

AUDITOR OF STATE BULLETIN 96-018
AUGUST 23, 1996

TO: ALL COUNTY COMMISSIONERS
ALL COUNTY AUDITORS
ALL CITY MAYORS/MANAGERS
ALL CITY AUDITORS AND/OR MUNICIPAL FINANCE DIRECTORS
ALL VILLAGE MAYORS
ALL VILLAGE CLERKS
ALL TOWNSHIP TRUSTEES
ALL TOWNSHIP CLERKS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: FISCAL EMERGENCY LEGISLATION

Substitute House Bill #462 was enacted by the General Assembly to be effective September 3, 1996. This legislation amends Sections 118.01 to 118.08, 118.10 to 118.28, 118.99, 319.302, and 323.131 and enacts Sections 118.021, 118.022, 118.023, 118.271, 323.158, and 4503.0610 of the Revised Code to expand the Local Fiscal Emergencies Law to include counties and townships, and to authorize for a limited period of time certain boards of county commissioners to grant partial tax exemptions on homesteads and manufactured homes and to reimburse the exempted taxes with other county revenue.

Amended Section 118.01 of the Revised Code

Current law pertaining to Section 118.01 of the Revised Code contains the various definitions as used in Chapter 118 of the Revised Code. Amended Section 118.01 of the Revised Code expands these definitions to include counties and townships.

Amended Section 118.02 of the Revised Code

This section pertains to the legislative intent that, in general, would declare it to be a public policy and public purpose of the state to require fiscal integrity of municipal corporations, counties, and townships so that they may provide for the health, safety, and welfare of their citizens; pay when due principal and interest on their debt obligations; meet financial obligations to their employees, vendors, and suppliers; and provide for proper financial accounting procedures, budgeting, and taxing practices. Additionally, the intent of the General Assembly, under this chapter, is to enact procedures, provide powers, and impose restrictions to assure fiscal integrity of municipal corporations, counties, and townships, as set out in division (A) of this section, while leaving principal responsibility for the conduct of the affairs of a municipal corporation, county, or township in charge of its duly elected officials and leaving to their discretion the choices for and manner of expenditures of available revenues, consistent with the requirements for satisfying the public policy and purpose herein set forth.

Enactment of Section 118.021 of the Revised Code

The enactment of Section 118.021 of the Revised Code provides that a municipal corporation, county, or township may undergo a "fiscal watch" review to determine whether it is approaching a state of a fiscal emergency.

A Fiscal Watch Review may be initiated as follows:

In the case of a municipal corporation;

- (1) A written request to the Auditor of State from the mayor of the municipal corporation;
- (2) A written request to the Auditor of State from the presiding officer of the legislative authority of the municipal corporation when authorized by a majority of the members of the legislative authority;
- (3) Initiated by the Auditor of State.

In the case of a county;

- (1) A written request to the Auditor of State from a board of county commissioners;
- (2) A written request to the Auditor of State from the county executive of a county formed under Chapter 302 of the Revised Code;
- (3) Initiated by the Auditor of State.

In the case of a township;

- (1) A written request to the Auditor of State from a board of township trustees;
- (2) Initiated by the Auditor of State.

Enacted Section 118.022 of the Revised Code - Fiscal Watch

Section 118.022 (A) of the Revised Code as enacted sets out that any one of the following conditions constitutes grounds for a “fiscal watch”:

- (1) The existence of either of the following situations:
 - (a) All accounts that were due and payable from the general fund of a municipal corporation, county, or township at the end of the preceding fiscal year that had been due and payable for at least 30 days at the end of the fiscal year or to which a penalty was added for failure to pay by the end of the fiscal year, less the year-end balance in the general fund, exceeded 1/12th of the general fund budget for that year.
 - or
 - (b) All accounts that were due and payable at the end of the preceding fiscal year from all funds of the municipal corporation, county, or township and that had been due and payable for at least 30 days at the end of the fiscal year or to which a penalty was added for failure to pay by the end of the fiscal year, less the year-end balance in the general fund and in the respective special funds available to pay such accounts, exceeded 1/12th of the available revenues during the preceding fiscal year, excluding nonrecurring receipts, of the general fund and of all special funds from which such accounts are payable.
- (2) The aggregate of deficit amounts of all deficit funds at the end of the preceding fiscal year, less the total of any year-end balance in the general fund and in any special fund that may be transferred as provided in Section 5705.14 of the Revised Code to meet such deficit, exceeded 1/12th of the total of the general fund budget for that year and the receipts to those deficit funds during that year other than from transfers from the general fund.
- (3) At the end of the preceding fiscal year, moneys and marketable investments in or held for the unsegregated treasury of the municipal corporation, county, or township, minus outstanding checks and warrants, were less in amount than the aggregate of the positive balances of the general fund and those special funds, the purposes of which the unsegregated treasury is held to meet, and such deficiency exceeded 1/12th of the total amount received into the unsegregated treasury during the preceding fiscal year.

Enacted Section 118.023 of the Revised Code

The enacted Section 118.023 of the Revised Code requires upon determining that one or more of the conditions described in Section 118.022 of the Revised Code are present, the Auditor of State shall issue a written declaration of the existence of a “fiscal watch” to the municipal corporation, county, or township and the county budget commission. The “fiscal watch” shall be in effect until the Auditor of State determines that none of the conditions are any longer present and cancels the watch, or until the Auditor of State determines that a state of fiscal emergency exists.

The Auditor of State shall provide such technical and support services to the municipal corporation, county, or township after a “fiscal watch” has been declared to exist as the Auditor of State considers necessary. The controlling board shall provide sufficient funds for any costs that the Auditor of State may incur in determining if a “fiscal watch” exists and for providing technical and support services.

Amended Section 118.03 of the Revised Code - Fiscal Emergency Condition

Amended Section 118.03(A) of the Revised Code sets out the fiscal emergency conditions and any one of the following constitutes a fiscal emergency condition of a municipal corporation, county, or township:

- (1) The existence, at the time of the determination by the Auditor of State under Section 118.04 of the Revised Code, of a default on any debt obligation for more than thirty days.
- (2) The existence, at the time of the determination by the Auditor of State under Section 118.04 of the Revised Code, of a failure for lack of cash in the funds to make payment of all payroll to employees of the municipal corporation, county, or township in the amounts and at the times required by law, ordinances, resolutions, or agreements, which failure of payment has continued:
 - (a) For more than 30 days after such time for payment, or
 - (b) Beyond a period of extension, or beyond the expiration of 90 days from the original time for payment, whichever first occurs, if the time for payment has been extended for more than 30 days by the written consent of at least two thirds of the employees affected by such failure to pay, acting individually or by their duly authorized representatives. The failure of one county office, board, or commission to meet payroll does not in itself constitute a fiscal emergency.
- (3) An increase, by action of the county budget commission pursuant to division (D) of Section 5705.31 of the Revised Code, in the minimum levy of the municipal corporation, county, or township for the current or next fiscal year which results in a reduction in the minimum levies for one or more other subdivisions or taxing districts.
- (4) The existence of a condition in which all accounts that, at the end of its preceding fiscal year, were due and payable from the general fund and that either had been due and payable for at least 30 days at the end of the fiscal year or to which a penalty has been added for failure to pay by the end of the fiscal year, including, but not limited to, final judgments, fringe benefits payments due and payable, and amounts due and payable to persons and other governmental entities and including any interest and penalties thereon, less the year-end balance in the general fund, exceeded 1/6th of the general fund budget for that year, or in which all accounts that, at the end of its preceding fiscal year, were due and payable from all funds of the municipal corporation, county, or township and that either had been due and payable for at least 30 days as at the end of the fiscal year or to which a penalty has been added for failure to pay by the end of the fiscal year, less the year-end balance in the general fund and in the respective special funds lawfully available to pay such accounts, exceeded 1/6th of the available revenues during the preceding fiscal year, excluding nonrecurring receipts, of the general fund and of all special funds from which such accounts lawfully are payable. Accounts due and payable shall not include any account or portion thereof, that is being contested in good faith.

- (5) The existence of a condition in which the aggregate of deficit amounts of all deficit funds at the end of its preceding fiscal year, less the total of any year-end balance in the general fund and in any special fund that may be transferred as provided in Section 5705.14 of the Revised Code to meet such deficit, exceeded 1/6th of the total of the general fund budget for that year and the receipts to those deficit funds during that year other than from transfers from the general fund.
- (6) The existence of a condition in which, at the end of the preceding fiscal year, moneys and marketable investments in or held for the unsegregated treasury of the municipal corporation, county, or township, minus outstanding checks and warrants, were less in amount than the aggregate of the positive balances of the general fund and those special funds the purposes of which the unsegregated treasury is held to meet, and such deficiency exceeded 1/6th of the total amount received into the unsegregated treasury during the preceding fiscal year.

Division (B) of amended Section 118.03 of the Revised Code provides that any year-end condition described in division (A) (4), (5), or (6) of this section shall not constitute a fiscal emergency condition if the municipal corporation, county or township clearly demonstrates to the satisfaction of the Auditor of State prior to the time of the Auditor of State's determination that such condition no longer exists at the time of the determination pursuant to Section 118.04 of the Revised Code. Unless the determination by the Auditor of State occurs more than four months following the end of such fiscal year, upon the request by and substantial showing of the municipal corporation, county, or township that it has taken steps to remove such condition within four months, the auditor shall postpone a determination as to a condition under division (A) (4), (5), or (6) of this section as to which such substantial showing is made until the expiration of four months following the end of such fiscal year, but the Auditor of State shall not postpone the determination as to division (A) (1), (2), or (3) of this section.

Amended Section 118.04(A) of the Revised Code - Request for a Determination of Fiscal Emergency

The existence of fiscal emergency conditions shall be determined by the Auditor of State. Such determination may be made only upon the filing with the Auditor of State of a written request for such a determination by the following:

- (1) Governor
- (2) County Budget Commission
- (3) Mayor of the municipal corporation or the presiding officer of the legislative authority when authorized by a majority of the members of such legislative authority
- (4) Board of County Commissioners
- (5) Board of Township Trustees
- (6) Initiation by the Auditor of State.

Such determination shall be set forth in written reports and supplemental reports, which shall be filed with the mayor, fiscal officer, and presiding officer of the legislative authority of the municipal corporation, or with the board of county commissioners, or the board of township trustees, and with the Treasurer of State, Secretary of State, Governor, Director of Budget and Management, and county budget commission, within 30 days after the request. The Auditor of State shall so file an initial report immediately upon determining the existence of any fiscal emergency condition.

Division (B) under amended Section 118.04 of the Revised Code, gives the Auditor of State the authority to engage the services of independent certified or registered public accountants, including public accountants engaged or previously engaged by the municipal corporation, county, or township, to conduct audits or make reports or render such opinions as the Auditor of State considers desirable with respect to any aspect of the determinations to be made by the Auditor of State.

Division (C) under amended Section 118.04 of the Revised Code, states that a determination by the Auditor of State under this section that a fiscal emergency condition does not exist is final and conclusive and not appealable. A determination by the Auditor of State under this section that a fiscal emergency exists is final, except that any municipal corporation, county, or township affected by a determination of the existence of a fiscal emergency condition under this section may appeal the determination to the court of appeals. The appeal shall be heard expeditiously by the court of appeals and for good cause shown shall take precedence over all other civil matters except earlier matters of the same character. The pendency of any such appeal shall not effect or impede the operations of this chapter.

All expenses incurred by the Auditor of State relating to a determination or termination of a fiscal emergency under this Section or a fiscal watch under Section 118.021 of the Revised Code shall be reimbursed from an appropriation for that purpose by the General Assembly.

Amended Section 118.05 of the Revised Code - Creation of Financial Planning & Supervision Commission

Upon the occurrence of a fiscal emergency in any municipal corporation, county, or township, there is established, with respect to that municipal corporation, county, or township, a "Financial Planning and Supervision Commission." A separate commission is established with respect to each municipal corporation, county, or township as determined under this chapter.

A commission shall consist of the following seven members;

- (1) Four ex officio members: the Treasurer of State, Director of Budget and Management, in the case of a municipal corporation, the mayor of the municipal corporation, and the presiding officer of the legislative authority of the municipal corporation, in the case of a county, the president of the board of county commissioners and the county auditor, and in the case of a township, a member of the board of township trustees and the county auditor.

- (2) Three members nominated and appointed as follows:

The mayor and presiding officer of the legislative authority of the municipal corporation, the board of county commissioners, or the board of township trustees shall, within 10 days after the determination of the fiscal emergency submit in writing to the Governor the nomination of 5 persons agreed to by them and meeting the qualifications set forth in this division. The Governor shall appoint 3 members from all the agreed-upon nominees so submitted or a lesser number that the governor considers well qualified, and shall fill any remaining positions on the commission by appointment of any other persons meeting the qualifications set forth in this division.

Each of the three appointed members shall be an individual:

- (a) Who has knowledge and experience in financial matters, financial management, or business organization or operations, including at least five years of experience in the private sector in the management of business or financial enterprise, or in management consulting, public accounting, or other professional activity;
- (b) Whose residency, office, or principal place of professional or business activity is situated within the municipal corporation, county, or township;
- (c) Who has not at any time during the five years preceding the date of appointment held any elected public office.

Immediately after appointment of the initial three appointed members of the commission, the Governor shall call the first meeting of the commission and shall cause written notice of the time, date, and place of the first meeting to be given to each member of the commission at least 48 hours in advance of the meeting.

Amended Section 118.07 (G) of the Revised Code requires the commission to retain a “financial supervisor.” As used in this chapter, “financial supervisor” means the Auditor of State or a firm of certified public accountants with demonstrated professional competence in matters relating to this chapter, engaged by the commission pursuant to a contract approved by the controlling board.

Amended Section 118.07(H) of the Revised Code states that at the request of the commission the Auditor of State shall designate employees of the Auditor of State’s office to assist the commission and the financial supervisor and to coordinate the work of the Auditor of State’s office and the financial supervisor. Upon determination of a fiscal emergency in any municipal corporation, county, or township shall provide the commission with such reasonable office space in the principal building housing city, county or township government.

Amended Section 118.06 of the Revised Code - Financial Plan

Division (A) of this section requires that within 120 days after the first meeting of the commission, the mayor of the municipal corporation or the board of county commissioners or board of township trustees shall submit to the commission a detailed financial plan, as approved or amended and approved by ordinance or resolution of the legislative authority, containing the following:

- (1) Actions to be taken by the municipal corporation, county, or township to:
 - (a) Eliminate all fiscal emergency conditions determined to exist pursuant to Section 118.04 of the Revised Code;
 - (b) Satisfy any judgments, past due accounts payable, and all past due and payable payroll and fringe benefits;
 - (c) Eliminate the deficits in all deficit funds;
 - (d) Restore to construction funds and other special funds moneys from such funds that were used for purposes not within the purposes of such funds, or borrowed from such construction funds by the purchase of debt obligations of the municipal corporation, county, or township with the moneys of such funds, or missing from the construction funds or such special funds and not accounted for;
 - (e) Balance the budgets, avoid future deficits in any funds, and maintain current payments of payroll, fringe benefits, and all accounts;
 - (f) Avoid any fiscal emergency condition in the future;
 - (g) Restore the ability of the municipal corporation, county, or township to market long-term general obligation bonds under provisions of law applicable to municipal corporations, counties, or townships generally.
- (2) The legal authorities permitting the municipal corporation, county, or township to take the actions enumerated pursuant to division (A)(1) of this section;

- (3) The approximate dates of the commencement, progress upon, and completion of the actions enumerated pursuant to division (A)(1) of this section and a reasonable period of time expected to be required to implement the plan.
- (4) The amount and purpose of any issue of debt obligations that will be issued, together with assurances that any such debt obligations that will be issued will not exceed debt limits supported by appropriate certifications by the fiscal officer of the municipal corporation, county, or township and the county auditor;
- (5) Assurances that the municipal corporation, county, or township will establish monthly levels of expenditures and encumbrances pursuant to division (B) (2) of Section 118.07 of the Revised Code;
- (6) Assurances that the municipal corporation, county, or township will conform to statutes with respect to tax budgets and appropriation measures;
- (7) The detail, the form, and the supporting information that the commission may direct.

Division (B) of the section requires the financial plan developed pursuant to division (A) of this section to be filed with the financial supervisor and the financial planning and supervision commission. After consultation with the financial supervisor, the commission shall either approve or reject any initial or subsequent financial plan.

Amended Section 118.07 of the Revised Code

This section sets out the powers, duties, and functions of the financial planning and supervision commission, or when authorized by the commission, the financial supervisor.

Amended Section 118.08 of the Revised Code. Compensation and Expenses of Financial Planning and Supervision Commission

The members of the financial planning and supervision commission shall serve without compensation, but shall be paid by the commission their necessary and actual expenses incurred while engaged in the business of the commission.

Division (B) of this section states that all expenses incurred for services rendered by the financial supervisor for a period to 24 months shall be paid by the commission pursuant to an appropriation made by the General Assembly for this purpose. Expenses incurred for services rendered by the financial supervisor beyond this period shall be borne by the municipal corporation, county, or township unless the Director of Budget and Management waives the costs and allows payment in accordance with the following schedule:

<u>Continued Performance Required of Financial Supervisor</u>	<u>Number of Months</u>	<u>Percentage of Payment by Municipal Corporation County or Township</u>
Yes	25 to 30	20
Yes	31 to 36	50
Yes	Over 36	100

Amended Section 118.10 of the Revised Code - Development of an Effective Financial Accounting and Reporting System

This section requires the municipal corporation, county, or township to develop an effective financial accounting and reporting system by:

(A) Promptly bringing its existing system of financial accounting and reporting into compliance with Chapter 117 of the Revised Code. Within 90 days of the determination of the existence of a fiscal emergency condition pursuant to Section 118.04 of the Revised Code, the Auditor of State shall issue a preliminary report with respect to the methods, accuracy, and legality of the accounts, records, files, and reports of the municipal corporation, county, or township.

(B) Modifying and supplementing the system of financial accounting and reporting to record and report its fiscal activities on an accurate, current, and continuous basis in order to facilitate the effective management of the affairs of the municipal corporation, county, or township, and to assist in refining and improving the financial plan and amendments thereof, facilitate the monitoring of compliance and the implementation of the financial plan, and otherwise assist the financial planning and supervision commission, the Auditor of State, and the county budget commission in the performance of their functions.

Amended Section 118.11 of the Revised Code - Cooperation of Officials

The municipal corporation, county, or township and all its officers and employees having possession of the required information or the responsibility for developing such information, shall at all times cooperate in assisting the functions of the financial planning and supervision commission by providing to the commission or, when authorized by the commission, the financial supervisor, on a continuing basis, all information requested, ordered, or needed by the commission or financial supervisor to formulate judgments regarding revenue and expenditure estimates, the financial plan or any amendments or the municipal corporation, county, or township.

Amended Section 118.12 of the Revised Code - Failure to Submit Financial Plan

Division (A) of this section states that after the date by which the municipal corporation, county, or township is required to submit a financial plan or segment of a financial plan to the financial planning and supervision commission, if the affected entity has failed to submit a financial plan or segment as required by this chapter, expenditures from the general fund in any month may not exceed 85% of expenditures from the general fund for such month in the preceding fiscal year, except the commission may authorize a higher percent for any month upon justification of need by the municipal corporation, county, or township.

Division (B) of this section further states that after submission of a proposed financial plan by the municipal corporation, county, or township to the commission, until approval or disapproval, no expenditure may be made contrary to such proposed financial plan.

Division (C) of this section requires that after disapproval by the commission of a proposed financial plan, no expenditure may be made by the municipal corporation, county, or township inconsistent with the reasons for disapproval given pursuant to division (B) of Section 118.06 of the Revised Code; and if the municipal corporation, county, or township fails to submit a revised financial plan within the time required, the expenditure limits of division (A) of this section are applicable.

Division (D) of this section states that after approval of a financial plan, or any amendment thereof, no expenditure may be made contrary to the approved financial plan, or amendment thereof.

Amended Section 118.13 of the Revised Code - Appropriation Measures

Amended Section 118.13 (A) of the Revised Code states the no appropriation measure may be adopted contrary to the financial plan approved by the financial planning and supervision commission. Any existing appropriation measure inconsistent with the approved financial plan is ineffective for purposes of any expenditures to the extent it authorizes expenditures in excess of the revenues available after approval of the financial plan, and shall be amended promptly by the legislative authority of the municipal corporation, county, or township to be consistent with the financial plan.

Amended Section 118.13 (B) of the Revised Code requires that prior to giving a certificate of estimated resources or amendment thereof to the municipal corporation, county, or township, the county budget commission shall consult with the commission, and the commission shall revise such certificate or amended certificate in any respect in which the certificate or amended certificate is, in its judgment, inconsistent with the financial plan.

Amended Section 118.13 (C) of the Revised Code requires that any tax budget of the municipal corporation, county, or township shall be consistent with the financial plan approved by the commission.

Amended Section 118.13 (D) of the Revised Code states that nothing in this section, and no delay or failure or refusal to act under or comply with the provisions of this section, delays, modifies, or affects the expenditure restrictions contained in Section 118.12 of the Revised Code.

Amended Section 118.13 (E) of the Revised Code states that for the purposes of the financial plan, tax budgets, and certificates of estimated resources, the revenue estimates shall not include revenues conditioned upon future favorable action by the electorate of the municipal corporation, county, or township or by the general assembly or congress, other than appropriations of moneys for existing and continuing programs at current levels.

Amended Section 118.14 of the Revised Code - Orders or request of Financial Planning and Supervision Commissions deemed binding on certain officials

The financial planning and supervision commission may direct its certifications, notifications, orders, or requests to particular officers of the municipal corporation, county, or township or county budget commission and any such certification, notification, order, or request, including preparation and submission of a financial plan in accordance therewith and with this chapter, shall be effective and binding upon the officials. The duty to act pursuant to any such certification, notification, order, or request is hereby established as a duty of the municipal corporation, county, or township, or state, and of each such officer and employee, and may be enforced by writ of mandamus petitioned for by the commission on behalf of the state.

Amended Section 118.15 of the Revised Code - Issuance of Debt

No debt obligation may be issued or incurred by the municipal corporation, county, or township, whether purchased by these subdivisions or others, except with the prior approval of the financial planning and supervision commission.

Amended Section 118.16 of the Revised Code - Bond Anticipation Notes

Bond anticipation notes of a municipal corporation, county, or township issued during a fiscal emergency period may mature at the later of the time otherwise permitted by law or any time approved by the commission and estimated by it to be not more than one year following termination of the fiscal emergency period and may be sold by competitive bids or by negotiation.

Amended Section 118.17 of the Revised Code - Local Government Fund Notes

This section permits during a fiscal emergency period and with the approval of the financial planning commission, a municipal corporation, county, or township to issue local government fund notes, in anticipation of amounts to be allocated to it pursuant to division (B) of Section 5747.50 of the Revised Code or to be apportioned to it under Section 5747.51 or 5747.53 of the Revised Code in a future year or years, for a period of no more than eight calendar years.

Amended Section 118.18 of the Revised Code - Definitions

This section of the Revised Code defines debt terms and debt related terms as used in Sections 118.19 to 118.25 of the Revised Code.

Amended Sections 118.19 through 118.25 of the Revised Code - Additional Authority to Issue Debt and Procedures Relating thereto

These sections of the Revised Code set out the additional authority for the issuance of debt and procedures to be followed.

Amended Section 118.26 of the Revised Code - Validity of Debt Obligations

Debt obligations issued by a municipal corporation, county, or township during a fiscal emergency period with the approval of the financial planning and supervision commission and for which the municipal corporation, county, or township has been paid in accordance with the contract for sale shall in any action or proceeding involving their validity be conclusively deemed to have been issued, sold, executed, and delivered in conformity with law and shall be incontestable unless such action or proceeding is begun prior to the delivery of such bonds or notes.

Amended Section 118.27 of the Revised Code - Termination of a Fiscal Emergency

Division (A) of this section states that a financial planning and supervision commission with respect to a municipal corporation, county, or township, and its functions under this chapter, shall continue in existence until such time as a determination is made pursuant to division (B) of this section that the municipal corporation, county, or township has done **all** of the following:

- (1) Planned, and is in the process of good faith implementation of, an effective financial accounting and reporting system in accordance with Section 118.10 of the Revised Code, and it is reasonably expected that such implementation will be completed within two years;
- (2) Corrected and eliminated or has planned and is in the process of good faith implementation of correcting and eliminating all of the fiscal emergency conditions determined pursuant to Section 118.04 of the Revised Code, and no new fiscal emergency conditions have occurred. The Auditor of State shall monitor the progress of the municipal corporation, county, or township in its plan of good faith implementation of correcting and eliminating all the fiscal emergency conditions. If after a two-year period, the municipal corporation, county, or township has failed to secure full implementation, the Auditor of State may redeclare the subdivision to be in a fiscal emergency.
- (3) Met the objectives of the financial plan described in Section 118.06 of the Revised Code.
- (4) The municipal corporation, county, or township prepares a financial forecast for a five-year period in accordance with the standards issued by the Auditor of State. An opinion must be rendered by the Auditor of State that the financial forecast is considered to be nonadverse.

Division (B) of this section requires that the determination that all of such conditions for the termination of the existence of the commission and its functions exist may be made either by the Auditor of State or by the commission and shall be certified to the commission, the Auditor of State, the Governor, and the budget commission, whereupon such commission and its functions under this chapter shall terminate. Such determination shall be made by the Auditor of State upon the filing with the Auditor of State of a written request for such determination by the municipal corporation, county, or township, the Governor, or the commission, or may be made by the Auditor of State upon the Auditor of State's own initiative.

Division (C) of this section requires the commission to prepare and submit with such certification a final report of its activities, in such form as is appropriate for the purpose of providing a record of its activities and assisting other commissions created under this chapter in the conduct of their functions. All of the books and records of the commission shall be delivered to the Auditor of State for retention and safekeeping.

Division (D) of this section states that upon receipt of the certification provided for in division(B) of this section, the Director shall follow the procedures set forth in Section 126.29 of the Revised Code.

Division (E) of this section requires that if, at the time of termination of the commission, an effective financial accounting and reporting system has not been fully implemented, the Auditor of State shall monitor the progress of implementation and shall exercise authority under Chapter 117 and Section 118.10 of the Revised Code to secure full implementation at the earliest time feasible but within two years from such termination.

Enacted Section 118.271 of the Revised Code - Issue of Debt to Eliminate Fiscal Emergency Condition

A municipal corporation, county, or township may issue general obligation, special obligation, or revenue bonds and notes in anticipation of the bonds for the purpose of eliminating fiscal emergency conditions set forth in Section 118.03 of the Revised Code, the cost of the issuance of the bonds and notes, and the capitalization of interest for not more than 3 years. Bonds issued under this section shall have a maximum maturity of 20 years and notes issued in anticipation of the issuance of bonds under this section shall have a maximum maturity of 5 years. Provisions of the Revised Code applicable to the issuance of bonds and notes by municipal corporations, counties, and townships, except as they may be in conflict with this section, are applicable under this section.

Amended Section 118.28 of the Revised Code - Acts of the Commission

Any act of the commission or the financial supervisor under this chapter shall be presumed to be valid and for all purposes shall be conclusively valid unless in an appropriate court action in which the commission is duly made a party it is shown by clear and convincing evidence that no basis existed upon which such act could have been sustained under the law and that the commission's or financial supervisor's act was grossly arbitrary; provided that no such action may effect the reliability and conclusiveness of certifications and approvals by the commission or the financial supervisor as provided in Section 118.15 of the Revised Code.

Amended Section 118.99 of the Revised Code - Prohibitions

Amended Section 118.99 (A) provides that during the fiscal emergency period, no officer or employee of the municipal corporation, county, or township shall knowingly make any obligation or make any expenditure in excess of the amount permitted by this chapter of the Revised Code; knowingly fail or refuse to take any of the actions required by this chapter or knowingly prepare, present, or certify any information or report for the commission or agents that is false or misleading or which is recklessly prepared or presented without due care for its accuracy; knowingly use or cause to be used moneys of a construction fund for purposes other than the lawful purposes of the construction fund or knowingly use or cause to be used moneys of a fund created under this chapter for the payment of principal and interest on debt obligations

Amended Section 118.99 (B) of the Revised Code states that the prohibitions set forth in division(A) of this section are in addition to any other prohibitions provided by law for a municipal corporation, county, or township, or by or pursuant to a municipal charter.

Amended Section 118.99 (C) of the Revised Code makes, in addition to any other penalty or liability provided by law for a municipal corporation, county, or township, or by a municipal charter, a violation of division (A)(1), (2), (3), or (4) of this section is a misdemeanor of the second degree. Upon conviction of any officer or employee of a municipal corporation, county, or township for any violation of these divisions, such officer or employee shall forfeit office or employment.

Amended Section 319.302 of the Revised Code

This section was amended to make reference to Sections 323.152 and 323.158 of the Revised Code as an exception in the amount of the taxes remaining after the ten per cent reduction contained in this section shall be the real and public utility property taxes charged and payable on such property and shall be the amounts certified to the county treasurer for collection.

Amended Section 323.131 of the Revised Code

This section was amended to add the following information on each tax bill:

For any county in which the board of county commissioners has granted a partial property tax exemption on homesteads under Section 323.158 of the Revised Code, the commissioner shall require that the tax bills for those homesteads include a notice of the amount of the tax reduction that results from the partial exemption.

Enacted Section 323.158 of the Revised Code

Division (A) of Section 323.158 of the Revised Code states as used in this section, “qualifying county” means a county to which both of the following apply:

- (1) At least one major league professional athletic team plays its home schedule in the county for the season beginning in 1996;
- (2) The majority of the electors of the county, voting at an election held in 1996, approved a referendum on a resolution of the board of county commissioners levying a sales and use tax under Sections 5739.026 and 5741.023 of the Revised Code.

Division (B) of this section states that on or before December 31, 1996, the board of county commissioners of a qualifying county may adopt a resolution under this section. The resolution shall grant a partial real property tax exemption to each homestead in the county that also receives the tax reduction under division (B) of Section 323.152 of the Revised Code. Additionally, the resolution shall include the following:

- (a) The partial exemption shall take the form of the reduction by a specified percentage each year of the real property taxes on the homestead;

- (b) Shall specify the percentage, which may be any amount;
- (c) The board may include a condition that the partial exemption will apply only upon the receipt by the county of additional revenue from a source specified in the resolution;
- (d) Shall specify the tax year in which the partial exemption first applies, which may be the tax year in which the resolution takes effect as long as the resolution takes effect before the county auditor certifies the tax duplicate of real and public utility property for that tax year to the county treasurer.

Upon adopting the resolution, the board shall certify copies of it to the county auditor and the tax commissioner.

Division (C) of this section requires after complying with Sections 319.301, 319.302, and 323.152 of the Revised Code, the county auditor shall reduce the remaining sum to be levied against a homestead by the percentage called for in the resolution. The county auditor shall certify the amount of taxes remaining after the reduction to the county treasurer for collection as the real property taxes charged and payable on the homestead.

Division (D) of this section states that for each tax year, the county auditor shall certify to the board of county commissioners the total amount by which real property taxes were reduced under this section. At the time of each semi-annual settlement of real property taxes between the county auditor and county treasurer, the board of county commissioners shall pay to the auditor one-half of that total amount. The county auditor shall therefore distribute it among the various taxing districts in the county as if it had been levied, collected, and settled as real property taxes. The payment by the board of county commissioners shall be from the general fund or from any other county revenue that may be used for that purpose.

Division (E) of this section states the partial exemption under this section shall not directly or indirectly affect the determination of the principal amount of notes that may be issued in anticipation of a tax levy or the amount of securities that may be issued for any permanent improvements authorized in conjunction with a tax levy.

Division (F) of this section states that at any time, the board of county commissioners may adopt a resolution amending or repealing the partial exemption granted under this section.

Division (G) of this section addresses the situation if a person files a late application for a tax reduction under division (B) of Section 323.152 of the Revised Code for the preceding year. If the reduction is granted, the person also shall receive the reduction for the preceding year. The county auditor shall credit the amount of the reduction against the person's current year taxes, and shall include the amount of the reduction in the amount certified to the board of county commissioners under division (D) of this section.

Enacted Section 4503.0610 of the Revised Code - Manufactured Home Tax Exemption

Division (A) of this section requires that if a board of county commissioners grants a partial real property tax exemption, it also shall adopt a resolution under this section granting a partial manufactured home tax exemption. Such reduction shall be the same percentage by which real property taxes were reduced.

Division (B) of this section requires that after complying with Sections 4503.06 and 4503.065 of the Revised Code, the county auditor shall reduce the remaining sum to be levied against a manufactured home by the percentage called for in the resolution adopted under division (A) of this section.

Division (C) of this section addresses the same procedures as outlined in Section 323.158 (D) for the certification of the county auditor to the board of county commissioners.

Division (D) of this section requires that if a board of county commissioners repeals a resolution adopted under Section 323.158 of the Revised Code, it also shall repeal the resolution adopted under this section.

This bulletin summarizes the major amendments and exactments of the Revised Code by Sub. H.B. No. 462 and is not intended to be used as a substitute for the actual legislation. For additional details, public offices are encouraged to obtain a copy of the legislation.

Should you have questions pertaining to this bulletin, please contact the Auditor of State's Local Government Services Division at 1-800-345-2519.