Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 218 of the 128th G.A. **Date**: June 24, 2009

Status: As Introduced **Sponsor**: Rep. Winburn

Local Impact Statement Procedure Required: Yes

Contents: Modifies the computation for determining the true value of public utility property used to generate electricity from solar or wind energy by eliminating deductions for depreciation, and reduces the assessment rate of such property from 24% to 12%

State Fiscal Highlights

STATE FUND	FY 2010	FY 2011	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	Potential increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- A reduction in the taxable value of public utility tangible personal property (PUTPP) beginning in tax year (TY) 2010 may increase GRF expenditures in FY 2012 and thereafter for subsidy payments to primary and secondary schools via the foundation funding appropriation item. The amount of the increase, if any, would depend on the foundation funding formula then in effect.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2010	FY 2011	FUTURE YEARS
Counties, Municipalities, Townships, School Districts			
Revenues	- 0 -	Potential minimal loss	Potential loss in earliest years, followed by potential gain
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- A reduction in the taxable value of tangible public utility property beginning in TY 2010 will affect property tax revenues collected in calendar year (CY) 2011. The revenue effect will vary for a given jurisdiction.
- Reducing the assessment rate lowers the local revenues from a given piece of tangible property, but the elimination of the depreciation allowance will eventually offset and provide a net revenue gain to the local jurisdiction.

Detailed Fiscal Analysis

The bill makes changes to public utility personal property tax law. Under current law, the true value of an electric company's production equipment first placed into service on or before October 4, 1999, equals the property's cost as stated on the company's books and records less 50% of that cost as an "allowance for depreciation and obsolence." If the property was first placed into service after October 4, 1999, the true value equals "the purchase price . . . less composite annual allowances." Composite annual allowances are depreciation deductions established by the Tax Commissioner based on the year the taxpayer first placed the property into use.

The bill eliminates the deduction of composite annual allowances in the true value computation for property that generates electricity from a "renewable resource." Renewable resources are defined as solar photovoltaic, solar thermal, and wind energy. The change in the computation applies to tax year (TY) 2010 and thereafter.

Under current law, the assessment rate for electric company generating equipment is 24%. The assessment rate is the percentage of true value that the tax rates apply to. The bill reduces this assessment rate to 12% for property that generates electricity from a renewable resource, beginning with TY 2010.

Fiscal effect

The local revenue effect will vary depending on the jurisdiction's tax rate on public utility personal property and on electric generation siting decisions made by public utilities. The effect on GRF expenditures, if any, will vary by school district. H.B. 218 will reduce the assessment rate on tangible public utility property from 24% to 12% if the property is used to produce electricity from a renewable energy resource. The reduction in property tax revenues that may result from this provision would be partially offset, and in later years eventually fully offset, by increases due to the elimination of the deduction of composite annual allowances.

Revenue loss from public utility personal property tax base

LSC staff is unsure how much public utility personal property is used currently to produce electricity from a renewable resource, but we believe the current taxable value of the property is an exceedingly small fraction of tangible public utility property. The assessment rate reduction in the bill will primarily affect new electric generating property put into service in the future. S.B. 221 of the 127th General Assembly mandated that some electric generation from renewable resources must occur in Ohio. Thus, any reduction in assessment rates for generation from wind and solar resources would constitute a revenue loss to the local jurisdiction. In using information from the *2007 Real and Public Utility Personal Property Tax Abstracts* published by the Department of Taxation, the calculated statewide weighted average "gross"[1] millage rate on public utility personal property was 75.34 mills. As a result, for every $1 million in additional public utility tangible personal property (PUTPP) true value created by the electric utility, the local jurisdiction will lose (*$1,000,000 x 0.12 assessment rate x 0.07534 tax rate*) $9,041 in property tax revenue.

S.B. 221 mandated that electric utilities provide at least 25% of the electricity supplied under their standard service offers using alternative energy sources by 2025; a comparable requirement applies to electric services companies. At least 50% of the electricity produced using an alternative energy technology must be produced using a renewable energy source, and it must include a specified percentage of solar power. Half may be met using an advanced energy resource, which includes clean coal technology using carbon controls, advanced nuclear plants, fuel cells, cogeneration projects, or energy efficiency improvements. Phasing in of the renewable energy requirement begins by the end of 2009, when 0.25% of electricity generated must come from renewable sources, and 0.004% must come from solar energy sources. These percentages increase to 0.5% and 0.010%, respectively, by the end of 2010, and continue to increase each year until they reach 12.5% and 0.5%, respectively, by the end of 2024.

To meet the requirements set forth in S.B. 221, an electric utility may choose to generate electricity from renewable resources. If an electric utility chooses to create new electric generation capacity from solar photovoltaic energy, solar thermal energy, or wind energy as opposed to any other alternative, the local taxing jurisdiction will collect less revenue. The assessment rate on renewable resources is lower, so an electric utility will save (*$1,000,000 x [0.24 - 0.12] difference in assessment rates x 0.07534 tax rate*) $9,041 in property taxes for every $1 million in PUTPP value it creates.

However, the taxpayer's property tax savings attributable to a lower assessment rate will be offset to some degree because H.B. 218 would eliminate the deduction of composite annual allowances[2] in the true value computation. The removal of this depreciation adjustment to true value increases the taxable value of public utility personal property. Generally, a taxpayer may only depreciate the tangible public utility property to a value between 15% and 50% of historical cost once the fixed asset is in the latter half of its useful life. Therefore, in the earliest years after the fixtures are put into

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[1] Real property is subject to the H.B. 920 reduction factors, whereas tangible personal property is not. Thus, the "effective" millage rate is used when estimating revenues from the taxable value of real property whereas the "gross" (i.e., voted) millage rate is used when estimating revenues from tangible public utility property.

[2] According to the Ohio Department of Taxation publication, *Guidelines for Filing Ohio Personal Property Tax Returns, 2006 Edition*: "Ohio Administrative Code (Ohio Adm. Code) 5703-3-10 and 5703-3-11 provide for the determination of the true value of tangible personal property used in business. A procedure that applies a composite annual allowance to historical costs has been prescribed by the tax commissioner for more than 70 years, with modifications to reflect current technology and business experience, new types of equipment, and new business activities."

service, the effect of a 50% reduction in the assessment rate from 24% to 12% will have a greater impact on local revenue collections than the counter-effect incurred by the elimination of composite annual allowances. The composite annual allowance schedule used by the Tax Department implies that the useful life of PUTPP can vary between 5 and 50 years. The National Regulatory Research Institute estimates that wind generating technology has an operating life of 20 years, photovoltaic solar technology ranges between 20-40 years, and concentrated solar generation technology will operate for 30 years. LSC staff cannot estimate the aggregate local revenue gain (loss) for any future years given the uncertainty as to which technologies will be utilized and the jurisdictions in which they are put into service.

Potential Increase in GRF expenditures for FY 2012 and thereafter

The reduction in the taxable value of property within a given school district may increase GRF expenditures for the foundation funding appropriation item, which provides a state subsidy for the operation of Ohio's public schools. However, the bill applies to PUTPP beginning in TY 2010, which corresponds to foundation payments made in FY 2012. The law governing foundation payments in FY 2012 may not necessarily yield the same outcomes as those payments made according to current law.

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