



Sub. H.B. 329

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

Reps. Blasdel, Schmidt, Roman, Setzer, Fessler, Carano, McGregor, Metzger, Seitz, Flowers, Peterson, Lendrum, Carmichael, Hagan

Effective date: *

ACT SUMMARY

- Removes the requirement that the "largest city" approve the adoption of an alternative method of distributing LGF, LGRAF, and LLGSF money when the subdivisions adopting the alternative method contain a majority of the county's total population, the largest city's population is less than 15% of the county's total population, and the largest city's population is 20,000 or less.
- For the purpose of approving alternative LLGSF distribution methods, applies the same rule for determining the "largest city" as is used for approving alternative methods of distributing LGF and LGRAF money.

CONTENT AND OPERATION

Distribution of LGF, LGRAF, and LLGSF money

Background law

A small part of the revenue from the state personal income tax, corporation franchise tax, public utility excise tax, kilowatt-hour tax, and sales and use taxes is earmarked for distribution to counties, townships, municipal corporations, or public libraries. Distribution of the revenue is made through three distinct funds--the Local Government Fund (LGF), the Local Government Revenue Assistance Fund (LGRAF), and the Library and Local Government Support Fund (LLGSF).

* *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.*

The revenue is distributed in two stages: first to each county, where it is credited to an undivided county fund; then to local governments in the county. The money is divided among local governments in the county by either a statutory formula or an "alternative method." Currently, an alternative method is used in most counties instead of the statutory formula.

Continuing "alternative method" law

An alternative method for distributing LGF, LGRAF, and LLGSF money may be adopted by a county budget commission, but only if the method is first approved by local governments. Under continuing law, an alternative method *generally* must be approved by the board of county commissioners, the largest city in the county, and a majority of the townships and other municipal corporations in the county; the act creates an exception to this approval as described under "**Changes made by the act,**" below. Since some cities have territory in more than one county, continuing law *pertaining to the distribution of LGF and LGRAF money* provides a rule for determining which city is the "largest city" in a county when one of the contenders is only partly located in the county: the largest city is the city with the greatest population residing in the county; city residents who live in another county are not counted. But this rule is subject to a significant exception that allows the largest city to be the one with the greatest total population (within or outside the county), but only if (1) the county budget commission adopted an alternative distribution method for LGF or LGRAF money by January 1, 1998, that was approved by the city with the greatest total population (counting all city residents whether or not they resided in the county) and (2) the board of county commissioners and a majority of the boards of township trustees and legislative authorities of municipal corporations in the county (wholly or partly) consented to the largest city being the one with the greatest total population.¹ Former law contained a distinct rule governing an alternative method of distributing LLGSF money; the act changes that distinct rule to conform it to the LGF and LGRAF rule and exception, as discussed below under "**'Largest city' for the purpose of LLGSF distributions.**" (Secs. 5705.321, 5747.53, and 5747.63.)

Changes made by the act

Alternative method. The act permits county budget commissions in some counties to adopt an alternative method for distributing LGF, LGRAF, and LLGSF

¹ *In effect, this exception acts as a kind of savings clause, allowing local governments to preserve a former rule, which specified that the largest city was the one having the greatest total population, counting all city residents. The former rule was replaced with the above-described rule in 1999 by Sub. H.B. 185 of the 123rd General Assembly.*

money without necessarily obtaining the approval of the largest city in the county (in either sense of "largest city" under the rule and exception explained above). The counties are those where the population of the largest city, located wholly or partially in the county, is 20,000 or less in number and is less than 15% of the total county population (see **COMMENT**). In such a county, any two or more municipal corporations or townships that together have a majority of the county population and that receive LGF, LGRAF, or LLGSF money in the current year may adopt resolutions making it unnecessary to obtain the largest city's approval of an alternative method.² Each of those municipal corporations and townships (referred to in the act as "participating political subdivisions") must adopt its own resolution. All resolutions must be adopted by the first Monday of August in the year before the year the LGF, LGRAF, or LLGSF money is to be distributed under the alternative method (but see "Extension of time for 2003 distributions," below). (Secs. 5705.321(A)(2) and (C), 5747.53(A)(2) and (C), and 5747.63(A)(2) and (C).)

Participating political subdivisions may adopt such a resolution with respect to apportioning LGF, LGRAF, or LLGSF money, but they must adopt a *separate* resolution to apportion money from *each* of the county's undivided funds under an alternative method.³ If the participating political subdivisions adopt resolutions as provided in the act, the county budget commission may adopt an alternative method for apportioning the money involved, even if the largest city in the county does not approve of the alternative method. But, first, a majority vote of the board of county commissioners and a majority vote of a majority of the municipal corporations in the county wholly or partly (other than the largest city in the county) and of the townships in the county must approve that alternative method. The alternative method adopted by the county budget commission applies only to money to be apportioned in the following calendar year; for each subsequent year, a new alternative method (but not necessarily a different one) must be adopted and approved by the first Monday in August, or else the money will be distributed under the statutory formula. Once an alternative method is approved, any existing alternative method is repealed. (Secs. 5705.321(B), (C), and (D), 5747.53(B), (C), and (D), and 5747.63(B), (C), and (D).)

² *In determining whether the townships and municipal corporations have a majority of the county population, only their residents who live within the county are to be counted.*

³ *This allows combinations of subdivisions to provide for apportioning money from one undivided county fund (e.g., LGF), and combinations of other subdivisions to provide for apportioning money from another undivided county fund (e.g., LGRAF), provided that each combination consists of subdivisions receiving LGF or LGRAF money, respectively, under an alternative method in the current year and consists of subdivisions together having a majority of the county's population.*

Extension of time for 2003 distributions. Under the act, in order to use the alternative method of distribution without the approval of the largest city, the participating political subdivisions must adopt the resolutions to exclude that approval by the first Monday of August of the year preceding the calendar year in which distributions are to be made under the alternative method. Under continuing law, county budget commissions must meet on the first Monday in February and the first Monday in August and must complete their work by the first day of September, unless for good cause the Tax Commissioner extends the time for completing the work (sec. 5705.27, not in the act).

The act temporarily extends the time by which its provisions may be used, so that the act may be applied for 2003 LGF, LGRAF, or LLGSF distributions. The date for adopting and approving an alternative method under the act is extended to September 2, 2002, and the county budget commission completion date is extended to October 1, 2002, for counties in which an alternative method of apportionment is adopted and approved as provided by the act. (Section 3.)

"Largest city" for the purpose of LLGSF distributions

Generally, under continuing law, an alternative method of distributing LLGSF money must be approved by the board of county commissioners, the city located wholly or partly in the county with the greatest population, and a majority of the townships and other municipal corporations located wholly or partly in the county. Here, under former law, the "largest city" was *not* determined by the same rule as is used for alternative LGF and LGRAF distribution methods. Instead, the largest city was the one that had at least some territory in the county and had the greatest total population (counting all city residents whether or not they resided in the county). (Sec. 5705.321(A).)

The act applies the same rule for determining the "largest city" as is used for approving alternative methods of distributing LGF and LGRAF money (see "Miscellaneous," below). When that rule was adopted for alternative LGF and LGRAF distribution methods under Sub. H.B. 185 in 1999, similar treatment was not applied to alternative LLGSF distribution methods. This was most likely an inadvertent omission. (Sec. 5705.321(A)(1) and (B).)

Miscellaneous

The act also relocates the definition of "city, located wholly or partially in the county, with the greatest population," in the LGF and LGRAF alternative method provisions to the beginning of the respective sections (secs. 5747.53(A)(1) and (B) and 5747.63(A)(1) and (B)).



COMMENT

Because the term "city" is used in provisions of law affected by the act instead of the term "municipal corporation" when referring to the "largest city," it appears that a village cannot be the "largest city" even though it may have the largest population of all municipal corporations in a county. Therefore, the act's requirement that the largest city have a population of 20,000 or less must actually mean a population between 5,000 and 20,000. (See Ohio Constitution Art. XVIII, Section 1; section 703.01 of the Revised Code.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	07-24-01	p. 806
Reported, H. Local Gov't & Townships	10-25-01	pp. 992-993
Passed House (85-11)	10-30-01	pp. 1001-1002
Reported, S. State & Local Gov't & Veterans Affairs	04-25-02	pp. 1723-1724
Passed Senate (31-0)	04-25-02	pp. 1728-1729
Concurrence (87-8)	05-14-02	pp. 1742-1743

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