



# County Auditors' Association of Ohio

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Testimony of County Auditors' Association of Ohio  
Sub. HB 49 as Passed by House  
Senate Finance General Government & Agency Review Subcommittee  
May 18, 2017

Chairman Jordan, I am Andrea Weaver, Union 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 as well as concern on items 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 including residential, businesses, and farmers. Because of the way our tax law functions, significant changes to the value of one group of taxpayers may have unintended consequences 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 two provisions 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 and significant changes to the CAUV formula. We believe these major policy decisions cannot be made the context of the large budget bill.

### **Payment of Fees for Appeal of Property Tax Valuation Case**

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 Board of Revision, they can appeal to the Board of Tax Appeals. 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 Board of Tax Appeals (BTA) to the Ohio Supreme Court, they do not take 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. In addition, the proposed law uses the word "prevails" as to when the reimbursement provision is applicable. 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.

#### **Changes to CAUV Formula**

Similarly, significant changes to the value of commercial agricultural property may have the unintended consequences of impacting the value of other properties and/or reducing the revenue to taxing districts including schools. County Auditors are also struggling with the implementation of the bill's provisions on conservation practices.

It appears that adjustments made by the Ohio Department of Taxation are beginning to have impact; we expect to see downward pressure on commercial agricultural real estate values without any further changes. However, should proposed changes be made to certain components of the formula that lower the value of commercial agricultural property, there will also be significant unintended outcomes.

#### **Tax Shifting from Agricultural Taxpayers to Residential Taxpayers**

Reductions in CAUV values will lead to increases in taxes paid by residential taxpayers. This effect operates on fixed-dollar levies, generally bond levies and school district emergency levies designed to raise a designated amount of revenue annually, regardless of what happens to property values. Decreases in agricultural values will mean that tax rates will have to increase in order to generate the necessary revenue. Taxes will increase on all other property in the district, including residential property.



### **Reductions in Tax Revenue for Schools and other Local Governments**

Since Ohio law prohibits the effective millage rate of a voted property tax levy to exceed its initially voted rate, the local government (school, library, township, or other entity) would see a reduction in tax revenue. This will occur because the tax rate increase necessary to offset the decrease in CAUV value would cause the millage rate of the levy to exceed its originally voted millage rate.

### **Impact of Conservation Changes Undeterminable**

Under current law (ORC 5713.30) land devoted exclusively to agricultural use includes land that is used for conservation practices, provided the conservation area comprise twenty-five per cent or less of the total of the applicable farmland. Conservation practices are defined as practices used to abate soil erosion as required in the management of the farming operation and are easily identifiable. Valuing this land at the lowest values of all soil types is predictable and manageable.

However, it appears to be impossible to ascertain the number of acres that are devoted to a land retirement or conservation program under an agreement with an agency of the federal government. Without specifically identifying the types of federal conservation programs and knowing the number of acres affected we are not only unable to calculate the impact of valuing this land at the lowest values of all soil types but not at all clear as to a process to arrive at that amount. We look forward to some clarification.

As an interested party to SB 36, the CAAO believes this major policy change must be considered outside of the highly charged environment of the biennial budget bill and through a thorough legislative committee process. The time constraints that underlie the budget bill do not offer the opportunity for due consideration of the intricacies and details contained within SB 36. We are confident that with detailed and systematic analysis and dialog a solution may be possible that does not pick winners and losers.

We hope you will consider this information and resist attempts to include CAUV changes in the biennial budget bill. 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.