



Date: October 8, 2019

To: The Honorable Larry Householder, Speaker
Ohio House of Representatives

From: Buckeye Association of School Administrators
Ohio Association of County Boards of Developmental Disabilities
Ohio Association of Parks and Recreation
Ohio Association of School Business Officials
Ohio Library Council
Ohio Municipal League
Ohio School Boards Association
Ohio Township Association

Re: HB 76 Opposition

We are writing today representing our collective memberships, all of which have to rely on local property taxes for support. We understand the House is considering a floor vote for HB 76, a bill to change levy ballot language.

We can appreciate that the proposed changes in HB 76 are intended to allow voters to better understand the effects a proposed levy will have on their property taxes. However, we believe the changes in HB 76 will actually cause more confusion and misunderstanding by voters.

By necessity, ballot language is technical in nature and not meant to be an accurate estimate of the taxes owed by each individual taxpayer should the levy pass. Instead, the current ballot language describes the taxes that will be levied on behalf of the taxing entity.

The transition to the use of "\$100,000" in value for tax purposes presents opportunities for the miscalculation of the taxes for an individual property, particularly when using the proposed term "fair market value". This term may mean different things to different people, but we believe the average homeowner believes it to mean the possible sale value of their home. This value may not actually be the taxable value for purposes of calculating the taxes property owners will pay.

Further, the bill's requirement that the county auditor's estimate of annual collections be in the ballot language will be very misleading to voters. For instance, as values in the district go up, the millage rate collected by the county auditor will go down. Also, as bonds for a capital project are retired, the amount of money needed to make the bond payments may go down, reducing the collection amounts. Again, the purpose of the language in the current ballot requirement is to direct the county auditor in collecting the tax—not to indicate to voters how much they will pay.



During levy campaigns, school districts and other local governments routinely provide an estimated tax obligation on homes valued at \$100,000, but they have the ability to distinguish the various factors that will affect this estimate. The following differences among taxpayers, levies and properties mean the calculation of the actual taxes on an individual property derived from a levy will vary widely:

- Differences between Class 1 (Residential and Agriculture) and Class 2 (Commercial) Property (the calculation is most often different among the two classes)
 - Current Agricultural Use Value is not based on “market value”
- The taxpayer may have specific discounts (i.e., the Homestead Exemption)
- The type of levy has a bearing on what a property owner will pay (i.e., for renewal levies, residential property qualifies for the state-paid 10% rollback; commercial properties do not)
- HB 920 means property owners often pay lower “effective rates” for levies rather than the full voted rate after the initial year of implementation

These differences among properties, taxpayers and levy types will surely lead to the miscalculation of taxes should voters be led to believe the calculation is a simple one. Further, to include this granular detail in ballot language would make for an extremely long and detailed ballot.

You may recall that the Conference Committee version of the biennial bill (HB 166) included the provisions from HB 76, even though they had never appeared in either the House or the Senate version of the bill. Governor DeWine vetoed the language. The Governor’s veto message stated:

“...the change will be difficult for county Auditors to implement and the required ballot language may seem confusing and contradictory.”

We agree with Governor DeWine and as a result of the concerns outlined here, **we urge you to reject HB 76.**

Thank you for your consideration. Please feel free to contact us with questions.

cc: Governor Mike DeWine
Ohio House of Representatives

Date: October 8, 2019

To: Barbara Shaner, OASBO Advocacy Specialist

Copy: Ohio Association of School Business Officials
Ohio School Boards Association
Buckeye Association of School Administrators
Ohio Municipal League
Ohio Library Council
Ohio Township Association
Ohio Association of County Boards of Developmental Disabilities
Ohio Associations of Parks and Recreation

From: Squire Patton Boggs (US) LLP

Re: H.B. 76

You have requested our views on Am. House Bill 76 (H.B. 76), currently pending in the Ohio General Assembly.

We agree with Governor DeWine who vetoed the provisions of H.B. 76 when they were inserted into Am. Substitute House Bill 166, the State's Biennial Budget Bill. The changes that would be made by H.B. 76 would be difficult for county auditors to implement and the revised ballot language would seem confusing and contradictory and, we would add, no more transparent and almost certainly misleading to many voters.

For good reason, current statutes provide for ballot language speaking to mills for each dollar, and dollars and cents for each \$100, of **tax valuation**.

All property is not valued and assessed the same for purposes of ad valorem property taxation.

As examples:

- Generally, residential, commercial and industrial real property is taxed at 35% of "appraised" true value and is determined pursuant to rules of the State Tax Commissioner; however, we understand that actual practices on appraisals vary from county to county.
- Real property devoted exclusively to agricultural use is assessed at not more than 35% of its "current agricultural use value", which is often quite different (and often significantly lower) than such property's fair market value.
- Real property devoted exclusively to forestry or timber growing is taxed at 50% of the local tax rate upon its assessed value.
- Public utility real and tangible personal property (with some exceptions) is currently assessed (depending on the type of property) from 25% to 88% of true value.

Thus, to generalize as to the dollars that would be payable for each \$100,000 of "fair market value" (elsewhere in H.B. 76 defined as "true value in money") in an election notice and ballot language would necessarily be inaccurate and misleading. Doing so also would create confusion given that the conversion of mills for each \$1 of taxable value to dollars for each \$100,000 of fair market value could not be easily reconciled and understood. It would be a comparison of apples and oranges.

The language requiring a statement of the amount the county auditor estimates the levy “will collect annually” in notices of election and on ballots would also present problems for county auditors and a likelihood of inaccuracy in that all levies (other than school district emergency and incremental dollar levies) generate different dollar amounts over time, amounts that are, of necessity, affected by factors such as real growth of a tax base and collection (and delinquency) rates.

Further, the changes set forth in H.B. 76 would only exacerbate ballot language problems already present.

As examples:

- For renewal levies, HB 920 (mandating that the tax actually levied be at an “effective rate” adjusted to preclude additional dollars due to any inflationary increase in value of a property that has occurred since the original approval of the tax) and the availability of Homestead and Rollback Credits (generally reducing tax amounts paid by owners of residential and agricultural real property by an additional 10% (12.5% in the case of owner-occupied residential property)) result in an overstating of the burden of a renewal levy on a property owner.
- No account is taken of the fact that the relative burden of “dollar” levies (such as emergency tax levies, incremental dollar levies and levies for debt charges on voted general obligation bonds) on a property declines over time as the aggregate property valuation of a taxing district increases due to real or inflationary growth.

While bearing in mind the acknowledged goal of transparency, as legal practitioners who deal with election matters and the statutes affected on a regular basis, we believe that the provisions of H.B. 76 would result in the presentation of inaccurate, misleading and confusing information to voters.

MEMORANDUM

To: BASA, OASBO, OSBA, OTA, OLC, CAAO, CCAO, OML, OACB
From: Bricker & Eckler LLP
Date: October 8, 2019
Re: H.B. 76 Summary

Below are the key points of H.B. 76, a bill that proposes significant modifications to the property tax calculation appearing in all property tax bond and levy legislation and related board of election notices and ballot language. We concur with the Governor's prior veto message that these provisions are confusing, contradictory and difficult to implement.

Changes to Property Tax Calculation.

- Under current Ohio law, when a political subdivision is proposing to levy a property tax, the legislative body must adopt a resolution of necessity that is then certified to the county auditor. The county auditor is then required to calculate and certify to the political subdivision the estimated average annual property tax levy, expressed in mills for each **one dollar of tax valuation** and in **dollars and cents for each one hundred dollars of tax valuation**. H.B. 76 would require the county auditor to express the certified average annual property tax levy in mills for each **one dollar of taxable value** (instead of one dollar of tax valuation) and **in dollars only** (not cents) for each **one hundred thousand dollars** (instead of for each one hundred dollars) of **fair market value** (instead of tax valuation).
- No acknowledgement in H.B. 76 is made for differences in property type, e.g. residential, commercial or other; levy type, e.g. the current effective rate of a renewal levy; or taxpayer status, e.g. qualified for Homestead Exemption. County auditors and local governments will be blamed for misleading taxpayers.
- "Fair market value" under R.C. 5705.01 will likely be construed by taxpayers as their hoped-for sale value of their home, which will overstate the potential tax burden.

Annual Collections.

- County auditor estimates of annual collections are required to appear on the ballot, which is particularly problematic for bond issues which may have upwards of 40 years of payments depending on the assets financed. This requirement is also misleading given that it does not acknowledge variations in interest rates from the time of election proceedings to time of bond sale, nor variations in valuations over the bond term. Both county auditors and local governments will be blamed for deviations over which they have no control.

Levy Reductions by Initiative.

- Ballot forms for reductions in continuing levies under R.C. 5705.261 will be also required to list the annual collections, with no corresponding opportunity for the local government to indicate the current tax's effective rate as decreased under the reduction factor of R.C. 319.301.