



COUNTY ADVISORY BULLETIN

CAB

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NEW PROPERTY TAX OPTIONS FOR COUNTIES

INTRODUCTION

Ohio Revised Code Section 5705.19, along with selected other provisions of law, authorize county commissioners to levy property taxes for a variety of specific purposes. Recent legislation has given county commissioners the authority to propose property taxes for two more specific purposes. The purpose of this CAB is to explain these new property tax options for counties. CCAO recommends that this CAB be three hole punched and inserted after the CCAO INFORMATION TAB of the COUNTY COMMISSIONERS' HANDBOOK.

SUMMARY OF NEW OPTIONS

The new options are the result of the enactment of Am. Sub. HB 677 sponsored by Representative William Healy (D-Canton). This legislation also authorized counties to enact a permissive sales and use tax for criminal and administrative justice services. The details of this new authority were recently detailed in County Advisory Bulletin 94-3. While the primary purpose of HB 677 was to grant the new sales tax option for counties, two new options for property tax levies were added to the bill. Both became effective on May 21, 1994. Following are the major provisions of the new law:

1. County Commissioners may levy a property tax to support criminal justice services (ORC 5705.19(LL)).
2. County Commissioners may levy a property tax for the maintenance and operation of a jail or other correctional facility (ORC 5705.19(MM)).
3. County Commissioners who levy a property tax for criminal justice services must use the proceeds of the tax for any of a variety of purposes that are specified in ORC 307.45.

Criminal justice services is defined differently than criminal and administrative justice services under the sales and use tax law.

4. Requires annual audits of any private, non-profit agency that receives money from a county criminal justice services property tax levy, and establishes procedures for the recovery of improperly used monies.

Both provisions were enacted at the request of counties. Cuyahoga County requested specific authority for criminal justice services after the defeat of a current operating levy that would have been primarily used for these purposes. Some in Cuyahoga County felt that the levy would have had a better chance of passing if this purpose could have been specified on the ballot. The authority to levy a property tax for the operation and maintenance of a jail was requested by the Preble County Commissioners. Representative Gene Krebs (R-Camden) had introduced separate legislation on this issue, and its provisions were included within HB 677.

LEVY AND USE OF CRIMINAL JUSTICE SERVICES TAX

The law specifically authorizes the county commissioners to levy a real property tax "for the support by a county of criminal justice services under Section 307.45 of the Revised Code." ORC 307.45 allows commissioners to use the money raised by this levy to provide financial support for any of the following:

1. The county sheriff.
2. The police department of any municipality in the county.
3. The police department of any township in the county.
4. The Court of Common Pleas.
5. Any Municipal Court that has jurisdiction throughout the county.
6. Any County Court.
7. The County Prosecutor.
8. Any Municipal Attorney in the County.
9. Any Public Defender Agency or Appointed Counsel.
10. Any County Jail.
11. Any Municipal jail.

12. Any other detention facility as defined in ORC 2921.01.
13. For all powers and duties of the Clerk of the Court of Common Pleas, except for the Auto Title Bureau.
14. For all powers and duties of the Clerk of a Municipal Court that has jurisdiction throughout the county.
15. For all powers and duties of the Clerk of a County Court.
16. The County Coroner.
17. Any public or private, non-profit agency whose purposes in the county include the diversion, adjudication, detention, or rehabilitation of criminals or juvenile offenders.

SPECIAL REQUIREMENTS FOR FINANCIAL SUPPORT TO PRIVATE, NON-PROFIT ORGANIZATIONS

If the county uses any of the funds to provide financial assistance to a private, non-profit agency whose purposes include diversion, adjudication, detention or rehabilitation of criminals or juveniles, the provision of funds must be pursuant to an agreement with the county that includes the following conditions:

1. The agency must keep current, accurate accounts on the use of the money.
2. The agency must conduct a financial audit at least annually.
3. The agency must provide the commissioners with a copy of the audit report.
4. The agency is liable to repay the county any money that is improperly used.
5. Any other terms and conditions specified by the county commissioners.

RECOVERY OF IMPROPERLY SPENT MONIES

If the county commissioners discover that a private, non-profit agency has improperly used the money, the commissioners must adopt a resolution demanding repayment of any improperly used money and certify it to the agency.

If the agency does not repay the money in a reasonable period of time, commissioners must then adopt another resolution directing the County Prosecutor to recover the money through civil action.

LEVY AND USE OF JAIL OPERATION AND MAINTENANCE LEVY

The law specifically authorizes county commissioners to levy a real property tax levy "for the purpose of maintaining and operating a jail or other detention facility as defined in Section 2921.01 of the Revised Code." It should be noted that under this section of Ohio law a detention facility includes "any place used for the confinement of a person charged with or convicted of any crime or alleged or found to be a delinquent child or unruly child."

AUTHORIZED TIME PERIOD FOR THE LEVY

ORC 5705.19 generally limits the time period for most levies to not more than five years unless a specific exception is made. While certain levies under this section may be for a continuing period of time or for a period longer than five years, both new levy options are limited to not longer than five years.

OTHER PROVISIONS OF LAW APPLY

All other general provisions of law relating generally to real property tax levies also apply to tax levies proposed for the two new authorized purposes. The most important of these requirements is that the resolution proposing the tax must be submitted to the board of elections at least 75 days before the election it will be voted on. The proposal may be submitted to the electors at either a primary, general, or special election. In addition, counties should consult with the County Prosecutor to be sure the resolution contains the proper information. This information includes requirements for the resolution to be confined to a single purpose, to specify the increase in rate of the tax, and to include the purpose, and number of years the levy will be in effect. The resolution must also specify the date of the election and may provide that the levy will apply to the current year.