



County Auditors' Association of Ohio

66 East Lynn Street • Columbus, Ohio 43215 • (614) 228-2226 • Fax: (614) 228-8901 • www.caaao.org

MICHAEL E. YODER
Logan County
President

JON A. SLATER, JR.
Fairfield County
Vice President

ALAN HAROLD
Stark County
Second Vice President

JULIE A. ADKINS
Seneca County
Third Vice President

WILLIAM D. McFARLAND
Washington County
Secretary/Treasurer

FRANCES S. LESSER, Esq.
Executive Director

BETTY S. DEVER
Assistant Director

THOMAS P. PAPPAS, Esq.
Legislative Counsel

Testimony of County Auditors' Association of Ohio

Sub. HB 49 as Passed by House

Senate Finance General Government & Agency Review Subcommittee

June 7, 2017

Chairman Oelslager, Vice Chairwoman Manning, Ranking Member Skindell and Members of the Senate Finance Committee: I am Kevin Garringer, Henry County Auditor, speaking on behalf of the County Auditors' Association of Ohio (CAAO). Thank you for the opportunity to express our opposition to a significant policy change included in the biennial budget bill as passed by the House. The CAAO represents the interests of the 88 County Auditors and Fiscal Officers across the State.

County Auditors represent the interests of all real property tax payers: residential, commercial, industrial and farmers. Because of the way our tax law functions, significant changes to the value of one group of taxpayers have the consequence of impacting the value of other properties and/or reducing the revenue to taxing districts including schools. Tax exemptions and changes in valuation methodology can have a negative effect on other property owners. I am here today to respectfully request you remove a provision from the current version of the budget bill that will have negative impact on real property tax payers: mandating that political subdivisions pay legal fees and other court costs in the loss of a property tax assessment appeal.

Proposed Revised Code Section 5717.07 would create an uneven, one way loser pays system whereby the County Auditor, Tax Commissioner, legislative authority, or public official would have to pay the attorney's fees and court costs of an individual property owner if that body appeals a decision of the Board of Tax Appeals and the property owner "prevails in the proceeding". We believe this is a major policy change that should not be made within the context of the large budget bill.

Ohio law allows for property owners to challenge the County Auditor's valuation of their property. And while mass appraisal is a very efficient way of valuing property for ad valorem taxation purposes, it is not a perfect science and sometimes owners disagree. Current law also says that if an owner disagrees with the decision of the County Board of Revision, they can appeal to the State Board of Tax Appeals (BTA). I think I can safely say that the decision to appeal to the BTA or even to the Supreme Court is not a decision that anyone takes lightly. This is especially true for public entities such as counties and school boards, who are using public dollars to carry out their charge. Considerable resources, financial and otherwise, are required to not only file and complete an appealed case, but the final outcome is never guaranteed.

As Chief Assessor and an arm of the Tax Commissioner, County Auditors are charged with property valuations for all classes of property and must be allowed to utilize all of the valuation tools in our toolboxes. If the current assertion in Sub. HB 49 is allowed to remain, a number of things will happen, but I believe the most disconcerting is that the proper valuation tools and methodology utilized by me and my colleagues becomes diluted and sometimes mute, having great consequences for valuation in the future, as legal precedents are and can be set.

Additionally, as I alluded to earlier, when County Auditors and County Boards of Revision consider an appeal from a decision of the BTA to the Ohio Supreme Court, they do not make this decision lightly. These very rare appeals are usually of decisions on a legal matter of great significance and precedence and involve major commercial properties and considerable differences in value. Many decisions of the BTA are overturned and remanded for further legal analysis. Determining the correct valuation method and value of any given property is essential for the equitable treatment of all types of property. Mandating the payment of fees to the loser has a chilling effect on the decision of whether or not to appeal, which extends beyond this one property and case.

If the state insists on this cost recovery mechanism, at a minimum it should be fair to both sides. If the property owner loses an appeal, he or she should also be required to pay attorney fees and costs of the taxing authority. The one-sided penalty contemplated in Sub. HB 49 is punitive and unfair.

The proposed law is also confusing in that it uses the word "prevails" as to when the reimbursement provision is applicable. There is no definition of "prevail". Because most non-sale case decisions result in a compromise value rather than a "winner take all" victory, the term "prevails" will be irrelevant as both parties will correctly claim a partial victory.

County Auditors believe this major change in policy and decision making requires adequate time to consider potentially serious ramifications. Including this in the budget bill does not provide an opportunity for careful study and analysis. We hope you will consider removing this provision.

Mr. Chairman, before I conclude, I'd like to raise an additional concern of my fellow County Auditors. The House included in the budget bill changes to the CAUV formula. Additionally, the House language requires the Department of Taxation to annually prepare and distribute CAUV soil values, by school districts. County Auditors feel that including this language in the budget sets a dangerous precedence of possible CAUV adjustments every two years.

Historically, changes in CAUV have been the responsibility of the Tax Commissioner's Agricultural Advisory Committee, an administrative process. If the General Assembly feels statutory updates to the CAUV formula are warranted, our Association recommends stand-alone legislation like the Senate has done via the passage of SB 36.

Thank you very much for the opportunity to address you and for your kind attention. I would be pleased to answer any questions you may have at this time.