

Proponent Testimony  
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Ohio House of Representatives  
Ways & Means Committee  
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Chair Roemer, Vice Chair Lorenz, Ranking Member Troy, and Members of the Ohio House Ways & Means Committee, thank you for this opportunity to offer proponent testimony on portions of House Bill 344. My name is Steve Hall, and I am an attorney at Zaino Hall, & Farrin, LLC, a law firm based in central Ohio that focuses on state and local taxes, including real property tax matters, and tax policy matters.

My comments today are limited to the portions of the Bill that address some “clean-up” language related to H.B. 126 from the 134th G.A. The policy of H.B. 126 was to streamline and make more effective the County Board of Revision process (the venue where property tax valuation complaints are heard), to limit retroactive tax increases on property owners, to reduce litigation costs for taxpayers, to avoid the manipulation of tax rates through protracted litigation, and to create more transparency and oversight of property tax valuation complaints filed by those other than the owners of the property at issue.

H.B. 126 has had some positive results. However, there have been attempts by some practitioners (primarily private lawyers representing school districts) to ignore the language of H.B. 126 and to attempt “workarounds” of the law that was enacted. The language in H.B. 344 before you today, addresses those attempted “workarounds.”

1. **“Straw man” workaround / counter-complaint strategy by schools**

H.B. 126 eliminated the ability of school districts and other political subdivisions to appeal a Board of Revision (BOR) decision to the Ohio Board of Tax Appeals (“BTA”).

- Schools are using a “straw man” approach by having a citizen “straw man” file the initial complaint to the BOR, the school then files a counter-complaint to the BOR, and when the citizen loses the BOR appeal, the straw man appeals to the BTA, and the schools “tag along” to the BTA as an Appellee. Often, the straw man is represented by the same lawyer that represents the school district.

Solution:

- Clarifies that a non-owner of the property may not appeal to the BTA. Also provides that a school may not file a counter-complaint against a straw-man complaint and may only file a counter-complaint (if otherwise applicable under the other HB 126 limitations) when the owner itself has initiated a decrease complaint.

2. **Inability for school district appeal BOR decision to the BTA**

H.B. 126 provided that the inability for school districts and other political subdivisions to appeal a Board of Revision decision to the BTA applied immediately upon the enactment of the law (July 21, 2022).

- Schools are challenging this at the Courts of Appeals, contending that the inability to appeal to the BTA did not apply until newly initiated complaints (Tax Year 2022 complaints and thereafter) and did not apply to earlier tax year decisions issued by Boards of Revision, even those issued after the effective date of the bill. As of now, the Third District Court of Appeals has decided in favor of the schools on this issue and the Ohio Supreme Court has agreed to review the operative date of this restriction, on discretionary review.

Solution:

- Clarifies that the “no appeal to the BTA” provision applied immediately in July of 2022 upon the effective date of H.B. 126, and that any appeal to the BTA initiated by a school district after July 21, 2022 is invalid.

3. **Recent sale vs. Old sale**

H.B. 126 required there be a recent sale for school districts and other political subdivisions to be able to file an increase complaint with a Board of Revision, and it also required that the appeal “wait” until the tax year following the year of the sale, so as to eliminate retroactive tax increases based on school-initiated complaints.

- School districts are attempting to use an “old sale” to create jurisdiction for the complaint when the language requires a recent sale to be the basis of the school’s complaint. Schools are also violating the “wait a year” provision, thereby attempting to impose retroactive tax increases on property owners.

Solution:

- Clarifies that the sale creating jurisdiction must have been within two years of the lien date for the tax year for which the complaint is filed.

4. **Court of Common Pleas appeal attempted workaround**

H.B. 126 provided that political subdivisions may not appeal to the BTA, and implicit in that concept was that no appeals could be taken to the court of common pleas either. Furthermore, the case law supports that there is no right of appeal to a court of common pleas in this scenario.

- School districts are attempting appeals from BOR decisions to courts of common pleas under a different statute. Some courts of common pleas have already dismissed the appeals, agreeing with the intent of H.B. 126, but there are appeals to courts of appeals on this issue pending.

Solution:

Clarifies that non-owners may not appeal to the courts of common pleas.

Thank you for allowing me to testify today, Mr. Chairman. I am happy to do my best to try to answer any questions you or other members of the Committee may have.