



S.B. 51

126th General Assembly
(As Introduced)

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BILL SUMMARY

- Beginning in tax year 2006, eliminates the tangible personal property tax, except for public utility or interexchange telecommunications property assessed by the Tax Commissioner.
- Creates the Tangible Personal Property Tax Replacement Fund (the Fund) from which taxing units are reimbursed on a quarterly basis for tax revenue forgone because of elimination of the personal property tax.
- Makes the penny increase in the sales and use tax permanent; beginning July 1, 2005, credits that penny to the Fund (one-sixth of the tax revenue collected from state sales and use taxes) to be used to make the reimbursement payments to the taxing units.
- Provides that if money in the Fund is not sufficient to cover the tax revenue forgone by taxing units, money from the General Revenue Fund must be transferred to the Fund to cover the insufficiency.
- Authorizes the use of any excess money in the Fund to temporarily increase the existing 2.5% owner-occupied real property tax reduction on homesteads and manufactured or mobile homes.

CONTENT AND OPERATION

Elimination of the tangible personal property tax

(R.C. 319.29, 5709.01, 5711.01, 5711.22, and 5727.06; Section 3)

Beginning in tax year 2006, the bill eliminates the tangible personal property tax on all personal property located and used in business in Ohio, except for the property of a public utility or an interexchange telecommunications

company that is assessed by the Tax Commissioner.¹ The bill specifies that the requirements for listing personal property, filing returns, and valuing that property under current personal property tax law (R.C. Chapter 5711.) applies only to the listing and assessment of property for tax years prior to tax year 2006. Likewise, county auditors are no longer required to list personal property on the general tax list and duplicate after 2005.

Reimbursement by the state for elimination of the tax

(R.C. 5705.34, 5719.20, and 5719.21)

The bill requires that the Tax Commissioner reimburse each "taxing unit" for the amount of tangible personal property taxes eliminated.² The Commissioner must pay the reimbursements from the Tangible Personal Property Tax Replacement Fund, which is created by the bill in the state treasury and funded by the penny increase in the state sales and use taxes, which is made permanent by the bill (see "Sales and use taxes," below).

In 2005, the state must pay half the tax liability of taxpayers for tangible personal property taxes levied in tax year 2005, not including public utility property or any delinquencies from prior tax years. A taxpayer that is required to pay half its tax year 2005 tax liability for tangible personal property when filing a return is not liable for the remainder of the tax on that property. A taxpayer that is required to pay its entire tax liability at one time must pay only half of its tax liability for the property for tax year 2005, and is not liable for the remainder of the tax on that property. The Tax Commissioner must reimburse each taxing unit by December 31, 2005. If the balance in the Tangible Personal Property Tax Replacement Fund on that date is not sufficient to make the payments in full, the Commissioner must notify the Director of Budget and Management of the insufficiency, and the Director is required to transfer from the General Revenue Fund (GRF) to the Fund the amount of the insufficiency, in order to make the

¹ A "public utility" is a telephone company, telegraph company, electric company, natural gas company, pipe-line company, water-works company, water transportation company, heating company, rural electric company, railroad company, or combined (electric/rural electric/heating/natural gas) company. But only a railroad company's real property will continue to be assessed by the Tax Commissioner under the bill. Its personal property will no longer be subject to the tangible personal property tax.

² Continuing law defines a "taxing unit" as any subdivision or other governmental district having authority to levy taxes on property in the district or issue bonds that constitute a charge against the property of the district, including conservancy districts, metropolitan park districts, sanitary districts, road districts, and other districts.

payments. Interest or other earnings from investing funds in the Fund must remain to the credit of the Fund.

Under the bill, each year beginning in 2006, the Commissioner must make quarterly payments to the taxing units from the Fund. The sum of the payments for a taxing unit each year must equal the amount of taxes levied by the unit in tax year 2005 on tangible personal property, not including public utility property or any delinquencies from prior tax years. If the amount of money credited to the Fund in a year is insufficient to allow payment of the tax year 2005 amount to the taxing units, the Commissioner must notify the Director of the insufficiency, and the Director must transfer the amount of the insufficiency from the GRF to the Fund for payments under the bill. Each taxing unit receiving a payment must apportion the money among its funds as if the money had been levied and collected as taxes on property in the year in which the payment is received.

When budget commissions and county auditors estimate rates at which taxes must be levied in each current year for a taxing unit's fixed-sum levies or to pay debt charges, the bill requires that the auditors exclude from the estimated rate any payments made to a taxing unit from the Fund for fixed-sum levies.

Excess moneys used to increase amount of rollback

(R.C. 323.152(B) and 5719.22)

In January of each year, the Tax Commissioner must determine the amount of money, if any, that remains in the Tangible Personal Property Tax Replacement Fund after all reimbursement payments are made during the preceding year. If any money remains, the Commissioner must order an increase in the 2.5% owner-occupied real property tax reduction ("rollback") given for homesteads and manufactured or mobile homes for taxes levied in the current year, so that the total additional amount by which taxes are reduced statewide equals the amount of the remaining money. The Commissioner must use an amount from the Fund equal to the amount of remaining money to make the payments for this additional rollback.

Effect of elimination of personal property taxes on certain agreements

(R.C. 5709.62, 5709.63, and 5709.88)

The bill provides that tax exemptions for tangible personal property first used in business at project sites granted under enterprise zone agreements or incentive agreements for the remediation of contaminated property do not apply to tax years after tax year 2005.

Effect of elimination of the personal property tax on school district aid computations

(R.C. 3317.021 (not in bill), 3317.028, 3318.011, and 3318.42)

Continuing law provides that annual adjustments must be made for a school district in the calculation of its foundation payments when there is a large increase or decrease in the taxable value of tangible personal property in the district. In making the annual adjustment, the bill provides that the Tax Commissioner must disregard reductions in the taxable value of tangible personal property in 2006 and thereafter as a result of the bill's elimination of the tangible personal property tax (thus resulting in higher foundation payments for the district).

The bill also provides that for purposes of providing assistance under the School Facilities Assistance Program and the Vocational School Facilities Assistance Program, when the Department of Education is calculating a school district's or joint vocational school district's valuation per pupil by using the district's average taxable value in the second, third, and fourth preceding fiscal years, if the taxable value certified by the Tax Commissioner to the Department in any of those fiscal years includes taxable values for tax year 2006 or a subsequent tax year, then, for purposes of the calculation, the Department must add to the amount certified in each such fiscal year the amount of the taxable value of tangible personal property certified in fiscal year 2006, minus the taxable value of public utility personal property included in the fiscal year 2006 certification (which is still taxed under the bill).

Technical revisions

(R.C. 113.01, 321.24, 5701.08, 5703.80, 5711.01, 5711.02, 5711.13, 5727.12, and 5727.15; Section 3)

The bill revises numerous statutes to remove references in them to the tangible personal property tax, which the bill eliminates.

Sales and use tax

Penny increase made permanent and must be deposited into the Fund

(R.C. 5739.02(A), 5739.025, 5739.10, 5739.21(E), 5741.02(A), and 5741.03)

Am. Sub. H.B. 95 of the 125th General Assembly increased the state sales and use tax by 1¢ on July 1, 2003, to a total of 6¢, with the penny increase scheduled to expire July 1, 2005. The bill makes the penny sales and use tax increase permanent. To reflect the tax rate change, the bill also adjusts the tax rate

schedules that specify how the tax is applied to fractions of dollars when sales are not in exact dollar amounts.

Under continuing law, all sales and use tax collections are deposited into the state treasury and then counties and transit authorities that have levied local sales and use taxes receive their shares of the proceeds. After that distribution, 4.2% of sales and use tax collections deposited into the state treasury are credited to the Local Government Fund, .6% are credited to the Local Government Revenue Assistance Fund, and 95.2% are credited to the GRF. Under the bill, one-sixth (the penny increase) of the money deposited into the state treasury from the 6¢ state sales and use tax levied after June 30, 2005, must be deposited to the credit of the Tangible Personal Property Tax Replacement Fund, before distributions to the other funds are made.

Future law not affected by the amendment of the sales tax law

(Section 4)

The bill provides that its amendment of an existing sales tax law (R.C. 5739.10) does not supersede the elimination of the exemption for retail sales under 16¢ that is scheduled by H.B. 95 to take place January 1, 2006.

Technical update of enterprise zone definition

(R.C. 5709.61(N) and 5709.64)

The bill updates a definition of a "JTPA eligible employee" in the enterprise zone law because the federal Job Training Partnership Act provision indicated in the definition was repealed July 1, 2000. The bill replaces the definition with "targeted jobs credit-eligible employee" and uses the federal work opportunity credit as one of the standards for determining whether an enterprise should be issued an initial tax incentive qualification certificate.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-08-05	p. 157

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