



**Am. Sub. H.B. 198**  
124th General Assembly  
(As Passed by the General Assembly)

**Reps. Peterson, Niehaus, Olman, Carano, McGregor, Coates, Widowfield, Hughes, Perry, Core, Schmidt, Collier, Hartnett, Sulzer, Hoops, R. Miller**

**Sen. Spada**

**Effective date: \***

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**ACT SUMMARY**

- Provides for delinquent real and tangible personal property taxes, once collected, to be distributed among taxing districts in the same proportions that current taxes are distributed, rather than in the proportions taxes were distributed while the delinquency accrued.
- Requires a county auditor to issue a total current tax valuation certification within ten days after it is requested by a taxing authority.
- Requires that the certification be filed with any resolution or ordinance certified to a county board of elections by the taxing authority.

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**CONTENT AND OPERATION**

**Distribution of delinquent property taxes**

(R.C. 319.45, 319.50(C), 321.31, 323.31(A), 5719.05, 5721.19(D)(3), 5721.25, 5721.32(E), 5721.33(G), 5722.03(E), and 5722.04(C))

When property taxes that have become delinquent eventually are collected, 95% of the amount collected is distributed to the various taxing districts that levied taxes on the property. (The remaining 5% is retained by the county to

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\* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

defray expenses associated with collecting delinquent taxes.) Under prior law, for each year that a delinquency accrued, each taxing district was entitled to its proportionate share of the collection for that year. For example, suppose taxes for 1997 and 1998 were not paid until sometime in 2000. Under prior law, a taxing district that was entitled to 10% of the 1997 tax collections was entitled to 10% of the 1997 delinquent tax collections; if the taxing district was entitled to 7% of the 1998 collections, it was entitled to 7% of the 1998 delinquent tax collections.

Under the act, delinquent property taxes are distributed to taxing districts in proportion to their share of the total current tax collections in the year the delinquency is collected. Thus, in the terms of the example above, if the taxing district is entitled to 5% of total current tax collections when the delinquency is collected in 2000, then it would be entitled to 5% of the total delinquency for 1997 and 1998, rather than 10% for 1997 and 7% for 1998 (see **COMMENT**).

The act applies to delinquent taxes charged against real property and tangible personal property.

#### **County auditor tax valuation certifications**

(R.C. 5705.03)

Continuing law provides that when a taxing authority determines it is necessary to levy a tax outside the ten-mill limitation, the taxing authority must certify to the county auditor a resolution or ordinance requesting that the auditor certify to the taxing authority the total current tax valuation of the subdivision, and the number of mills required to generate a specified amount of revenue or the dollar amount of revenue that would be generated by a specified number of mills. After receiving the county auditor's certification, if the taxing authority proceeds with the submission of the question of the tax to electors, the taxing authority must certify its resolution or ordinance to the proper county board of elections.

The act requires that the county auditor issue the certification requested by the taxing authority within ten days after receiving the authority's resolution or ordinance requesting the certification, and that the authority must then submit a copy of the certification with the resolution or ordinance it certifies to the county board of elections. The act prohibits a county board of elections from submitting the question of a tax to the electors if the board does not receive a copy of the county auditor's certification.

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## COMMENT

Ohio Constitution, Art. XII, § 5 provides that ". . . every law imposing a tax, shall state, distinctly, the object of the same, to which only, it shall be applied." Because this provision applies to taxes paid in a timely manner or collected at a later time as delinquent taxes, the act conceivably might violate this provision in certain cases. See 1997 Op. Atty. Gen. No. 97-030. To illustrate how, suppose a firefighting levy was in effect from 1994 to 1998, and delinquent taxes that accrued under the levy were not collected until 2002. Prior law required delinquent taxes to be distributed in proportion to the shares prevailing in the year in which the delinquency accrued. The delinquent taxes therefore would be distributed for firefighting purposes as the firefighting levy applied in 1994 to 1998, and thus consistently with the "object" of the 1994-1998 levy as "only" it "applied." But the act requires delinquent taxes to be distributed in proportion to the shares prevailing in the year of collection (2002), which, in this case, would be after the firefighting levy expired (1998). The delinquent taxes therefore could not be distributed for firefighting purposes according to the shares prevailing in 1994-1998, and thus would not be distributed consistently with the "object" of the 1994-1998 levy as "only" it "applied."

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-03-01	p. 287
Reported, H. Ways & Means	03-14-02	pp. 1551-1552
Passed House (95-2)	03-20-02	pp. 1585-1586
Reported, S. Ways & Means	12-04-02	p. 2202
Passed Senate (31-0)	12-04-02	p. 2257
House concurred (98-1)	12-05-02	pp. 2211-2212

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