



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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Sub. H.B. 124

132nd General Assembly
(As Reported by H. Ways and Means)

Reps. Brenner and Carfagna, Hambley

BILL SUMMARY

- Authorizes a joint vocational school district (JVSD) to submit a property tax question to parts of the JVSD territory where the question was mistakenly omitted from the ballots in November 2015.
 - Excuses the JVSD from paying election costs related to the submission of that question.
 - Requires the Tax Commissioner and county auditors to consider the tax validly levied if the aggregate vote totals from the November 2015 election and the newly authorized election indicate passage of the levy.
 - Declares an emergency.
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CONTENT AND OPERATION

Joint vocational school district renewal levy

Background

The bill authorizes an election on a multi-county JVSD property tax question that was improperly conducted in November 2015 by being submitted to only some of the electors eligible to vote on the question. Specifically, the question was submitted only to electors of the county in which the majority of the JVSD's residents live. The question did not appear on the ballots for the parts of the JVSD territory outside that county.¹

¹ Section 1(A).

The Ohio Supreme Court recently held that, in such a situation, the Tax Commissioner may refuse to authorize the levy of that tax on the grounds that the levy was not properly approved. In *State ex rel. Delaware Joint Vocational School District Board of Education v. Testa*, 2017-Ohio-796, the Tax Commissioner refused to authorize the Delaware JVSD's renewal levy on the grounds that the levy was submitted only to the JVSD's electors residing in Delaware County at the 2015 general election. Electors residing in the JVSD's territory in Franklin, Marion, Morrow, and Union Counties did not have the opportunity to vote on the question because the Delaware County Board of Elections did not submit the question to those counties' boards of elections. Ultimately, the Court upheld the Tax Commissioner's actions and found that the Commissioner had no legal duty to authorize the levy of the tax because it was not submitted to the electors in those other counties.

Resubmission of renewal levy

The bill authorizes the JVSD to resubmit the question of renewing the property tax to only the JVSD's electors residing in counties whose voters were denied the opportunity to vote on the issue at the 2015 general election. The resubmitted question may be considered at a November general election, March or May primary election, or an August special election, as specified by the JVSD. The JVSD may resubmit the renewal levy in any year, including a year that begins after the original levy expires. (Under current law, a levy may only be renewed during the tax year it expires or the following year.²) The ballot language of the resubmitted question must state the same purpose, rate, and term as the question considered at the 2015 general election.³

Election costs

The bill waives continuing law's requirement that the JVSD pay for all or a portion of the board of election's costs to place the resubmitted levy on the ballot. In general, if an issue appears on the ballot at a primary or general election, a subdivision is responsible for only the cost of ballots and advertising. But local subdivisions submitting a question at an August special election bear the entire cost of that election, which is apportioned between those subdivisions.⁴ The bill does not specify the party who will pay election costs for the resubmitted JVSD levy, but under continuing law, expenses of the board of elections not otherwise covered are paid from the county

² R.C. 5705.25, not in the bill.

³ Section 1(B).

⁴ R.C. 3501.01 and 3501.17(D), not in the bill.



treasury. Presumably, the counties within which the question is resubmitted would cover those costs.⁵

Post-election procedures

Under the bill, vote totals from the election results are added to the totals from the 2015 general election, when the question was considered by residents of the most populous county. If a majority of voters from the combined totals approve the question, the board of elections of the most populous county must certify the result to the Tax Commissioner, who must authorize the renewed levy for purposes of applying H.B. 920 tax reduction factors and the 10% and 2.5% property tax rollbacks and must direct county auditors to collect the tax for the current tax year, i.e., the tax year that includes the date the results are certified. Property tax rollbacks would apply to the renewal levy even if the tax is renewed in a year after the original levy expires.⁶ (Under continuing law, new levies are not subject to the rollbacks, but renewals of levies enacted before September 2015 continue to be so.⁷)

Emergency measure

The bill declares an emergency, so it may not be subjected to referendum and takes effect immediately.

HISTORY

ACTION	DATE
Introduced	03-09-17
Reported, H. Ways & Means	05-02-17

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⁵ Section 1(B).

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⁷ R.C. 319.302, not in the bill.

