation from a subdivision's funds.

County budget commissions are composed of the county auditor, county treasurer, and county prosecuting attorney; two additional public members may be elected to the commission if a petition for their election is approved by county voters. Budget commissions oversee the allocation of LGF, LGRAF, and Library and Local Government Support Fund money among subdivisions in the county; review subdivision budgets; certify the amount of money available for appropriation by taxing authorities; and, consistently with limitations imposed by law, allocate unvoted millage and approve property tax levies.

**Recomputation of base-cost aid for uncollectable taxes from a bankrupt taxpayer**

(sec. 3317.0210; Section 4)

A school district's base-cost (i.e., basic aid) payment is recomputed if at least 1/2% of its property taxes are uncollectable and 1% of its taxable property valuation is effectively untaxable because a single company in the district is reorganizing under bankruptcy. The recomputation subtracts the company's



"untaxable" property valuation from the computation of the school district's "charge-off" amount, which has the effect of increasing the district's state base-cost payment. (There is an inverse relationship between the district's property valuation and the amount of the payment.) In effect, the district is compensated for the equivalent of about 2.3% (23 mills per dollar) of the company's taxable property valuation on which the company has not paid taxes.

The act corrects recent legislation, H.B. 94, that accelerated the recomputation so that school districts would receive recomputed base-cost payments earlier. Before H.B. 94, recomputed payments were not received until late in the fiscal year after the fiscal year in which the original base-cost funding was paid--which could have been two or more years after the bankrupt company stopped paying taxes. (For example, the recomputed base-cost funding for fiscal year 2001 would not have been paid until the second half of fiscal year 2002, which would be about 2½ years after the company stopped paying taxes on tangible personal property, and about two years after the company stopped paying taxes on real property.)

Under H.B. 94, the accelerated recomputation shortened the time between the date when the company stopped paying taxes and the date when the school district received the recomputed payments. This was achieved by requiring the recomputation to occur in the middle of the same fiscal year in which the original base-cost funding was being paid, and by requiring the recomputed payments to be paid before the end of the same fiscal year. (Thus, original fiscal year 2002 base-cost funding would be recomputed in the middle of fiscal year 2002, and recomputed base-cost funding paid before the end of June 2002.) The recomputation was to be based on taxes that were charged, but not paid, for the preceding tax year (i.e., tangible personal property taxes payable in the preceding year, and real property taxes becoming payable in January of the current year--shortly before the recomputation was to be made.)

The accelerated recomputation schedule was based on the assumption that a bankrupt company's uncollectable taxes would be discovered by the end of the seventh month of the fiscal year (i.e., by the end of January). But, with respect to real property taxes, delays in the delivery of tax abstracts by the counties to the state make it unlikely that uncollectable taxes will be discovered by then. Therefore, for fiscal year 2002 and thereafter, the act bases the recomputation on real property taxes that were *payable* in the preceding calendar year, rather than those that are payable in the current year. (For example, for a recomputation occurring in February 2002, unpaid real property taxes will be those that were due in early 2001; unpaid tangible personal property taxes will be those that were due in the spring or fall of 2001.)

The act also simplifies the formula for determining the value of the property that is, in effect, "untaxable" because the bankrupt company has stopped paying taxes on the property. Instead of computing an untaxable component separately for real property and for tangible personal property, the proposed formula computes the untaxable component of both kinds of property together as a single factor. The formula translates the percentage of the uncollectable taxes--for both real and tangible personal property--into the percentage of property value that is, in effect, untaxable.

Finally, the act eliminates the criterion that a single bankrupt company's uncollectable taxes amount to at least 1/2% of a school district's total property taxes in order for a school district to qualify for the recomputation. This percentage appears to have served simply as a threshold triggering when a school district could request recomputation. Under the act, there would be no threshold for requesting recomputation, but the effectively untaxable property from a single bankrupt company still must be at least 1% of the district's total taxable property value.

**Reductions in certain adjustments to a school district's state aid**

(sec. 3316.20)

Continuing law provides that, upon the recommendation of the Superintendent of Public Instruction, the Controlling Board may grant money from the Catastrophic Expenditures Account, which is within the School District Solvency Assistance Fund, to any school district that suffers an unforeseen catastrophic event that severely depletes the district's financial resources. The school district is not required to repay the grant, unless the district receives money from the state or a third party specifically for the purpose of compensating the district for expenses incurred as a result of the unforeseen catastrophic event.

The act requires that if the school district receives a grant from the Catastrophic Expenditures Account on the basis of the same circumstances for which an adjustment or recomputation is authorized by various current laws, the Department of Education must reduce the adjustment or recomputation by an amount not to exceed the grant amount, and that amount must be transferred from the funding source from which the adjustment or recomputation would be paid, to the Account. The specific adjustments and recomputations to state aid to which the act applies are: recomputations to exclude certain railroad, public utility, or strip mining property, where the entity owning the property has not paid taxes because it filed for bankruptcy (sec. 3317.025); adjustments for reductions in taxable value resulting in tax refunds (sec. 3317.026); recomputations where the school district's taxable value is reduced as a result of an extension of time for filing valuation applications because the county auditor has not completed the



reappraisal or equalization of agricultural land, or where complaints against certain real property classifications or determinations are filed with the county auditor (sec. 3317.027); recomputations of state aid as the result of increases or decreases in the taxable value of tangible personal property by at least 5% (sec. 3317.028); adjustments for taxes that cannot be collected from a corporation in the school district due to bankruptcy, where the corporation's total taxes charged and payable represent at least 1% of the district's total taxes (sec. 3317.0210); and adjustments for uncollected port authority taxes, where the port authority's taxes charged and payable represent at least 1% of the authority's total taxes (sec. 3317.0211).

The act further provides that any adjustment or recomputation that is in excess of the total amount of the catastrophic grant must be paid to the school district.

**Notification procedure for potential fiscal deficits**

(sec. 5705.391)

Continuing law requires that the auditor of state or department of education examine five-year projections of revenues and expenditures for school districts, and determine whether any additional fiscal analysis is needed to ascertain whether a district has the potential to incur a deficit during the first three years of the five-year period. Prior law provided that the auditor *and* department could conduct further audits or analyses needed to assess a district's fiscal condition and had to notify the district of the potential to incur a deficit.

Under the act, the auditor *or* the department may conduct the audits or analyses, and if the auditor conducts them, the auditor must notify the department of the district's fiscal condition, and the department must, in turn, notify the district. If the department conducts the audits or analyses, the department must notify the district and the auditor of such potential deficit.

**Distribution of kilowatt-hour and natural gas tax receipts**

(sec. 5727.84)

Am. Sub. S.B. 3 of the 123rd General Assembly reduced to 25% the tax assessment rate for certain tangible personal property of electric companies and rural electric companies. That act also levied a kilowatt-hour (kWh) tax on electric distribution companies, and required that a portion of that tax be credited to the Local Government Property Tax Replacement Fund and the School District Property Tax Replacement Fund for distribution to local governments and school districts to replace tax revenues lost due to the reduction in the assessment rate.

Likewise, Am. Sub. S.B. 287 of the 123rd General Assembly reduced the assessment rate for natural gas company tangible personal property in the same manner as S.B. 3, and levied an excise tax (MCF tax) on natural gas distribution companies, to be credited to the same two funds and distributed to local governments and school districts in the same manner as kWh tax revenues.

The act revises the percentages of the kWh and MCF taxes that are credited to the respective Funds. The act reduces the percentage credited to the School District Property Tax Replacement Fund from the kWh tax from 25.9% to 25.4%, and from the MCF tax from 70% to 68.7%. The act increases the percentage of the kilowatt-hour tax that is credited to the Local Government Property Tax Replacement Fund from the kWh tax from 11.1% to 11.6%, and from the MCF tax from 30% to 31.3%.

**Correction of printing errors**

(secs. 325.03, 325.14, and 325.15; Section 3)

The act corrects errors and misspelled words in the classification and compensation schedules for county auditors, coroners, and county engineers. The errors were caused by an unintentional computer formatting translation error in Sub. H.B. 712 of the 123rd General Assembly. The corrections are nonsubstantive.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	02-27-01	p. 185
Reported, H. Ways & Means	09-25-01	p. 856
Passed House (97-1)	10-16-01	pp. 915-922
Reported, S. Ways & Means	02-13-02	pp. 1461-1462
Passed Senate (33-0)	02-19-02	pp. 1476-1477
House concurred (94-1)	02-27-02	pp. 1456-1457

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