

AN ACT

To amend sections 3317.01, 3317.021, 3317.025, 5709.61, 5727.08, 5727.47, and 5727.471 of the Revised Code to require public utilities to pay only the undisputed portion of property taxes if the utility disputes the Tax Commissioner's valuation, to provide for notification of any disputes to be given to county auditors and affected taxing districts, and to allow electricity generation plants and equipment to be exempted from taxation under the enterprise zone law even if they operate during nonpeak periods and for more than one-half of a year.

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

SECTION 1. That sections 3317.01, 3317.021, 3317.025, 5709.61, 5727.08, 5727.47, and 5727.471 of the Revised Code be amended to read as follows:

Sec. 3317.01. As used in this section and section 3317.011 of the Revised Code, "school district," unless otherwise specified, means any city, local, exempted village, joint vocational, or cooperative education school district and any educational service center.

This chapter shall be administered by the state board of education. The superintendent of public instruction shall calculate the amounts payable to each school district and shall certify the amounts payable to each eligible district to the treasurer of the district as provided by this chapter. No moneys shall be distributed pursuant to this chapter without the approval of the controlling board.

The state board of education shall, in accordance with appropriations made by the general assembly, meet the financial obligations of this chapter.

Annually, the department of education shall calculate and report to each school district the district's total state and local funds for providing an adequate basic education to the district's nonhandicapped students, utilizing the determination in section 3317.012 of the Revised Code. In addition, the

department shall calculate and report separately for each school district the district's total state and local funds for ~~providing~~ providing an adequate education for its handicapped students, utilizing the determinations in both sections 3317.012 and 3317.013 of the Revised Code.

Not later than the thirty-first day of August of each fiscal year, the department of education shall provide to each school district and county MR/DD board a preliminary estimate of the amount of funding that the department calculates the district will receive under each of divisions (C)(1) and (5) of section 3317.022 of the Revised Code. No later than the first day of December of each fiscal year, the department shall update that preliminary estimate.

Moneys distributed pursuant to this chapter shall be calculated and paid on a fiscal year basis, beginning with the first day of July and extending through the thirtieth day of June. The moneys appropriated for each fiscal year shall be distributed at least monthly to each school district unless otherwise provided for. The state board shall submit a yearly distribution plan to the controlling board at its first meeting in July. The state board shall submit any proposed midyear revision of the plan to the controlling board in January. Any year-end revision of the plan shall be submitted to the controlling board in June. If moneys appropriated for each fiscal year are distributed other than monthly, such distribution shall be on the same basis for each school district.

The total amounts paid each month shall constitute, as nearly as possible, one-twelfth of the total amount payable for the entire year. Payments made during the first six months of the fiscal year may be based on an estimate of the amounts payable for the entire year. Payments made in the last six months shall be based on the final calculation of the amounts payable to each school district for that fiscal year. Payments made in the last six months may be adjusted, if necessary, to correct the amounts distributed in the first six months, and to reflect enrollment increases when such are at least three per cent. Except as otherwise provided, payments under this chapter shall be made only to those school districts in which:

(A) The school district, except for any educational service center and any joint vocational or cooperative education school district, levies for current operating expenses at least twenty mills. Levies for joint vocational or cooperative education school districts or county school financing districts, limited to or to the extent apportioned to current expenses, shall be included in this qualification requirement. School district income tax levies under Chapter 5748. of the Revised Code, limited to or to the extent apportioned to current operating expenses, shall be included in this

qualification requirement to the extent determined by the tax commissioner under division ~~(C)~~(D) of section 3317.021 of the Revised Code.

(B) The school year next preceding the fiscal year for which such payments are authorized meets the requirement of section 3313.48 or 3313.481 of the Revised Code, with regard to the minimum number of days or hours school must be open for instruction with pupils in attendance, for individualized parent-teacher conference and reporting periods, and for professional meetings of teachers. This requirement shall be waived by the superintendent of public instruction if it had been necessary for a school to be closed because of disease epidemic, hazardous weather conditions, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, provided that for those school districts operating pursuant to section 3313.48 of the Revised Code the number of days the school was actually open for instruction with pupils in attendance and for individualized parent-teacher conference and reporting periods is not less than one hundred seventy-five, or for those school districts operating on a trimester plan the number of days the school was actually open for instruction with pupils in attendance not less than seventy-nine days in any trimester, for those school districts operating on a quarterly plan the number of days the school was actually open for instruction with pupils in attendance not less than fifty-nine days in any quarter, or for those school districts operating on a pentameter plan the number of days the school was actually open for instruction with pupils in attendance not less than forty-four days in any pentameter.

A school district shall not be considered to have failed to comply with this division or section 3313.481 of the Revised Code because schools were open for instruction but either twelfth grade students were excused from attendance for up to three days or only a portion of the kindergarten students were in attendance for up to three days in order to allow for the gradual orientation to school of such students.

The superintendent of public instruction shall waive the requirements of this section with reference to the minimum number of days or hours school must be in session with pupils in attendance for the school year succeeding the school year in which a board of education initiates a plan of operation pursuant to section 3313.481 of the Revised Code. The minimum requirements of this section shall again be applicable to such a district beginning with the school year commencing the second July succeeding the initiation of one such plan, and for each school year thereafter.

A school district shall not be considered to have failed to comply with

this division or section 3313.48 or 3313.481 of the Revised Code because schools were open for instruction but the length of the regularly scheduled school day, for any number of days during the school year, was reduced by not more than two hours due to hazardous weather conditions.

(C) The school district has on file, and is paying in accordance with, a teachers' salary schedule which complies with section 3317.13 of the Revised Code.

A board of education or governing board of an educational service center which has not conformed with other law and the rules pursuant thereto, shall not participate in the distribution of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, and 3317.19 of the Revised Code, except for good and sufficient reason established to the satisfaction of the state board of education and the state controlling board.

All funds allocated to school districts under this chapter, except those specifically allocated for other purposes, shall be used to pay current operating expenses only.

Sec. 3317.021. (A) On or before the first day of June of each year, the tax commissioner shall certify to the department of education the following information for each city, exempted village, and local school district and the information required by divisions (A)(1) and (2) of this section for each joint vocational school district, and it shall be used, along with the information certified under division (B) of this section, in making the computations for the district under section 3317.022 or 3317.16 of the Revised Code:

(1) The taxable value of real and public utility real property in the school district subject to taxation in the preceding tax year, by class and by county of location;

(2) The taxable value of tangible personal property, including public utility personal property, subject to taxation by the district for the preceding tax year;

(3)(a) The total property tax rate and total taxes charged and payable for the current expenses for the preceding tax year and the total property tax rate and the total taxes charged and payable to a joint vocational district for the preceding tax year that are limited to or to the extent apportioned to current expenses;

(b) The portion of the amount of taxes charged and payable reported for each city, local, and exempted village school district under division (A)(3)(a) of this section attributable to a joint vocational school district.

(4) The value of all real and public utility real property in the school district exempted from taxation minus both of the following:

(a) The value of real and public utility real property in the district owned by the United States government and used exclusively for a public purpose;

(b) The value of real and public utility real property in the district exempted from taxation under Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code.

(5) The total effective operating tax rate for the district in the tax year for which the most recent data are available.

(B) On or before the first day of May each year, the tax commissioner shall certify to the department of education the total taxable real property value of railroads and, separately, the total taxable tangible personal property value of all public utilities for the preceding tax year, by school district and by county of location.

(C) If a public utility has properly and timely filed a petition for reassessment under section 5727.47 of the Revised Code with respect to an assessment issued under section 5727.23 of the Revised Code affecting taxable property apportioned by the tax commissioner to a school district, the taxable value of public utility tangible personal property included in the certification under divisions (a)(2) and (b) of this section for the school district shall include only the amount of taxable value on the basis of which the public utility paid tax for the preceding year as provided in division (B)(1) or (2) of section 5727.47 of the Revised Code.

(D) If on the basis of the information certified under division (A) of this section, the department determines that any district fails in any year to meet the qualification requirement specified in division (A) of section 3317.01 of the Revised Code, the department shall immediately request the tax commissioner to determine the extent to which any school district income tax levied by the district under Chapter 5748. of the Revised Code shall be included in meeting that requirement. Within five days of receiving such a request from the department, the tax commissioner shall make the determination required by this division and report the quotient obtained under division ~~(C)~~(D)(3) of this section to the department. This quotient represents the number of mills that the department shall include in determining whether the district meets the qualification requirement of division (A) of section 3317.01 of the Revised Code.

The tax commissioner shall make the determination required by this division as follows:

(1) Multiply one mill times the total taxable value of the district as determined in divisions (A)(1) and (2) of this section;

(2) Estimate the total amount of tax liability for the current tax year

under taxes levied by Chapter 5748. of the Revised Code that are apportioned to current operating expenses of the district;

(3) Divide the amount estimated under division ~~(C)~~(D)(2) of this section by the product obtained under division ~~(C)~~(D)(1) of this section.

~~(D)~~(E) As used in this section:

(1) "Class I taxes charged and payable for current expenses" means taxes charged and payable for current expenses on land and improvements classified as residential/agricultural real property under section 5713.041 of the Revised Code.

(2) "Class I taxable value" means the taxable value of land and improvements classified as residential/agricultural real property under section 5713.041 of the Revised Code.

(3) "Class I effective operating tax rate" of a school district means the quotient obtained by dividing the school district's Class I taxes charged and payable for current expenses by the district's Class I taxable value.

(4) "Income tax equivalent tax rate" of a school district means the quotient obtained by dividing the income tax revenue disbursed during the current fiscal year under any tax levied pursuant to Chapter 5748. of the Revised Code by total taxable value of the district to the extent the revenue from the tax is allocated or apportioned to current expenses.

(5) "Total effective operating tax rate" means the sum of the Class I effective operating tax rate and the income tax equivalent tax rate.

Sec. 3317.025. On or before the first day of June of each year, the tax commissioner shall certify the following information to the department of education, for each school district in which the value of the property described under division (A) of this section exceeds one per cent of the taxable value of all real and tangible personal property in the district or in which is located tangible personal property designed for use or used in strip mining operations, whose taxable value exceeds five million dollars, and the taxes upon which the district is precluded from collecting by virtue of legal proceedings to determine the value of such property:

(A) The total taxable value of all property in the district owned by a public utility or railroad that has filed a petition for reorganization under the "Bankruptcy Act," 47 Stat. 1474 (1898), 11 U.S.C. 205, as amended, and all tangible personal property in the district designed for use or used in strip mining operations whose taxable value exceeds five million dollars upon which have not been paid in full on or before the first day of April of that calendar year all real and tangible personal property taxes levied for the preceding calendar year and which the district was precluded from collecting by virtue of proceedings under section 205 of said act or by virtue

of legal proceedings to determine the tax liability of such strip mining equipment;

(B) The percentage of the total operating taxes charged and payable for school district purposes levied against such valuation for the preceding calendar year which have not been paid by such date;

(C) The product obtained by multiplying the value certified under division (A) of this section by the percentage certified under division (B) of this section. If the value certified under division (A) of this section includes taxable property owned by a public utility or railroad that has filed a petition for reorganization under the bankruptcy act, the amount used in making the calculation under this division shall be reduced by one per cent of the total value of all real and tangible personal property in the district or the value of the utility's or railroad's property, whichever is less.

Upon receipt of the certification, the department shall recompute the payments required under section 3317.022 of the Revised Code in the manner the payments would have been computed if:

(1) The amount certified under division (C) of this section was not subject to taxation by the district and was not included in the certification made under division (A)(1), (A)(2), or ~~(C)(D)~~ of section 3317.021 of the Revised Code.

(2) The amount of taxes charged and payable and unpaid and used to make the computation under division (B) of this section had not been levied and had not been used in the computation required by division (B) of section 3317.021 of the Revised Code. The department shall pay the district that amount in the ensuing fiscal year in lieu of the amounts computed under section 3317.022 of the Revised Code.

Sec. 5709.61. As used in sections 5709.61 to 5709.69 of the Revised Code:

(A) "Enterprise zone" or "zone" means any of the following:

(1) An area with a single continuous boundary designated in the manner set forth in section 5709.62 or 5709.63 of the Revised Code and certified by the director of development as having a population of at least four thousand according to the best and most recent data available to the director and having at least two of the following characteristics:

(a) It is located in a municipal corporation defined by the United States office of management and budget as a central city of a metropolitan statistical area;

(b) It is located in a county designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended;

(c) Its average rate of unemployment, during the most recent twelve-month period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the state of Ohio for the same period;

(d) There is a prevalence of commercial or industrial structures in the area that are vacant or demolished, or are vacant and the taxes charged thereon are delinquent, and certification of the area as an enterprise zone would likely result in the reduction of the rate of vacant or demolished structures or the rate of tax delinquency in the area;

(e) The population of all census tracts in the area, according to the federal census of 1990, decreased by at least ten per cent between the years 1970 and 1990;

(f) At least fifty-one per cent of the residents of the area have incomes of less than eighty per cent of the median income of residents of the municipal corporation or municipal corporations in which the area is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(g) The area contains structures previously used for industrial purposes but currently not so used due to age, obsolescence, deterioration, relocation of the former occupant's operations, or cessation of operations resulting from unfavorable economic conditions either generally or in a specific economic sector;

(h) It is located within one or more adjacent city, local, or exempted village school districts, the income-weighted tax capacity of each of which is less than seventy per cent of the average of the income-weighted tax capacity of all city, local, or exempted village school districts in the state according to the most recent data available to the director from the department of taxation.

The director of development shall adopt rules in accordance with Chapter 119. of the Revised Code establishing conditions constituting the characteristics described in divisions (A)(1)(d), (g), and (h) of this section.

If an area could not be certified as an enterprise zone unless it satisfied division (A)(1)(g) of this section, the legislative authority may enter into agreements in that zone under section 5709.62, 5709.63, or 5709.632 of the Revised Code only if such agreements result in the development of the facilities described in that division, the parcel of land on which such facilities are situated, or adjacent parcels. The director of development annually shall review all agreements in such zones to determine whether the agreements have resulted in such development; if the director determines

that the agreements have not resulted in such development, the director immediately shall revoke certification of the zone and notify the legislative authority of such revocation. Any agreements entered into prior to revocation under this paragraph shall continue in effect for the period provided in the agreement.

(2) An area with a single continuous boundary designated in the manner set forth in section 5709.63 of the Revised Code and certified by the director of development as:

(a) Being located within a county that contains a population of three hundred thousand or less;

(b) Having a population of at least one thousand according to the best and most recent data available to the director;

(c) Having at least two of the characteristics described in divisions (A)(1)(b) to (h) of this section.

(3) An area with a single continuous boundary designated in the manner set forth under division (A)(1) of section 5709.632 of the Revised Code and certified by the director of development as having a population of at least four thousand, or under division (A)(2) of that section and certified as having a population of at least one thousand, according to the best and most recent data available to the director.

(B) "Enterprise" means any form of business organization including, but not limited to, any partnership, sole proprietorship, or corporation, including an S corporation as defined in section 1361 of the Internal Revenue Code and any corporation that is majority work-owned either directly through the ownership of stock or indirectly through participation in an employee stock ownership plan.

(C) "Facility" means an enterprise's place of business in a zone, including land, buildings, machinery, equipment, and other materials, except inventory, used in business. "Facility" includes land, buildings, machinery, production and station equipment, other equipment, and other materials, except inventory, used in business to generate electricity ~~that is designed and intended to operate during peak load periods and to generate electricity during no more than four thousand three hundred fifty hours in a calendar year~~, provided that, for purposes of sections 5709.61 to 5709.69 of the Revised Code, the value of the property at such a facility shall be reduced by the value, if any, that is not apportioned under section 5727.15 of the Revised Code to the taxing district in which the facility is physically located. In the case of such a facility that is physically located in two adjacent taxing districts, the property located in each taxing district constitutes a separate facility.

"Facility" does not include any portion of an enterprise's place of business used primarily for making retail sales unless the place of business is located in an impacted city as defined in section 1728.01 of the Revised Code.

(D) "Vacant facility" means a facility that has been vacant for at least ninety days immediately preceding the date on which an agreement is entered into under section 5709.62 or 5709.63 of the Revised Code.

(E) "Expand" means to make expenditures to add land, buildings, machinery, equipment, or other materials, except inventory, to a facility that equal at least ten per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(F) "Renovate" means to make expenditures to alter or repair a facility that equal at least fifty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(G) "Occupy" means to make expenditures to alter or repair a vacant facility equal to at least twenty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(H) "Project site" means all or any part of a facility that is newly constructed, expanded, renovated, or occupied by an enterprise.

(I) "Project" means any undertaking by an enterprise to establish a facility or to improve a project site by expansion, renovation, or occupancy.

(J) "Position" means the position of one full-time employee performing a particular set of tasks and duties.

(K) "Full-time employee" means an individual who is employed for consideration by an enterprise for at least thirty-five hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(L) "New employee" means a full-time employee first employed by an enterprise at a facility that is a project site after the enterprise enters an agreement under section 5709.62 or 5709.63 of the Revised Code. "New employee" does not include an employee if, immediately prior to being employed by the enterprise, the employee was employed by an enterprise that is a related member or predecessor enterprise of that enterprise.

(M) "Unemployed person" means any person who is totally unemployed in this state, as that term is defined in division (M) of section 4141.01 of the Revised Code, for at least ten consecutive weeks immediately preceding that person's employment at a facility that is a project site, or who is so unemployed for at least twenty-six of the fifty-two weeks immediately preceding that person's employment at such a facility.

(N) "JTPA eligible employee" means any individual who is eligible for employment or training under the "Job Training Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as amended.

(O) "First used in business" means that the property referred to has not been used in business in this state by the enterprise that owns it, or by an enterprise that is a related member or predecessor enterprise of such an enterprise, other than as inventory, prior to being used in business at a facility as the result of a project.

(P) "Training program" means any noncredit training program or course of study that is offered by any state college or university; university branch district; community college; technical college; nonprofit college or university certified under section 1713.02 of the Revised Code; school district; joint vocational school district; school registered and authorized to offer programs under section 3332.05 of the Revised Code; an entity administering any federal, state, or local adult education and training program; or any enterprise; and that meets all of the following requirements:

(1) It is approved by the director of development;

(2) It is established or operated to satisfy the need of a particular industry or enterprise for skilled or semi-skilled employees;

(3) An individual is required to complete the course or program before filling a position at a project site.

(Q) "Development" means to engage in the process of clearing and grading land, making, installing, or constructing water distribution systems, sewers, sewage collection systems, steam, gas, and electric lines, roads, curbs, gutters, sidewalks, storm drainage facilities, and construction of other facilities or buildings equal to at least fifty per cent of the market value of the facility prior to the expenditures, as determined for the purposes of local property taxation.

(R) "Large manufacturing facility" means a single Ohio facility that employed an average of at least one thousand individuals during the five calendar years preceding an agreement authorized under division (C)(3) of section 5709.62 or division (B)(2) of section 5709.63 of the Revised Code. For purposes of this division, both of the following apply:

(1) A single Ohio manufacturing facility employed an average of at least one thousand individuals during the five calendar years preceding entering into such an agreement if one-fifth of the sum of the number of employees employed on the highest employment day during each of the five calendar years equals or exceeds one thousand.

(2) The highest employment day is the day or days during a calendar year on which the number of employees employed at a single Ohio

manufacturing facility was greater than on any other day during the calendar year.

(S) "Business cycle" means the cycle of business activity usually regarded as passing through alternating stages of prosperity and depression.

(T) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold.

(U) "Environmentally contaminated" means that hazardous substances exist at a facility under conditions that have caused or would cause the facility to be identified as contaminated by the state or federal environmental protection agency. These may include facilities located at sites identified in the master sites list or similar database maintained by the state environmental protection agency if the sites have been investigated by the agency and found to be contaminated.

(V) "Remediate" means to make expenditures to clean up an environmentally contaminated facility so that it is no longer environmentally contaminated that equal at least ten per cent of the real property market value of the facility prior to such expenditures as determined for the purposes of property taxation.

(W) "Related member" has the same meaning as defined in section 5733.042 of the Revised Code without regard to division (B) of that section, except that it is used with respect to an enterprise rather than a taxpayer.

(X) "Predecessor enterprise" means an enterprise from which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

(Y) "Successor enterprise" means an enterprise to which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

Sec. 5727.08. On or before the first day of March, annually, each public utility shall file a report with the tax commissioner, on a form prescribed by ~~him~~ the tax commissioner. The report shall include such information as the tax commissioner requires to enable ~~him~~ the tax commissioner to make any assessment or apportionment required under this chapter.

~~Such~~ The report shall be signed by either the owner of the public utility or the president, secretary, treasurer, or another duly authorized person.

If a public utility fails to file the report on or before the first day of March, or the date it is due under an extension allowed pursuant to section 5727.48 of the Revised Code, or fails to accurately report all taxable

property, the tax commissioner ~~shall~~ may impose a penalty of up to fifty per cent of the taxable value of the property that was not timely or accurately reported. However, if ~~such~~ the public utility files, within sixty days after the first day of March or the extended due date, the report or an amended report and discloses all items of taxable property that are required by this chapter to be reported, the penalty shall ~~be up to~~ not be more than five per cent of the taxable value that was not timely or accurately reported. The penalty shall be added to and considered a part of the total taxable value of the property that was not timely or accurately reported, and may be abated in whole or in part by the tax commissioner pursuant to a petition for reassessment filed under section 5727.47 of the Revised Code.

Sec. 5727.47. (A) A copy of each assessment certified pursuant to section 5727.23 or 5727.38 of the Revised Code shall be mailed to the public utility, and its mailing shall be prima-facie evidence of its receipt by the public utility to which it is addressed. If a public utility objects to any assessment certified to it pursuant to such sections, it may file a petition for reassessment with the tax commissioner. The petition must be made in writing, signed by the authorized agent of the utility having knowledge of the facts, and filed with the tax commissioner, in person or by ~~certified~~ mail, within thirty days from the date that the assessment was mailed. If the petition is filed by certified mail, the date of the United States postmark placed on the sender's receipt by the postal employee to whom the petition is presented shall be treated as the date of filing. ~~A true copy of the assessment objected to shall be attached to the petition and shall be incorporated by reference into the petition, but the failure to attach a copy of the assessment and incorporate it by reference does not invalidate the petition.~~ The petition ~~also~~ shall indicate the utility's objections, but additional objections may be raised in writing if received prior to the date shown on the final determination by the commissioner.

~~Notwithstanding the fact that a petition has been filed,~~ In the case of a petition seeking a reduction in taxable value filed with respect to an assessment issued under section 5727.23 of the Revised Code, the petitioner shall state in the petition the total amount of reduction in taxable value sought by the petitioner. If the petitioner objects to the percentage of true value at which taxable property is assessed by the tax commissioner, the petitioner shall state in the petition the total amount of reduction in taxable value sought both with and without regard to the objection pertaining to the percentage of true value at which its taxable property is assessed. If a petitioner objects to the tax commissioner's apportionment of the taxable value of the petitioner's taxable property, the petitioner shall distinctly state

in the petition that the petitioner objects to the tax commissioner's apportionment, and, within forty-five days after filing the petition for reassessment, shall submit the petitioner's proposed apportionment of the taxable value of its taxable property among taxing districts. If a petitioner that objects to the tax commissioner's apportionment fails to state its objections to that apportionment in its petition for reassessment or fails to submit its proposed apportionment within forty-five days after filing the petition for reassessment, the tax commissioner shall dismiss the petitioner's objection to the tax commissioner's apportionment, and the taxable value of the petitioner's taxable property, subject to any adjustment to taxable value pursuant to the petition or appeal, shall be apportioned in the manner used by the tax commissioner in the preliminary or amended preliminary assessment issued under section 5727.23 of the Revised Code.

If an additional objection seeking a reduction in taxable value in excess of the reduction stated in the original petition is properly and timely raised with respect to an assessment issued under section 5727.23 of the Revised Code, the petitioner shall state the total amount of the reduction in taxable value sought in the additional objection both with and without regard to any reduction in taxable value pertaining to the percentage of true value at which taxable property is assessed. If a petitioner fails to state the reduction in taxable value sought in the original petition or in additional objections properly raised after the petition is filed, the tax commissioner shall notify the petitioner of the failure by certified mail. If the petitioner fails to notify the tax commissioner in writing of the reduction in taxable value sought in the petition or in an additional objection within thirty days after receiving the tax commissioner's notice, the tax commissioner shall dismiss the petition or the additional objection in which that reduction is sought.

(B)(1) Subject to divisions (B)(2) and (3) of this section, a public utility filing a petition for reassessment regarding an assessment issued under section 5727.23 or 5727.38 of the Revised Code shall pay the tax with respect to the assessment objected to ~~shall be paid~~ as required by law. The acceptance of ~~the~~ any tax payment by the treasurer of state or any county treasurer shall not prejudice any claim for taxes on final determination by the tax commissioner or final decision by the board of tax appeals or any court.

(2) If a public utility properly and timely files a petition for reassessment regarding an assessment issued under section 5727.23 of the Revised Code, the petitioner shall pay the tax as prescribed by divisions (B)(2)(a), (b), and (c) of this section:

(a) If the petitioner does not object to the tax commissioner's

apportionment of the taxable value of the petitioner's taxable property, the petitioner is not required to pay the part of the tax otherwise due on the taxable value that the petitioner seeks to have reduced, subject to division (B)(2)(c) of this section.

(b) If the petitioner objects to the tax commissioner's apportionment of the taxable value of the petitioner's taxable property, the petitioner is not required to pay the tax otherwise due on the part of the taxable value apportioned to any taxing district that the petitioner objects to, subject to division (B)(2)(c) of this section. If, pursuant to division (A) of this section, the petitioner has, in a proper and timely manner, apportioned taxable value to a taxing district to which the tax commissioner did not apportion the petitioner's taxable value, the petitioner shall pay the tax due on the taxable value that the petitioner has apportioned to the taxing district, subject to division (B)(2)(c) of this section.

(c) If a petitioner objects to the percentage of true value at which taxable property is assessed by the tax commissioner, the petitioner shall pay the tax due on the basis of the percentage of true value at which the public utility's taxable property is assessed by the tax commissioner. In any case, the petitioner's payment of tax shall not be less than the amount of tax due based on the taxable value reflected on the last appeal notice issued by the tax commissioner under division (C) of this section. Until the county auditor receives notification under division (E) of this section and proceeds under section 5727.471 of the Revised Code to issue any refund that is found to be due, the county auditor shall not issue a refund for any increase in the reduction in taxable value that is sought by a petitioner later than forty-five days after the petitioner files the original petition as required under division (A) of this section.

(3) Any part of the tax that, under division (B)(2)(a) or (b) of this section, is not paid shall be collected upon receipt of the notification as provided in section 5727.471 of the Revised Code with interest thereon computed in the same manner as interest is computed under division (E) of section 5715.19 of the Revised Code, subject to any correction of the assessment by the tax commissioner under division (E) of this section or the final judgment of the board of tax appeals or a court to which the board's final judgment is appealed. The penalty imposed under section 323.121 of the Revised Code shall apply only to the unpaid portion of the tax if the petitioner's tax payment is less than the amount of tax due based on the taxable value reflected on the last appeal notice issued by the tax commissioner under division (C) of this section.

(C) Upon receipt of a properly filed petition for reassessment, the tax

commissioner shall notify the treasurer of state or the auditor of each county to which the assessment objected to has been certified. In the case of a petition with respect to an assessment issued under section 5727.23 of the Revised Code, the tax commissioner shall issue an appeal notice within thirty days after receiving the amount of the taxable value reduction and apportionment changes sought by the petitioner in the original petition or in any additional objections properly and timely raised by the petitioner. The appeal notice shall indicate the amount of the reduction in taxable value sought in the petition or in the additional objections and the extent to which the reduction in taxable value and any change in apportionment requested by the petitioner would affect the tax commissioner's apportionment of the taxable value among taxing districts in the county as shown in the assessment. If a petitioner is seeking a reduction in taxable value on the basis of a lower percentage of true value than the percentage at which the tax commissioner assessed the petitioner's taxable property, the appeal notice shall indicate the reduction in taxable value sought by the petitioner without regard to the reduction sought on the basis of the lower percentage and shall indicate that the petitioner is required to pay tax on the reduced taxable value determined without regard to the reduction sought on the basis of a lower percentage of true value, as provided under division (B)(2)(c) of this section. The appeal notice shall include a statement that the reduced taxable value and the apportionment indicated in the notice are not final and are subject to adjustment by the tax commissioner or by the board of tax appeals or a court on appeal. If the tax commissioner finds an error in the appeal notice, the tax commissioner may amend the notice, but the notice is only for informational and tax payment purposes; the notice is not subject to appeal by any person. The tax commissioner also shall mail a copy of the appeal notice to the petitioner. Upon the request of a taxing authority, the county auditor may disclose to the taxing authority the extent to which a reduction in taxable value sought by a petitioner would affect the apportionment of taxable value to the taxing district or districts under the taxing authority's jurisdiction, but such a disclosure does not constitute a notice required by law to be given for the purpose of section 5717.02 of the Revised Code.

(D) Unless the petitioner waives a hearing, the commissioner shall assign a time and place for the hearing on the petition and notify the petitioner of the time and place of the hearing by personal service or certified mail, but the commissioner may continue the hearing from time to time if necessary.

(E) The tax commissioner may make such correction to the assessment

as the tax commissioner finds proper. The tax commissioner shall serve a copy of the commissioner's final determination on the petitioner by personal service or certified mail, and the tax commissioner's decision in the matter shall be final, subject to appeal as provided in section 5717.02 of the Revised Code. The tax commissioner also shall transmit a copy of the final determination to the treasurer of state or applicable county auditor. In the absence of any further appeal, or when a decision of the board of tax appeals or of any court to which the decision has been appealed becomes final, the tax commissioner shall notify the public utility and, as appropriate, the treasurer of state who shall proceed under section 5727.42 of the Revised Code, or the applicable county auditor who shall proceed under section 5727.471 of the Revised Code. The in any notification regarding an assessment issued under section 5727.23 of the Revised Code, the tax commissioner shall include a notice of the amount of any state basic aid overpayment, as defined in section 5727.471 of the Revised Code, to a school district affected by the notification. upon the tax commissioner's request, the department of education shall certify to the tax commissioner the amount of any state basic aid overpayment to a school district.

The notification made under this division is not subject to further appeal.

(F) On appeal, no adjustment shall be made in the tax commissioner's assessment issued under section 5727.23 of the Revised Code that reduces the taxable value of a petitioner's taxable property by an amount that exceeds the reduction sought by the petitioner in its petition for reassessment or in any additional objections properly and timely raised after the petition is filed with the tax commissioner.

Sec. 5727.471. (A) As used in this section, ~~"notification;~~

(1) "Notification" means notification required by section 5727.47 of the Revised Code to be sent by the tax commissioner to the county auditor as to the disposition of a petition for reassessment, or of a decision of the board of tax appeals or any court with respect to an assessment of public utility property taxes.

(2) "State basic aid overpayment" for a school district means the amount by which the payment computed for a fiscal year under section 3317.022 of the Revised Code exceeds the amount that would have been computed for that fiscal year if the taxable value certified under division (A)(2) and (B) of section 3317.021 of the Revised Code for the tax year preceding that fiscal year had been the taxable value shown in the notification for that tax year.

(B) On receipt of the notification, the auditor shall determine whether there has been an underpayment or overpayment of taxes by the public

utility. In the case of an underpayment of taxes, the auditor shall notify the county treasurer of the amount, and the treasurer shall proceed to collect the underpayment as required by law. ~~In~~ From the proceeds of the underpayment so collected that are otherwise payable to a city, local, or exempted village school district, the county treasurer shall deduct and withhold an amount equal to the state basic aid overpayment, if any, to the school district, plus interest on that amount at the rate prescribed by section 5703.47 of the Revised Code from the last day of the fiscal year for which the state basic aid payment was made to the day the underpayment is collected. The county treasurer shall pay the amount deducted and withheld to the treasurer of state, who shall credit the payment to the general revenue fund. If the state basic aid overpayment and interest exceeds the amount of the tax underpayment collected that is otherwise payable to the school district, the county treasurer shall collect the difference from the school district or deduct and withhold the difference from the next distribution or advance payment of property taxes to the district, and shall pay that difference to the treasurer of state, who shall credit the payment to the general revenue fund.

In the case of an overpayment of taxes, the auditor shall do any one of the following:

- (1) Refund the full amount of the overpayment;
- (2) Refund a portion of the overpayment and prorate the remaining balance as a credit against future taxes that may be charged to the public utility;
- (3) Prorate the full amount of the overpayment as a credit against future taxes that may be charged to the public utility.

(C)(1) The auditor shall have discretion as to which method to use and shall advise the public utility of ~~his~~ the auditor's decision within sixty days after receipt of the notification. The auditor shall make payment of any refund under division (B)(1) or (2) of this section within ninety days after receipt of the notification. Except as otherwise provided in division (C)(2) of this section, any amount to be credited under division (B)(2) or (3) of this section shall be applied to all or a part of the taxes otherwise due from the public utility on real and public utility property tax installment due dates after the date on which the notification was received, but shall not be spread over more than the next ten ensuing installment due dates. If any portion of the overpayment has not been refunded or credited by the tenth such tax installment due date after the date on which the notification was received, the auditor immediately shall refund that portion.

- (2) The tax commissioner may certify to a county auditor, in writing,

that a public utility is no longer required to file a report under section 5727.08 of the Revised Code. Within ninety days of the date of such certification, the auditor shall refund to the utility, with applicable interest, the portion of any overpayment that has not been refunded or credited to the utility under this section.

(D) The auditor shall add interest to the amount of any overpayment of taxes at the rate per calendar month, rounded to the nearest one-hundredth of one per cent, equal to one-twelfth of the rate per annum prescribed by section 5703.47 of the Revised Code. The interest shall begin to accrue from the first day of the month following the date of the overpayment until the last day of the month preceding the date the overpayment or portion of the overpayment is refunded or credited, and shall be computed separately on each amount actually refunded or credited. In computing interest on credits, when an overpayment is credited against an installment of current taxes due from the utility pursuant to this section, the overpayment shall be considered to have been credited on the last date on which those taxes may be paid without penalty.

(E) The refund and crediting of any overpayment, including interest, shall be paid from or credited against the fund or funds and the taxing districts to which the overpayment originally was paid, in proportion to the amount of the overpayment received. The auditor shall correct ~~his~~ the auditor's tax lists in accordance with the refund or credit, and shall certify corrections in the tax duplicates to the county treasurer. At each settlement affected by a refund or credit under this section, the amount of the refund or credit shall be deducted from the amount of any taxes or assessments distributable to the county or any taxing unit in the county that has received the benefit of the taxes or assessment previously overpaid, in proportion to the overpayment previously received.

SECTION 2. That existing sections 3317.01, 3317.021, 3317.025, 5709.61, 5727.08, 5727.47, and 5727.471 of the Revised Code are hereby repealed.

SECTION 3. The amendment by this act of sections 5727.08 and 5727.47 of the Revised Code applies to tax years 2001 and thereafter.

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 _____