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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Office

H.B. 344  
135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Mathews and Hall

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### SUMMARY

- Eliminates the authority of political subdivisions to levy replacement property tax levies, beginning with elections held on or after October 1, 2024.
- Modifies the requirements governing when political subdivisions can file property tax complaints and counter-complaints.
- Expands a prohibition on political subdivisions appealing property tax complaint decisions to include appeals under an alternative statute.
- Imposes a monetary penalty on subdivisions that fail to comply with property tax complaint filing requirements.

### DETAILED ANALYSIS

#### Replacement property tax levies

The bill eliminates the authority of political subdivisions to levy replacement property tax levies, beginning with elections held on or after October 1, 2024.<sup>1</sup>

Under current law, a subdivision may propose a replacement levy to extend the term of an existing levy. A replacement levy is imposed at the same original millage rate of the levy it is replacing. By contrast, subdivisions may also propose renewal levies, which extend the term of an existing levy at its current effective millage rate – i.e., its rate after reductions resulting from the H.B. 920 tax reduction factors. The tax reduction factors have the effect of lowering a levy's effective millage over time, since they are designed to prevent a subdivision's tax revenue from

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<sup>1</sup> R.C. 5705.192, repealed and conforming changes in R.C. 319.301, 319.302, 523.06, 1545.21, 3316.041, 3316.06, 3358.11, 3505.06, 5705.03, 5705.218, 5705.2111, 5705.221, 5705.233, 5705.261, and 5705.412; Section 4(A) and (B).

growing at the same rate as property values. Consequently, unlike a renewal levy, a replacement levy allows subdivisions to receive the benefit of any growth in property tax values that occurred during the life of the existing levy.

## **Limitations on property tax challenges**

The bill modifies a recent law that imposed limits on the filing of property tax complaints by parties other than property owners. Among other changes, H.B. 126 of the 134<sup>th</sup> General Assembly limited the situations in which political subdivisions can file property tax complaints or appeal the decisions of a board of revision (BOR) regarding those complaints.

### **Filing of property tax complaints**

#### **Sale requirement**

Under current law, as enacted in H.B. 126, political subdivisions may only file a property tax complaint with respect to property the subdivision does not own if (a) the property was sold in an arm's length transaction before the tax year for which the complaint is filed and (b) that sale price was at least 10% and \$500,000 more than the auditor's current valuation. The \$500,000 threshold increases each year for inflation, beginning in tax year 2023. These limits also apply to third party property owners in the county who do not own or lease the property in question ("third party complainants").

The bill further narrows this sale requirement, by specifying that a conveyance fee statement for the sale must have been filed with the county auditor within the two years preceding the year for which the complaint is filed. Current law requires that the property was sold before that year, but does not expressly include any limit on when that sale occurred.<sup>2</sup>

#### **Resolution**

Existing law also requires that, before filing a complaint, a subdivision must adopt a resolution authorizing the complaint. The bill specifies that such a resolution is also required if the complaint is filed by a third party complainant who is "acting on behalf of a subdivision." A person is considered to be "acting on behalf of a subdivision" if the person is an official or employee of the subdivision or was directed to file the complaint by an official or employee.<sup>3</sup>

#### **Penalty for illegal filing**

The bill imposes a monetary penalty on subdivisions that fail to comply with the sale or resolution requirements described above.

Under continuing law, if a subdivision files a complaint that does not meet those two requirements, the BOR will dismiss the complaint. Under the bill, if a subdivision or any person acting on the subdivision's behalf improperly files a complaint, the BOR must also impose a penalty. Before doing so, the BOR must notify the subdivision, which will have 30 days to show

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<sup>2</sup> R.C. 5715.19(A).

<sup>3</sup> R.C. 5715.19(A).

that the complaint met the statutory requirements or was not filed by a person acting on behalf of the subdivision. If a person acting on behalf of the subdivision filed the complaint, the subdivision itself is still liable for the penalty and will be made a party to the action for the purpose of providing such evidence.

If, after reviewing the evidence, the BOR determines that a complaint was illegally filed, the BOR will order the subdivision to pay a penalty equal to three times the annual current taxes charged against the property that was the subject of the complaint. For example, if the total annual taxes due on a property equal \$2,000, the penalty will equal \$6,000.

The penalty is paid to the property owner, through the BOR. If the subdivision fails to pay the penalty, the BOR may refer the case to the county prosecuting attorney for collection.<sup>4</sup>

### **Application**

For political subdivisions, the new sale and resolution limits apply to complaints filed for tax year 2022 and after. For third party complainants, the new sale requirement applies to complaints filed for tax year 2023 and after. The new penalty applies to complaints filed on or after the bill's 90-day effective date.<sup>5</sup>

### **Counter-complaints**

Under continuing law, if a property tax complaint alleges a change in value of at least \$50,000 in fair market value (\$17,500 in taxable value), a school district may join the case by filing a counter-complaint. The bill provides that a school district may only file such a counter-complaint if the original complaint was filed by the owner or lessee of the property. Essentially, the bill prohibits school districts from filing counter-complaints when the original complaint is filed by another political subdivision or by a third party complainant. This change applies to counter-complaints filed with respect to tax year 2022 and after.

The bill also specifies that third party complainants acting on behalf of a school district can file counter-complaints for the district, but that the limits described above similarly applies to counter-complaints filed by such persons.<sup>6</sup>

This change applies to counter-complaints filed with respect to tax year 2022 and after.<sup>7</sup>

### **Appeals of BOR decisions**

The bill expands an existing law, also enacted in H.B. 126, that prohibits political subdivisions from appealing BOR decisions on property they do not own to the Board of Tax Appeals (BTA). Under the bill, appeals will also be prohibited under an alternative statute that, since existing law no longer allows appeals to the BTA, subdivisions have relied on as a basis for

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<sup>4</sup> R.C. 5715.19(K).

<sup>5</sup> Section 4(D)(1) and (3).

<sup>6</sup> R.C. 5715.19(B).

<sup>7</sup> Section 4(D)(2).

filing an appeal from BOR decisions to a court of common pleas. This prohibition would apply to any case that concerns the valuation of property for tax year 2021 or after.<sup>8</sup>

The bill also extends these appeal limitations to third party complainants, and expressly prohibits a subdivision from appealing a BOR decision regarding a complaint filed by a third party complainant. This latter prohibition applies to appeals of BOR decisions issued on or after July 21, 2022 (H.B. 126's effective date). The limit on third party complainants applies to appeals of BOR decisions issued after this provision's effective date.<sup>9</sup>

### **Private payment agreements**

Continuing law prohibits a political subdivision from entering into a private payment agreement with a property owner whereby the owner agrees to pay the political subdivision to dismiss, not file, or settle a complaint or counter-complaint. The bill extends this prohibition to any agreement that a property owner would enter into with a person who is acting on behalf of a political subdivision. This prohibition applies to complaints filed on or after the bill's 90-day effective date.<sup>10</sup>

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## **HISTORY**

Action	Date
Introduced	11-29-23

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<sup>8</sup> R.C. 2506.01; Section 4(C).

<sup>9</sup> R.C. 5717.01; Section 4(E).

<sup>10</sup> R.C. 5715.19(I); Section 4(D)(3).