POLICY REPORT

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Property Taxes for Funding Public Education:

Ohio's Unique Method for Controlling Tax Increases

IN BRIEF

This report examines the origins and effects of Ohio's unique system of adjustments to control year-to-year property tax increases – tax reduction factors commonly called House Bill 920. Over the years, much attention has been paid to this provision of state tax law that was later added to the Ohio Constitution, but little has been done to address its negative effects on Ohio school districts.

For 33 years, House Bill 920's tax reduction factors have reduced taxes in proportion to increases in property value. Indeed, House Bill 920 did solve the problem faced by the legislature in 1976 when rapid inflation in housing values was increasing tax liabilities for many homeowners.

However, the solution to one problem created other public policy issues.

HB 920 added complexity to an already complex taxing system, and it interacts with the existing tax laws and state aid formulas in ways that create perverse effects.

Most importantly, the provision places school districts at a disadvantage in securing stable and growing revenue to keep up with rising costs. Instead of seeing revenues grow automatically to cover inflation, districts had to return to the ballot again and again just to try to keep up with costs.

In simplest terms, House Bill 920 has two effects. It controls unvoted tax increases. And it forces local governments to return to the ballot if they want more revenue. For this reason, the House Bill 920 system fosters a kind of accountability. If a local government needs more property tax revenue, it can obtain that revenue if it can convince voters the additional revenue really is needed.

From 1975 through 2007, nearly 9,800 school operating levies have been on the ballot, 49.3% of which were approved by voters. The 433 levies in 2004 were the most in the past 33 years. On average, that is enough levies for every school district in Ohio to turn to the ballot every two years just to keep pace with inflation. That gives Ohio the distinction of having more local school levies than any other state.

In the end, school district taxpayers paid slightly higher taxes through voted tax increases than they would have if HB 920 never existed and taxes had risen automatically through higher valuations.

Thus, a major disadvantage of House Bill 920 lies in its inefficiency. Its control of automatic tax increases comes at the price of frequent ballot activity.

House Bill 920 presents a question of balance. Does the amount of tax levy activity impose greater costs than merited by the marginal improvement in accountability? Alternative limitations on automatic tax increases could strike a better balance between accountability and moderate growth in tax revenue, especially in the case of school districts.

The report outlines various options the state could pursue to address the deficiencies in the law. •

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Like those across the United States, local governments in Ohio can levy taxes on real property to fund public services. But the Ohio Constitution limits such taxes in important ways. Ohio's real property tax also uses a unique system of adjustments to control year-to-year tax increases. These limits on tax increases go by the technical name of "tax reduction factors." The popular term applied to them borrows from the title of the legislation that enacted them, and so the whole system simply goes by "House Bill 920."

Why was House Bill 920 enacted? How does it work? What issues arise from its operation? This report addresses these questions. Unfortunately, the House Bill 920 system is actually quite complicated. To explain it fully requires precise use of technical terms. Precise technical descriptions of tax laws rarely make for entertaining narratives, so the following pages attempt to achieve a compromise between a description with technical perfection and one that non-specialists can understand and appreciate. To achieve such a balance, this description of Ohio's taxes will not attempt to explain every nuance of House Bill 920 or every policy issue involved in its administration.

General Background about Real Property Taxes in Ohio

Every tax follows a simple formula:

Tax Due = (Tax Rate times Tax Base) minus Tax Credits

This formula applies to every tax…even the federal income tax. The complications arise when a taxpayer or tax assessor must define each of the three factors in the formula. What is the tax rate? How is it determined? To what base does the rate apply? How does the tax base become defined by a specific dollar amount? After the tax base is multiplied by the tax rate, the resulting product may be reduced by what are usually called "tax credits." In fact, House Bill 920 fits precisely under the concept of tax credit.

Tax Rate

In Ohio, real property tax rates are expressed as "mills." A mill equals one-tenth of one percent. A simple way to think about tax mills is that 10 mills has the same meaning as a 1% tax rate.

The Ohio Constitution requires that voters approve any tax on property in excess of 10 mills.[1] Every location in Ohio has approved more than the 10 mills allowed by the Constitution as unvoted or "inside" mills.

Different kinds of local governments may seek voter approval for property taxes, including municipalities, townships, counties, school districts, and various special districts. The tax rate applied to any specific real property equals the sum of the taxes approved by the voters in all of the local governments within which that specific property is located.

As an example of how different local entities contribute to the real property tax rate, Table 1 looks at the tax levies in effect for one taxing district in Parma, south of Cleveland.

The first column shows the political subdivision for which a tax is levied. The second shows the year in which the voters approved the tax. ("0" means an unvoted tax). The third column shows each levy's purpose. The final three col-

1. Technically, the Constitution requires voter approval of all taxes in excess of "1% of true value". Since a mill is 1/10 of a percent, this has been interpreted to mean all taxes over 10 mills require voter approval. However, because an assessment percentage of 35% is applied to real property in order to determine its taxable value, it has been asserted by some that a tax rate of 28.57 mills (not 10) is really equivalent to "1% of true value."

Table 1: Example of Tax Rates* – Parma City and Parma City School District for Tax Year

Political Subdivision	Year Levy Approved	Purpose or Use of Tax Levy	Original Rate Approved in Mills	Residential Effective Mills	Business Effective Mills
Cuyahoga County	0	Unvoted - General Fund	0.71	0.71	0.71
Cuyahoga County	0	Unvoted - Debt Service	0.74	0.74	0.74
Cuyahoga County	1976	Bond/Jail	0.27	0.27	0.27
Cuyahoga County	2003	Health & Welfare	4.90	4.02	4.45
Cuyahoga County	2005	MH &MR	3.90	3.52	3.60
Cuyahoga County	2006	Health Services	2.90	2.62	2.68
Parma CSD	0	Unvoted - General Fund	5.10	5.10	5.10
Parma CSD	1976	Current Expense	28.90	8.61	11.19
Parma CSD	1982	Current Expense	6.70	3.16	3.64
Parma CSD	2000	Current Expense	6.00	4.59	5.18
Parma CSD	2000	Permanent Improvement	2.00	1.53	1.73
Parma CSD	2004	Emergency	3.09	3.09	3.09
Parma CSD	2005	Emergency	3.71	3.71	3.71
Parma CSD	2005	Current Expense	4.90	4.45	4.74
Parma CSD	2005	Permanent Improvement	1.00	0.91	0.97
Parma CSD	2007	Emergency	3.30	3.30	3.30
Parma City	0	Unvoted - Fireman's Fund	0.30	0.30	0.30
Parma City	0	Unvoted - General Fund	2.80	2.80	2.80
Parma City	0	Unvoted - Police Pension	0.30	0.30	0.30
Parma City	1994	Fire	1.50	0.92	1.10
Parma City	2000	Bond	0.20	0.20	0.20
Parma City	2007	Police	2.00	2.00	2.00
Cleveland Metro Parks	0	Unvoted Metro Parks	0.05	0.05	0.05
Cleveland Metro Parks	2004	Current Expense	1.80	1.62	1.66
Cuyahoga County Library	2004	Current Expense	2.00	1.81	1.87
Cuy. Community College	2002	General Fund	1.60	1.31	1.45
Cuy. Community College	2006	General Fund	1.20	1.08	1.11
City/County Port Authority	1998	General Fund	0.13	0.09	0.10
Total			92.00	62.80	68.04

*Mills rounded to nearest one-hundredth of a mill

umns show the rate as originally approved, the effective rate on residential property (Class 1), and the effective rate on business property (Class 2). The effective rate is the rate after the tax reduction factor has been applied. (Effective rates will be discussed further later.)

The totals at the bottom indicate the "composite" rate applicable to a property in this taxing district. Thus, the total tax on a house in Parma equaled 62.80 mills in 2007.

Tax Base

The value of each property determines the tax base of the real property tax. The county auditor in each of Ohio's 88 counties has the responsibility to determine the value of each parcel of land and any building on the land. Once every six years, the county auditor supervises a reappraisal of all real property in the county. The counties follow a staggered schedule whereby a different group of counties reappraises in each calendar year.

In the third year after the reappraisal, the auditor also uses information about recent property sales and computerized computations to adjust real property values statistically. The reappraisal is called the "sexennial reappraisal," and the adjustment three years later is called the "triennial update." The Ohio Tax Commissioner exercises some supervisory authority over the reappraisals and updates to insure that the auditor has followed appropriate procedures and valued property fairly. The Commissioner's supervisory duties also include measures to insure consistent assessment practices from county to county.

In the reappraisal or update process, the county auditor determines the market value of each parcel of real property. Market value is also called "true value." True or market value approximates the amount that a buyer would pay to a seller in an "arms-length" property sale (a sale on the open market). Of course, sometimes, the auditor can rely on an actual sale transaction, but, since most properties do not change owners every three years, the auditor must use information about sales of similar properties to estimate a market value for most property.

Property values tend to increase each time the county auditor reappraises or updates property in a county and at the time property is sold.

The appraisal process defines market or true value, but another step must occur before the computation of tax liability. Specifically, the auditor multiplies the true or market value of each parcel of property by 35% to determine the "assessed value" or "taxable value." (The history of this fractional assessment is discussed below.)

The product of the assessed value times the total tax rate equals the tax liability for a parcel of property before the third step in the formula, the deduction of tax credits occurs.

The Tax Reduction Factor and Other Tax "Credits"

The product of the tax rate times the assessed value of a parcel of real property equals a kind of preliminary tax liability. If the property value in that taxing district increases, the tax reduction factor, a.k.a. House Bill 920, reduces that preliminary liability by a percentage. The annual rate at which property values increase in each local government's territory determines how much this percentage reduction will equal each year. The reduction is designed to decrease taxes by exactly the amount by which the higher property values would increase them. When property values in the tax base go up, applying the same tax rate to those higher values would mean a higher tax bill. The House Bill 920 tax reduction exactly offsets that increase.

The amount remaining as tax liability after

the House Bill 920 reduction is called "taxes charged and payable."[2]

Historical Background

Ohio's Constitution has required uniform taxation of property since 1851. In 1931, an amendment excepted tangible personal property from that requirement so that uniform taxation rules only applied to real property.[3] At some point, the practice began by which only a "fractional assessment" of real property occurred. County auditors assessed property at some percentage of its true or market value rather than at the full market value.

During the 1960s, a series of lawsuits worked their way up to the Ohio Supreme Court. These legal actions generally are referred to as the "Park Investment cases" because the Park Investment Company returned to the court four times to obtain relief from unequal or "non-uniform" assessments. In the Park Investment and similar cases, owners of commercial property proved that county auditors assessed commercial real estate at 40% or 50% of market value while they assessed residential and agricultural property at 30% or less of market value.

The Ohio Supreme Court ruled that each county auditor must "equalize" property assessments. The constitutional principal of uniform taxation of real property means that the same assessment percentage must apply to all real property. By the mid-1970s, after a period of legislative and administrative foot-dragging, the state began to enforce uniform assessments at 35% of market value. This meant that the assessment percentage decreased for commercial and industrial property, but increased for residential property – lowering taxes for business property and increasing them for homeowners.

The equalization of real property assessment occurred at a particularly unfortunate time. Beginning in 1968, the economy generally entered one of the worst inflationary periods in recent history. By the time that the county auditors finally began to equalize assessment percentages in 1974, the general inflation rate exceeded 8%. Inflation in housing values matched or exceeded inflation in the economy generally.

The combination of court-ordered increases in assessment percentages plus rapidly rising home values meant higher tax liability for most homeowners and created the conditions for a taxpayers' revolt. As some of the large counties in northeastern Ohio brought in the results of equalized reappraisals in the summer of 1976, the situation reached crisis proportions. In this tense atmosphere, the legislature looked for a solution to the problem of "unvoted" tax increases on homeowners. House Bill 920 contained that

2. A second tax credit reduces tax liability on residential and agricultural property by an additional 10%. In the case of owner-occupied residences, a third reduction of 2½% occurs. A fourth reduction, the "homestead exemption," reduces the taxes charged against property owned by elderly or disabled homeowners by providing a credit equal to the taxes charged on the first $8,750 of the residence's taxable value, i.e., the first $25,000 of market value. The state reimburses local governments for the revenue lost from these rollbacks and the homestead exemption. Since the rollbacks and the homestead exemption occur after the computation of House Bill 920 reductions, they fall outside the scope of this discussion. Generally these rollbacks do not complicate public finances to the extent caused by House Bill 920's provisions.

3. The exception of personal property from the Uniform Rule did not mean that such property was no longer taxed. Rather, the exception allowed the state legislature more discretion in how to tax personal property, although the Constitution still required that tax rates over 10 mills on personal property receive voter approval. Personal property divides into two general categories: household goods and property used in business such as manufacturing machinery or office equipment. For many years, the legislature exempted household goods from property taxes. Recent legislation eliminated the tax on business personal property as well, except for certain public utility equipment.

solution with its complicated system for reducing taxes owed.

For 32 years, House Bill 920's tax reduction factors have continued to reduce taxes in proportion to increases in property value. Indeed, House Bill 920 did solve the problem faced by the legislature in the summer of 1976. However, the solution to one problem has created other public policy issues.

A Little More Historical Detail

Before House Bill 920, Ohio law did provide a check against the effects of inflation in property values. The law was commonly called the "millage rollback." It provided an adjustment by which the county directly would reduce tax rates in proportion to increases in all property value.

However, this mechanism had a flaw. By reducing tax rates directly, the "millage rollback" cut both real and personal property taxes. Since personal property values rose slowly, if at all, reductions in the tax rate applicable to all property provided net reductions to personal property while real property owners still paid more. For this reason, House Bill 920 repealed the millage rollback system in favor of percentage reductions targeted at real property only. As a result, after 1976, personal property no longer received rate reductions based on increases in real property values caused by reappraisals.

The first few years after House Bill 920's enactment revealed a similar problem within the different types or "classes" of real property. A few years of reappraisals showed that under the equalized system, in which the county auditor applied the same assessment percentage to all real property, residential real property grew in value significantly faster than did business real property.

When House Bill 920 averaged its reduction factor formula over all real property, the faster growth in residential values meant greater reductions for business property than it needed based on its growth rate and residential property did not receive enough reduction to offset reappraisals.

As a result, the legislature proposed, and the voters ratified, a constitutional amendment in 1980. This amendment created a very narrow exception to the uniform rule of real property taxation. The new amendment permitted separate tax reduction factors for residential and agricultural real property (Class 1) and all other real property (Class 2). As a practical matter, "all other" real property means business real property.

How the State Computes the Tax Reduction Factors

Unfortunately, no easy way exists to explain the details of how House Bill 920 formulas reduce taxes. But this section will dig a little deeper into the tax reduction factor mechanism to provide a more detailed presentation of how the system works.

Tax reduction factors required by House Bill 920 apply to all real property taxes unless the law provides for a specific exception. The Ohio Constitution limits the exceptions to:

- Unvoted mills (or "inside mills") – the first 10 mills levied by the authority of the Constitution.
- Taxes authorized by the charter of a municipal corporation.
- Taxes levied at whatever rate needed to pay the principle and interest on bonds (an example would be a school bond levy for the construction of school buildings).
- Taxes levied at whatever rate needed to produce a specified dollar amount (the only example of this exception in actual use is the emergency school levy).
- Taxes levied to produce a minimum per-

centage of operating funds for a given class of political subdivision (the only examples of this exception in use are the 20 mill minimum school operating levy, discussed below, and a two mill minimum for joint vocational school districts).

After these exceptions, the House Bill 920 tax reduction factors still apply to a large number of operating or current expense tax levies. They apply to the taxes levied by every type of political subdivision and apply separately to each separate tax.

For example, Table 2 shows how the tax reduction factor would apply for a two mill tax when a county experienced a 15% increase in residential property value.

Notice that the tax rate remains at two mills in both years. The effective tax rate in the reappraisal year would equal about 1.74 mills, but House Bill 920 computations do not technically change the tax rate itself. They do change the amount of taxes owed.

It is important to notice that *the tax reduction computations apply in the aggregate*. They do not apply property by property. For example, in the situation shown in Table 2, if an individual homeowner's residence reappraised with a 15% increase in value, that homeowner would pay exactly the same taxes in the reappraisal year as in the base year. However, if that specific residence increased in value by 25%, the owner would pay about 9% more taxes in the reappraisal year than in the base year.

At the same time, if a taxpayer's reappraised home value failed to grow at the average rate, that taxpayer would experience a net decline in taxes.

How Complicated Is It? The Number of Computations

Using a unique tax reduction percentage for each tax levy clearly imposes a complicated task. In the Parma example, House Bill 920 does not apply to 12 of the taxes levied because they are unvoted mills within the 10 mill limit, an emergency school levy, or a tax levied at the rate necessary to pay principal and interest on a bond issue. This leaves 16 different levies for which the state must compute individual House Bill 920 reductions. And, of course, each different tax requires two separate computations – one for Class 1 property and another for Class 2. When multiplied by 4,000 taxing districts, the scope of the task becomes clear.

While technically House Bill 920 does not change the tax rate, the most convenient method for expressing the effect of the tax reduction factors is to translate the percentage into an "effective tax" rate. For example, a levy approved by voters at 10.7 mills in 2002 might produce only the amount of revenue equal to 6.99 mills by 2006. The effective tax rate for 2006 would be 6.99 mills.

Over time, the difference between the original tax levy rate and the effective rate tends to increase. As a county passes through each reappraisal or update, the new tax reduction adjustment tends to cause the effective tax rate to

Table 2: Example of a House Bill 920 Tax Reduction Factor on a Two Mill Tax Levy

	Assessed Value	Tax Levy	Tax Before Reduction	Tax Reduction Percentage	Taxes Charged & Payable
Base Year	$100,000,000	2 mills	$200,000	0.0%	$200,000
Reappraisal	$115,000,000	2 mills	$230,000	13.0%	$200,000

depart further and further from the original tax rate authorization.[4]

In Table 1, Parma schools levied 5.1 unvoted mills and 28.9 voted mills in 1976 when House Bill 920 took effect. The 5.1 unvoted mills weren't affected by House Bill 920 and continued at that same rate in 2007. But the 28.9 voted mills from 1976 were charged against residential property at the effective rate of 8.61.

By comparison, Parma schools' 2005 levy of 4.90 mills applied at an effective rate of 4.45 mills in 2007. Table 1 shows that the 2007 effective rate of each Parma levy represents a smaller percentage of the original tax rate as the levies become older.

The three emergency levies work differently. They raise a constant sum of money each year, and the tax rate charged applies equally to all classes of property.

How Complicated Is It? The Treatment of New Construction

House Bill 920 adjustments do not offset changes in valuation caused by new construction. They only apply to property that existed in both the preceding year and the year for which the state computes the adjustment. This means that the state excludes the value of new construction from the computations. However, the effective tax rate applicable to any new construction incorporates the adjustments applicable to all other property. For example, if a home existed in Parma in 2006 and 2007, its effective tax rate in 2007 would equal 62.80 mills. If a new home worth $214,000 were built in Parma in 2007, the effective tax rate applicable to that home also would equal 62.80 mills. The exclusion of new construction from the House Bill 920 adjustments simply means that the district's tax base would have new taxable value of $75,000 (35% of the home's $214,000 market value) added by that new construction.

The addition of new valuation in this way *does* cause growth in tax revenues. But a mistaken notion about the benefit of additional tax revenue from new construction has arisen. Some people believe the new construction only augments the tax base in the year of construction and then (somehow) House Bill 920 cancels out the addition of the new value in subsequent years. In fact, new construction permanently increases the base amount of revenue allowed by the House Bill 920 formulas. The increase realized in the year of construction becomes built into the base year for purposes of the tax reduction computations in the next year.

Advantages of House Bill 920

House Bill 920 has done exactly what its sponsors intended: it has controlled unvoted tax increases on real property. Table 3 shows an example of how much protection homeowners have received from House Bill 920 adjustments.

The market value of a home in Parma increased by an average of about 3.35 times from 1976 to 2007. (1976 is the first year in which the tax reduction factors applied.) In 1976, the school district levied 28.9 voted mills for current expenses. That tax rate would have raised $405 on a house with a market value of $40,000. By 2007, the value of the same house had increased to $134,278. Without House Bill 920, the 1976

4. The tax reduction percentage tends to grow because valuations tend to grow. What happens if aggregate property values fall? Current economic conditions make this more than a theoretical question. In fact, the tax reduction factor computation goes both ways. If values fall, the percentage reduction will become smaller so that the tax produces a constant amount of revenue. Under such circumstances, the effective rate of a tax would increase. However, such changes in the tax reduction factors cannot cause the effective tax rate to exceed the rate originally authorized by the voters.

Table 3: Example of Parma 1976 School Taxes in 1976 and in 2007 as Applied to a Residence*

Tax Year	Market Value	Taxable Value	Number of 1976 Voted Mills	Taxes Before HB 920 Reductions	Taxes After HB 920 Reductions	Number of Effective 1976 Mills
1976	$40,000	$14,000	28.9 mills	$405	$405	28.90 mills
2007	$134,278	$46,997	28.9 mills	$1,358	$405	8.61 mills

*Amounts rounded to nearest dollar. Illustration assumes the house value increased at the average rate in the school district over the period.

Table 4: Example of Parma 2007 School Taxes as Applied to a Residence without House Bill 920's Enactment and as Actually Computed

	Market Value	Taxable Value	Number of Effective Mills	Taxes Charged
Without HB 920	$134,278	$46,997	28.90 mills	$1,358
Actual 2007	$134,278	$46,997	33.35 mills	$1,567

tax rate of 28.9 mills would have charged $1,358 against that property. Taxes would have increased by almost 2½ times, and those increases would have occurred automatically without any voter approval.

Instead, House Bill 920 adjustments continuously offset increases in the value of the house, keeping the taxes raised from those original mills the same from 1976 to 2007. The cumulative effect was that the original 28.9 mills had an effective tax rate of only 8.61 mills by 2007.

Disadvantages of House Bill 920

House Bill 920 had as its purpose to stop unvoted or automatic tax increases caused by the reappraisal of real property. As the preceding section showed, the legislation accomplished its purpose.

The disadvantage of House Bill 920 lies in its inefficiency. Its control of automatic tax increases comes at the price of frequent ballot activity.

For example, between 1976 and 2007, voters in the Parma school district approved additional taxes on eight different occasions – an average of a new tax about every four years. Six of these increases provided additional revenue for current expenses, and two provided additional money for permanent improvements. Three of the current expense additions took the form of emergency levies.

What has been the effect of these additional levies? The first row of Table 4 shows what would have happened by 2007 if House Bill 920 were never enacted. The 28.9 voted mills levied in 1976 for current expenses would have continued to apply at that full rate in 2007. The taxes charged on the house in the example would have equaled $1,358.

The second row shows the actual taxes charged against the example residence in 2007. In the eight tax levy elections, voters approved a total of 30.7 additional mills. The effective rate of those additional mills by 2007 equaled 24.74 mills. Combined with the 8.61 mill effective rate of the original 28.9 mills, the total effective rate in 2007 equaled 33.35 mills.

Therefore, over a period of 31 years, voted

Table 5: State Effective Rate on Real Property, 1975 – 2007

Year	Class 1 Value	Class 1 Rate in Mills	Class 1 Taxes	Class 2 Value	Class 2 Rate in Mills	Class 2 Taxes
1975	$24.9 billion	28.64	$712.4 million	$9.9 billion	28.83	$289.9 million
1983	$50.2 billion	24.68	$1,238.4 million	$17.4 billion	28.13	$488.2 million
1991	$71.8 billion	28.86	$2,073.2 million	$28.1 billion	31.67	$889.9 million
1999	$118.6 billion	29.19	$3,461.9 million	$38.0 billion	35.21	$1,337.1 million
2007	$184.1 billion	29.80	$5,485.6 million	$51.6 billion	36.41	$1,879.7 million

Class 1 = Residential/Agricultural, Class 2 = All Other Real Property Source: Ohio Department of Taxation

Table 6: Percentage Change in Real Property Values, Tax Rates, and Taxes, 1975 – 2007

Interval	Class 1 Value	Class 1 Rate in Mills	Class 1 Taxes	Class 2 Value	Class 2 Rate in Mills	Class 2 Taxes
1975 to 1983	102%	-14%	74%	75%	-2%	68%
1983 to 1991	43%	17%	67%	62%	13%	82%
1991 to 1999	65%	1%	67%	35%	11%	50%
1999 to 2007	55%	2%	58%	36%	3%	41%
1975 to 2007	640%	4%	670%	422%	26%	548%

school taxes in Parma increased by 4.45 mills. That represents an increase in effective taxes of a little over 0.14 of a mill per year.

At the same time, the school district faced an election, with the attendant expense of energy and other resources, on average about once in four years to obtain this relatively small increase in taxes.

In the end, taxpayers approved higher taxes than they would have paid without the controls imposed by House Bill 920.

Statewide Effects of House Bill 920

Table 5 provides a statewide perspective on the effects of House Bill 920. Using district-by-district data beginning in 1975 and following at eight-year intervals, Table 5 shows how effectively House Bill 920 has limited tax increases.

The table shows that the effective tax rate on Class 1 property increased by a little over one mill from 1975 to 2007. The effective tax rate on Class 2 real property increased by about 7½ mills over the same period.

Table 6 shows the percentage increases implied by the numbers in Table 5.

The table shows that an initial reduction in effective tax rates occurred in the first eight years of House Bill 920. After that, the other periods all show at least small increases in effective tax rates for both classes of real property. Over the entire period of 32 years, the effective tax rate on residential property was held almost constant, increasing by 4%. (Ideally, Tables 5 and 6 would show changes in six-year intervals so that they occurred over consistent reappraisal cycles but that data was not available.)

As the background about House Bill 920 would suggest, the largest increases in valuation occurred in the initial eight-year period. That period included the years in which the state implemented the equalization requirements of the Park Investment cases and experienced rapid inflation.

Data broken down by school district shows that more school districts experienced a net increase in tax rate since 1975 than experienced a decrease. According to the Ohio Department of Taxation, 336 districts saw an increase in the effective rate between 1975 and 2007, averaging 5 mills; 271 had a decrease, averaging 4.87 mills; and five districts stayed the same.

If the effective rate on Class 1 property had remained constant since 1975, the taxes charged against that property in 2007 would have equaled $5,283 million. The taxes actually charged against Class 1 property in 2007 equaled $5,486 million.

However, on a district-by-district basis, the story is different. Some districts collected more than the 1975 effective rate would have charged, and others collected less. For example, most school districts in Cuyahoga County levied less tax in 2007 than they levied in 1975 by a net amount of about $58 million. On the other hand, in Franklin County, actual 2007 taxes exceeded hypothetical taxes charged at 1975 rates by $184 million.

The process of getting from 1975 to 2007 has required school districts to place tax levy proposals before the voters on many occasions. Table 7 shows the number of school operating levies placed on the ballot from 1975 through 2007 in Ohio, as well as the passage rate in each year.

From 1975 through 2007 nearly 9,800 school operating levies were on the ballot, 49.3% of which were approved by voters. The 433 levies on the ballot in 2004 were the most in the past 33 years.

Table 7: Ohio School Operating Levies, 1975-2007

Year	# Passed	# Failed	Total	% Passed
1975	117	129	246	47.6%
1976	174	190	364	47.8%
1977	238	184	422	56.4%
1978	142	205	347	40.9%
1979	109	131	240	45.4%
1980	164	137	301	54.5%
1981	155	203	358	43.3%
1982	131	170	301	43.5%
1983	103	84	187	55.1%
1984	104	93	197	52.8%
1985	129	121	250	51.6%
1986	159	130	289	55.0%
1987	132	187	319	41.4%
1988	169	217	386	43.8%
1989	147	195	342	43.0%
1990	161	249	410	39.3%
1991	184	236	420	43.8%
1992	184	224	408	45.1%
1993	121	204	325	37.2%
1994	162	168	330	49.1%
1995	168	152	320	52.5%
1996	153	125	278	55.0%
1997	132	92	224	58.9%
1998	112	59	171	65.5%
1999	117	68	185	63.2%
2000	149	65	214	69.6%
2001	109	60	169	64.5%
2002	121	77	198	61.1%
2003	145	125	270	53.7%
2004	186	247	433	43.0%
2005	178	183	361	49.3%
2006	144	136	280	51.4%
2007	130	123	253	51.4%
Totals	**4,829**	**4,969**	**9,789**	**49.3%**

Special Problems for School Districts Caused by House Bill 920

While House Bill 920 reduces the effective tax rate charged by all political subdivisions, it makes the most serious impact on school districts. Most other types of local government have other sources of growing revenue. Counties have local sales taxes; municipalities have the municipal income tax. Or, some local governments – such as townships – may rely as much as school districts on the real property tax in relative terms, but their total revenue needs are much less.

Thus, House Bill 920 poses a special problem for school districts for several reasons.

- Schools' revenue needs are greater in absolute terms. Education is highly labor intensive and wages have increased along with general inflation. Moreover, in the 30 years since 1976, expectations about what schools can and should do have increased. Federal standards have mandated additional spending for special needs pupils. More recently, the No Child Left Behind Act increased schools' costs without a commensurate increase in federal aid.
- While schools have the authority to seek income taxes as a replacement or alternative to property taxes, voters have not favored that tradeoff in many school districts. Only about a fourth of Ohio's 613 school districts, most of them in rural areas, have adopted an income tax.
- House Bill 920 adjustments interact with formulas that determine state aid for school districts. Interaction between the state education aid formula and House Bill 920 has had two general consequences. On the one hand, HB 920's *de facto* creation of effective tax rates separate from the tax rates originally authorized has reduced state aid. The state aid formula essentially presumes that schools receive revenue from property taxes almost as though House Bill 920 simply did not exist. This so-called "phantom revenue" costs school districts by reducing state aid payments. On the other hand, this has led to various creative attempts by school districts to dodge the impact of House Bill 920, the state aid formulas, or both.

1) 20 Mill Floor

The Ohio Constitution permits the legislature to fix a minimum tax rate for any type of local government, and legislation has designated a minimum rate of 2% or 20 mills for school districts. This minimum tax means that when House Bill 920 would force the effective tax rate below 20 mills, a second adjustment raises it back up exactly to 20 mills. Because the minimum tax rate fixes a level of taxation below which the effective rate may not go, its popular name is the "20 mill floor." (When a school district benefits from the 20 mill floor, popular terminology *sometimes* calls such a district a "guarantee district." Unfortunately, this terminology can add to the confusion about real property taxes and school funding because the term "guarantee district" also *often* refers to school districts that benefit from a guaranteed minimum amount of state aid. The tax reduction factor system guarantee and the state aid school funding formula guarantee arise from different circumstances.)

The 20 mill floor essentially short-circuits the tax-reducing feature of House Bill 920. When a reappraisal or update occurs in a school district "at the floor," increases in value do translate into higher taxes for taxpayers and more revenue for the school district. For this reason, a school dis-

trict at the floor is said to possess 20 "growing" mills. Taxes on real property in those districts grow when valuations increase.

Currently, nearly 400 school districts benefit from the minimum effective rate provision. In 2007, 386 districts benefitted from the 20 mill floor with respect to Class 1 property.

The 20 mill floor represents a legal exception to the taxpayer protections in House Bill 920. In a sense, the guarantee reflects a recognition that HB 920 can work too effectively. No other type of local government benefits from a minimum levy except for joint vocational school districts. For joint vocational districts, the minimum levy (or floor) equals two mills (0.2%).

2) Gap Aid

The state's school aid formula interacts with real property tax formulas in several ways. One such interaction occurs between the determination of a school district's share of basic education funding responsibility and the operation of House Bill 920.

While the state's education aid formula has many complex components, it relies at heart on a relatively simple concept. Each school district has responsibility to pay a share of basic education costs. The legislature has determined this local share to be the amount raised by a tax of 23 mills. (In school funding jargon, this local share of basic costs is called the "chargeoff" because it is charged off against the district's state funding entitlement.)

A problem arises because the amount that a school district raises each year from local property tax levies often is different from the 23 mills the state formula presumes. For example, if a school district levies the minimum 20 mill tax, it raises three mills less than the amount required as its local share.

Imagine two people trying to split a restaurant check for $100. One person offers to pay $77 if the other person will pay $23, but the second person only has a twenty-dollar bill.

By analogy, the school funding formula determines the total "check" for basic education costs. The state pays whatever remains due after the local districts pay 23 mills, except, in the case of districts at the floor, they only have 20 mills. Who pays the missing three dollars in the restaurant example, or the missing three mills in the school funding example?

Well, in the restaurant analogy, one would hope that the person who offered to pay $77 would have the extra $3. In the case of school funding formulas, the state's constitutional responsibility to provide for a thorough and efficient education system forces it to pay the difference. As a result, the state pays additional aid up to three mills worth of every school district's tax base where the district's actual taxes do not equal the minimum. (Actual computations are somewhat more complicated, but this description captures the principles at work in these situations.)

The technical name for the amount paid by the state to make up the difference between the local chargeoff amount and the taxes raised at the House Bill 920 floor is the "chargeoff supplement." The popular description of this payment is "gap aid." The additional payment fills the gap between what the school aid formula charges a school district and the amount that House Bill 920 guarantees that the district can raise in local taxes.

Why would all school districts not want to benefit from the 20 mill floor? In fact, the 20 mill guarantee acts like a two-edged sword. It does benefit a district with a minimal tax rate, allowing it to receive growth in revenue when property values increase. However, the guarantee

status also effectively prevents such districts from levying additional taxes for optional or enhanced programs. When a district on the floor obtains voter approval for higher tax rates, the additional taxes are included in the chargeoff computation. The effect is that the new local taxes simply replace state dollars that the school district would have received anyway, meaning that local residents pay higher taxes without the schools having more revenues to spend.

A recent amendment to the school funding formula permits such 20 mill floor districts to phase in the effects of an additional tax over four years. However, after taking into account other details of the state aid formulas, the bottom line for a floor district means that for such a district to obtain three mills above the state requirements, it would need approval for an additional nine mills. In this way, the minimum effective tax allowed by House Bill 920 becomes a kind of trap for school districts who receive its benefit.

3) Emergency School Levies Outside 20 Mill Floor

When a school district finds itself at the 20 mill guarantee, it benefits from revenue growth. However, the addition of any more current expense mills causes the school district to revert to a "no growth" situation. For example, if a school district levied 20 mills in 2005, passed an additional seven mills in 2006, and underwent reappraisal in 2007, its revenue from voted taxes in 2007 would equal that of 2006. The only exception would occur to the extent that new construction became taxable in 2007.

Once a district's current total operating tax rate exceeds 20 mills, House Bill 920 takes over with respect to all of the district's voted taxes. The rigor with which House Bill 920 operates encouraged a search for an escape hatch. Emergency tax levies have provided that escape route.

Voters must approve an emergency school levy, just as they must all other taxes above the 10 mill limitation. However, emergency levies apply at whatever rate necessary to raise a specific dollar amount. The voters approve that dollar amount when the emergency levy proposal appears on the ballot. An emergency levy can apply for up to five years. It can never grow – it never raises more than the originally authorized number of dollars.

An emergency levy benefits from an explicit exception from House Bill 920, though. It does not count as a current expense levy. When the state computes the House Bill 920 tax reduction adjustment, it ignores any emergency school levies. This means that a school district can receive growth on its 20 voted mills for current expense *plus* the constant dollar amount raised by an emergency levy.

In this way, emergency school levies create a kind of loophole for ameliorating some of the most restrictive effects of House Bill 920's tax limitation. (The emergency school levy does not operate as a loophole by which school districts can levy taxes above 20 mills and still receive gap aid. Revenue from emergency school levies does count against local contribution requirements in the state school aid formula.)

4) Reappraisal Phantom Revenue

The phenomenon known as "phantom revenue" poses what is arguably the most difficult House Bill 920 problem for school districts. This problem arises from the interaction of the tax reduction formula and the state school aid formula. To understand this interaction involves a two-step process.

The first step is to look at how reappraisal affects tax revenues. Table 8 shows the effects of House Bill 920 in a hypothetical school district.

To simplify the example, the table excludes effects of new construction. It also shows only one class of real property.

The table shows that a reappraisal occurred in 2006 and an update in 2009, both of which resulted in 15% increases in valuation. The intervening years of 2007 and 2008 show no increase because no reappraisal or update occurred in those years. Because House Bill 920 held the voted tax revenue constant, the reappraisal reduced the school's effective tax rate from 27 mills to 24.13 mills and the update reduced it from 24.13 mills to 21.64 mills. Unvoted taxes, which aren't subject to House Bill 920 provisions, increased.

The total of the effective voted rate plus the five unvoted mills appears in the last column. In one reappraisal plus update cycle, this sample district lost almost 5½ mills in effective tax rate. At the same time, taxpayers avoided cumulative tax increases of about $3.4 million over the period from 2006 through 2009.

The simple interpretation is that House Bill 920 protected the taxpayers from a 32% increase in taxes when values increased by that percentage. Instead, taxpayers only paid about 6% higher taxes in 2009 than they paid in 2005.

Just to restate this conclusion: the school district's tax revenues increased from $5.4 million to $5.722 million in five years. That increase equals about 6%.

Now, recall that the state school aid formula requires each school district to contribute 23 mills worth of taxes as a local contribution to basic education costs. The 23 mill chargeoff rate applies directly to taxable value – it does not take into account the effects of House Bill 920 reductions.

So the second step in understanding phantom revenue is to look at the changes in the required local contribution, or chargeoff, for this district. Since its taxable value increased by 32%, the chargeoff also increased by 32% from 2005 to 2009.

Table 8: Example of Reappraisal Changes in a Hypothetical School District

	Taxable Value	Unvoted Rate	Unvoted Tax Revenue	Voted Rate	Voted Tax Revenue	Effective Rate
2005	$200,000,000	5 mills	$1,000,000	22 mills	$4,400,000	27.00 mills
2006	$230,000,000	5 mills	$1,150,000	22 mills	$4,400,000	24.13 mills
2007	$230,000,000	5 mills	$1,150,000	22 mills	$4,400,000	24.13 mills
2008	$230,000,000	5 mills	$1,150,000	22 mills	$4,400,000	24.13 mills
2009	$264,500,000	5 mills	$1,322,500	22 mills	$4,400,000	21.64 mills

Table 9: Example of Chargeoff Changes in the Same Hypothetical School District

Year	Taxable Value	Chargeoff Rate	Local Contribution	Growth in Local Contribution	Total Revenue	Growth In Total Revenue
2005	$200,000,000	23 mills	$4,600,000		$5,600,000	
2006	$230,000,000	23 mills	$5,290,000	$690,000	5,550,000	150,000
2007	$230,000,000	23 mills	$5,290,000	$690,000	5,550,000	150,000
2008	$230,000,000	23 mills	$5,290,000	$690,000	5,550,000	150,000
2009	$264,500,000	23 mills	$6,083,500	$1,483,500	5,722,500	322,500

The reappraisal in 2006 increased the state's required local contribution by $690,000. But because House Bill 920 held revenue from voted taxes flat, the actual amount of increased revenue generated by the reappraisal equaled only $150,000 – the amount that came from the 5 mills of unvoted tax.

Where does the school district obtain the additional $540,000 to pay for the excess of the chargeoff increase over the actual revenue growth?

At the 2009 update, higher taxable values again raised the chargeoff amount, this time by $793,500. However, actual revenue growth equaled only $172,500. Cumulatively, the mandated local contribution grew by about $1.5 million, but local taxes grew only by $322,000. Again, where does the school district obtain its additional local contribution as defined by the chargeoff?

Because the higher chargeoff means less state aid, the amounts shown in the "Growth in Local Contribution" column of Table 9 also define how much state aid the school district loses due to the higher chargeoff amount. The amounts in the last column show how much of the loss in state aid the district recoups from automatic tax increases. By 2009, the reduction in state aid exceeds new tax revenue by about $1.16 million.

The school district in the example has become caught between two formulas. Reappraisals and updates make the district appear able to fund a higher share of basic education costs. However, House Bill 920 insures that the school district does not have nearly as much additional tax revenue as the school funding formula attributes to it.

So where does the school district obtain additional money to pay for the higher local contribution? School districts can spend money on additional or enhanced programs above the minimum contribution required by the state. In the example, the school district has four mills worth of taxes above the 23 mill requirement. As the effects of the first increase in the chargeoff occur in 2006, 2007, 2008, the district can make up the reduction in state aid caused by the higher chargeoff by using the remaining effective taxes above 23 mills (1.13 mills in the example). In consequence, the school district has less money to spend on expanded or enhanced programs. By 2009, the chargeoff actually exceeds the district's effective tax rate by 1.36 mills. The district has no place to obtain the additional revenue required unless it obtains voter approval for a new tax to restore some or all of the 2005 effective tax rate.

The example shown in Tables 8 and 9 illustrates in principle how phantom revenue destabilizes school funding. It does not attempt to account for a number of details involved in the state school aid formulas. For example, state aid formulas charge school districts for as much as 3.3 mills of local contributions in addition to the 23 mill chargeoff to pay for other parts of the state aid formulas. Also, changes in the per-pupil amount used by the state increase the amount against which the chargeoff applies. State aid formulas also phase in chargeoff increases over the three year reappraisal/update cycle, and so on.

The addition of these details would make the examples both more accurate in a technical sense and much more complicated in a practical sense. The purpose here is to show the interaction between House Bill 920 and the state school aid formula *in principle*. The example accomplishes that in as accurate a manner possible consistent with a reasonably simple presentation.

In real school districts, the effects of the phantom revenue phenomenon appear in the amount

of tax levy ballot activity. Reference back to Table 1 shows that the Parma schools proposed successful school tax levies only once in the years from 1976 through 1999. Starting in 2000, the district has returned to the ballot seven times. Without the approval of these additional taxes, the effective tax rate for schools in Parma would have reached the 20 mill floor many years ago.

5) Permanent Improvement Levies and Unvoted Mills

School districts have also used creative accounting to get around the effects of House Bill 920. One such loophole offers an opportunity for a school district on the 20 mill floor to obtain 21 growing mills rather than 20. Here is how it works.

Assume that a school district has five inside or unvoted mills and 24 voted mills (similar to the example shown in Table 5). Over time, reappraisals have reduced the effective tax rate of the voted mills to the 20 mill floor. Five unvoted mills plus fifteen effective voted mills would equal 20 mills.

Now, suppose that the school district reassigns one of its inside mills from a current expense purpose to a permanent improvement purpose. The district then has only four unvoted mills for current expenses. The effective rate of the district's 24 voted mills would increase from fifteen to sixteen mills to keep the district "on the floor." As a result, the district still would have 20 growing mills and would have gained a growing unvoted mill because House Bill 920 does not apply to unvoted mills.

The district's total number of growing mills has become 21 growing mills. This is just another example of the machinations designed to offset the tax limitations imposed by House Bill 920.

Options for Modifying or Replacing House Bill 920

The problems caused by House Bill 920, especially for school districts, do not have an easy solution. However, several options do exist.

Remedies

The current Ohio Constitution contains a provision governing the terms of House Bill 920 for one reason. The Constitution generally requires that the real property tax apply uniformly to all real property. A system in which different effective tax rates apply to different types of real property, such as residential or business, would violate that general principle of uniform treatment.

Residential property values tend to grow much faster than commercial real estate values. This difference in growth rates creates the need for separate tax reduction factor computations for different classes of property. To reconcile this need for separate treatment of different classes of property with the general rule of uniform treatment for real property, the state needed a constitutional amendment. Business interests did not want such an amendment to become an open opportunity for the legislature to classify real property for tax purposes in any way that it chose.

As a result, the classified tax reduction factor amendment to the Constitution locks down a very specific format for the House Bill 920 tax reduction formulas. Specifically, for tax levies subject to House Bill 920, the classified reduction factors *must* offset *all* reappraisal increases in valuation. The tightly worded amendment leaves the legislature very little discretion in the context of a classified real property tax system.

However, it is important understand that the rigidly defined formula in the Constitution only applies if the legislature elects to use a House

Bill 920 tax reduction that treats the two classes of real property differently. If the legislature changed statutory law to use one, uniform tax reduction formula for residential/agricultural property and all other real property, then the legislature could design the formula in any way that it chose.

By the same reasoning, the state only needs a constitutional amendment to "fix" House Bill 920 if the tax reduction system continues to apply different computations to the two different classes of real property. Such a constitutional amendment could preserve the existing two classes of real property. It also could exempt a uniform percentage of growth in valuation from the operation of the House Bill 920 formula. Such an exception would allow growth in real property taxes up to a ceiling. For example, such a system might allow growth in real property taxes caused by reappraisal increases in valuation up to the lesser of 3% or the rate of inflation in the preceding year.

A third option would take advantage of a potential reinterpretation of the Ohio Constitution. Currently, the Constitution provides that taxes on property in excess of "one per cent of its true value" require voter approval. The Constitutional provision governing the tax reduction factor piggybacks on this language by exempting from HB 920 "taxes levied within the one percent limitation." The statutes have implemented the one percent limitation as a 10 mill limitation. Some reform advocates have argued that the fact that the tax applies only to 35% of true value should enable a corresponding adjustment in the way that the law expresses the tax limit in mills. By this argument, a 28.57 mill tax on 35% of true value is mathematically equivalent to a 10 mill tax on 100% of true value.

The adoption of this interpretation of the 1% limitation would enable the state to apportion 18.57 unvoted mills among political subdivisions in addition to the existing 10 unvoted mills. Since these unvoted mills would not be subject to HB 920, they would provide a theoretical source of automatic growth in real property taxes.

However, a counter-argument questions the validity of the reinterpretation of the 1% limitation. The voters have always relied on the equivalence of 1% and 10 mills as implemented in current law. The introduction of a new interpretation with very practical consequences in higher real property taxes has both legal and political implications. Even if the Ohio Supreme Court ultimately accepted the reinterpretation of the 1% limit, a lawsuit about this issue would place the entire real property tax system in jeopardy. Any related school finance or local government finance reforms contingent on the reinterpretation would hang in the balance pending resolution of that lawsuit.

A fourth option to remedy the current disadvantages of House Bill 920 would not change the tax reduction computations at all. Rather, it would focus on the effects of tax reduction formulas on the ability of school districts to meet the state's requirements governing local contributions in the state school aid formulas. In practice, this change would mean that a school district's required local contribution in school aid formulas would not increase faster than the actual taxes obtained from a reappraisal or update of real property valuations. Currently, the local contribution required by state formulas increase as valuation increases regardless of whether the school district actually receives more revenue.

A revision to the state school aid formula could fix the phantom revenue problem caused by the interaction of the state aid system with House Bill 920's tax reductions. However, such

Figure 1: Options for Solving Problems Caused by HB 920

Options	Advantages	Disadvantages
Changes to Tax System		
1. Constitutional change Classify real property and limit tax growth partially	• Benefits all local governments • Reduces number of ballot issues	• Political controversy due to weaker tax limits
2. No constitutional change Directly change HB 920 by: • Eliminating property classes and allowing tax growth partially; and • Allowing tax reductions to operate in the same way on all real property, i.e., different effective tax rates for residential and business property would no longer be permitted	• Benefits all local governments • Reduces number of ballot issues • Simplifies real property tax	• Political controversy due to weaker tax limits • Different growth rates for different classes of real property could shift taxes to residential taxpayers
3. Constitutional interpretation change Re-interpret 1% of true value limit as 28.57 mills of taxable value	• Statutes could apportion an additional 18.57 "growth" mills among schools and local governments or entirely to schools • Reduces number of ballot issues • Could eliminate phantom revenue • Avoids need to amend Constitution	• Invites litigation over constitutional interpretation and gambles HB 920 reform outcome on that interpretation • Political controversy due to weaker tax limits • Entangles any related school funding reforms in potential lawsuit
Changes to School Funding System		
4. Change the state school aid formula (without changing HB 920)	• Eliminates phantom revenue • Reduces number of ballot issues • Avoids need to amend Constitution or to weaken tax limitation effects of HB 920	• Increases state costs and puts pressure on state budget • Tends to send state dollars to wealthier school districts • Provides no benefit to local governments other than school districts
5. Mandate income tax in each school district to pay local contribution in state aid formula	• Could eliminate phantom revenue • Reduces number of school ballot issues • Avoids need to amend Constitution or to weaken tax limitation effects of HB 920	• Voter resistance to higher income taxes • Provides no benefit to local governments other than school districts

a remedy would impose a cost on the state by increasing the amount of state aid due to school districts. The distribution of the increase would benefit school districts in proportion to the rate of growth in their real property valuation. Since more prosperous areas tend to have faster growth in real estate values, this change in the state aid formula generally would send more state money to the school districts with more rather than less wealth.

A final option for reducing the effects of House Bill 920 on schools would increase reliance on school district income taxes as an alternative source of the local contribution to the state aid formulas. Since House Bill 920 applies only to real property taxes, school districts can receive growth from increases in local income taxes for schools.

Figure 1 provides a summary of the different options for modifying or replacing House Bill 920. Direct changes to House Bill 920 could take the form of direct constitutional or statutory change. Indirect changes designed to ameliorate some of House Bill 920's side effects generally would not require any constitutional changes. •

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