



**Senate Finance Subcommittee on Primary and Secondary Education
Amended Substitute House Bill 166 Interested Party Testimony
Buckeye Association of School Administrators
Ohio Association of School Business Officials
Ohio School Boards Association
May 15, 2019**

Chairman Terhar, Vice Chair Lehner, Ranking Member Fedor, and members of the Committee. My name is Barbara Shaner, and I represent the Ohio Association of School Business Officials (OASBO). Joining me today for this testimony are Thomas Ash from the Buckeye Association of School Administrators, and Jay Smith from the Ohio School Boards Association. Thank you for the opportunity to speak to you today regarding the non-funding related provisions in Amended Substitute House Bill (Am. Sub. HB) 166, the biennial budget bill.

Collectively, we represent public school board members, superintendents, treasurers/CFOs, and other school business officials from around the state. They all have a strong interest in the education policy changes proposed in the House version of HB 166. On behalf of our members, we are here to share some important information about a few of the proposed changes.

We begin by listing several items added to the bill by the House for which we are grateful:

- The removal of the laws requiring the appointment of Academic Distress Commissions (ADCs) when districts are struggling academically. The provisions currently in HB 166 would replace ADCs with a reasonable process for buildings that received an “F” on the district’s report card in the previous year. This change is a huge step in overcoming the negative effects of what we all refer to as “HB 70,” enacted in 2015, providing a process for local communities to help schools improve.
- The provision allowing school districts more flexibility when required to transport private and community school students to school. The bill expressly permits districts to drop students off at the school up to 30 minutes before the bell and pick up students up to 30 minutes after the end of the school day. This will allow districts to operate more efficiently and make it easier to schedule appropriate routing.
- A “fix” to the school district earned income tax. When the small business income tax exemption was established, the exemption did not apply to the traditional school district income tax. However, we believe it was inadvertently applied to the school district earned income tax. The earned income tax is favored by retired residents who are often on a fixed income from a pension or social security. The House version of the bill would correct this and remove the exemption and therefore making it a more viable option for districts than the traditional income tax.
- Allowance for Educational Service Centers to participate in the Medicaid School Program (MSP). Many ESCs provide services directly to students but have not been permitted to utilize the MSP for reimbursement.

We ask that the Senate retain these provisions in HB 166.

Unfortunately, there are proposals contained in the House version of the bill with which we are opposed. The proposals come from three current bills, two that had not been acted upon by a House committee before they were inserted into HB 166. Consequently, we did not have the opportunity to testify in opposition. We hope you will agree to remove these provisions.

First is the issue of changes proposed to the County Board of Revision (BOR) process (as contained in HB 75). We object to what we consider unnecessary changes to this long-respected BOR system. The changes create an undue burden for schools' districts, adding cost and creating new state mandates.

HB 166 requires:

- Notification to the property owners by the school district or local government to let them know the district is considering a challenge to the current valuation of the property.
 - This is a redundant mandate because **the BOR process is already set up for this purpose** (affected property owners are notified).
- After making notification, the governing authority would have to pass a resolution for each property, indicating it will challenge the values for specific properties (all resolutions can be passed with one vote).
 - This step would have the effect of **politicizing the decisions as to which properties would be challenged.**
- These provisions apply whether the schools and local governments are initiating a valuation complaint or filing a counter-claim after a property owner has filed a challenge to the value of property as being set too high.

Ohio's current property valuation and tax system has worked to benefit its citizens for decades. Through the county BOR, the system affords all interested parties the ability to participate in the process, providing a proper procedure for checks and balances to preserve and maintain fair and equal taxation practices.

In other words, by participating in the current BOR process, school districts are seeking protection for all property owners; district leaders do not do so to ask property owners to pay more in taxes than what is fair based on the actual worth of their property for tax purposes. When one property is valued too low, the other property owners in the taxing district pay more to subsidize a neighbor.

- Because of the effects of "HB 920," commercial property owners with accurate property values **will pay more than their fair share of taxes, subsidizing the lower taxes paid by commercial property owners whose properties are undervalued.**
 - **This is also true for residential property owners.**

Jay Smith will now continue our testimony:

We understand that concerns about the current BOR process have been raised by various stakeholders. While we believe schools across the state largely act responsibly, proponents of these changes have alleged the following:

- Attorneys are filing Board of Revision valuation challenges without the knowledge or approval of the taxing entity.
- School board members are unaware of the BOR action initiated by the administration of the district.
- There are frivolous filings on behalf of the district because attorneys operate on a contingency basis.

As a good faith effort to recognize the need for school districts to utilize best practices in these cases, we have developed the following suggestions for addressing the perceived abuses of the privilege of participating in the BOR process:

1. Boards of education that intend to file claims (and counterclaims) to request valuation increases (or to defend the auditor's values) must adopt a policy by resolution setting the parameters for the participation in the BOR process.
2. Contracts with any agent (attorney) working on behalf of a school district must include only a fee-for-service payment arrangement. There would be no contingency payments based on the results of valuation challenges.

****Note:** It is our understanding that it is customary for attorneys representing property owners to operate on a contingency basis (performance/results). We have no objection to this practice by the property owner.

3. Contracts with any agent must stipulate that no claims or counterclaims may be submitted to the BOR without prior approval by the administration of the district (superintendent or treasurer/CFO). The contracts must also be compliant with any other requirements as indicated through the district's board policy.
4. The administration should be required to report to the governing board on its BOR activity.

The new mandates in the bill appear to discourage schools and local governments from accessing the BOR process. The result will be unfortunate not only for the taxing entities themselves, but also for the **residential and commercial property owners whose values are set at accurate levels**. We urge you to remove these changes from the bill.

Our next topic is a proposal to give tax breaks to residential developers, the provisions from HB 149.

The bill which has received two hearings in a House Committee would treat property owned by housing developers differently than other property, by freezing the taxable value of their property for up to three years or until the sexennial reappraisal is completed (or until construction begins). We oppose this tax break for specific property owners, as it would mean higher taxes for the other taxpayers (such as the homeowners) in the area in order to make up the difference.

This proposal is unnecessary because there are currently incentive programs that are available to local governments that accomplish the underlying purpose of the bill. Community Reinvestment Areas (CRAs), Tax Increment Financing (TIF) arrangements, and other programs provide local governments with adequate tools to offer residential construction incentives in specific circumstances that are tailored not only to provide assistance and inducements to the developer, but also to take into consideration the unique requirements of the particular local government.

This proposal would apply statewide, rather than allowing economic development tax incentives to be utilized on a case-by-case basis according to the needs of individual local communities.

In addition to the broad application of the bill affecting local economic development decisions, we oppose the loss of potential incremental revenue increases for schools and local governments that would occur naturally under current law, particularly since Ohio's school funding system requires a state and local partnership to cover the cost of educating students. Some districts rely on property taxes much more heavily than others, and this proposal will undermine the tools needed at the local level. We urge you to remove this provision from the bill.

I will now turn the testimony over to Tom Ash.

Our next topic is the elimination of the August Special Election option; the provisions are from the currently proposed HB 187. This bill has not received one hearing in the House, and we have not had an opportunity to express our opposition.

The proposal would eliminate yet another Special Election option, the August Special Election except in a case when a school district is in jeopardy of moving into fiscal emergency. This provision undermines the ability of school districts to raise critical funding support from local communities necessary to support students and also to build new school facilities. HB 64, a recent biennial budget bill, has already removed the February Special Election as an option for school districts and local governments.

Ohio is unique compared to other states in the number of school levies proposed on a regular basis. We believe this is not due to poor decisions by school district boards of education, but instead by a characteristic of Ohio's school funding system and its interaction with our property tax policies. While it is our collective objective to reduce these numbers through an improved state school funding formula, many school districts are forced to go back to their voters just to maintain current levels of education services. Reducing options for doing so is inappropriate.

The elimination of the August Special Election as an option is significant because, on average, it takes three election attempts to build the awareness and support needed to pass a school levy. Also, an issue carried over to the next calendar year means a delay in the collection of the new revenue for another full year, a delay which may affect the levy rate that must be proposed in the next election.

The elimination of the August Special Election option also has negative implications for school districts participating in an Ohio Facilities Construction Commission (OFCC) project. The OFCC process has factored in the option of the August Special Election for bond levies for new building and renovation projects, allowing districts thirteen months to secure voter approval after the July announcement of participation. This gives districts three opportunities to pass a bond issue to provide the local share of funding for their project. The bill would reduce this to only two opportunities.

School districts are required to pay for the vast majority of election costs if they choose to put a levy on the ballot, particularly in an August Special Election. The decision to propose a levy in August is one that local district boards of education take seriously, but it should be the board's decision. Districts need many tools in their challenge to properly fund the educational opportunities in their own districts, and this includes the ability to analyze the cost/benefit of using a Special Election.

In addition to these three proposals that we hope you will remove from the bill, **the following are miscellaneous provisions that we urge you to address:**

- The current version of HB 166 includes a prohibition against school districts reducing pupil transportation after the beginning of the school year. Currently, districts are not required to transport high school students, but many do as a service to students and families. However, if a district finds itself in financial difficulty due to a changing circumstance, boards of education currently have the ability to take steps to address those circumstances. The restriction in HB 166 violates local control and ties the hands of boards of education.
- Despite the positive changes to school district report cards in HB 166, the bill still penalizes districts as it relates to eligibility for EdChoice Scholarships and challenged school district designations. We believe the proposed report card provisions should be applicable when determining the eligibility for these provisions. We support the original changes made by the House Finance Committee.

Mr. Chairman, this concludes our testimony. We urge you to retain the positive provisions in HB 166 that we've outlined here, and eliminate the provisions we oppose from the bill. We will be happy to address your questions.