



# Ohio Legislative Service Commission

## Bill Analysis

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### **Am. Sub. H.B. 166\*** 131st General Assembly (As Reported by S. Ways & Means)

**Reps.** Green, Brenner, Blessing, Hambley, Becker, Amstutz, Anielski, Boose, Conditt, Cupp, Grossman, Hackett, T. Johnson, McClain, Reineke, Retherford, Rogers, Ruhl, Ryan, Sprague, Thompson, Young

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## **BILL SUMMARY**

- Allows municipalities located in a charter county to certify garbage collection fees to the property tax list for collection in the same manner as property taxes.
- Specifies that property owned by an economic development corporation is not considered to be "publicly owned" unless the corporation obtains a property tax exemption based on the property's public use.
- Clarifies provisions of the law governing county land reutilization corporations, and allows such corporations to receive grants under the Abandoned Gas Station Cleanup Grant Program.
- Provides for the creation of a county special elections fund to accept a political subdivision's pre-payment of the estimated expenses of a special election.
- Extends the filing deadline for the homestead exemption and 2.5% property tax reduction until the end of the tax year to which the exemption or reduction applies.
- Extends the dates by which county auditors must take certain actions involving agricultural property enrolled in the CAUV program.
- Requires county auditors to advertise that the county board of revision has completed its annual property tax equalization once a week for two consecutive weeks, rather than for ten consecutive days.

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\* This analysis was prepared before the report of the Senate Ways & Means Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Eliminates the requirement that intracounty Local Government Fund allocations be reported by certified mail.
- Eliminates the requirement that county auditors certify interest rates to local courts and that the courts post the notice.
- Eliminates the requirement that notices be provided to local taxing authorities regarding pending applications for tax exemption of pollution control or energy conversion or conservation property used in industrial or commercial operations.
- Removes the requirement that statements submitted by persons contracting with local governments certifying whether they owe delinquent tangible personal property taxes in the county be incorporated into a contract if no delinquent tax is owed.
- Requires a party appealing the decision of the Board of Tax Appeals on a complaint originally filed with a county board of revision to submit a copy of the appellate notice to the board of revision and the county auditor.
- Eliminates statutory requirements requiring persons to obtain permits for traveling exhibitions and licenses and bonds to conduct public auctions of new merchandise.
- Removes a requirement that county auditors audit the contents of a safety deposit box held by a ward of the state before the ward's guardian may access the box.
- Modifies a provision that waives penalties for the late payment of property taxes under certain circumstances by specifying that the county treasurer, not the county auditor, be notified that the waiver requirements are met.

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## **CONTENT AND OPERATION**

### **Municipal garbage fee collection**

The bill allows municipalities that are located in a charter county to certify garbage collection fees for inclusion on a property owner's tax bill. Under the bill, a municipality that imposes a garbage collection fee may certify the amount due for service to a property to the county auditor, who places the fees on the property tax list. Such fees are then collected in the same manner as real property taxes.<sup>1</sup>

Currently, charter municipalities certify garbage fees to the property tax list pursuant to a provision of continuing law that provides for assessments levied by such

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<sup>1</sup> R.C. 710.10.



municipalities.<sup>2</sup> The bill essentially extends this power to nonchartered municipalities that are located in a charter county. There are two counties that have adopted and operate under charters – Summit and Cuyahoga.

## **Community improvement corporation law**

The bill makes several changes to the law governing community improvement corporations (CICs). CICs are nonprofit organizations organized to advance economic development in an area. One or more political subdivisions may designate a CIC to serve as the subdivisions' agent for economic development purposes.

There are two types of CICs: economic development corporations (EDCs), which are organized generally to advance economic development in a community, and county land reutilization corporations (CLRCs), which are organized more specifically to focus on the reutilization of distressed properties and communities.

### **EDC property ownership**

The bill specifies that EDC-owned property is not considered to be "publicly owned" unless the EDC obtains a property tax exemption based on the property's public use. The Board of Tax Appeals recently found that property held by an EDC qualified for exemption as property used exclusively for public purposes when the EDC held the property pursuant to an agreement to act as a township's agent for economic development purposes and the property was used exclusively for those purposes.<sup>3</sup>

Under the bill, if an EDC does not apply for a public use exemption, the EDC's ownership of the property does not "constitute public ownership."<sup>4</sup> Under continuing law, if an entity's ownership of property "constitutes public ownership," that entity is treated as a political subdivision for purposes of the collection of delinquent taxes due with respect to subdivision-owned property, meaning delinquent taxes charged against its property and not otherwise abated are deducted from its own revenues passing through the county treasury. In addition, such an entity is treated as a political subdivision for the purposes of annexation law, with the result that, if the entity does not wish to sign an annexation petition, the entity is not considered an "owner" for purposes of determining the number of owners needed to sign an annexation petition.<sup>5</sup>

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<sup>2</sup> R.C. 701.05, not in the bill.

<sup>3</sup> *Union Township Community Improvement Corp. Inc. v. Testa*, BTA No. 2014-2658 (May 12, 2015).

<sup>4</sup> R.C. 307.78 and 1724.02(C).

<sup>5</sup> R.C. 709.02(E) and 5713.081, not in the bill.



## **CLRC share of foreclosure costs**

The bill reduces the share of foreclosure or forfeiture costs charged to a CLRC when tax-delinquent land is conveyed to a CLRC or a political subdivision that administers its own land reutilization program (both of which are commonly referred to as "land banks").

Under continuing law, all taxing units must pay the costs related to such a foreclosure or forfeiture in proportion to each taxing unit's interest in the unpaid taxes and penalties due with respect to the land. Current law requires that the CLRC pay the county's portion of such costs. The amendment instead requires that a CLRC need only pay the county's portion when it is the CLRC that acquires the property.

The bill applies to pending and future conveyances, and also specifies that, if a CLRC has already paid a county's portion of such costs when the CLRC did not acquire the property, the CLRC is entitled to a refund of those payments.<sup>6</sup>

## **Abandoned Gas Station Cleanup Fund**

The bill allows CLRCs to receive grants under the Abandoned Gas Station Cleanup Grant Program. The Director of Development Services may award grants under that program for the cleanup and remediation of abandoned gas stations. Under current law, the grants are available to local governments and to organizations that have entered into a relevant agreement with a subdivision. The bill adds CLRCs to this list of eligible grant recipients.<sup>7</sup>

## **Land bank property tax exemption**

The bill also makes various changes to the language that exempts property acquired by a land bank from taxation. Among such changes, the bill eliminates a charge that is required to be levied against land bank property once it is sold or transferred to a person who will use the property for a nonexempt purpose. The charge equals the amount of additional taxes that would have been charged against the property if it had not been tax-exempt.

The bill requires that any such pending charges be removed from the tax list, and that, if a person has already paid such a charge, the person may apply to receive a refund of the amount paid.<sup>8</sup>

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<sup>6</sup> R.C. 5722.03 and 5722.04 and Section 5.

<sup>7</sup> Sections 3 and 4.

<sup>8</sup> R.C. 5709.12 and 5722.11 and Section 5.



## **Fund for prepayment of special election expenses**

Under continuing law, when a political subdivision places an item on the ballot at a special election, the political subdivision must pay at least some of the cost of holding the election. The subdivision must prepay 65% of the estimated amount of these costs before the election. Once the election is completed, the board of elections determines the actual cost of the election and charges the subdivision for the difference. (The costs borne by participating subdivisions varies depending on whether the election is held on the same day as a primary or general election and whether a statewide issue is on the ballot.)

The bill requires a board of county commissioners to create a "special elections fund" to receive prepayments of special election expenses. Under current law, such expenses are allocated to an "elections revenue fund," which the board may establish generally to accumulate revenue received by the county for election expenses.

Under the bill, a board county commissioners may rescind a special elections fund and transfer any money remaining to the elections revenue fund or county general fund if (1) the costs of the special election have been settled and (2) the county has not received prepayments for any future special elections.<sup>9</sup> (Other than costs borne by the state in some statewide elections, and costs borne by subdivisions, the cost of the board of elections is paid from appropriations by the board of county commissioners from county funds.)

## **Homestead exemption and 2.5% reduction filing deadline**

The bill extends the filing deadline for the homestead exemption and the 2.5% residential property tax reduction from the first Monday in June to December 31 of the year the exemption or reduction applies to.<sup>10</sup>

The 2.5% property tax reduction is allowed for residences occupied by the owner. The homeowner must apply for the reduction once, and it continues until the property no longer qualifies.<sup>11</sup> The homestead exemption is a reduction in taxes on residences owned and occupied by permanently and totally disabled persons or persons aged 65 or older (60 years for a spouse who survives a previously qualified recipient).<sup>12</sup> It must be applied for once, and the exemption continues until the

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<sup>9</sup> R.C. 3501.17(I) and (J).

<sup>10</sup> R.C. 323.153.

<sup>11</sup> R.C. 323.152(B), not in the bill.

<sup>12</sup> R.C. 323.151 and 323.152(A), not in the bill.



homeowner no longer qualifies. An income limit is placed on homeowners who first qualify for and receive the homestead exemption for any tax year after 2013. The income limit is \$31,000 for 2015 of the homeowner and spouse (if any) and is indexed annually. The income measure is adjusted gross income for state income tax purposes, which does not include Social Security or Railroad Retirement old age benefits, military retired pay, or disability benefits. The homestead exemption reduces taxes by the amount that is charged at the local tax rate on \$25,000 in appraised market value; if a homeowner received the exemption for 2006 and that year's reduction was greater, the 2006 reduction applies. Local taxing units are reimbursed from the state General Revenue Fund for revenue reductions caused by the 2.5% reduction and homestead exemption.

### **Agricultural property review deadline**

The bill extends the dates by which county auditors must take certain actions involving property that is valued for tax purposes according to its "current agricultural use value" (CAUV). To enroll in the CAUV program, property owners must apply to the county auditor before the first Monday in March. If the application includes all of the required information, the auditor must view the property and determine whether the property qualifies for inclusion in the CAUV program. Under current law, the auditor must complete these actions on or before the first Monday in June. The bill extends this deadline to the first Monday in August.

Current law also requires that, if the auditor determines that a property does not qualify for the CAUV program, the auditor notify the property owner before the first Monday in August. The bill extends this deadline to the first Monday in October.<sup>13</sup>

### **Board of Revision equalization publication**

The bill modifies the procedure that county auditors must follow to advertise that a county board of revision has completed its equalization and that property tax assessments are completed. Under continuing law, before the auditor may complete the tax list and duplicate, the board of revision must review all tax assessments and correct any incorrectly listed or improperly valued property. Once the board makes these corrections, the auditor must publish notice that the board's review is complete in a newspaper of general circulation in the county.

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<sup>13</sup> R.C. 5713.31 and 5713.32.



Under current law, this notice must be published daily for ten days. The bill instead requires publication only once a week for two consecutive weeks.<sup>14</sup>

### **Local Government Fund notification**

The bill eliminates the requirement that county auditors use certified mail to notify local governments of their share of Local Government Fund (LGF) allocations. Instead, auditors would have to use ordinary mail or electronic mail.<sup>15</sup>

Continuing law requires county auditors to notify each local government of the amount of LGF money that the county budget commission has allocated to it. LGF money is distributed to each county treasury according to a formula that reflects past distributions and county population. In most counties, local governments in a county agree to a formula for allocating the money among them under the auspices of the county budget commission. In several counties that have not agreed to adopt their own formula, the budget commission applies the statutory distribution formula. In either case, the budget commission must notify local governments of their shares. The notification also is the official notice that serves as the basis of an appeal of the commission's allocation, which may be brought to the Ohio Board of Tax Appeals within 30 days after the local government receives the notice.

### **Certification of interest rate**

The bill eliminates a requirement that county auditors notify courts of the interest rate set annually by the Tax Commissioner.<sup>16</sup> Auditors must notify the clerks of the Court of Common Pleas, the county court, and each municipal court in the county. The courts currently are required to post the notice "in a conspicuous and public location" in or near the clerk's office. The bill repeals this posting requirement.<sup>17</sup>

The interest rate is set by the Tax Commissioner according to a statutory formula.<sup>18</sup> Its principal purpose in law is to establish the amount of interest charged for unpaid state and local taxes and the interest to be paid on refunds of those taxes. The interest rate is posted on the Department of Taxation's website.

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<sup>14</sup> R.C. 5715.17.

<sup>15</sup> R.C. 5747.51(J).

<sup>16</sup> R.C. 319.19, repealed.

<sup>17</sup> R.C. 1343.03; R.C. 1901.313, 1907.202, and 2303.25, repealed.

<sup>18</sup> R.C. 5703.47, not in the bill.



## **Notice of tax-exempt facility applications**

The bill eliminates a current requirement that county auditors notify local taxing authorities of pending tax exemption applications for certain kinds of pollution control and energy conversion or conservation property at industrial or commercial facilities.<sup>19</sup> Current law requires auditors to notify taxing authorities of such applications and of the estimated value of the exempted taxes and the potential for refunds of already paid taxes.

Continuing law authorizes property tax exemption for property used in industrial or commercial operations to reduce air, water, or noise pollution, to convert energy from natural gas or fuel oil to another form, convert solid waste to energy, or to recover waste heat.<sup>20</sup> Much of the property qualifying for tax exemption on that basis is tangible personal property used in business, the taxation of which ended after 2009.

## **Contractors' certification of personal property tax payment status**

The bill modifies a requirement under continuing law that persons who have been awarded a contract by a local government through competitive bidding certify whether the person owes delinquent taxes on tangible personal property taxes used in business when the person submitted the bid. Under current law, every certification becomes incorporated into the contract. The bill requires the certification to be incorporated into a contract only if the contractor owes delinquent taxes.<sup>21</sup>

## **Appeals of county board of revision complaints**

The bill requires a party appealing a decision of the Board of Tax Appeals on a complaint originally filed with a county board of revision to submit a copy of the appellate notice to the board of revision and the county auditor within 30 days after the Board's decision is published. Under continuing law, most decisions of the Board of Tax Appeals may be appealed to the Ohio Supreme Court or the court of appeals encompassing the county in which the subject property is located or the taxpayer resides or has its principal place of business, provided a notice of appeal is filed with the court within 30 days after the Board's decision is published.<sup>22</sup>

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<sup>19</sup> R.C. 5709.23, repealed.

<sup>20</sup> R.C. 5709.20 to 5709.27, not in the bill.

<sup>21</sup> R.C. 5719.042.

<sup>22</sup> R.C. 5717.04.



## **County auditor-issued permits and licenses**

The bill eliminates current requirements governing two forms of permit or license that county auditors are responsible for issuing. One is a permit required for persons who intend to "exhibit a natural or artificial curiosity, or exhibit horsemanship in a circus, or otherwise, for a price" in a county.<sup>23</sup> The permit fee is between \$25 and \$60, and failure to pay is punishable by a \$100 forfeiture. Revenue from the fee is credited to the county general fund.

The other is a license to conduct a public auction to sell new merchandise.<sup>24</sup> The license fee is \$10 per day, to be credited to the county general fund. Failure to obtain the license is punishable by a fine of between \$200 and \$1,000 or imprisonment of between 30 and 180 days. A bond is also required in the amount of the new merchandise's value as surety for the payment of any taxes, judgments, or fines that might become due from conducting the auction. A person conducting such an auction also must send prior notice of the sale to the Department of Taxation by registered mail. The bond and notice requirement are repealed along with the licensing requirement.

## **County auditor audit of safety deposit boxes**

Under current law, county auditors are required to audit the contents of a safety deposit box held by a ward of the state before the ward's guardian may access the box. The bill removes this requirement. Instead, under the bill, the probate court may allow the guardian to open the safety deposit box simply upon the guardian filing a request with the court to obtain access.<sup>25</sup>

## **Notification of mortgage satisfaction to county treasurer**

Continuing law specifies certain circumstances under which a county auditor is required to waive late payment penalties when property taxes are not paid on time. Am. Sub. H.B. 64 of the 131st General Assembly added a circumstance to this list: when a property owner pays off a mortgage, the lender fails to report that the mortgage was satisfied, and the tax bill is not mailed to the property owner (i.e., the bill is mailed instead to the lender). The penalty waiver applies only to the first tax bill after the mortgage is satisfied.

H.B. 64 required that lenders provide the notification of mortgage satisfaction to the county auditor. The bill changes this reference, instead requiring that the

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<sup>23</sup> R.C. 3765.01 to 3765.04, repealed.

<sup>24</sup> R.C. 1318.01 to 1318.08 and 1318.99, repealed.

<sup>25</sup> R.C. 2111.14.



notification be sent to the county treasurer. (Under continuing law, county treasurers are responsible for preparing property tax bills and collecting tax payments.)<sup>26</sup>

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## HISTORY

ACTION	DATE
Introduced	04-22-15
Reported, H. Ways & Means	11-17-15
Passed House (96-1)	01-26-16
Reported, S. Ways & Means	---

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<sup>26</sup> R.C. 5715.39.

