

## **HB 126: Memorandum of Law**

### **Background:**

On December 15, 2021, House Bill 126 was introduced, which would amend sections 4503.06, 5715.19, and 5717.01 of the Revised Code to modify the law governing property tax complaints. On April 6, 2022, the bill was passed by both the house and senate. If accepted by Governor DeWine, the bill will become a law.

H.B. 126 would change the role of boards of education in real estate valuation appeals and will also prohibit “private payment” agreements entered into after the effective date. Private payment agreements were often used to settle property tax disputes in the past.

Except for these private pay agreements, the bill will benefit property owners. Owners will retain their existing rights to seek reduction in property tax values, but school boards will have more limited rights to seek higher values.

School boards will only be able to file complaints when they can prove an arm’s length sale in the prior tax year from information they can obtain without subpoenas or civil discovery. School boards would have to “win” at the Board of Revision or not at all, while the owner could still appeal an adverse decision. However, the school board might retain the right to appear at the Board of Tax Appeals or in Common Pleas Court to contest an appeal by the owner.

Below is a summary of the current law and proposed amendments.

### **A. Filing of Property Tax Complaints**

Property tax valuation complaints are typically controversies between the property owner and the local board of education. The property owner wants a lower value and thus a lower tax bill, and the board of education wants a higher value and thus a higher tax bill.

Generally, school boards are the only political subdivisions filing complaints and counter-complaints in these cases because most of the tax money at stake is paid to the school district in which the property is located.

The county auditor makes an initial determination of taxable value for each parcel in the county, which can be challenged by filing a valuation complaint with the Board of Revision.

Under current law, a school board, a county treasurer or prosecuting attorney, the mayor of a municipal corporation, or the board or legislative authority of a county, township, or municipal corporation can file a complaint against any property located in the county. Similarly, a property owner, the owner’s spouse, or an agent of the owner or spouse can file a complaint with respect to any property in the county.

House Bill 126 would prohibit political subdivisions (e.g., school boards) from filing an original valuation complaint seeking to increase the property's value unless both of the following occur:

- (1) The property was sold in an arm's length transaction in the year before the tax year for which the complaint was filed, for a sale price that is at least 10% and more than \$500,000 (indexed for inflation) above the value set by the county auditor, and
- (2) For a subdivision, it first adopts a resolution authorizing the complaint, after giving seven days' notice to the property owner of the meeting at which the resolution will be considered.

Additionally, the complaint form would have to state the school board passed the authorizing resolution after the notice after the required notice. School boards would also be prohibited from adopting resolution that authorize the filing of complaints in future tax years.

#### **B. Counter-Complaints and Notice**

The bill also imposes new limitations on the filing of counter-complaints. Under current law, once certain complaints are initiated, a counter-complaint may be filed in response by a school board or, if the owner did not initiate the complaint, by the owner, spouse, or their authorized agent.

Under H.B. 126, school boards would retain the right to file counter-complaints, but only if the original complaint sought a change of at least \$17,500 in taxable value. The board would have to file the counter-complaint within thirty days after the original complaint is filed.

School boards would no longer receive mandatory notice of original complaint, although they may still obtain such notice via public records requests. These changes would first take effect with the 2022 tax year for taxes payable in 2023 and complaint filed in 2023.

#### **C. Appeals**

Under current law, if a board of revision decides against a school board's counter-complaint, the board may appeal the decision to the Board of Tax Appeals.

Under H.B. 126, a property owner retains the right to appeal decisions by the Board of Revision, but school boards would no longer have that right unless it is with respect to property that they own. However, they may retain their right under Board of Tax Appeals rules and the civil rules to appear in opposition to an appeal by the owner but H.B. 126 does not address this.

#### **D. Private Payment Agreements**

The bill also prohibits a school district from entering into a private payment agreement with someone that files a complaint whereby payments would be made to the school district in exchange for the district dismissing a counter-complaint, refraining from filing a counter-complaint, or settling a claim.

The bill does not prohibit agreements in which the parties agree upon a new valuation for the property that is the subject of a complaint, as long as the new valuation is reflected on the tax list and the agreement does not require any payments.

#### **E. Conclusion**

As mentioned, the bill will benefit property owners except for the prohibition on private pay agreements. Owners will still have the right to seek a reduction in property tax values while school boards will have more limited rights to seek higher values.

School boards will only be able to file complaints after meeting certain requirements and would not be able to appeal decisions with respect to property they do not own.