

AN ACT

To amend sections 5705.28, 5727.391, and 5733.39, to enact section 5703.55 of the Revised Code, and to repeal the version of section 5733.39 of the Revised Code that results from Am. Sub. S.B. 3 of the 123rd General Assembly to prohibit the Department of Taxation from putting social security numbers on the outside of materials mailed to taxpayers, to make changes to the law regarding the adoption of a tax budget by taxing units that do not levy taxes, and to allow the Ohio coal tax credit to be taken for additional compliance facilities.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 5705.28, 5727.391, and 5733.39 be amended and section 5703.55 of the Revised Code be enacted to read as follows:

Sec. 5703.55. The department of taxation shall not put a taxpayer's social security number on the outside of any material mailed to the taxpayer.

Sec. 5705.28. (A) Except as provided in division (B)(1) or (2) of this section or in section 5705.281 of the Revised Code, the taxing authority of each subdivision or other taxing unit shall adopt a tax budget for the next succeeding fiscal year:

(1) On or before the fifteenth day of January in the case of a school district;

(2) On or before the fifteenth day of July in the case of all other subdivisions and taxing units.

(B)(1) Before the first day of June in each year, the board of trustees of a school library district entitled to participate in any appropriation or revenue of a school district or to have a tax proposed by the board of education of a school district shall file with the board of education of the school district a tax budget for the ensuing fiscal year. On or before the fifteenth day of July in each year, the board of education of a school district to which a school library district tax budget was submitted under this

division shall adopt such tax budget on behalf of the library district, but such budget shall not be part of the school district's tax budget.

(2)(a) The taxing authority of a taxing unit that does not levy a tax is not required to adopt a tax budget pursuant to division (A) of this section. Instead, on or before the fifteenth day of July each year, such taxing authority shall adopt an operating budget for the taxing unit for the ensuing fiscal year. The operating budget shall include an estimate of receipts from all sources, a statement of all taxing unit expenses that are anticipated to occur, and the amount required for debt charges during the fiscal year. The operating budget is not required to be filed with the county auditor or the county budget commission.

(b) Except for this section and sections 5705.36, 5705.38, 5705.40, 5705.41, 5705.43, 5705.44, and 5705.45 of the Revised Code, a taxing unit that does not levy a tax is not a taxing unit for purposes of Chapter 5705. of the Revised Code Documents prepared in accordance with such sections are not required to be filed with the county auditor or county budget commission.

(c) The total appropriations from each fund of a taxing unit that does not levy a tax shall not exceed the total estimated revenue available for expenditures from the fund, and appropriations shall be made from each fund only for the purposes for which the fund is established.

(C)(1) To assist in the preparation of the tax budget, the head of each department, board, commission, and district authority entitled to participate in any appropriation or revenue of a subdivision shall file with the taxing authority, or in the case of a municipal corporation, with its chief executive officer, before the forty-fifth day prior to the date on which the budget must be adopted, an estimate of contemplated revenue and expenditures for the ensuing fiscal year, in such form as is prescribed by the taxing authority of the subdivision or by the auditor of state. The taxing authority shall include in its budget of expenditures the full amounts requested by district authorities, not to exceed the amount authorized by law, if such authorities may fix the amount of revenue they are to receive from the subdivision. In a municipal corporation in which a special levy for a municipal university has been authorized to be levied in excess of the ten-mill limitation, or is required by the charter of the municipal corporation, the taxing authority shall include an amount not less than the estimated yield of such levy, if such amount is requested by the board of directors of the municipal university.

(2) A county board of mental retardation and developmental disabilities may include within its estimate of contemplated revenue and expenditures a

reserve balance account in the community mental retardation and developmental disabilities residential services fund. The account shall contain money that is not needed to pay for current expenses for residential services and supported living but will be needed to pay for expenses for such services in the future or may be needed for unanticipated emergency expenses. On the request of the county board of mental retardation and developmental disabilities, the board of county commissioners shall include such an account in its budget of expenditures and appropriate money to the account from residential service moneys for the county board.

(D) The board of trustees of any public library desiring to participate in the distribution of the county library and local government support fund shall adopt appropriate rules extending the benefits of the library service of such library to all the inhabitants of the county on equal terms, unless such library service is by law available to all such inhabitants, and shall certify a copy of such rules to the taxing authority with its estimate of contemplated revenue and expenditures. Where such rules have been so certified or where the adoption of such rules is not required, the taxing authority shall include in its budget of receipts such amounts as are specified by such board as contemplated revenue from the county library and local government support fund, and in its budget of expenditures the full amounts requested therefrom by such board. No library association, incorporated or unincorporated, is entitled to participate in the proceeds of the county library and local government support fund or other public funds unless such association was organized and operating prior to January 1, 1968.

Sec. 5727.391. (A) As used in this section:

(1) "Compliance facility" ~~has the same meaning as in section 4905.01 of the Revised Code~~ means property that is designed, constructed, or installed, and used, at a coal-fired electric generating facility for the primary purpose of complying with acid rain control requirements under Title IV of the "Clean Air Act Amendments of 1990," 104 Stat. 2584, 42 U.S.C.A. 7651, and that controls or limits emissions of sulfur or nitrogen compounds resulting from the combustion of coal through the removal or reduction of those compounds before, during, or after the combustion of the coal, but before the combustion products are emitted into the atmosphere. "Compliance facility" also includes ~~both~~ any of the following:

(a) A facility that removes sulfur compounds from coal before the combustion of the coal and that is located off the premises of the electric generating facility where the coal processed by the compliance facility is burned;

(b) Modifications to the electric generating facility where the

e facility is constructed or installed that are necessary to accommodate the construction or installation, and operation, of the compliance facility;

(c) A byproduct disposal facility, as defined in section 3734.051 of the Revised Code, that exclusively disposes of wastes produced by the compliance facility and other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected regardless of whether the byproduct disposal facility is located on the same premises as the compliance facility or generating unit that produces the wastes disposed of at the facility;

(d) Facilities or equipment that is acquired, constructed, or installed, and used, at a coal-fired electric generating facility exclusively for the purpose of handling the byproducts produced by the compliance facility or other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected;

(e) A flue gas desulfurization system that is connected to a coal-fired electric generating unit and that either was placed in service prior to July 10, 1991, or construction of which was commenced prior to that date;

~~(b)~~(f) Facilities or equipment that is acquired, constructed, or installed, and used, at a coal-fired electric generating unit primarily for the purpose of handling the byproducts produced by a compliance facility or other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected.

(2) "Ohio coal" has the same meaning as in section 4913.01 of the Revised Code.

(B) An electric company shall be allowed a credit against the tax computed under section 5727.38 of the Revised Code for using Ohio coal in any of its coal-fired electric generating units. The credit shall be claimed in the company's annual statement required under division (A) of section 5727.31 of the Revised Code at the rate of three dollars per ton of Ohio coal burned, during the same twelve-month period used in determining gross receipts and on or after January 1, 2000, in a coal-fired electric generating unit under both of the following conditions:

(1) The coal-fired electric generating unit is owned by the company claiming the credit or leased by that company under a sale and leaseback transaction;

(2) A compliance facility is attached to, incorporated in, or used in conjunction with the coal-fired generating unit.

(C) If the credit allowed under this section exceeds the total taxes due for the current year, the tax commissioner shall credit the excess against the taxes due for succeeding years until the full amount of the credit is granted.

(D) The director of environmental protection, upon the request of the tax commissioner, shall certify whether a facility is a compliance facility. In the case of a compliance facility owned by an electric company, the public utilities commission shall certify to the tax commissioner the cost of the facility as of the date it was placed in service. In the case of a compliance facility owned by a person other than an electric company, the tax commissioner shall determine the cost of the facility as of the date it was placed in service; if the owner of such a facility fails to furnish the information necessary to make that determination, no credit shall be allowed.

Sec. 5733.39. (A) As used in this section:

(1) "Compliance facility" means property that is designed, constructed, or installed, and used, at a coal-fired electric generating facility for the primary purpose of complying with ~~Phase I~~ acid rain control requirements under Title IV of the "Clean Air Act Amendments of 1990," 104 Stat. 2584, 42 U.S.C.A. 7651, and that controls or limits emissions of sulfur or nitrogen compounds resulting from the combustion of coal through the removal or reduction of those compounds before, during, or after the combustion of the coal, but before the combustion products are emitted into the atmosphere. "Compliance facility" also includes any of the following:

(a) A facility that removes sulfur compounds from coal before the combustion of the coal and that is located off the premises of the electric generating facility where the coal processed by the compliance facility is burned;

(b) Modifications to the electric generating facility where the compliance facility is constructed or installed that are necessary to accommodate the construction or installation, and operation, of the compliance facility;

(c) A byproduct disposal facility, as defined in section 3734.051 of the Revised Code, that exclusively disposes of wastes produced by the compliance facility and other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected regardless of whether the byproduct disposal facility is located on the same premises as the compliance facility or generating unit that produces the wastes disposed of at the facility;

(d) Facilities or equipment that is acquired, constructed, or installed, and used, at a coal-fired electric generating facility exclusively for the purpose of handling the byproducts produced by the compliance facility or other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected;

(e) A flue gas desulfurization system that is connected to a coal-fired electric generating unit ~~and that either was placed in service prior to July 10, 1991, or construction of which was commenced prior to that date;~~

(f) Facilities or equipment acquired, constructed, or installed, and used, at a coal-fired electric generating unit primarily for the purpose of handling the byproducts produced by a compliance facility or other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected.

(2) "Ohio coal" has the same meaning as in section 4913.01 of the Revised Code.

(3) "Sale and leaseback transaction" has the same meaning as in section 5727.01 of the Revised Code.

(B) An electric company shall be allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code for Ohio coal used in any of its coal-fired electric generating units after April 30, 2001, but before January 1, 2005. Section 5733.057 of the Revised Code shall apply when calculating the credit allowed by this section. The credit shall be claimed at the rate of three dollars per ton of Ohio coal burned in a coal-fired electric generating unit during the taxable year ending immediately preceding the tax year. The credit is allowed only if both of the following conditions are met during such taxable year:

(1) The coal-fired electric generating unit is owned and used by the company claiming the credit or leased and used by that company under a sale and leaseback transaction.

(2) A compliance facility is attached to, incorporated in, or used in conjunction with the coal-fired generating unit.

(C) The credit shall be claimed in the order required under section 5733.98 of the Revised Code. The taxpayer may carry forward any credit amount in excess of its tax due after allowing for any other credits that precede the credit allowed under this section in the order required under section 5733.98 of the Revised Code. The excess credit may be carried forward for three years following the tax year for which it is claimed under this section.

(D) The director of environmental protection, upon the request of the tax commissioner, shall certify whether a facility is a compliance facility. In the case of a compliance facility owned by an electric company, the public utilities commission shall certify to the tax commissioner the cost of the facility as of the date it was placed in service. In the case of a compliance facility owned by a person other than an electric company, the tax commissioner shall determine the cost of the facility as of the date it was

placed in service. If the owner of such a facility fails to furnish the information necessary to make that determination, no credit shall be allowed.

SECTION 2. That existing sections 5705.28, 5727.391, and 5733.39 of the Revised Code are hereby repealed.

SECTION 3. The amendment of section 5727.391 of the Revised Code by this act does not affect its earlier repeal, with delayed effective date, by Section 8 of Am. Sub. S.B. 3 of the 123rd General Assembly.

SECTION 4. The version of section 5733.39 of the Revised Code that results from Am. Sub. S.B. 3 of the 123rd General Assembly is hereby repealed. This repeal does not affect the version of section 5733.39 of the Revised Code as it results from Am. H.B. 384 of the 123rd General Assembly and is scheduled to take effect January 1, 2002.

SECTION 5. Section 5733.39 of the Revised Code, as amended by this act, shall take effect January 1, 2002.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____