



State Legislative Update & ARPA Final Rule

Ohio Association of Public Treasurers

Jeffry D. Harris
Of Counsel
Bricker & Eckler



OAPT Hot Topics – April 29, 2022



Today's Discussion

- Legislative update
 - Goings-on in the Ohio General Assembly
 - *Other than* HB 6 repeals, State Budget, Transportation Budget & Capital Budget Bills
 - What's new from state lawmakers
 - What to look out for
- American Rescue Plan Act (ARPA)
 - Final Rule
 - Trends & developments

Ohio General Assembly Goings-on



Relevant Enacted Legislation

- **HB 2 BROADBAND SERVICES** (Carfagna, R., Stewart, B.) This bill concerns broadband expansion, including access to electric cooperative easements and facilities. Dropped into HB 110
 - Ohio Residential Broadband Expansion Grant Program (R.C. 122.40 *et seq.*), @ ODOD
- **HB 51 VALUATION ADJUSTMENTS** (Lampton, B.) This bill pertains to valuation adjustments for destroyed or injured property.
 - Senate Ways & Means Committee amended bill
 - *Reauthorize remote hearing authority for Ohio public entities*
 - This bill's authorization applies to "all publicly elected bodies" - effective thru 06.30.2022
 - Signed into law on February 17, 2022 and took effect the same day

Ohio General Assembly Goings-on



Relevant Enacted Legislation

- **HB 95 INCOME TAX CREDITS** (Manchester, S.) Ostensibly, bill would allow income tax credits for beginning farmers and related businesses
 - Senate Ways & Means Committee reported out Sub. HB 95
 - Impacts TIF law
 - NEW R.C. 5709.916: related to municipal TIFs. In effect, “grandfathers” those project sites that were exempted by multiple, layered TIFs if such projects were approved by municipal corporations prior to March 1, 2022
 - Bill signed into law by Governor DeWine on April 18, 2022

Ohio General Assembly Goings-on



Relevant Enacted Legislation

- **HB 168 BUSINESS GRANTS** (Fraizer, M., Loychik, M.) Ostensibly, bill was written to provide grants to businesses, local fairs, child care providers, and veterans' homes
 - Senate Finance Committee reported-out this measure with a significant re-write of the entire bill
 - Directive to ODJFS to certify and retire the entire amount owed by the state of its unemployment assistance loan from the federal government
 - Senate floor amendments:
 - To appropriate **first slug of \$421.86MM in ARPA - Local Fiscal Recovery Funds** received by the State from the U.S. Treasury; and
 - To appropriate \$250MM in State Fiscal Year 2022 to ODOD for a new Water and Sewer Quality grant program
 - On June 29, Governor DeWine signed the bill into law

Ohio General Assembly Goings-on



Relevant Enacted Legislation

- **HB 397 REVISE AGRICULTURAL LEASE LAW** (Stewart, B., Kick, D.) This bill to revise the law with respect to agricultural leases & soil and water conservation districts
 - Became vehicle to fund infrastructure improvements for the Intel project in Licking County, as well as other infrastructure improvements needed statewide.
 - \$85MM to create within ODOD the “Investing in Ohio Fund”
 - Measure was signed into law by Governor DeWine on April 21, 2022

Ohio General Assembly Goings-on



Relevant Enacted Legislation

- **SB 57 EXEMPT CERTAIN HOUSING FROM PROPERTY TAXATION** (Hackett R., Antonio N.) This bill modifies the law regarding property tax exemptions and procedures and to authorize COVID-19-related property tax valuation complaints
 - Bill includes language regarding TIF annual service payments in lieu of taxes (i.e., PILOTs),
 - R.C. 5709.91: to render minimum service payments by developers as covenants running with the land (and therefore enforceable against subsequent owners), to be recorded with the county recorder
 - Governor DeWine signed the measure into law on April 27, 2021

Ohio General Assembly Goings-on



Relevant Enacted Legislation

- **HB 126 PROPERTY VALUES** (Merrin, D.) This bill modifies the law governing property tax complaints. Changes include:
 - Prohibits boards of education (BOE) from filing residential and agricultural complaints
 - Permits BOE to file commercial complaints only when
 - Property was sold in the year before the tax year for which the complaint was filed; and,
 - Sale price was at least 10% and \$500,000 more than the auditor's value
 - \$500,000 value is for tax year 2022; amount will be indexed to inflation
 - Requires a BOE to provide notice and pass a resolution for each parcel, with notice
 - Requires a BOE to give notice to property owners at least 7 days in advance when they plan to vote on a resolution authorizing a valuation challenge

Ohio General Assembly Goings-on



Relevant Enacted Legislation

- **HB 126 PROPERTY VALUES** (cont.)
 - Eliminates notice to BOE for counter-complaints, which means:
 - BOE will no longer receive notice from the County Auditor when a complaint is filed
 - However, property owners must still receive notice of BOE complaints and have 30 days from receipt of that notice to file a counter-complaint
 - Provides that the BOR must dismiss a case if it is not decided by the BOR within 1 year of its filing
 - Prohibit a BOE from filing an appeal of a BOR decision

Ohio General Assembly Goings-on



Relevant Proposed Legislation

- **HB 66 PROPERTY TAX EXEMPTIONS** (Hoops, J.) This bill requires reporting of information & legislative review of property tax exemptions
 - Measure passed the House on March 3, 2021 by unanimous vote
 - 3rd hearing before the Senate Ways & Means Committee on Oct. 19, 2021
- **HB 123 COMMUNITY REINVESTMENT AREAS** (Fraizer, M., Cross, J.) This bill modifies the law governing CRA areas and the terms under which property may be exempted in such areas
 - CRA default tax incentives: 75%; or 100% based on school board approval
 - Senate Ways & Means Committee:
 - Set the threshold for new payroll at \$2MM - at which a municipality must share income tax revenue with school districts (*Cf.* R.C. 5709.82(C))
 - 5th hearing before Senate Ways & Means on April 5, 2022

Ohio General Assembly Goings-on



Relevant Proposed Legislation

- **HB 146 PREVAILING WAGE (Riedel, C., Manchester, S.)** This bill seeks to allow political subdivisions, special districts, and state institutions of higher education to elect to apply the Prevailing Wage Law to public improvement projects
 - No movement: 2nd hearing in House on June 23, 2021
- **HB 157 MUNICIPAL TAXES (Jordan, K., Edwards, J.)** This bill modifies municipal income tax employer withholding rules for COVID-19-related work-from-home employees
 - No movement: After clearing House on May 26, 2021, bill no more than referred in the Senate

Ohio General Assembly Goings-on



Relevant Proposed Legislation

- **HB 228 MUNICIPAL CORPORATION TAX (Roemer, B.)** This bill would seek to make changes related to state-administered municipal net profits taxes
 - Ohio AG to charge and deduct its collection costs for any state-administered municipal net profits tax it collects
 - Codifies OTAX online services portal designed to securely exchange information between taxpayers and the state
 - Removes from state law piece of municipal income tax collections ruled unconstitutional by Ohio Supreme Court in *Athens v. McClain* in 2020: an administrative filing fee
 - Permits pass-through entities to deduct pensions and retirement benefits paid to retired partners, shareholders, or members from their municipal net profits tax liability
 - Pocket veto: bill delivered October 29, 2021 to Governor DeWine for his signature

Ohio General Assembly Goings-on



Relevant Proposed Legislation

- **HB 237 COUNTY RECORDERS** (Hillyer, B.) This measure to modernize county recorders' offices
 - Allows property conveyances to occur electronically in all of Ohio's 88 counties, as well as ensures electronically accessible records back to 1980
 - Hearings in House Finance Committee thru March 15, 2022

Ohio General Assembly Goings-on



Relevant Proposed Legislation

- **HB 412 TAXATION** (Stoltzfus, R., Roemer, B.) This bill would require the online publication of mailing addresses to which certain tax complaints and appeals are filed
 - No movement: 2nd hearing in the House Ways & Means Committee on October 26, 2021
- **HB 436 PORT AUTHORITIES** (Jordan, K., Carfagna, R.) This bill to narrow the purposes for which a pre-1982 port authority may issue revenue bonds beyond its limit of bonded indebtedness
 - And exempts from sales/use taxes the sale of TPP or services used in fulfilling a public contract with a port authority
 - Bill provides that the sales and use tax will not be applied on the sales of TPP or services to a person under contract with a port authority
 - Watch for movement: last hearings in House Ways & Means Committee: Nov. '21

Ohio General Assembly Goings-on



Relevant Proposed Legislation

- **SB 112 TAX FORECLOSURES** (Dolan, M.) Bill seeks to make changes to the law relating to tax foreclosures and county land banks
 - Provisions fall into two broad categories:
 - clean-up and clarification, or elimination, of surplus language; and,
 - cost savings and transactional support to county land banks that are revenue neutral
 - Senate passed the measure unanimously on February 9, 2022
 - Watch for movement: hearings through March 2022 in House Ways & Means Committee

Ohio General Assembly Goings-on



Relevant Proposed Legislation

- **SB 172 MUNICIPAL CORPORATION** (Schaffer, T.) Bill would require municipal corporations with more than \$100MM in annual income tax collections to provide a tax credit to nonresident taxpayers
 - No movement
- **SB 192 PROPERTY TAX** (Williams, S.) Bill to protect legacy homeowners from spikes in their property taxes as surrounding properties redevelop
 - Specifically, the bill would reduce property taxes on owner-occupied homes to the extent the taxes increase by more than 10% per year
 - No movement: 1st hearing in the Senate Ways & Means Committee on December 14, 2021

Ohio General Assembly Goings-on



Relevant Proposed Legislation

- **SB 260 POLITICAL SUBDIVISION** (Lang, G.) Bill to expand political subdivision joint purchasing authority to expressly include purchases for construction services
 - Watch for movement: March and April 2022, hearings before Senate Local Government & Elections Committee

American Rescue Plan Act



Local Fiscal Recovery Fund – Allocations in Ohio

ARPA, Title IX, Subtitle M, Sec. 9901

- Sec. 603: Appropriates **\$5.68B** directly to Ohio
- **Ohio metropolitan cities: \$2.24B**
- **Ohio non-entitlement units of local government (NEUs): \$810MM**
- **Ohio counties: \$2.27B**

Final Rule

Released by U.S. Treasury on January 6, 2022

American Rescue Plan Act



Local Fiscal Recovery Fund - Allowable Uses

Sec. 603(c)(1)

- A. Respond to the COVID-19 public health emergency or its negative economic impacts
- B. Respond to workers performing essential work
- C. To provide government services to extent of reduction in revenue
- D. To make necessary investments in water, sewer, or broadband infrastructure

American Rescue Plan Act – *1st bucket (31 CFR 35.6(b))*



Responding to public health emergency or its negative economic impacts

- Eligible responses to the negative economic impacts of the pandemic
- Must satisfy Treasury’s **2-part framework**:
 - Must be a negative public health or economic impact resulting from or exacerbated by COVID; and,
 - Response must be “reasonably proportional” (i.e., the scale of the response as compared to the scale of the harm)
 - 31 CFR 35.6(b)(1); see *also* Supplementary Information, at pages 21 – 22, and at page 194

American Rescue Plan Act – *1st bucket (31 CFR 35.6(b))*



Responding to public health emergency or its negative economic impacts

Capital Expenditures:

Must follow certain protocols:

- If project has total capital expenditures < \$1M (Treasury’s “**safe harbor**”)
 - Write-up sufficient supporting information (i.e., answer the two-part framework); include in audit file as to those funded components
- If project has total capital expenditures > \$1M
 - Also prepare **Written Justification** for the funded components

31 CFR 35.6(b)(4); *see also* Supplementary Information, at page 194

American Rescue Plan Act – *1st bucket (31 CFR 35.6(b))*



Responding to public health emergency or its negative economic impacts

Capital Expenditures (cont.):

Written Justification

- A description of the public harm to be addressed by the capital expenditures;
- An explanation why the capital expenditures are appropriate to address that harm; and,
- A comparison against two alternative types of capital expenditures
- Document must be either **kept in the audit file** (if expenditures < \$10MM); or **filed w/ U.S. Treasury** (if expenditures > \$10MM)

31 CFR 35.6(b)(4); *see also* Supplementary Information, at pages 204 – 205

American Rescue Plan Act – *3rd bucket* (31 CFR 35.6(d))



Providing government services

“For the **provision of government services** to the extent of a reduction in the recipient’s general revenue due to the public health emergency”

American Rescue Plan Act – *3rd bucket (31 CFR 35.6(d))*



Providing government services

Broadest category of spending:

- Recipients may deploy Local Fiscal Recovery Funds to pay for general government services to the extent of lost revenue
- Recipient may deem fully \$10MM of total ARPA allocation under the Treasury’s “**standard allowance**” as such revenue loss
 - Elect, via legislation, to designate up to \$10MM as due to revenue loss
 - This standard allowance may be taken, irrespective of the recipient’s actual revenue loss during the measured period

American Rescue Plan Act – *3rd bucket* (31 CFR 35.6(d))



Providing government services

- The recipient has “**broad latitude** to use funds for the provision of government services”
- There are **only a few restrictions** on the use of ARPA funds up to such lost revenue amount:
 - Recipient cannot service debt;
 - Replenish its rainy day fund;
 - Pay legal settlements not related to government services;
 - Make deposits to its pension fund(s); or
 - Use ARPA funds as match for other federal funds

Jeffry D. Harris, Esq.



jharris@bricker.com



614.227.4860



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