135th General Assembly

JOINT COMMITTEE ON PROPERTY TAX REVIEW AND REFORM

Final Report

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Introduction

Created in Amended Substitute House Bill 33 of the 135th General Assembly, the Joint Committee on Property Tax Review and Reform was created to investigate Ohio's complex property tax system. The Joint Committee was required to review the history and purpose of all aspects of Ohio's property tax law, including the forms of levies, exemptions, and local subdivision budgeting and publish a report of findings and recommendations no later than December 31, 2024[1].

The Joint Committee hosted eight (8) hearings from January 2024 through May 2024, hearing in-person and written remarks from sixty (60) individuals representing state and local governments, business owners, national and statewide research organizations, subject matter experts, community advocacy groups, and taxpaying Ohioans. These accomplished and passionate witnesses provided a broad and thorough analysis of Ohio's real property tax, its importance in public budgeting at every level of government, and the growing financial impact property taxes have on Ohio's property owners.

Commission Members

The following members were appointed to the Joint Committee on Property Tax Review and Reform:

- Representative Bill Roemer (Co-Chair)
- Senator Bill Blessing (Co-Chair)
- Representative Tom Young
- Representative Tracy Richardson
- Representative Bride Rose Sweeney
- Representative Daniel Troy
- Senator George Lang
- Senator Sandra O'Brien
- Senator Bill DeMora
- Senator Hearcel Craig

[1] See R.C. 757.60(A)

Summary

In many ways, Ohio's property tax system is unique in its complexity. Property taxes are Ohio's oldest tax, dating back to Ohio's roots as a territory[2]. Beginning in the 1790s, when the first taxes were established as part of the Northwest Territory, a land tax was the main revenue stream for local and state government[3].

At its origin, property was taxed based on a land classification system, with local assessors, the precursor to the county auditor, rating and grouping properties. The land classification system persisted until it was abolished in 1825 and was replaced with an ad valorem property tax, or a tax based on the real property's current value. Real property, the main focus of the Joint Committee, includes land itself, including farmland, and the structures, improvements, and fixtures on that land[4].

Most inefficient of the land classification system and the new ad valorem property tax was the prevalence of exemptions and the deliberate decision to tax certain parcels of developed land based on its unimproved value. These policies resulted in such insufficient revenue that in the ten years following 1836, governments experienced annual deficits. To address revenue shortfalls, state and local governments levied various new and novel non-land taxes and incurred unprecedented levels of debt[5]. In the years following the 1825 creation of the ad valorem tax, continual attempts were made to refine the application of the tax to meet funding needs with little success.

In 1846, the General Assembly responded by enacting the "Kelley Law" which required all real and personal property to be taxed according to its true value and applied the same tax rate to both property types. The law also narrowed tax exemptions, updated situsing requirements, prescribed appraisal standards, and updated the boards of tax equalization.

Many of the tenets of the Kelly Law influenced the taxation principles in Ohio's 1851 Constitution. Most predominately, the original Article XII Section 2 mandated the uniform rule,

> *"Laws shall be passed, taxing by uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also all real and personal property, according to its true value in money…"*[6]

Application of the uniform rule required an overhaul of Ohio's tax law, which was completed in 1852.

This uniform standard requires Ohio's property tax system to be based on equality, ensuring that property is taxed in accordance with its true value as opposed to some other value. Meaning that

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[2] See Testimony from Sam Benham, Division Chief, Legislative Service Commission, January 10, 2024
[3] See Testimony from Matt Chafin, Deputy Tax Commissioner, Ohio Department of Taxation, January 10, 2024
[4] See R.C. 5701.02
[5] Bogart, E.L. Financial History of Ohio, University of Illinois, 1912, p. 214
[6] Hebert, R. S., & Shapiro, R. M., Ohio Legislative Service Commission, The Legal Framework for Real Property Assessment (1971).

two properties with identical market values located in the same taxing district must be assessed identical taxes. For purposes of assessing, the definition of "true value" was further defined in 1859. True value, now stated as "value" in the Constitution, is interpreted to mean market value, the estimated amount a property would bring in an open market sale between a willing buyer and a willing seller where all parties are aware of relevant facts regarding the property's value[7] .

Determining this true value over time is done via appraisal which requires viewing the property, noting improvements, and comparing the recorded value with the market value of like properties.

Article XII Section 2 was amended in 1929, effective in 1931, to exclude personal property. However, the uniformity principles were left intact for the appraisal of real property. The present section states,

"Land and improvements thereon shall be taxed by uniform rule according to value…"

There were minimal changes to Ohio's property tax law following the 1851 Constitution until 1902. For the first time in 1902, the General Assembly avoided levying a property tax for the general fund. It wouldn't be until 1968 that the state levied its last property tax, mills to retire bonds for bonus compensation to Korean War veterans[8], however this unwinding of the state's dependence on property tax mirrors the system of today.

While the uniform rule set a standard of tax equality, implementation through the equalization and assessment of property faced challenges. In the absence of a state equalization entity, local factions formed seven (7) separate equalization boards to enforce uniformity. In response to these challenges and through a committee, not dissimilar to the 135th General Assembly Joint Committee on Property Tax, the state was tasked with reviewing Ohio's state tax laws.

From this 1906 committee came the creation of the State Tax Commission, formally established in 1910, to stand as an oversight body for the administration of property tax.

In 1939, the State Tax Commissioner was replaced by the Department of Taxation. The new department was composed of the Tax Commissioner and Board of Tax Appeals (BTA), composed of three (3) gubernatorial appointees[6]. Until 1976, the Board of Tax Appeals served as the body managing property assessments, at which time oversight of the property valuation process was transferred to the Department of Tax Equalization, a separate and distinct administrative body from the Department of Taxation and the BTA. It wasn't until 1983 that the Department of Tax Equalization was absorbed by the Department of Taxation, as it exists today[3].

The creation of the Board of Tax Appeals, and later the Department of Taxation, was meant to be the mechanism for enforcing uniformity. From 1825 to 1859, appraisals were conducted rarely, even when a sexennial valuation requirement was provided in 1852. In 1859, realizing the flaws

[7] See e.g., State ex. rel. Park Inv. Co. v. Bd. of Tax Appeals, 175 Ohio St. 410 (1964); State ex rel. Park Inv. Co. v. Bd. of Tax Appeals, 32 Ohio St.2d 28 (1972).

[8] Ohio Department of Taxation. (n.d.). History of Major Tax Changes.

in appraisal, the General Assembly mandated a revaluation in 1864. However, this revaluation was delayed to 1868. In 1870, the sexennial valuation requirement was extended to a decennial requirement, which was similarly ineffective in the proceeding years.

The McDonald Act of 1925 established the first fragments of today's sexennial reappraisal by requiring county auditors to reappraise all property every six years. During this period, the BTA was created to ensure these appraisals were conducted. As part of the enforcement of the BTA, annually, the county auditor, the chief property appraiser and tax assessor of the county, was required to present their reappraisal of properties to the county board of revision, a county oversight entity tasked with reviewing complaints of real property tax and to generally oversee taxation of real property[6].

However, these sexennial reappraisals were still lacking. Due to an inability to find qualified assessors, county-wide appraisals were few and most counties only managed to incorporate known land improvements, new construction, recent sales, and classification changes to property.

Seeing the error in all counties appraising in a single year, the General Assembly modified the sexennial requirement to allow auditors to reappraisal once in each six-year period, beginning in 1943. Despite the creation of the BTA, there remained no penalties for county auditors that refused to conduct appraisals and with no funding mechanism allowed, the financing of these reappraisals proved difficult.

In response to these challenges, the General Assembly first enacted penalties. In a 1957 statute the state opted to withhold Local Government Funds and revenue to school districts if the county auditors failed to comply with the reappraisal requirement and BTA orders. In 1959, the General Assembly sought to alleviate some of the auditors' costs by permitting a portion of property tax revenue to be used towards the cost of reappraisals. Today, auditors are still permitted a funding mechanism for reappraisals and similar penalties exist for failure to reappraise[9].

In expanding the BTA's ability to penalize non-appraising counties, the many counties that complied were faced with the difficult task of steeply increasing property values and, thus, property taxes. In 1952, the BTA decided to accept abstracts, documents prepared by the county auditor containing the updated valuation of property in the county[10], with sales-assessment ratios, analyses that compare assessed values to actual sales prices, averaged at 50%. This decision was swiftly challenged by the Cuyahoga County Commissioners, when ordered by the BTA to increase all property values in the county by 25%. In ruling, the Ohio Supreme Court held that the county auditor had a mandatory duty to comply with the BTA's order and that the BTA was acting within their discretion. In doing so, the Court allowed fractional assessment of property, despite the true

[9] See R.C. 319.54, R.C. 5715.26, R.C. 5715.34

[10] Ohio Legislative Service Commission. Property Tax: The Triennial Update, Members Brief (Vol. 134, Issue 57), 2022

value requirement and uniform rule of the Ohio Constitution and recognized the lawful use of sales-assessment ratios to equalize property values[11].

A taxpayer in Hamilton County followed with challenging the BTA in 1955, when ordered to increase all county properties by 10% following submission of their sales-assessment ratio. The Ohio Supreme Court found that, in regard to the taxpayer's constitutional objections, that because the property was equalized in the aggregate there was no constitutional indiscretion. The Court likewise found that individual property valuations are a matter for local appraisers, not the BTA, and, again, upheld the BTA's fractional assessment at less than 100% true value[12].

Even with the support of two Supreme Court wins, there remained uncertainty regarding the constitutionality of the BTA's policy to appraise property at 50% of true value. In 1957, the General Assembly passed legislation that required property to be assessed according to taxable value, rather than its true value, and empowered the BTA to set taxable value via rules. As a result, the Board of Tax Appeals defined taxable value as:

> *"that percentage of true value as determined from time to time by the Board."*[6]

This standard was challenged by Cuyahoga County, but ultimately upheld by the Ohio Supreme Court[13] in 1959. From this, the Court interpreted the true value requirement of the Article XII Section 2 to be a limitation on unvoted millage, but not a limitation on property appraisal so long as the property was appraised uniformly.

Displeased with Ohio's property tax system, the 103rd General Assembly created a Tax Study Commission to review the taxation of property. The Commission found that neither statute or Article XII Section 2 were being met, by uniform standards or true value standards, and recommended a law to set the assessment rate of property at 50%[6].

In the following years, the focus of property tax reform turned to uniformity for the taxpayer. For most of Ohio's history, the taxpayer had few options to challenge non-uniform property values. Prior to 1964, the taxpayer could receive a reduction in property value via the federal courts if their property was not valued in accordance with the rest of the county. However, before 1957, the BTA was not empowered to change individual values that were appraised higher than like properties, but less than 100% of true value. Nor were county boards of revision.

In 1957, the General Assembly passed legislation to expressly allow the BTA and boards of revision to adjust property values and, should an appeal be made to the BTA, granted the BTA the authority to set a new value. However, in 1959, this law was changed to remove the boards of revision authority and clarify that while the BTA was empowered to set a new value, the new value must be at the property's true value. Given the BTA's policy of valuing properties at 50% of true value aggregately, this law change offered limited respite to aggrieved property owners.

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[11] See *State ex rel. Curry v. Monroe*, 159 Ohio St. 1 (1953)
[12] See *Rollman Sons. Co. v. Board of Revision of Hamilton County,* 163 Ohio St. 363 (1955)
[13] See *Carney, Auditor v. Board of Tax Appeals,* 169 Ohio St. 445 (1959)

This stance, that taxpayers had no case to dispute property values appraised at less than true value, was coined the "Ohio Rule.[14]" Despite diverging further with federal courts and, later, the Fourteenth Amendment to the U.S. Constitution, this standard was unchanged until 1964.

In a series of cases termed the *Park Investment Cases*, the Ohio Supreme Court revisited the application of Article XII Section 2's uniform rule. In 1962, the Park Investment Company directed the Board of Tax Appeals to make a determination that all real property in Cuyahoga County was being appraised at less than true value, as well as decrease the aggregate assessed value of commercial real property in the county to align with the aggregate value throughout the state.

Unlike past cases where the Ohio Supreme Court had dismissed complaints citing the "Ohio Rule," in 1964 the Court ordered the BTA to perform a review of all the tax assessments in Cuyahoga County and order an equalization of the assessments if non-uniform taxation was found. Following review, the BTA found sufficient violation of the uniform rule and required the county auditor to reduce all commercial property values by 15%.

In this case and the series of resulting cases, the Ohio Supreme Court ruled that the Ohio Constitution requires all property to be taxed by a uniform rule according to value. Further, while the BTA argued sales price was not the only factor used to determine property value, the Court specified that value must be based on market value and be uniform for all classes of properties across all counties.

In response to these rulings, the 106th General Assembly, in 1965, passed legislation to require the Board of Tax Appeals to create rules to equalize property values with prescribed methods of determining true and taxable value. Under this law, the BTA and the common pleas courts were granted authority to increase and decrease property values when addressing taxpayer complaints. This legislation and the flurry of court cases that followed the *Park Investment Cases* effectively banished the "Ohio Rule."

However, this limited scope of authority did little to satisfy the Ohio Supreme Court's order that property values be equalized immediately. When the General Assembly failed to take action following the Court's fourth order in 1971, the Court went so far as to suggest someone or some board be held in contempt of court if no equalization of values was undertaken. In response, the General Assembly set out a six-year cycle to reappraise all property based on true value.

This six-year cycle mirrors Ohio's current sexennial reappraisal, the practice in which the property in a county is appraised to ensure that real property is being assessed at 35% of its fair market value, by order of the Tax Commissioner. To ensure consistency, the Department of Taxation has created a continuous, cyclical schedule in which every six years each county conducts a full reappraisal of real property. In the third year of that cycle, the county conducts a reassessment, known as the triennial update[15]. This schedule intentionally staggers the counties' reappraisals and updates, such that each year approximately one-sixth of counties conduct a sexennial reappraisal and another one-sixth of counties conduct a triennial update.

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[14] See *Wagoner v. Loomis,* 37 Ohio St. 571 (1882), *McCurdy v. Prugh,* Ohio St. 465 (1898)

[15] See R.C. 5715.33

As demonstrated by the General Assembly's response to the *Park Investment Cases,* regular accurate appraisals are necessary to ensure property is appraised at its true value and assessed at a uniform percentage of that value. Though the reappraisal cycle is mandated in statute, the requirement is ultimately a mechanism for complying with Article XII, Section 2.

Both the sexennial reappraisal and triennial update represent a joint effort by the county auditor and the Tax Commissioner to set accurate values for property statewide. In each instance, the county auditor begins the revaluation process, and the Department of Tax prescribes standards and rules for determining property value[16]. These rules are based heavily on the standards promulgated by the International Association of Assessing Officers (IAAO)[17].

When considering the baseline for conducting a sexennial reappraisal, the Ohio Supreme Court found that a recent sale on the open market was the best indicator of a property's value[7]. Current statute upholds this principle by authorizing county auditors to consider property sales data when the sale occurred within twenty-four (24) months of the tax lien date[18]. It is imperative that the data is composed of only open markets sales, not, for instance, discounted sales among family members, sales with specialized financing, or foreclosure auctions. To determine fair market value, the county auditor undergoes a sales review. The Department of Tax permits three approaches to conducting a sales review: the cost approach, market data approach, and the income approach[19].

The cost approach considers the depreciation and obsolescence of a property to value any buildings and improvements. This is generally based on the structure's construction and replacement costs. The market data approach works as described above by comparing recent sales of like properties to identify comparable market values. Lastly, the income approach calculates property value by the income the property generates[20]. County auditors are tasked with using the best sales review approach for different types of property. While the market approach works well for residential homes, the income approach works better for apartment complexes and commercially leased properties, and so on.

In the absence of a recent valid sale, the county auditor relies on a countywide appraisal, either via a contracted outside mass appraisal firm or through in-house certified mass appraisers[17]. This data is considered in conjunction with the sales review to create a full picture of each property's characteristics, location, and, eventually, its true value.

There are two main types of appraisals: fee appraisals and mass appraisals. A fee appraisal utilizes an in-depth inspection of the interior and exterior of a single land parcel and calculates the estimated value based on comparable properties in the geographical area. Fee appraisals are rarely utilized by the county auditor for the sexennial reappraisal due to their cost, limited scope, and the time restraints of setting new values, however these appraisals may be submitted by property owners as evidence in board of revision complaints[10].

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[16] See R.C. 5715.01(A)
[17] See Testimony from County Auditors Association of Ohio, January 24, 2024
[18] See R.C. 5713.01(B), R.C. 5713.03, O.A.C. 5703-25-06(F)
[19] See O.A.C. 5703-25-11, O.A.C. 5703-25-12
[20] See O.A.C. 5703-25-05(D), (F), and (G), O.A.C. 5703-25-07(D)

Unlike a fee appraisal, mass appraisals evaluate large groups of properties using expert modeling and market trends. These appraisals collect data on relevant property information, such as the age and condition of the property, square footage, design and layout, etc., to establish uniformity and identify the value of a type of property in a specific geographical location.

During the sexennial update, the county auditor uses the findings from the completed sales review and mass appraisals to set new property valuations for all parcels in the county. Notably, while the Constitution requires property to be valued at 100% of market value, the IAAO standards used by the Department of Taxation allow the auditor's taxable value to be 92%-95% of the market value[17].

The county auditor's proposed value changes are then presented to the county board of revision, comprised of the county auditor, county prosecutor, and a county commissioner. This review occurs annually on the second Monday of June, regardless of whether the county is conducting the sexennial reappraisal or triennial update. The board of revision is tasked with making necessary corrections to the proposed assessment list which includes, revising values, improperly listed ownership information, or adding omitted and not yet valued parcels, tracts, and lots[21].

Once approved by the board of revision, the information is recorded on an abstract that is then shared with the Tax Commissioner. This tentative abstract reports the true value data on all carryover property, property that was recorded on the previous year's tax list[3].

While the county auditor is conducting their reappraisal, the Tax Commissioner and the Department of Tax Equalization (DTE) are performing a similar analysis, called a sales ratio study. This analysis takes three previous years of sales data compiled and submitted by the county auditor and proposes aggregate increases or decreases to certain classes of property. Unlike the county auditor, the Department of Taxation does not conduct a mass appraisal of property.

Despite receiving three years of sales data, the *Park Investment Cases* have held that market value is most accurate when calculated based on recent sales, similar to the requirements for a valid sale. Therefore, the Department of Tax prioritizes the most recent year of sales data when setting their adjusted property values. The preceding two years of data are used primarily for evaluating market trends.

Once the Department's evaluation is complete, the Department either accepts or rejects the county auditor's tentative abstract. The Tax Commissioner is authorized to order the county auditor to increase or decrease their aggregate property values to match the proposed values of the sales ratio study. If the county auditor objects to the order, they may appeal the determination to the Board of Tax Appeals. The non-prevailing party of the BTA case can further appeal to the county's Court of Appeals or the Ohio Supreme Court.

Swiftly following the Tax Commissioner's determination or, in the case of an appeal, the decision handed down by the BTA or Court, the county auditor must submit a final adjusted abstract to the Commissioner. This final abstract is reported as the taxable value, 35% of the true value, for all carryover property and, unlike the tentative abstract, new construction. When establishing the taxable value from the true value, special consideration must be given to properties with

[21] See R.C. 5715.16

abatements, exemptions, or within tax-incentivized areas, such as tax incrementing financing projects. As established in 1957, the Commissioner must withhold 50% of the county's Local Government Funds and 50% of the county's school district payments if the county auditor fails to submit a new abstract[22]. Additionally, the Tax Commissioner is permitted to take civil and criminal actions against non-compliant auditors[23].

Once finalized, the county auditor is required to advertise the completion of the sexennial reappraisal in one of the county's generally circulating newspapers and notify property owners with valuation changes of their value changes. It is only once public notification is complete that the county auditor is permitted to issue tax bills[24].

There is one main difference between the sexennial reappraisal and the triennial update. While the sexennial reappraisal examines each parcel to determine a new value, the triennial update adjusts value through a statistical evaluation. For that reason, the triennial update is based only on recent, valid sales data and changes to a single property are not reflected in the adjustments. Like the Department of Taxation in the sexennial reappraisal, during the triennial update, county auditors are tasked with compiling and reviewing three years of sales data and conducting a sales ratio study, instead of a mass appraisal[10].

Aside from using an aggregate approach to re-evaluating property, the triennial update still requires the county auditor to complete an abstract review with the Department of Taxation, receive approval from the board of revision, and provide public notification.

Despite the extensive work of the county auditor and the Department of Taxation, the new property values are not completely set. Property owners retain appeal rights through the board of revision.

A property owner and certain third parties may file a complaint at the board of revision to challenge a multitude of determinations, including: property classification and valuation, CAUV recoupment charges, and tax exemption and reduction amounts[25]. If a property owner believes their property is incorrectly valued, they may file a valuation complaint.

The board of revision process is quasi-judicial in nature. The initial complainant bears the burden of proof and must provide evidence supporting their position. This evidence may include testimony, fee appraisals, recorded sales and deeds, contractor estimates for repairs, and photographs. Additionally, certain other parties may join the complaint via a counter-complaint[17].

To ensure the timely assessment of taxes, valuation complaints may only be filed from January 1 through March 31 of each year. Once filed, the property owner is generally restricted from filing more than one valuation complaint in the period between the sexennial reappraisal and triennial update. A determination by the board of revision must be made within 180 days of the end of the filing period or, if a counter-complaint is filed, 180 days from the counter-complaint filing. If the board of revision does not issue a decision within that period, the property owner's complaint

[22] See R.C. 5715.26(A)(3)
[23] See R.C. 5715.31
[24] See R.C. 5713.01
[25] See R.C. 5715.02 and R.C. 5715.19

continues through the year until a decision is made by the board of revision, BTA, or a higher court.

Despite complaints extending past January 1st, taxpayers will not be charged taxes based on inaccurate values. Instead, valuation decisions made by the board of revision are retroactive to the tax lien date. If a taxpayer's property value decreases, the County Treasure must issue a refund or credit for the overpayments. If the reverse occurs and the property value increases, the taxpayer is required to pay additional taxes[17].

While the sexennial reappraisal and triennial update are now the law of the land, the Ohio Constitution and state law have offered unique measures for the valuation of agricultural property.

The consideration of farmland for purposes of taxation dates to Ohio's original land classification system. At the state's inception, almost all landowners were farmers and land was classified based on how fertile it was for agricultural purposes. As canal networks were established, lands closer to these waterways were considered more valuable under the classification system. As Ohio's industry evolved, the land classification system was replaced with the ad valorem tax. This change meant land would no longer be valued based on its agricultural productivity, but on its market value[2].

In the years that followed, the valuation of agricultural lands faced similar uniformity issues as other types of real properties. While some county auditors appraised agricultural property based on market rate, as required under the ad valorem tax, many auditors continued to appraise these lands based on their productivity. The Ohio Supreme Court clarified, via the *Park Investment Cases,* that the uniform rule did not permit real property classification and, thus, required property to be taxed based on true, market value.

Partially in response to these rulings, in 1973 the voters overwhelmingly approved through constitutional amendment the valuation of agricultural property based on its current use[26]. This amendment acts an exception to the uniform rule[27]. The General Assembly swiftly codified current agricultural use value (CAUV) in law in 1974[28]. The creation of CAUV served two purposes: to provide an alternative valuation measure and to provide an incentive to preserve farmland. The original slogan for the 1973 amendment was "S.O.S. – Save Open Space." The tax benefit offered by CAUV and the recoupment charges act as both an incentive and deterrent from converting productive farmland to other uses.

This first iteration of CAUV did not mandate a specific method for valuation. Instead, the law gave broad authority to the Department of Taxation to create a methodology that was aligned with modern appraisal standards and that considered:

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[26] See Testimony from Leah Curtis, Policy Counsel, Ohio Farm Bureau, February 7, 2024
[27] See Ohio Constitution, Article II, Section 36.
[28] See S.B. 423 of the 110th General Assembly

"the productivity of the soil under normal management practices; typical cropping and land use patterns; the average price patterns of the crops and products produced and the typical production costs to determine the income potential to be capitalized; and other pertinent factors."[29]

In practice, the Department developed a calculation to determine potential net income, which included setting a capitalization rate and tax additur. In 2017, these administrative rules were codified in legislation which honed the capitalization rate to better represent farm interest rates and provided CAUV status to qualified conservation land[26]. Annually the Department revises the formula based on metrics in the farm economy. This process is undergone with the advice of the Agricultural Advisory Committee, a council appointed by the Tax Commissioner and composed of agricultural stakeholders and public agencies.

The CAUV formula intentionally does not consider the development potential of land. Instead, CAUV calculates taxable value based on the projected purchase price for the farmland if the land was used solely for generating income through agriculture production. The metrics used within the formula focus on aggregate expected results. In practice, the individual output of a single farmer may differ slightly from the formula's representative inputs.

To qualify for CAUV, the parcel must, for the three preceding years, be ten (10) or more acres devoted exclusively to agricultural use or, if under ten (10) acres, all the land must be devoted exclusively to agricultural use and produce an average annual gross income of at least $2,500. For valuation purposes, the definition of agricultural use is fairly broad and encompasses, but is not limited to, a multitude of traditional crop farming, livestock farming and animal husbandry, aquaculture, hemp cultivation, biodiesel and biomass energy production, and apiculture[30].

Calculating the agricultural value of farmland is best represented by this formula[26]:

$$CAUV = \frac{(Income\ from\ Agricultural\ Production) - (Non\text{-}Land\ Production\ Costs)}{Capitalization\ Rate}$$

Determining the farm's income first starts with calculating the farm's projected gross income, portrayed in the equation as "Income from Agricultural Production." To do this, the Tax Commissioner looks at four (4) main factors, soil type, crop yield, crop prices, and management costs. Ohio has over 3,500 types of soil, which have a direct impact on the effective and maximized production of certain crops. A crop that grows well in one soil type may not grow well in another. For the farmer, understanding the unique characteristics of each type may be the difference between below-average crop yield and overwhelming success. A farm may have several soil types present across its total acreage. Maps depicting where soil types are located are consulted, and the soil types are recorded for each farm to value the property on the CAUV program. These soil

[29] See R.C. 5715.01(A)(2)
[30] See R.C. 5713.30

values derived from the formula are published on CAUV "land tables" by the Department. These land tables apply to the counties undergoing their sexennial reappraisal or triennial update in that year and the two years following[31].

Crop yield, measured in yield per acre of crop harvested in each soil type, and price consider the projected earnings for Ohio's major field crops: corn, soybeans, and wheat[32]. The yield information is sourced from federal Farm Service Agency data and adjusted using a 10-year average of actual statewide output. Crop price data is retrieved from the National Agricultural Statistics Service and averaged by the Department to determine the price used in the formula. The Department of Taxation takes seven (7) years of previous crop price data, removes the highest and lowest outliers, and averages the remaining (5) years to generate a weighted average for statewide production price for each crop. Finally, gross income considers management costs. This is done by subtracting a percentage of each average crop price from the overall average. The management percentage is derived from the Ohio State University's Crop Enterprise Budgets. This process creates an adjusted crop price that better reflects farmer's revenue and expenses[31].

The next component is determining net income by calculating "Non-Land Production Costs." Measured per acre, non-land production costs include any expenses not captured in the weighted crop price calculation. This may include seeds, fertilizer, farm equipment, machinery, repair costs, wages, interest, and fuel. The costs are derived from data collected by the Ohio State University and reported in annual crop enterprise budgets. These amounts are calculated similarly to crop price using a weighted five (5) year average per acre for each crop type[31].

Also included in non-land production costs is a metric that accounts for land capability, called the average cropping pattern. There are eight (8) classes of land capability that consider slope, erosion, drainage, soil type, and potential hazards. These classes evaluate the parcel's suitability for farming. Classes I through IV are considered cropland, while Classes V through VIII are only considered suitable and profitable as woodlands or pasture.

The average cropping pattern is an average of the percentage of acres harvested of the three major crop types in the previous five (5) years, adjusted for land capabilities. Again, the data to calculate the average is derived from the National Agricultural Statistics Service. This metric gives a realistic look at what crop rotations are used to best maximize output and prevent soil erosion.

Like the income variable, the formula for approximating non-land production costs does not provide for every unique scenario encountered by the individual farmer. These approximate measures can only provide the nearest statistical representation of the most common hypothetical scenarios. Some farmers may utilize more or less efficient practices than what the formula provides[31].

The final portion of the CAUV calculation is the capitalization rate. Using a mortgage-equity method meant to account for farm mortgage terms and average investment equity returns, the Tax Commissioner sets a capitalization rate to represent the expected rate of return from investing in

[31] Ohio Legislative Service Commission. Current Agricultural Use Value, Members Brief (Vol. 132, Issue 7.1), 2018
[32] See OAC 5703-25-33(H)

an Ohio farm engaging in only agricultural income earning endeavors. This capitalization rate is updated annually to best account for changing rates.

The formula for calculating the capitalization rate is as follows[31]:

$$[(\text{Debt-to-Equity Ratio}) \times (\text{Annual Debt Service})]$$

$$+$$

$$[(\text{Equity-to-Debt Ratio}) \times (\text{Equity Yield Rate})]$$

$$-$$

$$[(\text{Equity Build-Up Over 25 Years}) \times (\text{Sinking Fund Factor})]$$

$$+$$

$$\text{Tax Additur}$$

$$= \text{Capitalization Rate}$$

The "debt-to-equity ratio" represents the percentage of a farmland's purchase price that is financed by borrowed funds. With that amount in mind, the "equity-to-debt ratio" is one (1) minus that debt-to-equity ratio. The "annual debt service," calculated as a percentage, is the annual loan payment on the farmland based on the loan amount. The "equity yield rate" is the expected annual rate of return a landowner can anticipate receiving from the farm and calculated by the U.S. Department of Agriculture's twenty-five (25) year average of the "total rate of return on farm equity."

"Equity build-up" is the equity a landowner receives once the farm loan is fully paid off, assuming the land is held for twenty-five (25) years. The "sinking fund factor" is the rate at which loan principal payments contribute to the equity build-up. Finally, the tax additur, computed as a percentage of market value, is the statewide average tax rate applied to all agricultural land[31].

Once all the formula components are set, the Department of Taxation calculates values for each soil type which is then published in the CAUV Land Table. The Department also sets a minimum value for cropland and woodland. The county auditor is tasked with applying the values to each qualifying land parcel by soil type. Like other types of real property, CAUV property is assessed at 35% of its value. Levied millage charged to the property is adjusted by the tax reduction factors when eligible and CAUV property owners may receive a reduction of taxes from the 10% nonbusiness credit. If the CAUV property contains a residential home, that home's appraisal is treated separately from the rest of the property. The residential home is valued based on true market value and, if eligible, may qualify for the homestead exemption, and 2.5% owner-occupancy credit[31].

Woodlands, property on which timber is grown as part of or next to farmland[33], also qualify for CAUV. However, unlike other types of agricultural property, the valuation for woodlands includes a deduction for the clearing and drainage costs incurred should the woodland be converted to

[33] See *Adams v. Harris, Slip Opinion No. 2024-Ohio-4640.*

cropland. This should not be confused with forest land, which is not CAUV-eligible. Forest land that is devoted exclusively to forestry or timber, as determined by the Tax Commissioner, is taxed annually at 50% of the tax rate[34]. Known as the Forest Tax Law program, landowners enroll in this program through the Ohio Department of Natural Resources and must meet certain requirements.

Conservation land may also qualify for CAUV. If the land is enrolled in a federal conservation or retirement program or if the land being maintained through eligible conservation practices is 25% or less of the property owner's total CAUV land, the parcel qualifies for the minimum value. This type of non-federal conservation includes most farm management practices to prevent soil erosion, as outlined in the Revised Code[35].

Not only is CAUV beneficial for appraisal accuracy, but the tax savings afforded by the alternate valuation formula provide a significant incentive for famers to continue farming. To continue encouraging the preservation of farmland, the program includes a recoupment charge. If the CAUV-eligible land is converted to a nonfarm use, the property owner is subject to a recoupment charge equal to the tax savings of the three preceding years[36]. A similar recoupment charge is applied to converted conservation land; however, the three years recoupment is charged if the land is converted to farm or nonfarm use. In practice, these recoupment charges can act as a significant deterrent for non-agricultural development.

At the same time the state and local governments were grappling with appraisal standards, so too were they considering tax rates.

In the same legislation that created the 1910 State Tax Commission came "The Smith Law"[37] or "Smith one percent law." Due to concerns over fiscally irresponsible budgeting practices by the local governments[38], this law required taxing authorities to operate in cash through semi-annual appropriations and submit annual budgets, now referred to as "tax budgets." These tax budgets provided anticipated revenues and expenditures for the fiscal year and were submitted to the county auditor to be reviewed by a three-member board composed of the county auditor, county prosecutor, and the mayor of the largest municipality in the county. In 1915, the mayoral position was replaced by the county treasurer, hence creating the county budget commission[39].

At its inception this body was permitted to reduce local subdivision budgets. Since then, the county budget commission has expanded in membership, is responsible for Local Government Fund distribution[40], and must oversee tax budgets, the approval of levies, allocation of non-guaranteed inside millage, reduction of certain other millage, and certification of tax rates and balances, among other statutory obligations. Unlike the initial county budget commission, the current body is

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[34] See R.C. 5713.23
[35] See R.C. 5713.30
[36] See R.C. 5713.34
[37] Bahl, R. W. (Ed.). (1996). Taxation and Economic Development: A blueprint for tax reform in Ohio. Battelle Press.
[38] See Timothy S. Hogan, "Annual Report of the Attorney General to the Governor of the State of Ohio for the period from January 1, 1911 to January 1, 1912," (1913)
[39] Ohio Legislative Service Commission. Political Subdivision Budgeting Process, Members Brief (Vol. 135), 2024
[40] Massie, E. C., Ohio Department of Taxation, History of the Local Government Fund: Part 1 (2014)

prohibited from reducing the rate of levies they are required to approve without action from the taxing authority.

Most notably, the Smith Law imposed a 10 mill limit as the maximum rate that could be levied in one year by a single taxing authority without voter approval[37]. In 1927, the General Assembly repealed the Smith Law and increased the unvoted millage allowance to 15 mills while simultaneously exempting certain types of millage from that limitation. In 1929, via amendment, the voters added a 1.5% limitation on unvoted millage to the Ohio Constitution. This amendment took effect in 1931 and soon after in 1933, this limit was reduced to 1%. The General Assembly revised the statute in 1934 to reduce the allowed unvoted millage from 15 mills to 10 mills[3]. The present-day Ohio Constitution reads,

> *"No property, taxed according to value, shall be so taxed in excess of one per cent of its in money for all state and local purposes, but laws may be passed authorizing additional taxes to be levied outside of such limitation, either when approved by at least a majority of the electors of the taxing district voting on such proposition, or when provided for by the charter of a municipal corporation."*[41]

While similar, the 1% limitation in the Ohio Constitution and the 10-mill limitation in statute are different. This difference lies in the use of the terms "true value" and "taxable value." With its inclusion in the original Ohio Constitution, the uniform rule necessitated that property was to be valued at its true value.

By rule of the BTA in 1965 and in response to the 1959 Tax Study Commission, the General Assembly created a statute to separate appraised value from assessed value by mandating that the assessment of property taxes could not exceed 50% of a property's true value, which was still to be appraised at 100% of true value. With the creation of the first state income tax in 1972, the General Assembly also lowered the assessed value to 35%, where it stands today[42].

This assessment rate is the percentage of a property's value that is subject to taxation. Taxable value, also termed assessed value, equates to 35% of the property's true value. When calculating the taxes owed on a property, the auditor multiples the tax rate by the taxable value of a property.[2]

The differentiation between appraised value and assessed value begot a differentiation between the 1% limitation on unvoted millage in the Ohio Constitution and the 10-mill limitation in statute. The 1% limitation is based on true value, while the 10-mill limitation is based on taxable value[43]. Consequently, the 10-mill limitation is more restrictive than the 1% limitation for local taxing authorities.

Unvoted millage consists of two types: inside millage and charter millage. Inside millage can be further broken down into inside millage debt levies, guaranteed inside millage, and non-allocated

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[41] See Ohio Constitution, Article XI, Section 2
[42] See R.C. 5715.01
[43] See R.C. 5705.02 and R.C. 5705.18

inside millage, called “free” inside millage. A mill is the unit used for calculating property taxes and is reflected in the tax rate as mills per dollar of taxable value. A mill is equivalent to one-tenth of one cent[2].

Prior to the 1929 amendment to the Ohio Constitution, inside millage was common. It was only through the limitations referenced previously that voter approval of levies became the means of property taxation. Inside millage may be limited in its amount, but it is permitted to be used for most general purposes including current operating expenses, permanent improvements, and other specific purposes expressed in law[2]. To satisfy the constitutional requirement that local government general obligation bonds be backed by a tax levy, taxing authorities are permitted to pledge the proceeds from an inside millage debt levy[44].

Unlike voted millage, the allocation of inside millage is rather complex. The limitation on unvoted millage is based on the millage applied to a single property, not the millage levied by a single taxing authority. For that reason, inside millage must be allocated simultaneously in shares to overlapping taxing authorities with the total impact to each property in mind. This allocation process is performed by the county budget commission, however the discretion of the commission to change this allocation, once set, is limited. Also, unlike voted millage, inside millage is not subject to the tax reduction factor[2].

Between 1929 and 1933, when the unvoted millage limitation was decreased from 15 mills to 10 mills, the vast share of inside millage was allocated to certain political subdivisions. To this day, the subdivisions that existed during this period are entitled to a share of inside millage equal to two-thirds of the average annual amounts they received during those years. These shares are referred to as guaranteed inside millage and can only be reduced at the request of the political subdivision. The county budget commission does not have the unilateral authority to change these amounts.

The portion of inside millage that is not guaranteed may be allocated by the county budget commission to any taxing authority that shows a need for the millage via their annual tax budget. This portion is often called free inside millage. Free inside millage is allocated every year and can be given to different taxing authorities year-to-year, including recipients of guaranteed inside millage[2]. Free millage is often the only unvoted millage option for taxing authorities that were created after 1933.

Today, most school districts are allocated around four (4) to six (6) inside mills[45].

Finally, charter millage, like inside millage, does not require voter approval nor is it subject to the tax reduction factor. However, unlike inside millage, charter millage is not subject to the 1% limitation and the 10-mill limitation. While inside millage is apportioned by the county budget commission, charter millage is only available to the chartered municipal corporation. The amount

[44] See Ohio Constitution, Article XII, Section 11

[45] See Testimony from Mike Sobul, Retired Research Administrator, March 24, 2024

of available millage is authorized in the municipal charter, which must be approved by the majority of the electorate[46].

The limitations on unvoted millage and the new taxable value measure were not the only tax relief measures of the time. In 1925, the General Assembly enacted the "millage rollback," not to be confused with today's 10% rollback. Similar to today's reduction factors, the millage rollback functioned to reduce the tax rate, also called millage rate, to mostly eliminate any growth in rate caused by an increase in property values caused by a reappraisal. Given the inconsistency of appraisals from 1925 to the 1960s, the millage rollback was rarely employed.

However, in the wake of the *Park Investment Cases* and due to the high inflation rates of the 1970s[2], property owners experienced widespread property value increases and, therefore, tax increases. The 1972 legislation establishing a 35% taxable value buffered some of these tax increases, as did the millage rollback, however many real property owners felt the aid was insufficient. After years of refining the restrictions on unvoted millage, the property tax increases perpetrated by property value increases were widely regarded as just another form of unvoted taxation.

The insufficiency of the millage rollback was due, in part, to its design. The millage rollback applied to both real property and tangible personal property, however, it was calculated based on real property value changes[47]. While personal real property and agricultural property were experiencing sharp increases in valuation, the same could not be said for tangible personal property. As a result, tangible personal property taxpayers were receiving a net reduction in property tax rates, while other forms of real property were only receiving a reduction of the increase. This resulted in a substantial shift in the tax burden, so that tangible personal property owners were paying less compared to real property owners.

To counter this, the General Assembly responded in 1976 with H.B. 920, a new and improved millage rollback. The purpose of H.B. 920 is simple,

> *"to prevent appreciation in real property values from causing commensurate increases in real property taxes."*[47]

H.B. 920, also called the tax reduction factor, acts as a type of inflation indexing, allowing tax collections to automatically adjust to changes in property value. Once a new property value is determined, the tax rate is charged to obtain the taxes owed. At this point, the tax reduction factor is applied to reduce the amount owed by a percentage that offsets the increase in tax collections to a taxing authority. The resulting amount is a reduced tax collection amount in which the net effect is the taxing authority receiving no more or less revenue from voted millage than the previous year

[46] See Ohio Constitution, Article XVIII, Section 8

[47] See Testimony from Sam Benham, Division Chief, Legislative Service Commission to the Ohio House Ways and Means Committee, March 14, 2023

despite the increase in property value. Like the current tax reduction factors, H.B. 920 acted as a credit on the taxpayer's bill.

H.B. 920 offered one important, key difference – it applied only to real property. By excluding personal property, this tax reduction factor avoided the personal property tax burden shifting created by the original millage rollback. However, it did not fully do away with tax burden shifting[47].

Real property is composed of multiple taxpaying groups – residential, agricultural, commercial, and industrial. H.B. 920 contained a fatal flaw by treating each of these groups the same, as residential property generally appreciates more rapidly than commercial and industrial property. Similar to the original millage rollback, the result was a shift of the taxing burden from commercial and industrial real property to residential and agricultural real property.

Unlike with the creation of H.B. 920, Article XII, Section 2's uniform rule posed a dilemma for drafters of a revised tax reduction factor. To avoid the shifting of the tax burden, revisions of H.B. 920 required certain groups of real property to be treated differently than others with different tax reduction factors. The solution was another constitutional amendment in 1980[47].

The newer and more improved tax reduction factor authorized, for only the purposes of a tax reduction factor, two separate and distinct classes of real property. Class I is composed of residential and agricultural land and its improvements, while Class II consists of all other land and improvements, mainly commercial and industrial real property, including apartment complexes[48].

Today's tax reduction factor works much the same as H.B. 920. For each class of property, if the gross amount of taxes charged against a property increase compared to the preceding year, the taxes owed are reduced by a percentage such that the current taxes owed are the same as the preceding year. For this reason, the tax reduction factors only apply to carryover property, real property that was taxable in the previous year as the same class of property[2]. This reduction does not reduce the tax rate. Instead, the amount of reduced taxes functions as a credit on the taxpayer's bill.

Furthermore, the reduction factors are computed for each tax levy separately, not all levies as a group. Once a reduction percentage is calculated for each levy, the total reduction percentage is determined from the weighted average of the reduction percentages of all levies, with each levy weighted by the proportion of its millage rate to the total of the millage rates of all levies. This creates the composite tax reduction factor[49].

In periods of diminishing property value, the term tax "reduction" factors can be misleading. Just as the tax reduction factors ensure that the taxes collected in the previous year remain unchanged in the following year, the same principle applies when property values decrease. Should property

[48] See Article XII, Section 2a
[49] See R.C. 319.301, O.A.C. 5705-7-01 and O.A.C. 5705-7-02

values decline, the tax reduction factors adjust upward to ensure the levy collects same taxes as it did in the previous year, up to the original imposed rate. However, the tax reduction factors will never impose collections above the voted rate.

The tax reduction factors do not apply to non-carryover properties, specifically newly constructed property and improvements and property that has changed classes. Without a preceding year of tax collections, there is no "baseline" for which to calculate a reduction in taxes[47].

While the current tax reduction factors have eliminated most tax burden shifting, the classification of residential and agricultural property as Class I has its own unintended consequences. While CAUV generally provides a more accurate valuation of agricultural lands, the unique value fluctuations caused by changes in the farm economy do not necessarily match the housing market valuation trends experienced by residential real property. If agricultural land values increase at a faster rate than residential real property values, the tax burden will shift toward agricultural property, as agricultural value constitutes a greater share of the total property value in the community[31].

While this example is focused on the reduction factors, it is important to note that any major tax change that disproportionately benefits a single Class or type of property could result in an intended shifting of the tax burden to the other Class or types of property.

As mentioned previously, the tax reduction factors only apply to some levies, specifically fixed rate voted levies above the 10-mill limitation. The Ohio Constitution exempts the following types of millage from the tax reduction factors: inside millage, charter millage, unvoted and voted debt levies, and fixed sum levies, i.e. levies that impose whatever rate generates a specified sum of money. By exempting inside millage and charter millage, the tax reduction factors do not prevent all tax increases due to property value growth[47].

While Article XII, Section 2a's tax reduction factors and its predecessor brought consistency to the local taxpayers, taxing authorities lost most of the inflationary growth afforded by voted fixed-rate levies. To help provide funding to school districts, the 20-mill floor was created.

In 1977, following the passage of H.B. 920, the Revised Code was amended to ensure that school districts would maintain a stable minimum level of operating revenue[45]. This qualification for school districts suspended the H.B. 920 reduction factor at the point that a school district would be deprived of a set revenue, measured in mills. This has been termed the "20-mill floor," as it is intended to guarantee school districts maintain at least 20 mills of property tax for current expense purposes. The statute also creates a similar "2-mill floor" for Joint Vocational School Districts (JVSD) [50].

The 1977 statute did not define what "current expenses" could be counted toward the floor[45].

[50] See R.C. 319.301 and R.C. 3317.01

This law was generally maintained by the 1980 constitutional amendment. Article XII, Section 2a grants that laws may be passed to limit the reduction of taxes charged for current expenses of cities, townships, school districts, counties, and other taxing districts. The Constitution further requires the limitation to be a uniform percent of the taxable value of the property for which it is applied, but that different limitations may be opposed for different taxing entities.

This section of the Constitution expressly allows the creation of a "mill floor" for taxing entities but does not specify what expenses should be taken into consideration or the percent limitation. Then and now, statute creates a 20-mill floor for school districts and a 2-mill floor for JVSDs. In 1987, the definition of current expenses was clarified to mean all levies except emergency and substitute levies[51].

Emergency levies are a type of fixed sum levy, meaning they are levied to collect a specific dollar amount, available only to school districts[52]. Created in 1971, emergency levies were allowed only if the school district's revenue was,

> *"Insufficient to provide for the emergency requirements of the school district or to prevent temporary or permanent closing of one or more schools."*[45]

At this time, emergency levies had a maximum term of five (5) years and could not be renewed. In 1979, the allowable use of emergency levies were refined to include,

> *"Emergency requirements of the schools district or to avoid an operating deficit."*[45]

In 1983, legislation was enacted to allow emergency levies to be renewed. Later, the substitute levy was created. A substitute levy may replace one or more emergency levies. In the first year, the substitute levy acts similar to an emergency levy and generates a fixed amount of revenue. However, in the subsequent years of the levy term, the substitute levy yields additional revenue for any new construction added to the tax list[53].

As discussed above, the tax reduction factors work by ensuring that increases in the value of carryover property do not result in an increase in the year-over-year collection amount of fixed-rate levies, excluding increases caused by improvements, new construction, or new voted millage. However, the 20-mill floor intentionally diminishes that reducing effect. The tax reduction factors reduce school district fixed-rate levies, but only to 20 mills. If a school district is operating with less than 20 mills of property tax, the tax reduction factors do not reduce the taxes charged at all[54].

In practice, this means that while other taxing districts may see little to no growth in revenue following a valuation increase during a Sexennial Reappraisal or Triennial Update, some school districts are ensured revenue growth following a valuation increase.

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[51] See R.C. 319.301
[52] See R.C. 5705.194 to R.C. 5705.197
[53] See R.C. 5705.199
[54] Cooper, P., Ohio Legislative Service Commission, The "H.B. 920" Tax Reduction Factor Law (2001)

Similarly, like the tax reduction factors, the 20-mill floor does not necessarily ensure equal increases in property taxes charged among all homeowners. If one homeowner's property appreciates faster or in a larger amount than another homeowner in the same taxing district, the property appreciating faster would see a larger increase in taxes. In some cases, this tax shifting can be so significant that the homeowner with minimal property appreciation could actually experience a reduction in taxes while the school district still receives tax revenue growth from the 20-mill floor.

The existence of the 20-mill floor is not just tied to the property tax system, but the public school district financing system. Prior to the early 1990s, schools were required to levy 20 mills of property tax to qualify for state funding. The existence of the 20-mill local share requirement predates the 20-mill floor. With the enaction of H.B. 920, the addition of the 20-mill floor ensured the property tax relief measure would not deprive school districts of the 20 mills needed to qualify for state aid[45].

While the local share component of school funding has changed many times since 1990, property valuation and a school's ability to levy property tax is still a significant part of the formula. The 20-mill local share requirement and the 20-mill floor remain in current law.

In addition to the tax reduction factors, the voters and General Assembly responded to rising property values with a variety of other tax credit and exemption programs. While the tax reduction factors intentionally limit the revenue of local governments, the homestead exemption, the nonbusiness credit, and the owner-occupancy credit reduce taxes but reimburse the local governments for lost revenue. Furthermore, these three tax benefit programs are applied after the tax reduction factors are applied[2]. These programs apply to both real property and manufactured homes.

In 1970, effective 1971, the voters approved the homestead exemption for low-income senior citizens via constitutional amendment[8]. The homestead exemption is a property tax benefit for certain eligible homeowners. The benefit works by exempting a portion of the qualifying individuals' true property value from taxation. The homestead exemption only applies to the primary homestead of a qualifying individual. The specification of "primary homestead," is very important, as the credit is only available for the taxes applied to the residence. A CAUV-eligible property owner, for instance, may also qualify for the homestead exemption, however the homestead exemption benefit is only applied to the residence, not the farmable CAUV acres also owned by the taxpayer[2].

In 1974, again by constitutional amendment, the voters expanded the homestead exemption to include permanently and totally disabled homeowners[8]. The General Assembly has defined permanently and totally disabled to mean an individual with some impairment in body or mind that makes them unable to work at any substantially remunerative employment that the person is reasonably able to perform. This qualification can also be met via a state or federal agency

certification of permanent disability[55]. This disability qualification extended to disabled military veterans. A third time, in 1990, the voters expanded the homestead exemption, via constitutional amendment, to apply to the surviving spouses of current homestead exemption recipients, if the surviving spouse was at least fifty-nine (59) years old.

The current section of the Ohio Constitution for the homestead exemption reads,

> *"Land and improvements thereon shall be taxed by uniform rule according to value, except that laws may be passed to reduce taxes by providing for a reduction in value of the homestead of permanently and totally disabled residents, residents sixty-five years of age and older, and residents sixty years of age or older who are surviving spouses of deceased residents who were sixty-five years of age or older or permanently and totally disabled and receiving a reduction in the value of their homestead at the time of death, provided the surviving spouse continues to reside in a qualifying homestead, and providing for income and other qualifications to obtain such reduction."*[56]

The Constitution allows for income eligibility requirements and exemption amounts to be set by the General Assembly, but it does not prescribe any specific amounts. These qualifying groups, as laid out in the Constitution, are often referred to as the "traditional homestead exemption." The original traditional homestead exemption included tiered benefits, with the exemption amount of property decreasing as income increased along with other qualifying factors. The lowest tier was for households with an income of $26,200 per year or less[57].

Additionally, the homestead exemption is an application-based program. Applicants must apply with the county auditor, who must provide notices on whether the application is approved or denied by the first Monday in October. If a homeowner believes their application was improperly denied, they can file a homestead exemption complaint with the board of revision[58].

In 2007, the General Assembly removed the tiered benefit structure and income requirements of the homestead exemption in the biennial operating budget. The bill also set a flat exemption amount of $25,000 of true value to all qualifying homeowners. At this point any senior ages sixty-five (65) years or older or permanent disabled, or their surviving spouse aged fifty-nine (59) or older would qualify for the full benefit, regardless of income[57].

In 2014, the General Assembly created an enhanced homestead exemption for permanently and totally disabled military veterans. While disabled veterans were covered under the 1974 constitutional amendment, this bill expanded the benefit from an exemption of $25,000 to $50,000 of true value[59]. The disabled veterans homestead exemption does not include an income eligibility

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[55] See R.C. 323.151

[56] See Ohio Constitution, Article XII, Section 2

[57] Ohio Department of Taxation. (2007, July 3). Property Tax Savings Now Available to Ohio Senior Citizens. [News Release]

[58] Ohio Department of Taxation. Real Property Tax: Homestead Means Testing, tax.ohio.gov/help-center/faqs

[59] See H.B. 85 of the 130th General Assembly

limitation. This exemption is available to veterans of the U.S. armed forces, reserves, or the national guard who have been honorably discharged and have a federal total disability rating or combination of disability ratings totaling 100%[60].

Also in 2014, the General Assembly reintroduced the income limitation to the traditional homestead exemption. This means testing restricted eligibility only to qualifying individuals with a household annual adjusted gross income of $30,000 or less. This income limitation also included an inflation indexing measure that allowed the $30,000 threshold to grow with the GDP deflator. However, this change only applied to new applicants for the traditional homestead exemption. Recipients of the homestead exemption in 2013 or before are still permitted to receive the homestead exemption, no means testing required. Likewise, the homestead exemption is portable. If an eligible recipient moves to a new residence, the homestead can be applied to their new property[8].

In 2021, the General Assembly created the enhanced homestead exemption for the surviving spouse of public service officers killed in the line of duty or by injury or illness sustained in the line of duty, including heart attack or other fatal injury[61]. This exemption matches the enhanced disabled veterans homestead exemption with no income qualification and an exemption of $50,000 of true value. Public service officers include peace officers, firefighters, first responders, EMTs, paramedics, and individuals in equivalent positions[62].

Finally, in 2023, the General Assembly indexed the exemption amounts for each homestead to inflation. Going forward, the $25,000 exemption of true value and the $50,000 enhanced exemption of true value will increase according to the GDP deflator[63].

While the homestead exemption can be very lucrative, the variety of eligibility limitations makes participation in the programs exceedingly selective. In 1971, the General Assembly created a broader 10% property tax rollback, in the same year Ohio authorized the state income tax[2]. The 10% rollback, not to be confused with the now obsolete millage rollback, provided a 10% credit applied directly to the taxpayer's bill. In 2005, the 10% rollback was renamed the 10% nonbusiness credit and was significantly narrowed to only include one-, two-, and three – family homes and agricultural property. Any property used primarily for business activity is no longer eligible. The nonbusiness credit does not require application and is automatically applied to eligible parcels by the county auditor each year[64].

In 1979, the General Assembly enacted a similar program called the 2.5% property tax rollback for owner-occupied residential property. The 2.5% owner occupancy credit reduces an eligible homeowner's taxes by 2.5%, however it can only be received once for the primary dwelling of the

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[60] See R.C. 323.151
[61] See H.B. 17 of the 133rd General Assembly
[62] See R.C. 323.151
[63] See H.B. 33 of the 135th General Assembly
[64] See R.C. 319.302

taxpayer[65]. This is an application-based program and, like the homestead exemption, these applications are process by the county auditor with an available board of revision complaint process.

In 2013, The General Assembly began phasing out both rollbacks. Any new or replacement levies approved in or after November 2013 no longer qualify for the 10% nonbusiness credit or the 2.5% owner-occupancy credit[8].

While these three programs provide great benefit to the eligible taxpayers with no harm to local government revenues, they are of significant expense for the State of Ohio. In tax year 2022, the state paid $1.2 billion for the 10% nonbusiness credit, $230 million for the 2.5% owner-occupancy credit, and $344 million for the homestead exemptions[2].

As Ohio's property tax system has evolved, the General Assembly has enacted a variety of property tax based economic development tools and incentives.

These partial tax exemptions have become very widespread and, generally, allow local governments to partially exempt the increased value of property following development and improvement. These programs can provide a significant financial incentive to improve areas that need substantial public infrastructure or would not otherwise be attractive to private developers. The main partial exemption programs are tax increment financing (TIFs), community reinvestment areas (CRAs), and enterprise zones[2].

Community reinvestment areas are available to municipalities, home rule townships, and counties for new construction and renovations. CRAs are available for new residential, commercial, or industrial buildings. These partial exemptions, up to 100% of new assessed value, are available for up to fifteen (15) years for new construction. For remodeling of current facilities, the partial exemptions are available for up to fifteen (15) years with an additional ten (10) years available if the building is residential and of historical or architectural significance[66].

To establish a CRA, the eligible legislative authority must pass a resolution that establishes the boundaries of the exempted area, specify the percentage of exempt new assessed value, and find that new housing construction or repair of existing historically significant buildings has been discouraged in the area. The Ohio Department of Development is required to verify that development and remodeling has been discouraged[67].

Once established, the tax exempted entity is required to enter into an agreement between the owner and the legislative authority attesting to the construction and repair to be completed and other terms as laid out in statute. By offering these types of partial exemptions and tax abatements, the local taxing authorities within the CRA forego tax revenue from the project. For that reason, statute provides school districts with the authority to approve any CRA agreement unless the taxes still

[65] See R.C. 323.152
[66] See R.C. 3735.66 and 3735.67
[67] See R.C. 3735.65(B) and R.C. 3735.66

expected to be charged on the property and any additional payments the owner makes to the school exceed 75% of the tax revenue that would have been collected without the exemption[68]. This 'veto power' is not extended to other effected taxing authorities.

Finally, to ensure compliance with the CRA agreement, the legislative authority may revoke the tax exemption if the owner violates the agreement or fails to maintain the tax exempted property[69].

Enterprise zones function similarly to CRAs but are available only to certain municipalities and counties and must meet at least two requirements of a broad list of criteria. Enterprise zones are designated areas in which businesses can receive tax exemptions for certain new investment, these exemptions are eligible for new real and taxable personal property when the project includes job creation. The local government may grant an exemption of up to 75% of the increased value for up to 15 years. Similar to CRAs, the tax exemption can be increased to 100% and 30 years, respectively, with the consent of all affected school districts[70].

Enterprise zones may be created by a municipality that is designated as the principal city of a metropolitan statistical area[71]. A board of county commissioners may also establish an enterprise zone within the county's boundaries, but only with the consent of all affected municipalities and townships[72]. The zone must have either a population of at least 4,000 people or a population of at least 1,000 people and be located in a county with a population under 300,000. Furthermore, the zone must meet at least two of the following; (1) be located in the principal city of a metropolitan statistical areas, (2) be located in a county in the "Appalachian region," (3) have an average unemployment rate 125% of the state rate, (4) have a prevalence of vacant or demolished commercial or industrial structures, (5) have a population that decreased by at least 10% from 1980 to 2000, (6) 51% of its resident have less than 80% of the median income of the encompassing municipality or municipalities, (7) have industrial structures not in use due to unfavorable economic conditions, or (8) have depressed tax capacity in overlapping school district.

Once the criteria are selected and the zone is designated, the findings and zone must be approved by the Department of Development[73].

Like CRAs, the owners of businesses within the enterprise zone are held to an agreement with the municipality or county. This agreement must find that the business is qualified by financial responsibility, business experience to create and preserve jobs, and improve the economic climate in the area. The business then agrees to establish, expand, renovate, remediate, or occupy a facility and create or preserve jobs[74].

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[68] See R.C. 3735.671
[69] See R.C. 3735.68
[70] See R.C. 5709.62, R.C. 5709.63, and R.C. 5709.632
[71] See R.C. 5709.62 and R.C. 5709.632
[72] See R.C. 5709.63 and R.C. 5709.632
[73] See R.C. 5709.61
[74] See R.C. 5709.62, R.C. 5709.63, and R.C. 5709.632

Finally, the most widely known partial tax exemption is tax increment financing, generally called TIFs. Unlike enterprise zones or CRAs, these partial exemptions are used to build public infrastructure that will aid economic development activity. Also different from the other two partial exemption programs, while the increased assessed value of real property within the bounds of a TIF are exempted from property taxation of all taxing authorities, the real property owners are required to make payments in lieu of tax to the political subdivision that established the TIF. These payments must be placed in a special fund and are required to be used to repay any debt issued by the political subdivision for the infrastructure project[75].

In establishing a TIF, the public infrastructure investment must be declared to have a public purpose. The State defines public infrastructure as public roads and highways, water and sewer lines, environmental remediation, land acquisition, demolition of public and some private property, storm water and flood remediation, gas services, electric services, telecommunication services, and public waterway development[76].

TIFs may be used by townships, municipalities, and counties and the public infrastructure created using a TIF may support commercial and residential development or some types of residential rehabilitation. While they cannot create a TIF, school districts do receive some authority over their creation. Without school district approval, a TIF may only last for ten (10) years and exempt up to 75% of the value of improvement. With school district approval, a TIF may last up to thirty (30) years and exempt up to 100% of the value of improvements[77].

Municipal corporations were the first political subdivisions granted the authority to create TIFs in 1976. Townships followed in 1987, and counties received the authority in 1990[75].

Any subdivision that creates a TIF must also create a Tax Incentive Review Council, which each year reviews each TIF, the value of the improvements created, and the TIF's employment effects[78]. As part of this process, political subdivisions are required to submit a status report on the TIF to the Department of Development annually[79]. Should a property owner fail to make the TIF service payments, those payments become a lien on the property like other delinquent property taxes[80]. The political subdivision may elect to foreclose on a property with unpaid TIF payments and, if the property is transferred, the TIF payment obligation transfers to the new owner. A TIF agreement may also include additional remedies for compelling compliance.

These partial exemption economic development programs have been widely used across Ohio to stimulate growth residentially and commercially. Proponents of these programs can point to successful development projects that would not have otherwise been possible without these

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[75] Cooper, P., Ohio Legislative Service Commission, Tax Increment Financing Legislation (1995)
[76] See R.C. 5709.40
[77] See R.C. 5709.40, 5709.41, R.C. 5709.73, and R.C. 5709.78
[78] See R.C. 5709.85
[79] See R.C. 5709.40(I), R.C. 5709.41(E), 5709.73(I), and R.C. 5709.78(H)
[80] See R.C. 5709.91

valuable tax incentives. However, many have shared concerns about the impact foregone revenue has had on local government services. While property within a TIF, CRA, or enterprise zone is fully or partially exempted from tax, property owners may still vote on property tax levies and remain somewhat insulated from the impact of property valuation changes and levy increases.

In addition to these partial exemptions, the Ohio Constitution also provides for many types of properties to be fully exempt from property taxation,

> *"general laws may be passed to exempt burying grounds, public school houses, houses used exclusively for public worship, institutions used exclusively for charitable purposes, and public property used exclusively for any public purpose, but all such laws shall be subject to alteration or repeal; and the value of all property so exempted shall, from time to time, be ascertained and published as may be directed by law."*[81]

There are three methods for classifying property for exemption: the use of the property, the ownership of the property, and the special characteristics of the property. Ohio, like most states, evaluates real property tax exemption based on the use of the property. These exemptions can be found throughout the Ohio Revised Code, including R.C. 5709, and often require approval by the Ohio Department of Taxation[37].

The property tax system of today is an intricate and, at times, confusing combination of constitutional limitations, statute, and administrative rules. Compared to other taxes, the Ohio Constitution places a multitude of restrictions on the property tax system with rules that have been defined through various Supreme Court cases. As testimony was presented, it was not infrequent for Joint Committee members to ask whether stakeholder recommendations were permitted under the Ohio Constitution or posed an unintended conflict with the tax reduction factors and the 20-mill floor.

The Joint Committee found that not only is the framework for Ohio's taxation unique, but Tax Year 2023 marked an unprecedented year for Ohioans' property values and, thus, their tax bills.

In 2023, forty-one (41) counties underwent their required Sexennial Reappraisal or Triennial Update. For these counties, the increase due to reappraisal and update in total Class I property value in tax year 2023 was 34.7%. This can be compared to these same counties' last reappraisal and update years in 2020. The total Class I property value increase in tax year 2020 attributed to reappraisal and update was 12.4%. Three years prior, in tax year 2017 the increase was 5.9% and in tax year 2014 the increase was 3.0%[82].

The property valuation increases in 2023 present a historical anomaly.

The tax reduction factors and their exemptions worked as intended, holding some levy collections down to collect the same amount as the previous year, increasing revenue to accommodate new

[81] See Ohio Constitution, Article XII, Section 2

[82] See Testimony from Dr. Howard Fleeter, Research Consultant, Ohio Education Policy Institute, May 8, 2024

construction, and allowing inside millage, charter millage, and the 20-mill and 2-mill floors to receive revenue growth. Additionally, like all election cycles, property tax levies across the state passed and failed in November 2023. The result was increased property taxes charged to most residents in the forty-one (41) counties undergoing their reappraisals and updates.

The list of recommendations presented in this report considers the flaws and benefits of Ohio's property tax system. This comprehensive approach to reform acknowledges the abnormalities of 2023 while considering how to promote transparency, fairness, simplicity, and predictability for all taxpayers.

Recommendations

The Joint Committee on Property Tax Review and Reform presents the following recommendations. Given the complexities of the property tax system, these recommendations should not be considered as a comprehensive package. Some proposals may contradict others.

Recommendation: The Ohio General Assembly should consider expanding the traditional Homestead Exemption and an enhanced exemption for disabled veterans including a means-tested increase in the benefit.

Recommendation: The Ohio General Assembly should review the Senate Select Committee on Housing report and consider pursuing the recommendations in which there are direct connections between housing and property taxes.

Recommendation: The Ohio General Assembly should consider temporarily revising the Sexennial Reappraisal and Triennial Update schedule so that there are an equal number of counties or parcels being reassessed each year.

Recommendation: The Ohio General Assembly should consider allowing counties to temporarily, for 3 years, implement a 3-year averaging for property valuations. Additionally, a mechanism should be explored to allow the usage of either the current formula or the 3-year averaging, whichever produces a better result for taxpayers.

Recommendation: The Ohio General Assembly should consider lowering the acceptable percentage of market value from 90% to 85% used when calculating market value changes during a mass appraisal sales ratio assessment.

Recommendation: The Ohio General Assembly should consider increasing the number of public meetings required to be held by a taxing authority prior to levying a tax to promote transparency to taxpayers.

Recommendation: The Ohio General Assembly should consider authorizing a property tax circuit breaker as proposed in Senate Bill 271 and other bills pending before the Ohio General Assembly.

Recommendation: The Ohio General Assembly should consider adopting a property tax deferral program for homeowners.

Recommendation: The Ohio General Assembly should review the how and when LLCs transfer and record property with the county auditor.

Recommendation: The Ohio General Assembly should consider expanding the limitations at the board of revision on property value and tax complaints initiated by parties other than the property owner and consider limiting the options for appeal by these non-owners.

Recommendation: The Ohio General Assembly should review the effectiveness of property tax exemption programs and evaluate the efficacy of their use and potential misuse.

Recommendation: The Ohio General Assembly should consider clarifying or expanding, if needed, the powers of each County Budget Commission to oversee the application and collection of voted and unvoted millage for all jurisdictions inside the county.

Recommendation: The Ohio General Assembly should find ways to simplify the process of levying and collecting property taxes and investigate ways to make it easier for all Ohioans to understand. Including, but not limited to,

- Simplifying the types of levies
- Simplifying ballot language being stated in mills vs. dollars
- Simplifying the timing of property re-evaluations
- Publishing the collection and distribution amounts of all voted and unvoted millage
- Ensuring taxing billing notices contain a breakdown of all taxes charged
- Ensuring basic educational information such as the types of levies, how taxable property value is calculated, and availability of tax exemption and credit programs is publicly accessible.

Recommendation: The Ohio General Assembly should consider removing the authority of the Department of Taxation to order adjustments to county auditors' proposed property values.

Recommendation: The Ohio General Assembly should consider requiring that emergency and substitute tax levies be included in the calculation of a school district's 20-mill floor and consider requiring a public hearing before changing unvoted property tax millage in order to increase revenue as proposed in Senate Bill 308.

Recommendation: The Ohio General Assembly should consider reducing the maximum term and renewal options for emergency, substitute, and continuous tax levies.

Recommendation: The Ohio General Assembly should consider eliminating replacement tax levies.

Recommendation: The Ohio General Assembly should consider clarifying the terminology and narrowing the uses of emergency and substitute tax levies to prevent the use of funds for non-emergency purposes.

Recommendation: The Ohio General Assembly should consider reviewing current tax increment financing (TIF) law. Including, but not limited to,

- Public input prior to the creation of a TIF
- Enhanced revenue sharing and cooperation between local governments within a TIF
- Limitations on TIFs used for residential development
- The eligible uses of TIF dollars and the definition of public infrastructure as it relates to TIFs

- Ensuring taxing authorities have reasonable safeguards and clawback mechanisms from TIF non-payment and failed TIFs.

Recommendation: The Ohio General Assembly should consider reviewing the distribution formula for guaranteed inside millage to promote fairness based on taxing authorities' current day services and funding needs.

Recommendation: The Ohio General Assembly should consider reforms to the Ohio Constitution that promote transparency and predictability for the taxpayer and provide more flexibility to the Ohio General Assembly.