Ohio Tax Talk: Unpacking The New Property Tax Procedures

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On April 21, Ohio Gov. Mike DeWine signed H.B. 126 with an effective date of July 21. H.B. 126 was introduced in early 2021 and purports to substantially modify the process for challenging real property tax valuations at the county board of revisions level.[1]

The bill as enacted proposes to procedurally change the following:

- Limits the filing of property tax complaints by political subdivisions on properties they do not own;
- Requires legislative approval and resolution before political subdivisions may file a complaint;
- Implements new notice and board of revision dismissal requirements; and
- Prohibits private payment agreements.

This article examines the procedural changes in detail, analyzes the property tax impact of the legislation and highlights any unresolved issues that may stem from the new legislation.

Procedural Changes

New Limits on Property Tax Complaints

In an effort to address the large number of property tax challenges by school districts, H.B. 126 disqualifies any political subdivisions from asserting property tax valuation claims on property they do not own unless the property was:

- Sold in an arm's length transaction in a year preceding the tax year for which the complaint is to be filed; and
- The sale price was at least 10% and $500,000 more than the auditor's current valuation — the $500,000 will be adjusted each subsequent year for inflation.[2]

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County auditors will continue to use the recent arm's length sale of the property as its fair market tax value.

Legislative Approval and Resolution of Complaints

Prior to initiating a property tax complaint for property that it does not own, a political subdivision must first seek a resolution from its legislative authority approving the filing at a public meeting.

The resolution must identify the parcel number along with the parcel's address, name of an owner, the tax year for which the complaint is to be filed and the basis for the complaint, if available. [3]

For property owners with multiple parcels of properties, a single resolution will suffice. Otherwise, each parcel of property must be accompanied by its own resolution.

Notice and Board of Revision Dismissal Requirements

Prior to adopting the resolution, however, the legislative authority must send written notice to a property owner declaring its intent to adopt the resolution, the proposed date of adoption and the basis for the complaint.[4]

The new law also now requires the person filing any property tax complaint form on behalf of a legislative authority to "check the box," certifying that a legislative authority has adopted a resolution authorizing the complaint to move forward. Otherwise, the board of revision must dismiss the complaint due to a lack of jurisdiction.[5]

Moreover, the act requires the dismissal of any complaints not decided within one year after they are filed due to a loss of jurisdiction.[6]

With respect to school boards receiving notification of property owners seeking property tax reductions, the act removes the requirement for the county auditor to provide notice of a complaint with an alleged change in value of at least $50,000 in fair market value — $17,500 in taxable value — within 30 days after the deadline to file complaints.

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Private Payment Agreement Prohibitions

The new law prohibits a political subdivision from entering into an agreement where a property owner — or person acting on behalf of a property owner — agrees to make payments to a political subdivision in exchange for the legislative authority dismissing, refraining from filing, or settling a claim or counterclaim.[7]

The prohibition on private payment agreements becomes effective July 21, so any private payment agreements entered into prior to the effective date remain valid.[8]

The new law does not prohibit agreements where a political subdivision and property owner agree upon or stipulate to a new valuation for the property that is subject of a complaint, as long as the agreement does not require any private payments.

Tax Implications and Unresolved Issues

Although the new law is set for an effective date of July 21, it may take a few years to demonstrably measure the effect of the bill's legislative changes.

As suggested by the Ohio Legislative Service Commission, H.B. 126's new limits on filing property tax complaints by persons other than the owners is projected to lead to a reduction in taxable values and property tax revenue for political subdivisions when compared to the current statute.[9]

This will likely negatively affect school districts that depend on challenging property values as a primary source of revenue. These impacts are likely to be observed in counties that are home to most of the state's commercial and industrial properties. Political subdivisions located in these counties may look to other revenue sources such as voter-approved taxes.

On the other hand, property owners and developers who face potential increases in property tax valuations are now entitled to additional procedural and notification safeguards by the additional steps required to assert a property tax complaint.

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Private payment agreements between property owners and political subdivisions is an area also likely to see significant traction prior to July 21. Parties that are currently in private payment agreements may choose to extend existing agreements, and those contemplating entering into this arrangement will have to rush to enter into agreements before the effective date deadline.

Historically, Ohio has been subject to uneven assessment practices that have been criticized as deterring real estate investment, as valuation complaints increased property taxes, procedural hurdles and litigation costs when compared to most states.

With the passage of H.B. 126, the playing field for attracting real estate investment to Ohio should be more even, resulting in a more streamlined real estate tax.

For more information regarding this topic, please contact one of the article authors.

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[1] We previously discussed this here, Ohio Tax Talk: Property Tax Bill May Affect School Revenues, Yazan Ashrawi, Law360 Tax Authority (November 29, 2021).
[2] R.C. 5715.19(A)(6)(a) and 5715.19(J).
[3] R.C. 5715.19(A)(6)(b) and 5715.19 (A)(7).
[4] Id.
[5] R.C. 5715.19 (A)(8).
[6] R.C. 5715.19 (C).
[7] R.C. 5715.19 (I).
[8] Id.
[9] Final Fiscal Note & Local Impact Statement. Legislature.ohio.gov, https://www.legislature.ohio.gov/download?key=18963&format=pdf

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