BASA

MEMORANDUM
FAQ/Proposed HB 96 General Fund Carryover Cap

BUCKEYE ASSOCIATION OF SCHOOL ADMINISTRATORS

FROM: Buckeye Association of School Administrators (BASA)
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1. **Is there an order or priority by which a district's levies would be reduced? Does the bill language allow discretion on the part of a county budget commission over which levies would be reduced?**

   Proposed RC 5705.316 has no specified order or priority. And the reduction is to be made without regard to maintaining the 20 mill floor. The county budget commission will have discretion to reduce "any or all of the current expense taxes" levied by the district for the current tax year.

2. **Do the inside mills count as millage that can be reduced, or is it only fixed sum and fixed-rate levies?**

   "<u>Any or all</u> of the current expense taxes" would include inside millage. (emphasis added)

3. **What if a district's costs have gone up in the current year in which the collections are reduced (which would be in a different fiscal year than the previous year). Would the county budget commission be permitted to account for that, or is the dollar amount set in stone from the previous year's calculation between expenditures and ending carryover balance?**

   There's no provision to revisit the determination; it appears to be only set annually. There's no allowance for unanticipated mid-year events such as failed levies, tax delinquents, board of revision cases or situations like the pipeline valuation appeals, let alone the levy cycle. Furthermore, there would be numerous problems with trying to adjust tax rates mid-year. Not only would county auditors, county budget commissions, and ODT/DTE hate doing that, it would create havoc for taxpayers trying to budget or escrow property taxes during the year.

4. **After the first tax year that collections are reduced to get the district's carryover to 30% of previous year's expenditures, is the county budget commission obligated to raise the levy rates back up toward the levels that were in place when said levies were passed? For a district whose millage rates are reduced to place them at the 30% threshold and whose carryover balance declines in the following year to, say 25%, is the county budget commission required to roll the rates back up to 30% if they still have millage that would allow for the roll-up, so to speak? And again, back up to 30% in the following year if they still have millage?**

   The mandatory directive ("shall reduce") given to county budget commissions is essentially an override of otherwise-applicable state law (e.g. the 20-mill floor, reduction factors, etc.). It creates a binary situation based on the carryover balance test. If a district doesn't exceed the 30% general fund threshold, the county budget commission has no authority to continue overriding otherwise-applicable state law, and so a district's tax rates would go back to where they otherwise would be with application of the 20-mill floor, reduction factors, etc.

5. **If yes to number 4, what if the original rates/revenues that were available when the levies were first passed (approved by voters) does not bring the district's carryover balance up to 30%?**

   There is no remedy in the proposed law for that situation. The new law is only designed to cut revenue, not ensure that a district stays at a 30% carryover balance.

6. **If districts are in a projected deficit spending situation in future years and the carryover doesn't get restored to 30% of the previous year's expenditures, will they need to pass a levy sooner than anticipated to bring in enough revenue to keep up with increased costs?**

   Yes, that generally would be a result. It would upend normal expectations around the levy cycle by limiting the benefit of a new levy to the 30% threshold even if a district knows that it needs to conserve revenue for expenditures that will be increasing in the future. By limiting the benefit of a new levy, many districts would be forced to ask for new levies sooner than they otherwise would have had to. Additionally, many districts have been able to manage their revenues and expenditures at the 20-mill floor baseline. Once those districts have their carefully-managed reserves taken away, a number of them will be forced to ask their taxpayers for new operating levies in communities that have not approved (and perhaps have not even been asked to approve) a new operating levy in decades.

7. **If so, how often will new levies be needed?**

   Very hard to predict but, as discussed in the answer to #6 above, it is likely that many districts will be forced to ask for new property taxes.

8. **How will districts determine the millage rate to place on the ballot in order to keep the carryover balance at 30% or less?**

   The time to make those determinations will be compressed and not reconcile well with election filing deadlines. The transitional provision 757.110 for Tax Year 2025, Tax Collection Year 2026 would have the election filing deadline for the November 4 election falling August 6, but the county budget commission would not convene until October 31. The following year, Tax Year 2026, would have the election filing deadline for the November 3 election falling August 5, but the county budget commission would not convene until August 15. An ongoing challenge with the 30% threshold would be that it would limit the revenue benefit from a new levy unless a district was in a sufficiently challenging financial situation that the new levy did not take it over the 30% threshold. It interferes with the normal levy cycle (storing up reserves in the early years with the expectation that they will eventually have to be spent on increasing expenditures in future fiscal years) with the likely result of forcing districts back to the ballot more frequently.

9. **If a new levy is passed by the voters and because of new construction the levy brings in more than anticipated causing the carryover balance to go above 30%, will the county budget commission be required to roll back the rate that the voters just approved?**

   Possibly. There's no specified order or priority. The answer would be yes if the rate reductions were applied across all of a district's outstanding operating levies. The proposed statute says that the county budget commission "shall reduce the rate of, or the annual amount of money to be raised by, any or all of the current expense taxes levied by the district for the current tax year…." (emphasis added)

10. Is it constitutional to mandate the non-collection of valid voter-approved levies?

RC 5705.341 permits a county budget commission to non-collect millage if it's not properly authorized or clearly required by the budget. Case law, however, does not support the county budget commission substituting its judgment for a board of education or the voters. Additionally, a flat percentage without a public hearing is a state fiat without transparency. In addition to public policy concerns about overturning the will of voters, the proposed non-collection of valid voter-approved levies raises constitutional questions, including whether the proposed procedures (1) comply with the "uniform percentage limitations" of Article XII, Section 2a(D) of the Ohio Constitution since the 20-mill floor would no longer be universally and consistently applied; or (2) violate the equal protections provision of Article I, Section 2 of the Ohio Constitution.

11. Is it constitutional to not collect inside millage?

RC 5705.316 overrides the mandatory duty of a county budget commission to collect inside millage under RC 5705.31(D).

12. What do we know about how this would impact Nexus districts? Rover districts?

Nexus has just paid pursuant to its settlement with the State of Ohio, which has been upwards of six years in resolving. The Rover valuation Supreme Court case is scheduled for oral argument June 4, 2025. Rover may be upwards of eight years in being resolved. Napoleon CSD alone has missed over $10,000,000 in Rover property taxes to date.

13. What if a levy comes up for renewal during a period when it's not being collected?

No provision addresses that. There is a required notice provision in an amendment to RC 323.131 for tax bills: Notice: The school district taxes shown due on this bill are reduced only for the current year due to the school district's excess carry-over balance.

It is doubtful taxpayers will remember this if taxes are increased in an ensuing year.

14. Is the Prosecutor being replaced on County Budget Commissions with the President of the Board of County Commissioners?

RC 5705.27 is amended to do that. The Ohio Prosecuting Attorneys Association was not consulted.

15. What if the district doesn't have a permanent improvement levy, or such levy is insufficient, and it has to save up to make capital expenditures out of the General Fund?

No provision.

16. What if the district has unvoted, outstanding lease-purchase certificates of participation (COPS) payable from property tax revenue?

222 Ohio districts currently have outstanding COPS totaling $3.1 billion in principal amount.