Bethany Boyd
Eric Vendel
Legislative Service Commission

Sub. H.B. 24*

127th General Assembly
(As Reported by S. Ways and Means and Economic Development)

Reps. Wagner and J. McGregor, Wagoner, Gibbs, Combs, Stebelton, Collier, Huffman, Blessing, Bubp, Latta, Schindel, J. Hagan, Wolpert, Adams, Aslanides, Bacon, Barrett, Batchelder, Boyd, Brown, Budish, Carmichael, Chandler, Coley, Core, Daniels, DeBose, Dolan, Domenick, Dyer, Evans, Fende, Fessler, Flowers, Goodwin, Goyal, Harwood, Healy, Hite, Hottinger, Hughes, Jones, Letson, Luckie, Lundy, Mandel, Miller, Oelslager, Otterman, Patton, Raussen, Reinhard, Sayre, Schneider, Seitz, Setzer, Szollosi, Uecker, Wachtmann, Webster, S. Williams, Yuko, Zehringer

BILL SUMMARY

- Gives municipal corporations the option of allowing sole proprietors to take a municipal income tax deduction for amounts they pay for medical care insurance for themselves and their family members.

- Gives municipal corporations the option of allowing individuals to take a municipal income tax deduction for cash contributions to health savings accounts.

- Modifies who may file a complaint to receive payment from the Real Estate Appraiser Recovery Fund for losses incurred due to an illegal act or transaction by a real estate appraiser or real estate appraiser assistant.

- Authorizes certain property owners whose property is located in a conservancy district that includes all or parts of more than 16 counties to have the Supreme Court review denials of their exceptions to an assessment so long as a notice of appeal is filed in the Supreme Court not later than 30 days after the bill's effective date.

* This analysis was prepared before the report of the Senate Ways and Means and Economic Development Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Prohibits the board of directors of a conservancy district that includes all or parts of more than 16 counties from levying or collecting an assessment beginning on the bill's effective date and until January 1, 2009, notwithstanding the Conservancy Districts Law.

- Prohibits a county treasurer from collecting an assessment levied under the Conservancy Districts Law by a conservancy district that includes all or parts of more than 16 counties beginning on the bill's effective date and until January 1, 2009, notwithstanding that Law.

- Declares that a parcel of land on which such an assessment is levied is not liable for such an assessment beginning on the bill's effective date and until January 1, 2009, notwithstanding the Conservancy Districts Law.

- Declares an emergency.

- Declares that the bill's moratorium and emergency clause imply the intent that the General Assembly will evaluate specified topics related to a conservancy district that includes all or parts of more than 16 counties in order to determine whether the General Assembly should enact legislation by June 30, 2008, to revise the statutes governing such a district.

CONTENT AND OPERATION

Municipal income taxation

Overview

Under the home rule powers granted by Article XVIII of the Ohio Constitution, municipal corporations may tax the incomes of individuals and businesses residing or doing business within their boundaries. But under Article XVIII, § 13, Ohio Constitution, municipal corporations' taxation powers are subject to limitations imposed by the General Assembly, which has established uniform tax bases for municipal corporations to use in computing the municipal income tax liabilities of individuals and businesses. Current law does not expressly permit municipal corporations to allow sole proprietors to claim a municipal income tax deduction for their medical care insurance premiums. Nor does current law expressly permit municipal corporations to allow an individual to deduct cash contributions to a health savings account.

Deduction for medical care insurance

(R.C. 718.01(A)(7) and (E)(3))

The municipal income tax liabilities of sole proprietors are computed on the basis of the net profit reported by a sole proprietor on Internal Revenue Service Schedule C, which is the form used by sole proprietors to report their profits and losses for federal income tax purposes. In calculating net profit on Schedule C, sole proprietors are permitted to deduct expenses they incur for health insurance for their employees; however, sole proprietors do not deduct on Schedule C health insurance expenses incurred on their own behalf. As a result, amounts that a sole proprietor pays for health insurance on the sole proprietor's own behalf or on behalf of the sole proprietor's family do not operate to reduce the sole proprietor's municipal income tax base.

The bill expressly permits a municipal corporation to adopt an ordinance or a resolution that allows sole proprietors to deduct from the net profit reported on Schedule C the amount the sole proprietor paid during the taxable year for medical care insurance premiums for the sole proprietor, a spouse, and dependents. The deduction would be allowed to the same extent health insurance premiums are deductible for federal income tax purposes.

The municipal income tax deduction would be reduced by the amount of any related premium refunds, related premium reimbursements, or related insurance premium dividends received by the sole proprietor during the taxable year. The exclusion of those amounts ensures that the deduction reflects the taxpayer's actual out-of-pocket insurance premium expenses.

Deduction for payments to health savings accounts

(R.C. 718.01(A)(7) and (E)(2))

The bill expressly permits a municipal corporation to adopt an ordinance or resolution allowing an individual to claim the same tax preferences for municipal income tax purposes that federal law allows for "health savings accounts" or "HSAs." Under federal law, individuals who open and hold an HSA may deduct cash contributions to the account, up to specified annual limits. Also, investment earnings on account balances are exempt from taxation unless account withdrawals are spent for something other than medical expenses. Health savings accounts may be held by any person, whether or not employed, as long as the

person is covered by a "high deductible" health plan and is not covered by Medicare or another general health plan.[1]

An individual subject to the income tax of a municipal corporation that adopts an ordinance or resolution authorizing an HSA deduction would be able to deduct cash contributions to the HSA to the same extent contributions are deductible for federal income tax purposes. The federal tax-deductible amount is equal to the deductible under the high-deductible health plan, but is limited to a maximum annual dollar amount. The maximum annual dollar limit depends on whether the health plan covers only one person or covers two or more persons. The annual limits for 2007 are as follows:

Annual tax-deductible contribution limits for health savings accounts

Health plan coverage	Age under 55	Age 55 or over
Individual	$2,850	$3,650
Multiple	$5,650	$6,450

Note: Limits are adjusted annually for inflation and the limits for ages 55 and over increase by $100 per year until 2009.

Application date

(Section 3)

The earliest taxable year for which the deductions authorized by the bill may be taken are taxable years beginning in 2008.

Real Estate Recovery Fund payments

(R.C. 4763.16)

Current law permits a person that obtains a final judgment against a real estate appraiser or real estate appraiser assistant, based upon conduct that violates the real estate appraisers licensing law, to file a complaint in a court of common pleas and seek an order for the payment of up to $10,000 of any portion of the judgment that remains unpaid and that represents the actual and direct loss of the

[1] To qualify as a high deductible health plan, a plan must have an annual deductible of at least $1,100 (individual coverage) or $2,200 (multiple coverage), and the sum of the deductible and other out-of-pocket expenses must be no more than $5,500 (individual) or $11,000 (multiple). Special rules apply to some plans.

person for an illegal act or transaction upon which the judgment was based. Upon filing the complaint, the court orders the Superintendent of Real Estate to make the payment from the Real Estate Appraiser Recovery Fund, if the complainant presents proof of obtaining the judgment and of other facts pertinent to the case. The Superintendent may defend the action and may move the court to dismiss the complaint, provided the Superintendent gives written notice to the complainant at least ten days before such a motion is made. A bonding or insurance company or a partnership, corporation, or association employing a person licensed, registered, or certified under Ohio's real estate appraiser law as part of its usual or occasional operations is excluded from recovering payments from the Fund.

The bill provides that a bonding or insurance company or any partnership, corporation, or association that uses any tool to develop a valuation of real property for purposes of a loan or that employs, retains, or engages as an independent contractor a person licensed, registered, or certified as a real estate appraiser in its usual or occasional operations may not seek an order directing, and is not eligible for, payment out of the Fund. The bill requires that complaints seeking money from the Fund be filed in the Franklin County Court of Common Pleas, not in just any common pleas court. Further, the bill eliminates the requirement that the Superintendent provide written notice of a motion to dismiss at least ten days before the motion is filed (regardless, under the Rules of Civil Procedure, a copy of any motion must be sent to the complainant).

Review in Supreme Court of exceptions to appraisals by conservancy district

(Section 4)

The Conservancy Districts Law authorizes a property owner to file with a conservancy court exceptions to the report of the board of appraisers of a conservancy district or to any appraisal of benefits, damages, or land to be taken that may be appropriated under that Law (R.C. 6101.33, not in the bill). If it appears to the satisfaction of the conservancy court after having heard and determined all of the exceptions filed that the estimated cost of constructing the improvement contemplated in the official plan of the conservancy district is less than the benefits appraised, the court must approve and confirm the report of the board of appraisers; generally, such findings and appraisals are final and incontestable (R.C. 6101.34, not in the bill). The bill states that notwithstanding the above provision of the Conservancy Districts Law, the owner of a parcel of land that is located in a conservancy district that includes all or parts of more than 16 counties, on which parcel an assessment was levied under that Law after January 1, 2007 (see "***Moratorium on certain conservancy district assessments***," below), who filed an exception to the assessment, which exception was denied,

may have the denial reviewed in the Supreme Court so long as a notice of appeal is filed in the Supreme Court not later than 30 days after the bill's effective date.

Moratorium on certain conservancy district assessments

(Section 5)

The Conservancy Districts Law authorizes the board of directors of a conservancy district to levy the following two types of assessments: (1) general assessments, to pay the cost of the execution of the district's official plan, and (2) an annual maintenance assessment, to maintain, operate, and preserve the reservoirs, ditches, drains, dams, levies, canals, sewers, pumping stations, treatment and disposal works, or other properties or improvements of the district; to strengthen, repair, and restore those improvements as necessary; and to defray the current expenses of the district. The bill prohibits the board of directors of a conservancy district that includes all or parts of more than 16 counties from levying or collecting either type of assessment beginning on the bill's effective date and until January 1, 2009, notwithstanding the Conservancy Districts Law. (R.C. 6101.48 and 6101.53, not in the bill.)

The Conservancy Districts Law requires a county treasurer to collect an assessment levied under the Law and return it to the conservancy district that levied the assessment. The bill prohibits a county treasurer from collecting either type of assessment that is levied by a conservancy district that includes all or parts of more than 16 counties beginning on the bill's effective date and until January 1, 2009, notwithstanding the Conservancy Districts Law. If necessary, a county treasurer must revise applicable tax bills. (R.C. 6101.48 and 6101.53, not in the bill.)

In addition, the bill states that a parcel of land on which such an assessment is levied is not liable for such an assessment beginning on the bill's effective date and until January 1, 2009, notwithstanding the Conservancy Districts Law. (R.C. 6101.48 and 6101.53, not in the bill.)

Intent of moratorium and emergency clause

(Sections 6 and 7)

The bill declares an emergency. It also states that its provisions concerning the moratorium and the emergency clause imply the intent that the General Assembly will evaluate, with respect to a conservancy district that includes all or parts of more than 16 counties, the composition of the board of directors, the duties of the board of directors, the levying and collection of an assessment in the district, and the economic burden on the citizens in the district in order to

determine whether the General Assembly should enact legislation by June 30, 2008, to revise the statutes governing such directors, such directors' duties, and the levying and collection of an assessment in such a district.

Emergency clause

(Section 7)

The bill takes effect immediately under its emergency clause.

HISTORY

ACTION	DATE
Introduced	02-20-07
Reported, H. Ways & Means	03-22-07
Passed House (99-0)	04-17-07
Reported, S. Ways & Means & Economic Development	---

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