Ohio Legislative Service Commission

Final Analysis

Mackenzie Damon

Sub. H.B. 50

129th General Assembly
(As Passed by the General Assembly)

Reps. Snitchler, Burke, Murray, Schuring, Blessing, Boose, Bubp, Combs, Grossman, Martin, Slesnick, Batchelder

Sens. Schaffer, Coley, Eklund, Manning, Niehaus, Obhof, Patton, Peterson, Seitz, Wagoner

Effective date: March 27, 2013

ACT SUMMARY

- Exempts from municipal income taxes compensation paid to persons performing personal services for a political subdivision on its property when that property is annexed to a municipal corporation under the expedited type II annexation procedure.
- Makes an exception to this municipal income tax exemption for those persons who perform services for the political subdivision but who also reside in the municipal corporation.
- Requires that elections for citizen members of a New Community Authority (NCA) board of trustees be held as provided in a resolution adopted by the NCA's organizational board of county commissioners, and removes the requirement that such elections be held annually in December.

CONTENT AND OPERATION

Municipal income tax consequences of an expedited type II annexation

The act prohibits a municipal corporation the territory of which is expanded through an expedited type II annexation to include property owned by a political subdivision from taxing compensation paid to a person for personal services performed for the political subdivision on that property. The prohibition applies regardless of whether the compensation is received by an employee of the subdivision or by another

person performing services for the subdivision under a contract with the subdivision. The only exception to this prohibition is if the person is subject to taxation by the municipal corporation because of the person's residence or domicile in the municipal corporation. If the person's compensation is subject to taxation because of residence or domicile, municipal income taxes are payable only to the municipal corporation of residence or domicile.[1] Thus, under the act, employees and others who perform services in the territory annexed but live in unincorporated territory will not be subject to the municipal income tax. Likewise, those employees of, and other persons under contract with, the political subdivision who reside in other municipal corporations will only be subject to the municipal income tax of the municipal corporation wherein they live.

The prohibition applies when property owned by the political subdivision is annexed on or after the act's effective date to a municipal corporation in an expedited type II proceeding.[2]

The political subdivisions to which the act applies include townships, municipal corporations, counties, school districts, boards of education, all state and municipal universities, park boards, and any other entity whose ownership of real property would constitute public ownership.[3] Accordingly, the tax treatment provided in the act applies to compensation earned by persons working for those political subdivisions as employees or contractors.

Expedited type II annexations

Enacted in 2002, the expedited type II annexation procedure is a procedure for annexing no more than 500 acres of land in the unincorporated territory of a township into a municipal corporation. Unless otherwise provided in the annexation agreement or in a cooperative economic development agreement, the land annexed is not excluded from the township from which it is being annexed.

To initiate the expedited type II annexation procedure, 100% of the owners of real estate in the unincorporated territory of the township area proposed for annexation must sign the annexation petition. If the municipal corporation and the township of the territory being annexed do not object to the annexation, the board of county commissioners must approve it. The procedure is expedited in that there is no special hearing and no right to appeal, and a municipal corporation or township may only

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[1] R.C. 718.01(H)(12).

[2] R.C. 709.023(J) and 718.01(H)(12).

[3] R.C. 709.021 and 5713.081, not in the act.

object to the failure of the petition to meet any of seven conditions specified in continuing law.

Given that the annexed territory becomes part of a municipal corporation, but also remains part of a township, land in the territory is subject to real property taxation by both political subdivisions. The residents of the annexed territory are residents of both the municipal corporation and the township, and are entitled to vote on officers, issues, and tax levies of both subdivisions.[4]

New Community Authority boards of trustees

Background

Continuing law authorizes developers to petition a board of county commissioners to establish a "New Community" district. If the board approves the petition, a New Community Authority (NCA) is established to develop land in the district for industrial, commercial, residential, cultural, educational, or recreational purposes, to provide services in the district, and to raise revenue by levying community charges.[5]

Trustee elections

A NCA is governed by a board of trustees. Upon its creation, the board includes a representative of a local government, between three and six citizen members, and an equal number representing the developer. (The local government and developer representatives are replaced by citizen representatives as the district grows in population.) Trustees serve overlapping two-year terms. Under prior law, citizen trustees were replaced at annual elections held on the first Tuesday after the first Monday in December. The act instead requires that elections for citizen trustees be held at the times and in the manner provided in a resolution adopted by the board of county commissioners (referred to as the "organizational board of commissioners" in the NCA law).

Continuing law already allows a board of county commissioners to provide an alternative method for replacing trustees if the petition to create the NCA was filed after March 22, 2012, but before March 23, 2015. The act does not affect this authority.[6]

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[4] R.C. 709.021, not in the act, and 709.023.

[5] R.C. Chapter 349.

[6] R.C. 349.04.

HISTORY

ACTION	DATE
Introduced	01-26-11
Reported, H. Local Government	03-21-12
Passed House (95-3)	05-22-12
Reported, S. Ways & Means & Economic Development	12-12-12
Passed Senate (33-0)	12-12-12
House concurred in Senate amendments (86-3)	12-13-12

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