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S.B. 93
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Sen. Antani

Mackenzie Damon, Attorney

SUMMARY

- Requires voter approval before the rate of any county sales and use tax may be increased.

DETAILED ANALYSIS

Voter approval of county sales and use tax rate increases

The bill requires that, before a board of county commissioners may increase the rate of a county sales and use tax, the proposal must first receive the approval of voters.

Under current law, two statutes authorize boards of county commissioners to levy sales and use taxes for various purposes. Whether voter approval is required depends on the statute under which the tax is to be levied and the purpose of the tax.

Under R.C. 5739.021, a tax of up to 1% may be levied to raise general fund revenue, to pay for courts and other criminal and administrative justice services, or to fund a regional transportation improvement project. In addition, a noncharter county may levy up to 0.5% to fund detention facilities, but only to the extent that a tax levied by transit authority operating in the county does not exceed 1%.¹ (For example, if a transit authority has already levied the full 1.5% it is authorized to levy under continuing law, the county cannot levy the detention facilities tax.) Voter approval is not required for the levy of up to 1%, regardless of which purpose the tax is levied for, but is required for a detention facilities levy of up to 0.5%. Even if voter approval is not required, the board of commissioners may put the issue before voters if it chooses to.

¹ Transit authority sales tax proposals are already subject to prior voter approval. R.C. 5739.023.

Under R.C. 5739.026, a tax of up to 0.5% may be levied to fund one or a combination of several distinct purposes, including: (1) convention facilities authority debt service, (2) a transit authority, (3) permanent improvements, (4) a 9-1-1 system, (5) a detention facility, (6) agricultural easements, (7) emergency medical services, (8) a regional transportation improvement project, (9) a district where an ecologically distressed watershed is located, and (10) general fund revenue. Voter approval is required if the tax will fund more than one of those purposes or any one purpose other than general fund revenue or a distressed watershed district. If voter approval is not required, the board may submit the tax to voters. In any case, the board of commissioners must hold at least two hearings on any rate increase.

Current law also provides that, if a rate increase is imposed and it does not have to be submitted to voters before it takes effect, it may be repealed by voters through the referendum process. If a rate increase is adopted by resolution as an emergency measure, the board of commissioners may, but is not required to, arrange to have a repeal question put on the ballot before the increase takes effect.

Under the bill, all rate increases proposed in a resolution adopted on or after the bill's 90-day effective date would be subject to prior voter approval. Similar to other local tax questions, the board of county commissioners must first pass a resolution proposing the tax rate increase and then submit that resolution to the local board of elections. The board of elections submits the question to voters at the next general election or the next primary election that occurs in an even-numbered year. If approved, the tax will take effect in the first calendar quarter beginning at least 65 days after the board of elections certifies the election results.²

County sales and use taxes: background

Currently, all 88 of Ohio's counties (plus eight transit authorities) levy a local sale and use tax, at rates ranging from 0.5% to 1.5%.³ These local sales taxes "piggy-back" on Ohio's state sales tax – the same exemptions and filing requirements that apply to the state sales tax also apply to local sales taxes.

HISTORY

Action	Date
Introduced	02-24-21

S0093-I-134/ec

² R.C. 305.31, 5739.021, 5739.022, and 5739.026.

³ Ohio Department of Taxation, "Total State and Local Sales Tax Rates, by County," April 2021, available at https://tax.ohio.gov/static/tax_analysis/tax_data_series/sales_and_use/salestaxmap.pdf.