

June 7, 2017

Legislation
132nd General Assembly

❖ Changes to CAUV

Sub. HB 49 Budget Bill as Passed by House

- Prescribes in statute factors that must be considered in computing the current agricultural use value (CAUV) of agricultural land for property tax purposes. Requires the formula used to compute CAUV values to employ a capitalization rate and requires (1) the equity yield rate in the capitalization rate formula to equal the greater of the 25-year average of the total rate of return on farm equity published by the United States Department of Agriculture, or the loan interest rate; and (2) a holding period of 25 years for calculating equity build-up and land value appreciation in the formula.
- Places a ceiling on the taxable value of CAUV land used for conservation purposes by requiring the land to be valued as though it included the least productive type of soil.
- Phases in the amendment's changes over two reassessment or update cycles. Specifies that during the first three-year cycle in each county (beginning with tax year 2017), the tax value of CAUV land will include one half of the difference between its value under the new versus the old formula.
- Fiscal effect: Changes to the formula would reduce tax revenues to schools by an estimated \$4 million in tax year 2017, payable in 2018, and would reduce tax revenues to other units of local government by a similar amount. Revenue losses would increase each year until tax year 2022 when they would total an estimated \$14 million to each of schools and other local governments. GRF reimbursements of property tax rollbacks and the homestead exemption would increase to an estimated \$1 million, as effective tax rates on residential real property subject to tax reduction factors would increase because of lower tax values on CAUV land.

SB 36 Value of Agricultural Land as Passed by Senate

- Prescribes in statute certain additional factors that must be considered in computing the current agricultural use value of agricultural land for property tax purposes, and deletes reference to one existing factor.
- Prescribes in statute that the method used to compute CAUV values must employ a capitalization rate and prescribes certain factors that must be included or excluded in the calculation of that rate.
- Places a ceiling on the per-acre taxable value of CAUV land if the land is also used for conservation purposes by requiring the land to be valued as though it included soil of the least productive type.
- Applies CAUV formula changes to each county in the next tax year in which the county undergoes a reappraisal or triennial update, beginning with counties undergoing a reappraisal or update in tax year 2017.
- Fiscal Effect: Lower tax values on land enrolled in CAUV would cause annual net losses estimated at up to \$20 million for schools and up to \$20 million for other units of local government. Lower values due to reductions for conservation land would cause annual net losses estimated at \$1 million or more for each of schools and other local governments. Revenue losses would phase in with sexennial reappraisals and triennial updates, starting in 2017. About 60% of the value of land in the CAUV program is scheduled for revaluation in that year, 20% in 2018, and 20% in 2019. For property taxes subject to tax reduction factors, revenue losses would be partly offset by higher effective tax rates, which can rise no higher than voted (gross) rates. For property taxes intended to raise fixed sums of money, revenue losses would be offset by higher tax rates on farmers and homeowners, and also on Class II and public utility property subject to those levies.

❖ **Sub. HB 49 - State Biennial Budget Bill**

Passed by House, Pending in Senate Finance Committee

• **Elimination of Sales Tax on Medicaid Managed Care Organizations (MCO)**

- State Replacement: The proposal would replace the existing sales tax on managed care organizations with a health insuring corporation assessment levied on a per member/per month basis. The statewide assessment would generate a little more money than the state had been receiving from the MMCO sales tax. The new revenue will go into a state non-GRF fund and, that will not help support the Local Government Fund.
- Local Replacement: The proposal would provide counties and transit authorities with “one check” from the state this fall, to transition local jurisdictions from the MMCO sales tax revenues. Statewide \$207 million is allocated in SFY 2018. These funds would be allocated based on two calculations:
 - Approximately \$49 million – This would be used to cover the foregone revenue the last three months of CY 2017. County MMCO sales tax revenues for CY 2015 and CY 2016 would be averaged to determine a county’s allocation for the last quarter of CY 2017. All counties and transit authorities will receive some funding.
 - Approximately \$158 million – This would be allocated based on the following: (1) the county’s reliance on MMCO sales tax when compared with its overall sales tax revenue; and (2) the county’s sales tax capacity per capita. Thus, the formula based payment would distribute more transitional support to counties and transit authorities where the managed care sales tax is a greater share of the total local sales tax receipts, and the sales tax capacity per capita is below the statewide average. A handful of counties will receive no funding under these calculations. Counties will be required to pass a resolution to spend these dollars out of a special fund, and the resolution must denote the purpose.

• **Property Tax Appeals and Payment of Court Costs**

- ORC 5717.07. If the county auditor, tax commissioner, or any board, legislative authority, or public official appeals a decision of a county board of revision to the board of tax appeals, or appeals a decision of the board of tax appeals, a court of common pleas, or a court of appeals pursuant to this chapter regarding a decision by a county board of revision, and if the owner of the property that is the subject of the appeal is a party to the appeal and prevails in the proceeding, the county auditor, tax commissioner, board, legislative authority, or public official that appealed the decision shall pay the reasonable attorney's fees and court costs incurred by the property owner with respect to that appeal proceeding. If more than one such party appealed the determination, the attorney's fees and court costs shall be divided equally among those political subdivisions.
- Fiscal effect: Increases costs for those political subdivisions that lose appeals. The magnitude of the cost increase will vary depending on the incidence of unsuccessful appeals and the amount of court costs incurred by the prevailing property owner.
- The decision to appeal a property valuation case lightly. Appeals are usually of decisions on a legal matter of great significance and precedence and involve major commercial properties and considerable differences in value. Many decisions of the Board of Tax Appeals (BTA) are overturned and remanded for further legal analysis. Determining the correct valuation method and value of any given property is essential for the equitable treatment of all types of property. Mandating the payment of fees to the loser has a chilling effect on the decision of whether or not to appeal which extends beyond this one property and case. This major change in policy and decision making requires adequate time to consider the potentially serious ramifications.

Amendment to Reduce Number of Meritless Cases before the BOR/BTA

- Eliminate Private Citizen Complaints: Occasionally, a private property owner will initiate a property tax complaint against a fellow private property owner. The state could simply prohibit such individuals from filing valuation appeals against property they do not own.
- Establish Public Notice Requirements: In order to increase public accountability and transparency for decisions regarding valuation challenges, the state could require BOEs to pass a resolution outlining the specific parameters under which they intend to file property tax complaints. Parameters could include: 1) the type and class of property, (i.e. commercial/industrial/residential/agricultural, etc.); and 2) minimum thresholds, such as a sales price threshold or a value difference threshold. I.e., the BOE could resolve to challenge only sales above a certain price, or only those cases where the sale price exceeds the Auditor's value by a certain amount. Each BOE would be free to select whatever thresholds they wish, but would be required to vote on a resolution confirming the parameters.
- Prohibit Contingency Fees: Attorneys representing public entities often work on an hourly basis while those representing individual property owners typically utilize contingency fees. As a result, many cases filed by taxpayers are flawed from the beginning because attorneys seek to recover some small percent of the tax savings as their fee. That is why there are so many taxpayer reduction complaints and so few school board initiated complaints. If the state prohibited all contingency fee arrangements tied to litigation before the BOR/BTA, the number of meritless cases filed would dramatically decline. All parties challenging valuation decisions would have "skin in the game," and more carefully evaluate whether to bring claims.
- **Tax Stickers on Retail Service Stations Pumps**
 - Requires the county auditor official responsible for weights and measures to affix stickers on retail fuel pumps showing the total state and federal excise taxes that apply to gasoline and diesel fuel.
 - Requires the stickers to be designed and produced by the Department of Agriculture and updated whenever tax rates change.
 - Fiscal effect: Additional cost for Department of Agriculture to make and distribute the stickers. Little new cost for local weights and measures inspectors since these stickers would be applied during inspections.
 - Although the provision requires the stickers to be designed and produced by the Department of Agriculture, it is possible that this expense could trickle down to the county. The responsibility is misplaced and would be better served by requiring the station owners to affix the stickers on the pumps.
- **County Treasurer Tax Collection Fees ORC 321.26** - Revises the schedule for the fees that are exacted from taxes collected by county treasurers by increasing the fee amounts, by establishing a minimum fee when collections are less than \$5 million per semiannual settlement, by reducing the number of fee brackets, and by causing the fees to be adjusted upward if and as statewide taxes charged on real property and public utility property increase.
- **Removal of Home from Manufactured Home Parks**
 - Shortens the time period within which the sheriff or other officer must execute the writ of execution for a home or vehicle valued at less than \$3,000 from 60 to 30 days after receiving the writ and requires the park operator's consent for the method of execution.
 - Eliminates the requirement that, if the home or vehicle is valued at less than \$3,000, the sheriff or other officer notify all persons who are listed on the writ as having any outstanding right, title, or interest in the home or vehicle.
 - Permits the clerk of the court to require a park operator to submit sworn testimony stating the home or vehicle is abandoned and worth less than \$3,000.
 - Apparently addresses County Auditor concerns

- Prior to the issuance of a writ of execution under ORC 1923.13, the park operator shall submit a copy of the notarized affidavit submitted to the court stating that the manufactured home, mobile home, or recreational vehicle is abandoned and worth less than three thousand dollars, to the County Auditor of the county where the park is located. Within 15 days of receipt of the affidavit, the County Auditor shall concur on that the value of the manufactured home, mobile home, or recreational vehicle is less than three thousand dollars. If the County Auditor finds that the value is three thousand dollars or greater, the removal of the manufactured home, mobile home, or recreational vehicle shall proceed under current law.
- Whenever the title to a manufactured home, mobile home, or recreational vehicle is transferred, the new title shall be provided to the County Auditor where the manufactured home, mobile home, or recreational vehicle is located. The County Auditor shall also be provided with notice of the removal or destruction of the manufactured home, mobile home, or recreational vehicle.
- **DataOhio Initiative**
- **Changes to Local Government Funds** – Administration proposal of a new distribution formula for LGF, so that over time 20 percent of the dollars are allocated based on jurisdictions’ revenue capacity was removed by the House.
- **Appointment of Coroner and Engineer** – Administration proposal to authorize Board of County Commissioners to submit a resolution to the voters to authorize the board to appoint, instead of electing, the county coroner and/or county engineer was removed by the House.
- **Proposal to Limit BOR Value Change** not in bill; concern on insert in Senate
 - Stipulate that, in a tax valuation complaint initiated by a person other than the property owner, the assessed value of the property may not be increased beyond the median assessed value of a reasonable number of comparable parcels. Places limits on how much the BOR can change value when a complaint is filed by a school board.
 - To limit the BOR to a specific amount of change just because the BOE files the complaint is designed to benefit those who do not want to pay their fair share of the real property tax burden. Concerned this is an initial salvo that can undermine the authority of the County Auditor to determine the fair market value of every parcel of property within the county. If the BOE can submit evidence and information that convinces the BOR to modify the value as determined by the County Auditor when acting as the assessor real property, then that value should change to whatever the BOR determines it to be.
- **Other Items of interest?**

❖ **HB 26 – Transportation Budget**

Signed by Governor

- Provides an \$8,000 stipend for clerks of courts who serve as the only full authority deputy registrars.
 - Still seeking amendment to the operating budget bill for two county auditors who serve as the only full authority deputy registrars in their counties (Huron and Perry).
 - Champaign County Prosecutor preparing a written opinion on timing of payment to clerks. Preliminary summary: A “stipend” can be paid anytime. \$8,000 annual – becomes effect 7-1-17 (state fiscal year) therefore for 2017 (county fiscal year), the Clerk will be paid \$4,000. Advised not to pay this up front; should be either at the end of the term or current along with the payroll.

❖ **HB 24 - Tax Exemptions for Veterans Organizations**

Second hearing in House Ways & Means on May 23rd

- Modifies the veterans' organization property tax exemption to include the property of certain 501(c)(4) veterans' organizations.
- Excludes from that exemption property that is not used primarily for meetings, administration, and the provision of programs and services to veterans

❖ **HB 34 - Deliver Notices by Ordinary Mail or Electronically**

Passed House; proponent testimony on March 22nd in Senate Government Oversight & Reform

- Authorize state agencies, local governments, and certain boards, commissions, and officers to deliver particular types of notices by ordinary mail and other mode of Internet communication. The bill lists 29 situations where the alternative notification procedure may be used.
- Could reduce mailing costs for the affected jurisdictions; savings will depend on the circumstances where these alternative notification options are used. As a point of comparison, the certified mail rate established by the U.S. Postal Service for 2017 ranges from \$4.61 to \$6.59 for a one ounce certified letter.
- CAAO amendments to add CAUV notice of failure to file initial (new owners of CAUV land) or renewal applications, CAUV notice of incomplete or incorrect initial application and Agricultural District denial of application & failure to file renewal application.
- Chairman of Senate committee prefers to hold the bill until after the budget process in the event that the committee can identify more entities to include in the bill.

❖ **Am. HB 69 - Reimburse Township Fire and Medical Service Levy Revenue forgone because of TIF**

Reported out of State & Local Government Committee on May 9th

- Requires reimbursement of township fire and emergency medical service levy revenue foregone because of the creation of a municipal tax increment financing (TIF) incentive district.
- Stipulates that the reimbursement requirement applies only if the township provides fire, emergency medical, or ambulance services in the incentive district, and only if the ordinance creating the district was adopted on or after the bill's effective date.
- Authorizes the board of trustees of such a township to waive the reimbursement requirement or to negotiate an agreement for partial reimbursement with the municipal corporation creating the TIF.

❖ **HB103/SB 88 - Modify Financial Planning & Supervision Commission Laws**

House Bill voted out of House on March 29th, Senate Bill voted out of Senate on April 5th.

- Modify the composition and powers of the financial planning and supervision commission of a political subdivision that is in a state of fiscal emergency and to clarify the duties of that political subdivision.
- Streamline the process of removing a county, village, municipality or township from a state of financial emergency. Under the current system, a Financial Planning and Supervision Commission is automatically established for a specific government entity when that entity is declared to be in a state of financial emergency by the state auditor; local governments have the power to appoint five out of the seven members on that committee.
- Under the bills, the number of locally appointed members would be reduced from five to three, allowing the commission to serve as a "true oversight board" rather than a "rubber stamp," and prevent the local governments from "stacking the deck" in favor of themselves.
- Bills would make permanent the provision to escalate a local government from Fiscal Watch to Fiscal Emergency when they fail to implement their submitted financial recovery plan; expand what can be included in the content of a financial recovery plan through the use of funds with self-imposed restrictions; grant additional power to the Financial Planning and Supervision Commission to approve or disapprove of financial information submitted by the local government, and will be able to compel the production of timely, accurate financial data to the Financial Supervisor.
- 23 government entities are currently under fiscal emergency, and one is under fiscal watch.

❖ **HB 118 - Prohibit Dismissing BOR Complaint if it Fails to Identify Owner**

Passed House on May 10th and Referred to Senate Ways and Means Committee

- Codifies Ohio Supreme Court rulings that a property valuation complaint cannot be dismissed based on the misidentification of the property owner.
- Navratil Development case concerned an incorrect name as the property owner in the BOR complaint. The court held, "it is not a jurisdictional requirement to correctly name the owner of the subject

property in a valuation complaint" and "the substitution of a proper party is typically permitted when there has been a misnomer in the pleadings and the substitution has caused no prejudice.

❖ **HB 213 - Change Appraisers' Law and Regulate Appraisal Management**

Second Hearing in House Civil Justice Committee June 7th

- Prohibits a person from performing appraisal management services, or otherwise engaging in business as an appraisal management company, without an appraisal management company license.
- Authorizes, and establishes procedures and criteria relating to, an appraisal management company license.
- Prohibits certain acts relating to the appraisal management business.
- Changes the circumstances under which a lender can be excused from the general requirement that a person performing a real estate appraisal for a mortgage loan be licensed or certified as an appraiser.
- Makes changes to the Real Estate Appraisal Law.
- Declares an emergency, but delays most of the bill's provisions to six months after the effective date of the bill.
- Amendment to specifically exclude appraisers engaged to perform mass appraisal services under the direction of the state tax commissioner or a county auditor.

❖ **SB 9 Sales Tax Holiday**

Senate Concurred with House Amendments May 24th

- Provide for a three-day sales tax "holiday" in August 2017 during which sales of clothing and school supplies are exempt from sales and use taxes.
- Estimated to reduce state revenue from the sales and use tax by up to \$15.2 million in FY 2018. The GRF would receive 96.68% of the revenue from the state sales and use tax, while 1.66% of the receipts are transferred to the Local Government Fund and an identical share to the Public Library Fund. Sales tax revenue to the GRF would decline by up to \$14.7 million in FY 2018, and distributions to the LGF and PLF would be reduced by a total of about \$0.5 million.
- The potential revenue loss to local governments from local sales taxes (approximately 24.5% of state sales tax revenues) would be up to \$3.7 million. Total revenue reductions for local governments, including reduced LGF and PLF distributions, may be up to \$4.2 million.

Proposed Legislation

❖ **Apply Real Estate Transfer Tax to Transfers of Ownership Interests in Pass-Through Entities that, Directly or Indirectly, Own Real Estate (LLC Loophole)**

- Single asset transfers avoid real estate conveyance tax fees and real estate tax valuation increases. The transfer price of the LLC assets is not recorded, unlike the transfer of real estate assets being disclosed as part of the public record. County Auditor does not have knowledge of the LLC transfer price for use in a property's tax valuation.
- If this method of avoiding equal taxes has any long-term potential, we will see developers of single-family residences, condominium units and all property types using LLC's as the ownership, investment and transfer entities to avoid disclosing the actual sale prices.
- Several states have already closed the LLC loophole. From Michigan: unless otherwise exempt under this act, the conveyance of title to or other transfer of a present interest or beneficial interest or any other interest in real property by any method, including the interest in real property acquired through the acquisition of a controlling interest in any entity with an interest in the property (LLC) is a transfer of real property subject to transfer fee.

❖ **Redraft of Vicious Dog Bill**

- Amendment to transfer responsibility for issuing dangerous dog tags to county dog wardens from County Auditors