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S.B. 356
133rd General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsor: Sen. Dolan

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill changes laws relating to county land reutilization corporations (CLRCs) and to tax foreclosure and forfeiture.
- County commissioners may direct up to 50% of taxes collected on certain real property conveyed by a CLRC to be paid to the CLRC for up to five years, rather than to the taxing districts to which they would otherwise be owed.
- The bill directs proceeds of electing subdivision property sales after expenses to the electing subdivision, rather than to reimburse taxing districts charged foreclosure or forfeiture costs, for electing subdivisions other than CLRCs.
- The bill exempts CLRCs from all taxes. To the extent that this is not current practice, this change may reduce tax revenues of the state and political subdivisions, and may reduce state revenue sharing with local governments. Reductions in revenue to the state, if any, would be borne primarily by the GRF.
- A county auditor fee is increased by the bill from $5 to $45.

Detailed Analysis

The bill makes numerous changes to the laws pertaining to CLRCs and to foreclosure and forfeiture for failure to pay property taxes and assessments. Law changes with fiscal effects on the state or political subdivisions are enumerated below. The bill includes numerous other provisions that appear to have minimal or no fiscal effects, for which the reader is referred to the bill analysis.

CLRCs and other electing subdivisions

The bill allows county commissioners to direct up to 50% of taxes collected on certain real property conveyed by a CLRC to be paid to the county land reutilization fund for up to five years. These tax revenues would be paid to the CLRC rather than to the taxing districts to which they would otherwise be owed. The provision applies to real property acquired by a CLRC under foreclosure law. The board of a CLRC may elect not to receive the taxes on such real property, in which case the tax revenues would be paid to the appropriate taxing districts.[1]

An electing subdivision is a municipal corporation, township, or county that has adopted an ordinance or resolution pursuant to R.C. 5722.02 to implement procedures that facilitate effective reutilization of nonproductive land within its boundaries.[2] When an electing subdivision sells land reutilization program property, the bill directs that after the electing subdivision's expenses to acquire, maintain, and dispose of the property are reimbursed, the sale proceeds are to go to the electing subdivision for land reutilization, public purposes, and related purposes. Current law, for an electing subdivision other than a CLRC, directs that these sale proceeds are instead to be used by the county treasurer to reimburse taxing districts that were charged for the costs of foreclosure or forfeiture. This change would result in loss of revenue to affected taxing districts, equal in amount to the gain for electing subdivisions.[3]

If a CLRC acquires property in a transaction that is not a tax foreclosure procedure, in current law a municipal corporation or township has a priority right of acquisition for 30 days to indicate its intent to acquire that property, and subsequently to do so. The bill repeals this right. This change may result in ownership of some properties by CLRCs that under current law would instead be acquired by municipal corporations or townships.[4]

A provision of law requiring an electing subdivision other than a CLRC to pay the officer conducting a foreclosure sale the fee for transferring and recording deeds is repealed by the bill.[5]

The bill eliminates requirements that (1) property sold by an electing subdivision other than a CLRC be sold for at least fair market value, or (2) approval of the legislative authorities of those taxing districts entitled to share in sale proceeds be obtained before property is sold for less than fair market value. These changes may promote sale of properties and realization of proceeds from these sales.[6]

The bill adds exemptions from sales and use taxes for (1) building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a contract with a CLRC or its wholly owned subsidiary, and

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[1] R.C. 5722.111.

[2] R.C. 5722.01.

[3] R.C. 5722.08 and 5722.15(B).

[4] R.C. 5722.02(D).

[5] R.C. 5722.03.

[6] R.C. 5722.07.

for (2) sales to or by a CLRC or its wholly owned subsidiary.[7] These exemptions may tend to reduce GRF tax revenues as well as sales tax revenues of counties and regional transit authorities.

Separately, the bill provides an exemption for a CLRC from all state and local taxes and assessments. The exemption applies to projects funded by the corporation, revenues or property acquired or used by the corporation, and the resulting income.[8]

To the extent that state GRF tax revenues are reduced by these changes, distributions to local governments and public libraries through the Local Government Fund (Fund 7069) and the Public Library Fund (Fund 7065) will be reduced. These funds each receive 1.66% of GRF tax revenues in codified law; through the end of FY 2021, the funds receive 1.68% and 1.70%, respectively, under provisions of H.B. 166 of the 133rd General Assembly.

Continuing law exempts from taxation real property of a CLRC, and real property of an electing subdivision other than a CLRC for the public purpose of land reutilization. The bill provides that the tax exemption starts on the day title is transferred to the electing subdivision, and ends on the last day of the tax year in which title is transferred to a new owner not entitled to exemption. The fiscal effect of this change is unclear.[9]

The bill eliminates the fee for transferring and recording the deed, for property forfeited to the state that an electing subdivision indicates it wants to acquire and that subsequently is offered for sale but does not receive the minimum bid. The change affects only electing subdivisions other than CLRCs, as CLRCs are exempt from this fee under continuing law. The property is deemed sold to the electing subdivision for no consideration.[10]

Under continuing law, property unsold at a foreclosure sale, that would otherwise be forfeited to the state, may instead be transferred to a CLRC at the request of the CLRC. The bill adds that this transfer is to be without cost to the CLRC, possibly reducing costs for such entities.[11]

The bill exempts a CLRC or its wholly owned subsidiary from responsibility for any costs incurred for corrective measures in response to a release of petroleum from an underground storage tank owned by the CLRC.[12] This change may increase costs paid from Federal Fund 3840 appropriation line item 800624, Leaking Underground Storage Tanks, which is used by the Department of Commerce to support the clean-up of petroleum released from underground storage tanks for which there is no known owner. Ninety percent of the funding under this line item is provided by the federal government with the remaining 10% provided by the state.

The bill amends current law to exclude CLRCs from being considered public authorities for purposes of the Prevailing Wage Law.[13] This provision potentially reduces construction and

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[7] R.C. 5739.02(B)(13) and (57).

[8] R.C. 1724.02(D).

[9] R.C. 5709.12(F).

[10] R.C. 5722.04.

[11] R.C. 317.32 and 5722.04.

[12] R.C. 3737.87; R.C. 3737.88 and 3737.89, not in the bill.

[13] R.C. 1724.02(E).

demolition costs of CLRCs, although any reduction in costs would likely be small.[14] The Prevailing Wage Law is administered by the Bureau of Wage and Hour Administration of the Industrial Compliance Division within the Department of Commerce. The Bureau investigates complaints and, upon making determinations, collects back wages and penalties owed to workers. In FY 2019, the Bureau completed 458 investigations. About 11.8% of the investigations were on prevailing wage rates. Oversight costs incurred by the Bureau are paid from the Industrial Compliance Fund (Fund 5560). The bill could very minimally decrease the number of the investigations the Bureau conducts.

Revenue increases and cost savings

County auditors' fees for deeds of land sold for taxes, paid by the purchaser, are increased by the bill from $5 to $45. The higher fee will increase revenues of county auditors.[15]

The bill reduces from three to two years the time that a county treasurer must retain and separately account for any money owed to the former owner from sale of foreclosed property. This requirement applies only if the amount owed remains unclaimed by the former owner. After three years in current law, and two years under the bill, the money owed to the former owner is forfeited to the CLRC fund if the county has one, or to the county's delinquent tax and assessment collection (DTAC) fund. This reference appears ambiguous since R.C. 321.261 provides for two such funds, one each for the county auditor and prosecuting attorney. The shorter delay in forfeiture will tend to make additional money available to counties in the first year that this bill provision is in effect.[16]

The bill expands the rules for advertising a tax foreclosure sale to permit electronic notice. This change will result in cost savings for county agencies required to give such notice.[17] Statewide, annual cost savings may range into the low millions of dollars, based on testimony on the bill.

The bill authorizes a prosecuting attorney, before the filing of a foreclosure complaint on behalf of the board of revision under the Expedited Foreclosure on Unoccupied Land Law, to hire outside counsel to initiate a title search of property subject to foreclosure to identify persons having an interest in it. This change may increase efficiency for county prosecutors.[18]

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[14] Because wages make up only a portion of overall costs under construction contracts, a change in wages resulting from eliminating a prevailing wage requirement would only affect the overall costs for construction contracts by the proportionate share of labor costs relative to the overall contract costs. For example, if under a construction contract wages account for 25% of the overall costs, a 10% reduction in wages would only result in a 2.5% reduction of the overall costs of the contract.

[15] R.C. 319.54(G).

[16] R.C. 5721.20. Cross references in this section to R.C. 323.261 and 323.263 appear instead to reference R.C. 321.261 and 321.263, respectively; this interpretation is assumed in this fiscal note.

[17] R.C. 5721.182(B)(1), with conforming changes in R.C. 323.25, 323.69(C), 323.73(A), 5721.03(B), 5721.18, 5721.19, and 5723.05.

[18] R.C. 323.69(A) and (B) and 323.68, by reference, not in the bill.

The bill eliminates a requirement that a county auditor compile a delinquent vacant land tax list, in addition to the delinquent land list and delinquent tax list. Delinquent vacant lands, by statute, are lands with taxes delinquent at least a year and unimproved by any dwelling. This change may result in cost savings, likely modest, for county auditors.[19]

DTAC funds

From proceeds of abandoned land disposed of at public auction, R.C. 323.73 requires 20% to be credited to the DTAC fund of the county treasurer, of which up to half may be used for community development, nuisance abatement, foreclosure prevention, demolition, and related services or distributed by the treasurer to a CLRC. This distribution is changed by the bill, with 10% of sale proceeds to be paid in equal shares to the DTAC funds of the county treasurer and prosecuting attorney, and an additional 10% to be paid to a CLRC fund if a CLRC is operating in the county. This change will alter the division of foreclosure sale proceeds from abandoned land, reducing the distribution to the county treasurer, increasing the distribution to the prosecuting attorney, and directing additional funds to CLRCs in some counties.[20]

The bill increases the distribution of forfeiture sale proceeds under R.C. 5723.18 to DTAC funds, and adds as a recipient of this distribution the CLRC fund if one has been created in the county. The increase is from 10% to 30% of taxes and assessments due, and is paid in equal shares to the two or three funds. The payment is from funds remaining after payment of costs of the forfeiture and the sale. Following these two sets of payments, the bill provides for payment of an additional 10% of taxes and assessments due to the CLRC fund, if a CLRC exists in the county. Thus, these payments appear to rise from 10% of taxes and assessments due to 30% or 40% depending on whether a CLRC has been created in the county. The increased amounts directed to these funds reduce amounts paid to political subdivisions that have claims against the property for unpaid taxes, assessments, or other charges.[21]

In current law, a county auditor charges costs incurred in a tax foreclosure proceeding to the taxing districts, including electing subdivisions, with an interest in the unpaid taxes or other charges. The bill directs that these costs retained by the auditor be deposited to the DTAC funds of the county treasurer and prosecutor. This change will tend to increase the amounts in those DTAC funds.[22]

Other provisions

The bill includes a prohibition on the state or a political subdivision charging a fee, other than that set out in statute, to an owner or operator responsible for an asbestos demolition or renovation project, in connection with submitting notification required under the state's environmental protection laws. This change may reduce fee income of certain government entities.[23]

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[19] R.C. 5721.03.

[20] R.C. 323.73(C).

[21] R.C. 5723.18.

[22] R.C. 5722.03.

[23] R.C. 3745.11(G).