



OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

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Sub. H.B. 124

132nd General Assembly
(As Passed by the General Assembly)

Reps. Brenner and Carfagna, Hambley, Goodman, Green, Hughes, Ingram, T. Johnson, Rogers, Schaffer, Scherer, Sprague, Strahorn, Sweeney, West

Sens. Beagle, Burke, Eklund, Hackett, Hoagland, Huffman, LaRose, Terhar, Uecker

Effective date: Emergency, June 28, 2017

ACT SUMMARY

- Authorizes boards of county commissioners to propose, as a single ballot question, a bond levy for the acquisition or improvement of a criminal justice facility and either or both of the following: a levy for related improvements not financed by those bonds and an operating levy for the expenses associated with running the facility and other criminal justice services.
 - 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.
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CONTENT AND OPERATION

Combined criminal justice property tax levies

The act authorizes a board of county commissioners to propose, as a single ballot question, a bond levy for the acquisition or improvement of a criminal justice facility and either or both of two distinct levies: (1) a levy for related permanent improvements

that are not financed with the bonds, and (2) an operating levy for the expenses associated with running the facility and other criminal justice services. The bond issue is for general obligation bonds for which a property tax would be levied. The parameters concerning the use of levy revenue are similar to those that apply to existing county criminal justice services levies. The rules and procedures for proposing and administering the levy are similar to those that apply to combined property tax levies for school district permanent improvements and operating expenses.

Use of revenue

The proceeds of the bond issuance may be used to finance permanent improvements to a criminal justice facility located within the county, including the acquisition, construction, enlargement, renovation, or maintenance of the facility. In addition to the proceeds from bond issuance, the county may use the revenue from a distinct levy to fund permanent improvements related to such a facility. Under continuing law, "permanent improvements" generally include buildings and other real property improvements as well as tangible personal property having at least a five-year lifetime.

The act defines "criminal justice facility" as any facility for which a county may lawfully spend revenue from a criminal justice services property tax levy under continuing law. This may include a courthouse, offices for the sheriff, prosecuting attorney, public defender, clerk of court, or coroner, a jail, or any other facility used for the diversion, adjudication, detention, or rehabilitation of criminals.¹

The proceeds of the operating levy may be used for the current operating expenses of the criminal justice facility funded by the bonds or for other criminal justice services. The term "criminal justice services" is not defined by the act but presumably include the same services that may be funded by the criminal justice services levy authorized under continuing law—i.e., operating expenses of the courts, sheriff, prosecuting attorney, public defender, coroner, jail, or other criminal justice-related expenses.²

Administrative provisions

The combined bond and tax levy issue is subject to the approval of both the board of county commissioners and the voters of the county. The resolution proposing the taxes and the ballot language submitted to the voters must specify each of the rates to be levied for paying the bond debt charges, for permanent improvements not

¹ R.C. 307.45, not in the act, and 5705.233(A), (B), and (C).

² R.C. 5705.233(C).



financed with the bonds, and for operating expenses. The taxes for nonbonded permanent improvements and for operations may each be levied for any specified number of years or for a continuing period of time.³

If the bond issuance and tax levies are approved, the board of county commissioners may issue anticipation notes on the estimated proceeds. For the operating expenses portion of the levy, the anticipation notes may be for up to 50% of the estimated proceeds of the tax to be collected during the first year. For the nonbonded permanent improvements portion of the levy, the anticipation notes may be for up to 50% of the estimated proceeds of the tax to be collected during the first five years.⁴

As with other county property tax levies, a criminal justice permanent improvements or operating levy approved for a specified number of years may be renewed or replaced by resolution of the board of county commissioners and approval of the voters. A levy approved for a continuing period of time may be reduced by initiative petition.⁵

Application date

The act includes a special procedure allowing the question to be placed on the ballot for the November 7, 2017, general election even if the act were to take effect less than 90 days before that election.⁶ Generally, tax levy questions must be certified to the board of elections at least 90 days before the date of the election. As it turns out, however, the act's special procedure is not necessary because the act's effective date, June 28, 2017, falls 132 days before that election. The 90-day deadline to certify a resolution for the November 2017 election is August 9, 2017.⁷

Joint vocational school district renewal levy

Background

The act 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

³ R.C. 5705.233(C), (D), and (E).

⁴ R.C. 5705.233(G).

⁵ R.C. 5705.233(H).

⁶ Section 2.

⁷ Ohio Secretary of State's office, www.sos.state.oh.us/SOS/publications/2017ElectionsCalendar.aspx.



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.⁸

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*,⁹ 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 act 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. (Generally, a levy may only be renewed during the tax year it expires or the following year.¹⁰) The ballot language of the resubmitted question must state the same purpose, rate, and term as the question considered at the 2015 general election.¹¹

Election costs

The act 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,

⁸ Section 3(A).

⁹ 2017-Ohio-796.

¹⁰ R.C. 5705.25, not in the act.

¹¹ Section 3(B).



which is apportioned between those subdivisions.¹² The act 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 treasury.¹³

Post-election procedures

Under the act, 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.¹⁴ (Under continuing law, new levies are not subject to the rollbacks, but renewals of levies enacted before September 2015 continue to be so.¹⁵)

HISTORY

ACTION	DATE
Introduced	03-09-17
Reported, H. Ways & Means	05-02-17
Passed House (95-2)	05-17-17
Reported, S. Ways & Means	06-21-17
Passed Senate (33-0)	06-21-17
House concurred in Senate amendments (83-11)	06-21-17

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¹² R.C. 3501.01 and 3501.17(D), not in the act.

¹³ Section 3(B).

¹⁴ Section 3(B).

¹⁵ R.C. 319.302, not in the act.

