



**H.B. 526**

125th General Assembly  
(As Introduced)

**Reps. Trakas, Peterson, Olman, Wolpert, Widowfield**

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**BILL SUMMARY**

- Permits school district voters to approve a property tax that is not subject to reduction under the "H.B. 920" tax reduction factor law.
- Provides school boards the option of limiting the revenue growth from such a tax to a specified annual percentage.
- Exempts such a tax from the H.B. 920 tax reduction factor "20-mill floor," thus permitting school districts at or near the floor to levy the tax without subjecting other current expense millage to reduction under the tax reduction factor law.
- Reauthorizes municipal corporations to levy income taxes to be shared with an overlapping school district.
- Prohibits school district income tax rates above 1% except in those districts where the rate already exceeds 1%.
- Authorizes school districts to apply future school district income tax levies to only earned income.

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**CONTENT AND OPERATION**

**Tax levied within 1% limitation, outside ten-mill limitation**

The bill authorizes school boards to levy a voter-approved property tax designated as being within the 1% limitation on unvoted property taxes, and exempts such a tax from the H.B. 920 revenue limitation. The 1% limitation prohibits unvoted property taxes in excess of 1% of the value of property. The H.B. 920 limitation prevents revenue from a levy from increasing when real estate values increase. The H.B. 920 limitation does not apply to levies within the 1%

limitation, so revenue from levies within the 1% limitation is permitted to increase in response to rising real estate values.

The 1% limitation and H.B. 920 limitation are explained in more detail below, followed by an explanation of the new tax levy authority.

**The 1% and 10-mill limitations**

(Article XII, Section 2, Ohio Constitution; R.C. 5705.02)

The Ohio Constitution prohibits property tax rates above 1% of the property's "true value in money" unless the rate above 1% is approved by voters. (Article XII, Section 2.) By law, the true value in money of real property equals appraised market value, and the true value of most tangible personal property equals book value after depreciation allowances.

Statute law also prohibits unvoted property tax rates above 10 mills per dollar of taxable value, and states that this 10-mill limitation "refers to and includes" the constitutional 1% limitation. One mill equals 1/10th of 1¢, so 10 mills equals 1¢, and 10 mills per dollar equals 1%. But the 1% limitation is based on true value, whereas the 10-mill limitation is based on taxable value. For most classes of property, taxable value is defined as a fraction of true value: the taxable value of real property is set at 35% of true value, and the taxable value of most tangible personal property is set at 25% or less of true value.<sup>1</sup> So, 10 mills per dollar of taxable value is a fraction of 1% of true value: 35% in the case of real property, and 25% or less in the case of most tangible personal property. This means a tax rate of 1% levied against the true value of real property could raise almost three times as much money (2.857 times) as a tax rate of 10 mills levied against taxable value, and a tax rate of 1% levied against the true value of most tangible personal property could raise at least four times as much money as a 10-mill tax against taxable value. Stated another way, a tax rate of 28.57 mills against the taxable value of real property would raise the same amount as a tax rate of 1% against the true value of real property; and a tax rate of 40 mills levied against most tangible personal property could raise the same amount as a tax rate of 1% against the true value of that property.

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<sup>1</sup> *The taxable value of some public utility tangible personal property is set at 88% or 100% of true value.*

### **H.B. 920 revenue limitation**

(R.C. 319.301)

H.B. 920 of the 111th General Assembly established the basic method of the current property tax limitation law. This law prevents appreciation in real estate values from automatically causing proportionate increases in real estate taxes. Most tax levies are subject to the H.B. 920 limitation, but certain kinds of levies are exempted: levies to repay debt or levied for a fixed annual sum of money, levies imposed pursuant to municipal charters, and levies within the constitutional 1% limitation.

Since the H.B. 920 law does not apply to tax levies within the 1% limitation, revenue from such levies increases nearly in proportion with increases in real estate values.

### **Voter approved tax not subject to tax reduction factor**

(R.C. 319.301, 323.17, 5705.02, 5705.214, 5705.219, and 5705.29)

The bill permits city, local, and exempted village school boards to levy a property tax outside the statutory 10-mill limitation but within the constitutional 1% limitation. The tax would have to be approved by voters. As a tax within the 1% limitation, the tax would be exempt from reduction under the H.B. 920 law. Under the bill, the school board proposing the tax could choose to allow the revenue to grow in proportion to increases in property values, or to limit the revenue growth to a fixed annual percentage. The resolution proposing the tax and any notices announcing the election on the tax would have to specify whether revenue growth would be limited or unlimited and, if limited, the percentage by which revenue from real property could grow each year.

### **Limited growth tax**

If a school board proposes a tax levy with limited revenue growth, revenue from the tax would have to be reduced in any year that real property values in either class increase by more than the growth percentage fixed by the school board. (Increases in the total value of a class do not include property newly added to the tax list.) The reduction would be made in a manner similar to the current H.B. 920 law, except that revenue would be reduced only to the level at which the revenue growth equals the school board's percentage limit. Thus, if the limit on growth is 5%, revenue raised from each class of real property could increase by only 5%; if property values in either class increase by more than 5% in a year (excluding increases attributable to new property), then a H.B. 920 tax reduction

factor would have to be applied so that the revenue produced from property in that class does not exceed the preceding year's revenue by more than 5%.

**Rate of tax**

The total tax rate levied under the new authority could not be greater than 8 mills. This would prevent the total rate that would be exempted from the tax reduction factor, 18 mills, from exceeding 1% of true value.

**Purpose of tax; submission to voters**

The new tax could be levied for current expenses, for specific permanent improvements or a class of permanent improvements, or for "general ongoing" permanent improvements. The tax could be levied for a specified number of years up to five years, or permanently if the tax is levied for current expenses or for general ongoing permanent improvements. The procedure for submitting the tax to voters would be substantially identical to the procedure for submitting other property taxes to voters. The ballot proposition would have to state the term of the levy and the rate of the tax. If revenue growth from the levy is not to be limited, the ballot would have to state that revenue from real property would increase as the value of property increases. If revenue growth from the levy is to be limited to a percentage fixed by the school board, the ballot would have to state that revenue from real property would not increase by more than that percentage. The tax would be subject to existing limits on the number of times property taxes may be proposed to voters in a single year (three times). (R.C. 5705.214 and 5705.219.)

**Renewal or replacement taxes; anticipation notes; repeal**

The tax could be renewed upon its expiration. The tax also could be used to replace one or more existing property taxes. Tax anticipation notes could be issued by the school board, subject to existing limitations on the principal amount of the notes (50% of the first year's revenue for current expense levies; 50% of the first five years' revenue for permanent improvement levies; and 50% of the first ten years' revenue for general ongoing permanent improvement levies). If such a tax is levied permanently, it could be repealed by referendum as may other school district property taxes. (R.C. 5705.219.)

**Tax is exempted from H.B. 920 tax reduction factor "floor"**

(R.C. 319.301(E)(1))

Revenue reductions made under the H.B. 920 tax reduction factor law are prevented from reducing property taxes for current expenses below 2% of a school district's taxable property valuation (i.e., 20 effective mills). This so-called "20-mill floor" guarantees that a school district that levies 20 mills for operating

expenses raises at least 20 mills in taxes for operating expenses, even if increases in the value of property otherwise would warrant H.B. 920 tax reductions great enough to cause the level of taxation to fall below 20 mills.<sup>2</sup>

Once a school district's revenue has been reduced to the 20-mill floor, the school district's revenue will "grow" in the sense that the district will receive 2% of its real property valuation, regardless of how rapidly that valuation appreciates from year to year. This is in contrast to a school district receiving revenue above the 20-mill floor--such a district's revenue growth will not respond to inflationary appreciation in real property values (i.e., appreciation other than from new property development or reclassification of property). One of the implications of the 20-mill floor is that if a school district at the 20-mill floor levies an additional tax for current expenses, the additional tax revenue exposes some of the district's previously authorized tax revenue to reduction under the H.B. 920 law. Consequently, the district's revenue will not grow in response to appreciation in property values as it did before, but the district would receive more revenue from the additional tax.

Under the bill, revenue from the new tax would not be counted toward the 20-mill floor. Thus, if a school district that has its revenue reduced to the 20-mill floor levies such a tax, its existing current expense revenue would not be exposed to further reduction under the H.B. 920 law, and therefore would continue to increase with increases in real property values.

### **School district income tax**

#### **Option to tax individuals' earnings only**

(R.C. 5748.01, 5748.02, 5748.03, 5748.04, and 5748.08)

Under current law, a school district income tax applies to individuals residing in the school district for at least part of a year and to estates of decedents who died while domiciled in the school district. In the case of individuals, a school district income tax applies to the individual's "school district income," which equals the Ohio adjusted gross income that is taxable under the state's income tax.<sup>3</sup> Ohio adjusted gross income includes earned income as well as most forms of unearned income, including most interest, dividends, capital gains, and retirement benefits (but not Social Security benefits).

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<sup>2</sup> *If the rate of tax levied for current expenses is less than 20 mills, then the floor is equal to that lower rate.*

<sup>3</sup> *If an individual is a part-year resident of a school district, the tax applies to the portion of the individual's Ohio adjusted gross income received during the period of residence.*

The bill authorizes school boards proposing a school district income tax to specify that the tax applies to only earned income. For the purposes of the bill, earned income includes wages, salaries, tips, and other forms of employee compensation included in an individual's Ohio adjusted gross income, and includes net earnings from self-employment included in Ohio adjusted gross income. School boards may continue proposing and levying taxes on the current, broader definition of school district income.

If a school district income tax applies only to earned income, the tax does not apply to estates' income.

**Tax rate limit of 1%**

(R.C. 5748.02 and 5748.08)

Currently, there is no statutory limit on the rate of a school district income tax. Voters may approve any rate so long as it is a multiple of ¼%.

The bill prohibits school district income tax rates exceeding 1%. The prohibition does not apply if the rate in effect before the bill's effective date exceeds 1%. But as any of a school district's levies expire, causing the rate in the district to fall below or to 1%, additional levies would be prohibited in the district if they would cause the rate to exceed 1%. According to the Department of Taxation, 19 school districts had rates exceeding 1% as of January 2004.

**Reauthorization of municipal income tax sharing with school districts**

(R.C. 718.09 and 718.10)

Between 1991 and the end of 2000, municipal corporations were permitted to enter into an agreement with an overlapping school district whereby the municipal corporation levied an income tax and shared at least 25% of the revenue with the school district. The tax had to be approved by voters of the municipal corporation. The municipal corporation and school district territory had to be at least 95% in common, or 90% in common if the remaining 10% of school district territory lay entirely within another municipal corporation with a population of 400,000 or more. A tax sharing agreement also could be made between a school district and two or more municipal corporations so long as the territory of the school district was at least 95% in common with all of those municipal corporations.

No such tax sharing agreements could be initiated after 2000, but any that existed by the end of 2000 could continue in effect. (According to the Department of Taxation, the City of Euclid and the Euclid City School District are the only

municipal corporation and school district to have a tax sharing agreement in place when the authority was terminated.)

The bill permits municipal corporations to again levy income taxes to be shared with an overlapping school district under the same terms provided under the prior authority.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>	<b>JOURNAL ENTRY</b>
Introduced	07-13-04	p. 2137

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