

House Bill 126
Phil Howard, Superintendent
Jackson City School District
Senate Ways & Means Committee
Tuesday, November 16, 2021

Chairman Blessing, Vice Chair Roegner, Ranking Member Williams, and members of the Senate Ways & Means Committee, thank you for allowing me to testify in opposition to the current version of House Bill 126.

My name is Phil Howard and I serve as the Jackson City School District Superintendent. Under the direction of the Board of Education and along with our Treasurer and our staff, we oversee the fiscal operations of the Jackson City School District in Jackson County, Ohio. I have spent the last 35 years working in education in three different school districts in Southeast Ohio. I have served as Superintendent of the Jackson City School District for 14 years. Before that, I served as an Assistant Superintendent, teacher, principal, and coach.

I testified almost exactly 3 years ago on this same topic when it was at that time presented as H.B. 343. Before I discuss the substance of the current version of the bill, I think it is important to address the history of our public school district coalition's efforts over the past 3 years regarding this topic. Our coalition participated in several interested party meetings that have been held in both the House and the Senate. Our coalition met with members of both the House and Senate Ways and Means Committees to discuss what was originally H.B. 343 and is now H.B. 126, in order to present our suggested changes to the bill. We diligently communicated our compromises to members of both the House and Senate Ways and Means Committees. Unfortunately, H.B. 126 abandons those compromises. We must therefore remain opposed to H.B. 126 as it is currently drafted for the following reasons.

Current law permits property owners, school boards, and others to file and respond to cases affecting the value of real estate. Current law ensures that property owners receive multiple written notices of property tax cases. Each county's board of revision ("BOR"), composed of elected officials, hears these cases. The BOR also provides notice to property owners by certified mail of any hearings that affect the owner's property. At those hearings, owners and other parties have the opportunity to present documents and testimony relating to the property's value, and to examine and refute the other side's evidence. In other words, under the current system, owners receive ample, repeated notice of proceedings that affect the valuation of their property, and have the right to fully participate in those proceedings, including the right to appeal.

The local school district receives the majority of each dollar of property tax, therefore it makes sense to permit both the owners and school boards to fully participate in this process. The result is a level playing field, where the parties with the most incentive to determine the true value of a property have the option of being at the table.

The fact is that most BOR cases arise when property owners seek lower values and initiate the process. Of course you know that this outcome has the potential to result in schools receiving less revenue. Yes, there are some instances where the local school board files an "increase complaint" against an owner, but for the Jackson City Schools that is rare compared

to property owners seeking reductions. We are far more often in the position of defending our tax base as opposed to increasing it. The overwhelming majority of increase complaints that we initiate occur after the property recently sold. When the housing and property market drops, owners frequently use this process to show that a recent sale demonstrated a county auditor's assessed value is too high. When the pendulum swings the other way and the market soars, county auditors' values often lag below the market. Thus, properties often sell for prices that substantially exceed the auditor's values. This is the scenario that accounts for the overwhelming majority of school board increase cases, and most of those cases focus on commercial properties, not private homeowners.

House Bill 126 would alter Ohio Revised Code § 5715.19 and would require every entity *other than a property owner* to take cumbersome and time-consuming procedural steps before responding to or initiating a property tax valuation case. Right now boards of education get 30 days from receiving notice of an *owner-initiated* decrease complaint to file a counter-complaint. If we don't file in time, we're frozen out of the process. This bill would impose time-consuming and cumulative procedural delays during this critical 30-day period. Lengthening the time for schools to counter-complain might seem like a solution, but would only add further delay to an already lengthy process. With the overlay of public meeting requirements, the bill would create a serious obstacle to districts having the chance to timely file the paperwork necessary to participate in valuation cases. And it's worth remembering that this bill would apply not only to school-initiated cases, but also to those owner-initiated decrease complaint cases where owners seek reductions in property value that could deprive the school districts of local revenue. Ultimately, the language in its current form deprives school districts from adequately and appropriately participating in a system that the state has determined is the best public policy apparatus to fund our public schools.

The bill requires a board of education to pass a separate board resolution for *every single BOR case* that it wants to participate in. Rather than require boards of education to adopt a uniform policy that articulates which sorts of cases it will file or oppose, this bill would make school boards pass, give notice of, conduct a hearing on, and debate every separate case. But because there is no "discovery" process at the BOR level, the board of education and the affected property owners likely will end up talking past each other. Rather than getting to the bottom of a property's true value, House Bill 126 would encourage owners to file for frivolous reductions in property value, knowing that boards of education may not oppose the reduction because of all of the required notifications and timelines in order to have a seat at the table. This would take away from the integrity of the process which is to determine a property's true value – making a process that is evidence and fact-based now, inherently political going forward.

Allow me to provide with you with a few examples to illustrate why it is so important for boards of education to retain the right to participate in the board of revision process – the legal process that has governed property tax values in Ohio for over 40 years. In 2017 alone, property owners initiated over 40 decrease complaints in the Jackson City School District. Walmart initiated one of those cases. The auditor's original value for the Walmart in our district was set at \$7.5 million (in round numbers). Walmart retained an owner-side appraiser who concluded to an opinion of value of \$4.7 million. Without school district participation, the value would have almost certainly decreased based on Walmart's \$4.7 million appraisal (if not before the BOR, then on appeal) because Walmart's appraisal would

have likely been the only appraisal on record, and because most county auditors don't have enough skin in the game to justify the cost of defending against owner-initiated decrease complaints without school district involvement. In this case, we were able to consult with an appraiser of our own who was projected to come in around \$9.5 million, which was roughly \$5 million above Walmart's appraisal and \$2 million above the current auditor's value. Because the school district had the ability to file a counter-complaint, it was a party to the case and mitigated most of the roughly \$60,000 per year in estimated revenue loss the district would have otherwise expected from Walmart's decrease complaint.

The flip side of the same coin is that just as property owners can seek reductions in value when they believe the county's value is too high, school districts must also retain the right to seek increases in value when the county's value is too low. This is essential to retaining fairness to the two parties affected most – the owner and the school district. The school district reviews recent sales annually to make sure commercial properties are not grossly undervalued. Any responsible fiduciary would do this for their largest source of funding. There is a large distribution facility in our district. It was on the books for a value of \$17.1 million (in round numbers). When the property sold for \$50 million, almost \$33 million above the county's value, the school district filed a complaint. The company agreed that the property was undervalued and worked with the school district to negotiate a reasonable compromise. Ultimately, the school district was made whole on a value of more than \$30 million, which generated about \$200,000 per year in revenue for the district. Importantly, the company has also enjoyed substantial tax abatements over the years, for which the school district must foot the bill.

Another company based Europe has a manufacturing facility in our district that was on the tax books for \$2.1 million (in round numbers). When it sold for \$4.9 million, that also triggered the district to file an increase complaint. The property owner agreed that due to the recent sale the county's value was grossly under market. All parties agreed that the county's value should increase based on the recent sale. This particular case generated more than \$25,000 per year in revenue to the district. This market-based adjustment may not have occurred without the school district's participation in the process.

As I mentioned previously, a coalition of school districts that includes Jackson City Schools, along with other public school districts, have identified a compromise that would address the perceived need for heightened school board involvement in property tax appeal decision-making.

Our group would support a deliberative process calculated to achieve a compromise similar to the one we struck during the 132nd and 133rd General Assemblies. We propose that H.B. 126 be amended to require public bodies like boards of education to pass resolutions that identify the properties upon which the board would like to file an original BOR complaint. This compromise would eliminate the board resolution requirement for counter-complaints, which after all, are merely filed in response to cases that property owners themselves have initiated.

If the goal of the bill is to ensure that school boards understand and approve the initiation of property tax proceedings, this would accomplish that purpose, and our group of school districts would support it.

However, our group must remain opposed to the bill as it is currently written. It is also critical to ensure that school districts retain their statutory rights to file counter-complaints in response to owner-initiated decrease complaints and file original complaints when commercial properties are grossly undervalued. That has been the law in Ohio for over 40 years and is necessary to protect the integrity of the BOR process.

Thank you for your consideration. I am happy to answer any questions from the Committee.