



H.B. 559

124th General Assembly
(As Introduced)

**Reps. Distel, Seitz, D. Miller, Carano, Cirelli, Hartnett, Rhine, Willamowski,
Ogg, Otterman, Flannery, Redfern, Krupinski**

BILL SUMMARY

- Permits the Tax Commissioner to notify county auditors, and county auditors to notify subdivisions, of property tax exemption applications filed for pollution control facilities.
- These notices inform subdivisions of the possible effect of the exemptions on the subdivision's tax base and the subdivision's potential liability for refunds.

CONTENT AND OPERATION

Property tax exemption for pollution control facilities--current law

(R.C. 5709.20 to 5709.27 and 6111.31 to 6111.39)

Under current law, property qualifies for exemption from taxation if its function is to reduce or eliminate air, noise, or water pollution. For such property to be exempted, the property owner must apply for and obtain a pollution control exemption certificate. In the case of property used for air or noise pollution control, the application must be filed with the Tax Commissioner; in the case of property used for water pollution control, the application must be filed with the Director of Environmental Protection. These officials must investigate and determine whether the property qualifies for tax exemption.

There is no statutory deadline for determining qualification for tax exemption. And, once a determination is made, the property owner or the county auditor may request a hearing to challenge the determination.¹ But when the

¹ *In the case of water pollution control property, the Tax Commissioner also may request a hearing.*

determination becomes final, the tax exemption relates back to the date when the application was filed (in the case of air and noise pollution control property) or the date when the owner acquired the property or began building it (in the case of water pollution control property). If, in the meantime, property taxes were paid for the property, the taxes must be refunded, with interest, by the various taxing authorities where the property is located.

Notice to taxing authorities of pending tax exemption applications

(R.C. 5709.211, 6111.31, and 6111.311; Section 3)

The bill prescribes a procedure for notifying affected taxing authorities of pollution control tax exemption applications. Generally, the notices serve to provide advance notification of the possible effects of the exemption if it is granted--particularly the potential for refunds. The procedure is initiated when an application for a pollution exemption certificate is filed.

In the case of air and noise pollution control property, the Tax Commissioner, as soon as it is practicable to do so, must estimate the assessed value of the property and issue a statement to the county auditor of the county where the property is (or will be) located. The statement must show the property's estimated assessed value and the date that the exemption, if it is approved, will become effective (if that date is known when the statement is issued). In the case of water pollution control property, the Director of Environmental Protection initiates the procedure by forwarding a copy of the application to the Tax Commissioner within 30 days after the application is received; the Tax Commissioner then must issue the statement to the county auditor as soon as it is practicable to do so.

Within 60 days after receiving such a statement from the Tax Commissioner, the county auditor must send notices to the various taxing authorities that would be affected by the tax exemption.² The notices must state the following:

- That a pollution control exemption application has been filed;
- That approval of the application will exempt the property from taxation and may require the taxing authority to refund taxes already paid for the property;

² *In the case of water pollution control property, the county auditor need not send the statement if, within the 60-day period, the county auditor is notified that the Environmental Protection Agency has approved the exemption certificate.*

- The date the exemption would take effect (if it is shown on the Tax Commissioner's statement);
- The estimated assessed value of the property;
- The annual taxes on the property (computed on the basis of current tax rates).

These statements and notices must be issued with respect to exemption certificate applications filed on or after the bill's effective date, and with respect to any applications received before the bill's effective date if the exemption certificate has not been issued before January 1, 2003.

Amended statements, notices

If the estimated assessed value of pollution control property changes substantially after the Tax Commissioner issues a statement, the Tax Commissioner must issue an amended statement reflecting the change. The county auditor must amend notices sent to taxing authorities to reflect the amended statement.

Notices are for informational purposes only

The bill specifies that the statements and notices are issued exclusively for the purpose of notifying taxing authorities of the potential for tax refunds. They are not appealable by any person, and are not assessments for the purpose of triggering a petition for reassessment by the taxpayer (i.e., an administrative appeal of tax valuation). Nor are they to be considered an official notice that, under existing law, opens the way for the recipient to make an appeal to the Board of Tax Appeals (see R.C. 5717.02).

Disclosure of information

(R.C. 5703.21(C)(7))

The bill specifies that the Tax Commissioner's providing statements to county auditors under the bill is not a violation against the general prohibition against the Tax Commissioner (or Department of Taxation employees or agents) disclosing confidential taxpayer information.

Likewise, the issuance of notices by county auditors under the bill would not constitute a prohibited disclosure of confidential taxpayer information because existing law provides an exception to the prohibition for disclosures made in the course of the county auditor performing lawful duties such as those required by the bill. (See R.C. 5715.49 and 5715.50.)

HISTORY

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