

Local Government Fund

Statutory vs. Alternative Formulas

Local Government Officials Conference – March 22, 2018
Jill Thompson | Athens County Auditor



Introduction of Terms

Understanding Terms and Acronyms used in today's presentation

Board of Tax Appeals (BTA)

- Ohio Board of Tax Appeals (<http://bta.ohio.gov>)

The mission of the Ohio Board of Tax Appeals, as Ohio's administrative tax court, is to provide taxpayers and taxing authorities with an accessible, fair and efficient appeals process and to resolve appeals in a timely and judicious manner by facilitating settlement or by issuing comprehensive written decisions, which are based upon Ohio statutes, case law, and board precedent.

County Budget Commission (CBC)

- Ohio Revised Code (§5705.27)

There is hereby created in each county a county budget commission consisting of the county auditor, the county treasurer, and the prosecuting attorney.

County Undivided Local Government Fund (CULGF)

- County Undivided Local Government Fund ([Ohio County Commissioners Handbook, CH 23](#))

Refers to the fund in the county treasury to which monies received from the State Local Government Fund are deposited and from which distributions are made to political subdivisions by the County Budget Commission.

State Local Government Fund (SLGF)

- State Local Government Fund ([Ohio County Commissioners Handbook, CH 23](#))

A fund in the state treasury from which distributions are made to certain municipalities and to County Undivided Local Government Funds where the CBC distributes the funds pursuant to either a statutory or alternative formula.

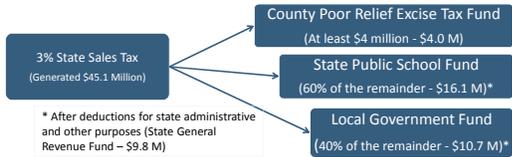


Early History of the Local Government Fund

HB 134 of the 90th General Assembly established the Local Government Fund (LGF). It was passed by the Legislature on December 6, 1934.

Local Government Fund Origin – 1934

The Local Government Fund (LGF) is the main tax revenue sharing mechanism Ohio has with its local governments dating back to 1934 when the state first implemented its first sales tax, a bracketed 3% tax.



State Distribution of Local Government Funds

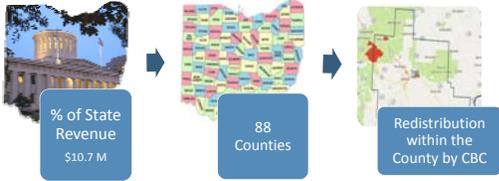
Counties redistributed the LGF's on the basis of municipal real, public utility and tangible personal property values during the previous five years.

The Formula involved:

Municipal Property Values by County ÷ Property Values of all property located in all Municipalities Statewide = %

None of the property values attributable to any unincorporated areas were included in the original formula.

1935 – The First Year of “Revenue Sharing” in Ohio



County Budget Commission – Determining “Need”

- Each CBC was directed to distribute the monies on the basis of “**need**” for revenue for current operating expenses.
- The commission was to review all **tax budgets** and revenues from all sources and then determine each subdivision’s “**need**” to maintain services for “**essential local government purposes.**”

The CBC was granted a great deal of discretion.



Local Government Fund – Revenue Sources Expanded 1947

- The General Assembly converted three state-collected intangibles taxes from being a state revenue source to a local government revenue source:
 1. 2-mill tax paid by financial institutions on their deposits;
 2. 2-mill tax on the shares and capital of financial institutions;
 3. 5-mill tax on the shares and capital dealers in intangibles
- The Legislature also established a CULFG minimum of \$25,000 per year which remains current law.

The Debate

- Since the beginning of the LGF there has been considerable debate about the type and amount of state assistance that should be provided to Ohio local governments.
- Questions began in 1938 by the Ohio Tax & Revenue Commission about whether the State should continue providing revenue to local governments.



Creation of LGRAF – HB 171

- In response to a legislative study, legislation was enacted in 1987 to form the Local Government Revenue Assistance Fund (LGRAF)
- HB 171 also increased the percentage earmarked for the LGF from 2.5% to 4.5% (Feb 1988) and then to 4.6% in July 1989.
- Two additional state revenue sources were added: Use Tax and Public Utility Excise Tax
- The LGRAF was absorbed into the CULGF in 2008

More Recent Developments in LGF

- **2001:** HB 94 Permanent Law Formulas were “temporarily” suspended
- **August 2001 – July 2003:** LGF and LGRAF were frozen
- **2003:** HB 95 “Freeze” continued and the GA reduced the LGF by an additional \$30M
- **FY 2006/2007:** HB 66 Freeze Extended
- **FY2008/2009:** HB 119 changed and revamped LGF law:
 - Extended Freeze
 - Combined SLGRAF and SLGF
 - LGF reduced to 3.68% of all state general revenue tax sources
 - Distributions were to be in proportion to what was received by each county in CY 2007
 - Municipal income rate adjustments were no longer considered

2011 State Budget Shortfall

- HB 153 (Effective July 1, 2011) cut the LGF distributions by 50% over the two year state budget period.
- Beginning January 2012, CULGF would no longer receive tax levied on dealers in intangibles; a source since 1948.
- Any CULGF which received less than \$750,000 would not receive a reduction.
- Any CULGF that would fall below \$750,000 as the result of a reduction would be held harmless. (Later, counties above the minimum were required to fund those below)
- Returned the formula to a percentage of tax receipts beginning FY 14.

The Basic Elements of the Program



Appeal Process – Statutory Formula Only



Local governments not satisfied with the allocation of the CBC may appeal to the State Board of Tax Appeals

Law Allows for Two Methods to Distribute CULGF

Statutory Formula

The County Budget Commission follows strict statutory provisions to determine "need."

May be appealed to the BTA.

Alternative Formula

The Alternative Formula may include virtually any factor or factors desired locally provided that the formula must be approved by the County Commissioners, the legislative authority of the largest city and by a majority of the other subdivisions

The County and Largest City are granted the right to Veto an Alternative Formula.

No Appeal Process.



Statutory Formula

Lacks Transparency
Controversy over CBC Discretion
Used by 8 of 88 Counties

Statutory Method of LGF Distribution

- Ohio Revised Code §5747.51 and 5747.52
- Considerable discretion given to the CBC to determine "need"
- The Statutory Method has resulted in contention and litigation between the subdivisions and the counties.
- It was perceived that County Budget Commissioners were manipulating the term "need" in favor of County government.
- "Claimed needs" specified in tax budgets may not reflect "actual need."

Statutory Procedure to Allocate CULGF

- Tax Commissioner is required to certify to the County Auditor no later than July 25th of each year the amount that the CULGF will receive from the SLGF during the next calendar year. (ORC §5747.51 (A))
- ORC §5747.51 (C – I) provides the statutory procedure for allocating the County ULGF.
- ORC §5747.52 contains a form to be used by the CBC when making allocations under this statutory procedure. (20 parts)

Statutory Formula – Determining “Relative Need”

- Need is determined from the tax budget filed by each subdivision
- CBC must give subdivisions the opportunity for a hearing and may inquire into the “claimed” needs as reflected in their tax budgets.
Tax Budget Filing Dates:
 - On or before the 15th day of January for School Districts and the City of Cincinnati
 - On or before the 15th day of July for all other subdivisions and taxing units
- The CBC has the authority to adjust claimed needs to reflect “actual needs.”

Statutory Formula – Relative Need Factor

The CBC calculates a “relative need factor” for each subdivision by:

$$\begin{aligned} & \text{Total County ULGF Certification from the Tax Commissioner} \\ & \div \text{Total Relative Need of all Subdivisions} \\ & = \text{Relative Need Factor} \end{aligned}$$

Statutory Formula – Proportionate Share

The CBC will calculate each subdivision’s “proportionate share” by:

Subdivision’s Relative Need
x Relative Need Factor
= Subdivision’s Proportionate Share

Statutory Formula – County Proportionate Share

The County as a subdivision may receive no more than an established percentage of the total CULGF, based on the percentage of the county’s population located within a municipal corporation:

| County Percentage Share of CULGF | |
|----------------------------------|--|
| County Share May Not Exceed | Municipal Population in County |
| 60 % | < 41% of Municipal Population |
| 50 % | Between 41 and 80% of Municipal Population |
| 30 % | > 81% of Municipal Population |

If an adjustment is necessary, the proportionate share of the county is reduced and the proportionate share of other subdivisions are increased on a pro rata basis.

Statutory Formula – Township Share (No less than 10%)

In counties with populations less than 100,000, the proportionate share must be adjusted to ensure that townships receive no less than 10% of the total CULGF.

The population figures used in this determination are those published in the Ohio Development Services Agency each year as of July 20.

(ORC §5747.51 (H))

[Population Projections: County Totals](#)

Statutory Formula – Subdivision Proportionate Share

Adjustments must also be made if the percentage of the proportionate share to any subdivision is less than the average percentage apportioned to any subdivision for Calendar Year's 1968 – 1970.

Statutory Formula – Conversion to Percentage Share

After all adjustments are made, these proportionate shares are converted to "percentage shares" by the County Auditor and become the basis for monthly distributions to participating subdivisions during the next year.

(ORC §5747.51 (I))



Alternative Formula

ORC Section 5747.53
Development of a locally-adopted Formula
Not as complex or tedious
More transparent

Alternative Method of Apportionment (SB 114)

- Allows a county to derive a specific formula for their own county, to determine each local subdivisions' share of the CULGF.
- Eliminated problems perceived under the statutory method
- Currently 80 of the 88 counties use the alternative method

The distribution of the CULGF is the responsibility of the CBC composed of the County Auditor, County Treasurer, and County Prosecutor.

Alternative Formula – Required Approvals

In order to adopt an Alternative Formula the following approvals are required:

1. The Board of County Commissioners
2. The legislative authority of the city, located wholly or partially within the county with the greatest population residing in the county.
3. A majority of boards of township trustees and legislative authorities of municipal corporations in the county, except for the largest city

Alternative Formula – Exception to Approval Process

HB 329 established a special approval procedure that applies only to counties where the largest city located wholly or partially in the county has a population of 20,000 or less and where the population of this city is less than 15% of the county.

In this case, if two or more townships or municipalities together have populations of more than 50% of the county population and adopt resolutions (by the first Monday in August of the proceeding year) voiding the need for approval by the legislative authority of the largest city wholly or partially within the county, then the approval of an alternative formula by the largest city is not required.

(ORC §5747.53 (C))

Alternative Formula – Presentation of Materials

The County Auditor is required to submit various materials to the CBC at its regular meeting to be held on the first Monday of August. These materials include the certification of estimated receipts for the next year to the CULGF from the Tax Commissioner, the tax budgets and estimates from all political subdivisions, and records from the last session of the CBC.

(ORC §5705.27, 5747.27, 5747.51 (B))

Alternative Formula – Completion of Allocation

The County Budget Commission must complete its work by the first Monday in September unless an extension is granted by the Tax Commissioner.

(ORC §5705.27)

Alternative Formula – Certification to Tax Commissioner

The County Auditor is required to certify to the Tax Commissioner the percentage shares of all subdivisions for the next year after completion of the work of the County Budget Commission.

(ORC §5747.51(I))



Alternative Formula – Publication

Within 10 days of action by the CBC the County Auditor must publish a notice of both the amounts and percentages that each subdivision will receive during the next year from the CULGF. The notice must be in a newspaper of countywide circulation and a copy must be sent to the Tax Commissioner

(ORC §5747.51)



Alternative Formula – Notification of Political Subdivisions

After action by the CBC, the County Auditor must send a notice to the fiscal officer of each political subdivision which includes both its amount and percent of the allocation of the CULGF for the next year.

(ORC §5747.51)

Alternative Formula – Deposit and Distribution

- By the 10th day of each month the state sends each county a monthly payment from the SLGF.
- This payment must be deposited into the CULGF no later than the 15th day of the month.
- Warrants for the percentage share due to each political subdivision as determined by action of the CBC must be made no later than the 20th date of each month.

(ORC §5747.54)

Local Government Funds Withholding

- Finally, it should be noted that if any public officials fail to maintain records required by the statutes or rules of the Tax Commissioner, State Auditor or State Treasurer, the State may withhold distributions to the county.
- Likewise, the funds may be withheld if any public official fails to comply with any law relating to enforcement of the LGF Law.
- (ORC §5747.51)



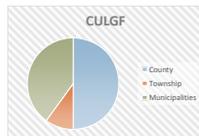


Athens County Alternative Formula

Athens County Adopted and Alternative Formula in 1998

Athens County – County Share

- The Athens County Alternative Formula continued the County proportional share as it was under the previous Statutory Formula
- County receives 50% of the CULGF



Athens County – Townships Share

- Athens County Alternative Formula maintained the minimum Township proportional Share
- The Fourteen Townships in Athens County share 10% of the CULGF
- Each Township proportional share was determined by:
 1. Calculating Township Population (percent of total township population)
 2. Calculating Township Roads (percent of total township roads)
 3. Calculating Each Township Proportionate Share:
 - Population factor x Road factor x 10% share

Athens County – Municipality Share

- Athens County Alternative Formula provided the remainder of the CULGF to its municipalities.
- The two cities and eight villages in Athens County share the remaining 40% of the CULGF
- Each Municipal proportional share is determined by:
 - Calculating Municipal Population (percent of total municipal population)
 - Calculating Taxable and Exempt Real Property Valuation
 - percent of total municipal valuation
 - Calculating Each Municipal Proportionate Share:
 - Population factor x Valuation factor x 40% share



Sources used for this Presentation

- County Commissioners Handbook, Chapter 23 Ohio's Local Government Fund:
<https://ccao.org/resources/manuals-and-handbooks/county-commissioners-handbook/>
- Ohio Department of Services Agency – Population Estimates
https://development.ohio.gov/reports/reports_pop_proj_map.htm

Questions?



Thank You!

Jill Thompson
Athens County Auditor
15 S. Court St., Room 330
Athens, OH 45701-2896



(740)592-3223
jthompson@athensoh.org
www.athenscountyauditor.org
