

Ohio House
Ways & Means Committee

Committee Hearing

HB 343

“A Bill to amend section 5715.19 of the Revised Code to require local governments that contest property values to formally pass an authorizing resolution for each contest and to notify property owners.”

Date: November 28, 2017

Time: 9:00AM

Room 121

Written Testimony of Mark H. Gillis
Ohio Coalition For Fair Taxation

Introduction:

Thank you Chairman Schaffer, Vice Chairman Scherer, Ranking Member Rogers members of the Ways and Means Committee for allowing me the opportunity to testify regarding House Bill 343. My name is Mark Gillis on behalf of the Ohio Coalition for Fair Taxation. The purpose of my testimony is to discuss the issues with the Bill as written and to offer and discuss specific amendments which will more efficiently address the issues that gave rise to the introduction of the bill in the first place.

The reasons given for the introduction of HB 343 were:

1. Boards of Education initiating complaints against the value of single family owner occupied homes.
2. Boards of Education initiating complaints based upon something other than a recent sale or transfer of ownership of the actual property without providing notice to that owner.
3. Individual Board of Education members being apparently unaware that their own Boards had authorized the filing of complaints.

HB 343 attempts to address these issues by placing heavy notice requirements on boards of education which go well beyond addressing the issues that gave rise to the bill and will result in a waste of tax revenue. Furthermore, the proposed requirements will turn what should be an objective non-partisan process based solely on the value of real estate into a process subject to political favoritism.

Currently, HB 343 would require a board of education to:

1. Pass an individual resolution *for each parcel* upon which it intends to file a complaint or counter complaint;
2. Consider each resolution “by a separate vote from the question of whether to adopt any other resolution;
3. Mail notice to each owner 7 business day (10 calendar days minimum) prior to considering each resolution
4. Include a copy of the notice and the resolution with each complaint or counter complaint filed with the county board of revision.

No need for Notice of Counter Complaints

If a property owner files a complaint with the board of revision seeking a reduction in value of \$50,000 or more in true value, 5715.19 permits a board of education and others to file a counter complaint in order to become a party to the action. Since the property owner has initiated the process, there is no need for a board of education to provide notice to the owner of the parcels upon which it may file a counter complaint as the owner has already filed the complaint(s) on those parcels.

More importantly, R.C. 5715.19(B) requires boards of education to file counter complaints within 30 days of receiving notice of them from the County Auditor. County Auditor's do not notify boards of education of each complaint that is filed as it is filed, but rather provide the statutorily required notice in batches, sometimes numbering in the hundreds or thousands depending upon the County. To then require a board of education to not only pass a resolution for each parcel or even each counter complaint and to also provide 10 calendar days notice before the resolution is passed will essentially cut the current 30 day period in half or more.

Any additional requirements ultimately imposed by HB 343 should be limited to complaints initiated by boards of education and other legislative bodies under R.C. 5715.19(A) and not counter complaints filed pursuant to R.C. 5715.19(B).

If the goal is simply to make sure that a property owner filing a complaint is aware that a board of education may file a counter complaint, that goal can be effectively reached by simply printing that information on the complaint form prescribed by the Tax Commissioner.

Resolutions Required for Each Individual Parcel

Currently, HB 343 requires a board of education to separately pass a resolution for each parcel against which it intends to file a complaint. Initially, this requirement ignores the realities of how complaints are actually filed. However, complaints are routinely filed that include multiple parcels. On an annual basis, there are numerous complaints that include 100's of parcels simply because a sale included 100's of parcels. One recent case included 1,398 parcels. In that instance, HB 343 would require 1,398 separate notifications to a property owner and 1,398 separate resolutions by a board of education.

We understand that there is a possible amendment to the bill which would permit multiple parcels to be included in a resolution and the required notifications. We certainly applaud that amendment but feel that the bill should be refined even further.

The fact is that almost all complaints initiated (not counter complaints) by boards of education are based upon a recent sale or transfer of the subject property. For each of those sales or transfers, the grantee is required to file a Conveyance Fee Statement or a Statement of Reason for Exemption From real property Conveyance. Every single property owner could be effectively notified of the potential for the filing of a board of revision complaint by printing the notification on these forms which are prescribed by the Tax Commissioner.

Limit Notification Requirements to Owner-Occupied Residences and "Non-Sale/Transfer Cases."

To more effectively address the situations that gave rise to the introduction of HB 343, any additional notification requirements should be limited to only those types of situations. As outlined above, the situations at issue are those where the property is an owner-occupied home or where a board of education files a complaint against the value of a property that has not recently transferred ownership.

This can easily be accomplished through an amendment requiring notifications for those parcels that qualify for the 2½% owner-occupancy credit pursuant to R.C. 323.152(B) and those parcels that have not been the subject of a sale or transfer within the past 3 years.

Require a Criteria Specific Resolution

The requirements of individual notification and individual resolutions will have the effect of injecting politics into a process that should only be about the objective value of real property. More than 35 years ago when our law firm began working in this area, the issue of a board of education reviewing a list of owners prior to filing complaints was raised and addressed. After deciding the objective criteria upon which complaints would be filed, the board was asked whether they would like to review a list of owners before they were filed. The response was simply “No, we might know someone!”

That response is just as applicable today as it was then. Injecting politics or potential favoritism in what should be an objective process based upon the value of the property is simply bad policy. Good policy is a requirement that each board of education periodically pass a resolution specifically describing the criteria upon which complaints will be filed.

Criteria can include the classifications of parcels that will be filed upon as well as sale/transfer price minimums and/or tax revenue thresholds. All of our clients already have some or all of these criteria in place. Requiring it of all boards of education who file complaints will ensure that no individual board member can ever say that they are unaware of the process or the criteria upon which complaint will be filed.

Conclusion

We have attached the proposed amendments hereto and look forward to discussing them further with the committee members and working cooperatively with the committee to come up with a bill that addresses the concerns that gave rise to its introduction without placing unduly burdensome requirements on boards of education.