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H.B. 187
135th General Assembly

Bill Analysis

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Version: As Passed by the House

Primary Sponsors: Reps. Hall and Bird

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SUMMARY

- Removes the authority of the Department of Taxation (TAX) to order adjustments to county auditors' proposed property tax values.
- Allows TAX, instead, to recommend adjustments to an auditor's values and to file an appeal with the Board of Tax Appeals if an auditor does not follow its recommendations.
- Temporarily revises, for tax years 2023, 2024, and 2025, the information considered in the sales-assessment ratio studies that TAX uses to review property values.
- Temporarily, for the same tax years, adjusts the current agricultural use value (CAUV) of farmland for property tax purposes.
- Provides a temporary period for a municipality or community improvement corporation to apply for an exemption from property taxation and abatement of unpaid taxes, penalties, and interest on certain property.

DETAILED ANALYSIS

Overview of tax valuation changes

The Ohio Constitution requires that "[l]and and improvements thereon shall be taxed by uniform rule according to value. . ."¹ Courts have consistently interpreted this provision to require (1) uniformity in the mode of property taxation and (2) that the value at which real property is taxed be based on the fair market value of the property, i.e., the price the property

¹ Article XII, Section 2, Ohio Constitution.

would sell for in an arm's length sale between a willing buyer and seller.² There is one exception to this latter requirement – agricultural property may be valued according to its current agricultural use value (CAUV), i.e., the price at which it would be sold if it continued to be used for agriculture.³ The valuation standards articulated by courts have varied over time and have been informed by statutory and administrative rule changes. Traditionally, courts have recognized the importance of the role of a state agency in determining whether county auditors' property tax valuations are set according to these uniform constitutional and statutory standards.⁴ Indeed, continuing law charges the Department of Taxation (TAX) with prescribing administrative rules setting forth the modes, methods, and formulas of valuing CAUV land and other real property, which county auditors are required to follow in the tax equalization process.⁵

The bill permanently removes the authority for TAX to administratively adjust county auditors' proposed property values to ensure that the constitutional, statutory, and administrative valuation requirements are complied with, though it continues to vest authority with the Board of Tax Appeals (BTA) to enforce these requirements, upon the filing of an appeal by TAX. Additionally, for tax years 2023, 2024, and 2025, the bill modifies the manner in which CAUV land's value is determined and modifies the sales-assessment ratio studies prepared and used under continuing law to review the true value of other real property.

State involvement in real property valuation

Background

To ensure that real property is valued at its fair market value, in accordance with the constitutional requirements described above, county auditors reappraise or update the value of all property every three years. Once every six years, each county undergoes a "sexennial appraisal," in which the county auditor reappraises all property based on an examination of each parcel. At the midpoint of this six-year reappraisal cycle, auditors review and adjust these values to reflect market conditions since the reappraisal. This reassessment phase is known as the "triennial update." During the triennial update, in lieu of examining each parcel, auditors make valuation adjustments on a statistical basis, using the overall percentage change in the aggregate value of each class of property.

Current role of TAX

Under continuing law, TAX reviews county auditors' valuations during both the sexennial reappraisal and triennial update. Under current law, if TAX determines that the

² See, e.g., *Exchange Bank of Columbus v. Hines*, 3 Ohio St. 1 (1853); *State, ex rel. Park Investment Co. v. Board of Tax Appeals*, 175 Ohio St. 410 (1964); *Terraza 8, L.L.C. v. Franklin County Bd. of Revision*, 150 Ohio St.3d 527 (2017).

³ Article II, Section 36, Ohio Constitution.

⁴ *State, ex rel. Park Investment Co.*, 175 Ohio St. 410, 414.

⁵ R.C. 5713.03 and 5715.01.

taxable value of any class of property in any taxing district does not reflect true market values, TAX will order the auditor to increase or decrease the aggregate value of that class of property so that it is correctly valued. TAX sends notice of any such correction to the auditor, who must then adjust the property tax abstract within 90 days.⁶

If a county auditor disagrees with a correction order from TAX, the auditor may appeal it to the BTA within 30 days. The BTA may confirm TAX's order, reverse it, or modify the corrections, depending upon whether the BTA determines that TAX's corrections are reasonable and lawful. The party that does not prevail before the BTA may appeal its decision to the court of appeals of the auditor's county or to the Ohio Supreme Court.⁷

The bill

Beginning with the 2024 tax year, the bill removes TAX's authority to order adjustments to property tax values. Instead, under the bill, TAX would continue to review county auditors' valuations but, instead of mandating a correction, TAX could only issue recommendations regarding an increase or decrease in values. The county auditor may make further adjustments based upon a recommendation, but is not required to do so.

Accordingly, the bill also reverses the appeal process. Instead of a county auditor appealing TAX's correction order, TAX may appeal an auditor's decision not to accept its recommendations. The appeal would still be taken to the BTA, which could order modifications if it finds the auditor's valuations to be unreasonable or unlawful.⁸

Withholding local funds

Under current law, if a county auditor does not make the corrections specified in a TAX order, TAX must withhold 50% of Local Government Fund (LGF) distributions to that county and instruct the Department of Education to withhold 50% of state revenue distributions to school districts in that county. Since TAX may no longer require the auditor to make corrections, the bill removes this provision.⁹

Property tax sales-assessment ratio studies

The bill also makes several temporary changes to the information that TAX uses to review property values. Under continuing law, as part of its review process, TAX performs studies that analyze a county's property values and recent sales data. These "sales ratio" studies compare sales prices and the assessed value of property, and particularly play a significant role in updating property values as part of a county's triennial update. The goal is to ensure that property is being assessed at 35% of its fair market value. Under current law, if TAX's studies show that property in a particular county is not being taxed at that threshold, it

⁶ R.C. 5715.24, 5715.25, and 5715.26.

⁷ R.C. 5715.251; R.C. 5717.04, not in the bill.

⁸ R.C. 5713.01, 5713.03, 5715.012, 5715.24, 5715.25, and 5715.251; Section 4(B).

⁹ R.C. 5715.26(A)(3).

will require an adjustment in that county's property values. Under the bill, although TAX may no longer require county auditors to make adjustments beginning in tax year 2024, it will continue to use the studies to make recommendations regarding property value adjustments (see "**State involvement in real property valuation**," above).

The bill revises these sales ratio studies for tax years 2023, 2024, and 2025. First, the bill requires that the studies include all sales made during the preceding three years, and that TAX give each of those sales equal weight. Under current law, TAX is only required to consider a "representative sampling" of the previous three years' sales, and may give more or less weight to sales from different years. Second, if the total number of sales of similarly situated property during the three previous years is less than 5% of all such properties in the county, the bill allows TAX to require the county auditor to conduct actual appraisals of property in that class. Currently, TAX may conduct appraisals if there are insufficient sales to constitute a representative sample. Third, the bill requires TAX to consider "current economic conditions" when recommending an adjustment in county property values.¹⁰

The bill's changes apply beginning in tax year 2023. Since TAX will have already completed its sales ratio studies and certified adjustments to a county's property tax values for tax year 2023 before the bill takes effect, the bill requires TAX to recalculate those adjustments, using the bill's new requirements. TAX must certify its updated values within 15 days after the bill's 90-day effective date. Due to this delay, the bill also extends the time for affected counties to finalize their tax duplicate and for taxpayers to make their 2023 property tax payments.¹¹

Temporary CAUV adjustment

The bill temporarily adjusts the CAUV of farmland for property tax purposes. The changes will apply to farmland when it next undergoes a reappraisal or triennial update in 2023, 2024, or 2025.

As discussed above, pursuant to authority granted in the Ohio Constitution, farmland may be valued at its CAUV – its value considering only its use for agriculture – rather than its fair market value. This usually results in a lower tax bill for farm owners because the land is often valued below its actual market value, particularly in areas where farmland is in demand for development purposes. A farm's CAUV is calculated using a complex formula that takes into account the farm's soil type, crop patterns and prices, management costs, and estimated income potential.

Under the bill, instead of directly applying this formula, a farm's CAUV at its next reappraisal or update will equal the average of the formula value calculated for that year and the values that would have been assigned if the land were in a county that underwent a reappraisal or update in each of the preceding two years.

¹⁰ R.C. 5715.012.

¹¹ Section 4(A).

As an example, consider a farm located in a county that undergoes a reappraisal in 2023. If the formula were applied for that year, the farm's CAUV would be \$200 per acre. However, if the farm had been reappraised in 2022, its value would have been \$190 per acre, and if it had been reappraised in 2021, its value would have been \$180 per acre. Under the bill, the farm's reappraisal value will be \$190 per acre (the average of \$180, \$190, and \$200).

The adjusted value will apply until the land undergoes another reappraisal or update. In the above example, the farm's adjusted value will apply in 2023, 2024, and 2025. When the farm undergoes a triennial update in 2026, its value will be determined using the existing statutory formula.

Under continuing law, TAX publishes CAUV tables that prescribe the per-acre value of each soil type in the state. The bill requires that, if these tables have already been published for the 2023 tax year when the provision takes effect, TAX must update the tables within 15 days after the provision's effective date to take the bill's changes into account.¹²

Tax abatement

The bill establishes a temporary procedure by which a municipal corporation or community improvement corporation (CIC) that acquired property during certain periods may apply for a tax exemption for the property and abatement of any unpaid taxes, penalties, and interest attributable to the property from before the municipality or CIC acquired it.

There are two types of properties covered by the bill. First are those acquired by the municipality or CIC between certain dates in February 2000, January 2006, January 2008, and April 2013. Second are parcels that were created by subdividing, between certain dates in August 2004 and January 2008, an existing parcel that was previously acquired by a municipality between certain dates in December 1999, March 2002, and January 2008.

The application for exemption and abatement must be filed with the Tax Commissioner within 12 months after the bill's 90-day effective date.

Continuing law generally only allows a tax exemption if the property in question is exempt from taxation on the tax lien date, which is January 1 each year, and all taxes, penalties, and interest have been paid in full before the property was acquired by the exempt user.¹³

¹² R.C. 5715.01; Section 5.

¹³ Section 3; R.C. 5713.08, not in the bill.

HISTORY

| Action | Date |
|---------------------------|----------|
| Introduced | 05-24-23 |
| Reported, H. Ways & Means | 09-20-23 |
| Passed House (58-26) | 10-11-23 |
