

that built into our system We can increase state taxes, income tax, sales tax without direct vote from the people, but when it comes to school levies we have to have that direct input. I don't understand that policy differential.

Zaino: I've always said when people ask me why do levies get voted down so much, it's simply because people get the chance to say no, and they never get to say no when the sales tax rate gets increased or in the personal income tax rates. That's a tough situation to put the schools in.

Fleeter: I want to respond to the rhetorical question of why is it that we have this at the local level. I had the opportunity to ask Governor Voinovich about this. He was one of the legislators back in 1976 that really pushed for this. His view was it provides an important element of accountability for local school districts.

Johnson: I don't mind accountability, and we're making great progress in Southwestern City Schools. My public will tell you I'm making great progress, we're doing good things – right until I ask them for money. They're voting no because they can and they don't like taxes. It has nothing to do with the accountability of the district.

What are alternatives to HB 920?

Fleeter: There was a proposal from the Blue Ribbon Task Force, which was to create a statewide property tax where there would be 22 mills that would grow with inflation and every school district would get that. Right now the only automatic growth we get comes from inside millage, and the average inside millage is four to five mills. So if you went to 22 growing mills, that would multiply by a factor of four or five the amount of millage that

would grow with inflation. That would go a long way towards helping the school districts have a local revenue base that was responsive to inflation.

What went along with that was that there was also going to be a cap that would allow those mills to grow but only up to a certain point. The idea behind it was that that represented a compromise between the situation we have now and the situation we had in 1975 before this was in place.

Zaino: With 22 growing mills, though, that money did not stay local. That was statewide. The state took those 22 mills and could redistribute them to the school systems fairly, whatever the state decided was fair.

Fleeter: Another option would be to just have a Constitutional Amendment that would modify House Bill 920 (as to when) the rollbacks in the millage rates would kick in. You could just leave everything in the law the same except the rollbacks would start after schools and other local governments have gotten some predetermined amount of growth.

What is needed to amend 920?

Klenke: It's going to take an organized effort from all the constituents saying to their local legislators that this needs to be addressed. That may also be something that Gov. Strickland is looking at in his reform proposal.

Zaino: I don't know that there has been consensus. There needs to be a proposal that addresses issues of funding schools and protecting taxpayers, and then you need the leadership to get it through the legislature.

For more information about Ohio school funding, go to www.SchoolFundingMatters.org.

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A KnowledgeWorks Foundation Publication
October 2008 Volume 3, Number 8

Editor's Note: : This November, Ohio voters are facing 237 local school levies to provide additional resources for school operations. Regardless of the outcome of those levies – about half such measures usually pass – the large number of issues on the ballot calls attention to one of the least understood aspects of the state's school funding system. House Bill 920 has been linked to the need for districts to constantly come back to voters with levies, and many have called for its elimination. We offer here insights on the issue made by panelists earlier this month at a statewide school funding summit..

Ohio Public Schools and Tax Levies: The Impact of HB 920

The following comments are excerpted from a panel discussion entitled "Paying for Public Education: Why You Should Know About House Bill 920" held Oct. 13 at the Citizens' Summit on Ohio School Funding. The summit was sponsored by KnowledgeWorks Foundation.

What is HB 920?

Dr. Howard Fleeter, Partner, Driscoll & Fleeter: House Bill 920 is a feature of the property tax that is essentially exclusive to the State of Ohio. This legislation was passed in 1976, at a time where there was rapid escalation in housing values. It was an escalation in tax burden that outpaced the incomes of people and their ability to actually pay those taxes. Different states took different strategies to address this issue.

The objective of each of those initiatives was to put a brake on the rate at which property taxes were increasing for homeowners. Each worked in a different way. The way that Ohio's works is that there are what

we call "tax reduction factors" that will reduce tax rates after reappraisal. For most taxes, when there is inflation, you will pay more based on the increasing price of that product. If you go to the store and the commodity that you buy is 20 percent more than it was a year ago, when the sales tax kicks in you pay more. But when you have something like property tax, which is based on an asset which is not liquid, it's very difficult for people to keep pace with their tax payments when that asset is growing at a rapid pace.

So what we do is roll back the tax rates after reappraisal, and that creates two problems for school funding in Ohio. The first problem is that apart from inside millage, which is unvoted millage that many local governments

get, the property tax rates essentially are reduced enough so that you don't get any more money from the levy than you got when it was voted. That creates a burden for local governments because their costs go up with inflation just like the costs for the rest of us, yet their local revenue source is not allowed to grow.

The second problem is one that's become known as "phantom revenue." Phantom revenue is what happens when our school funding formula, which in its structure looks very much like that of other states, intersects with our property tax, which looks very different than the property tax in other states, because only a couple of other states actually reduce their tax rates after reappraisal the way we do. So on the one hand, the revenue from local governments is largely fixed. However, when the school funding formula looks at their property value, it sees the value of the reappraisal. So basically a school district looks richer to the school funding formula than they actually are. What that means is that they don't get as much state aid.

When you talk about doing something like repealing House Bill 920, you need to be very careful because there is a very good reason that legislation was put in place, and it was to protect taxpayers. The issue is that it's not that it was a bad idea, it's just that it went too far. On one hand you have a scenario where property taxes were going up way too quickly, putting a burden on homeowners. And then we made a solution that did the opposite, where property taxes didn't go up and it put a burden on local governments. When we talk about the House Bill 920 problem, that's really what we mean.

What is the impact on districts?

Cathy Johnson, board president, *Southwestern City Schools*: School funding is the single most important issue to

my school district. If we could solve school funding we could do lots of things. We know what we need to do. The only hold-up for us is the issue of not having sufficient funds.

House Bill 920 has not allowed Southwestern to keep pace with either inflation or our increased enrollment. I pulled out some statistics over a 10-year period spanning from 1994 to 2003. I chose that time period because we did pass an 8.9 mill levy in 1994, which raised our effective millage to 32.86 mills, but for the next 10 years we didn't pass an issue. Our assessed valuation, however, grew, causing our effective rate to drop 9.33 mills, so it really negated the whole impact of the levy that we had passed.

Taking a look at our 2003 figures, Southwestern has approximately 20,000 students, so getting about \$5,000 per pupil from the state, we would have had \$100 million before the 23 mill charge-off. Looking at our valuation of (about) \$2.37 billion, our charge-off comes to \$54,447,924, leaving our total state foundation aid after the charge-off at \$45,552,000.

Next comes that phantom revenue piece. Our growth in valuation of \$1 billion times the 23 mill charge-off accounts for \$23 million. This is money that, using the state's formula, we would have received if our valuation had remained at the '94 level.

During the same time, House Bill 920 caused the district's effective rate to drop because the \$1 billion in growth is in the assessed evaluation. This drop in effective rate resulted in little or no growth in taxes, while decreasing what we could have realized through the state's foundation formula.

For the majority of residents in my school district, this is voodoo math. They see the new construction throughout the school district. They receive their tri-annual updates with their increased values. They get their property tax bills, and the only thing

that they know is that their taxes have continued to climb. Phantom revenue and effective millage rates, terms that they've heard, create infusion and misunderstanding, and, as those of us in the room who've worked with levies know, confused voters vote no.

Most of the folks who live in my district don't know that 920 prevents an increase in taxes. A letter to the editor just this week in one of our area

ENERGY AND RESOURCES SPENT ON THESE ENDEAVORS ARE LOST TO OUR MAIN GOAL ... EDUCATING STUDENTS.

papers – we have an issue on the ballot – insists that we benefited from the property reappraisal that took place in 2005, which is the last year that we passed an issue. Unfortunately, there are going to be a lot of folks that believe that, and that's certainly not going to help us come November.

In general HB 920 prevents us from keeping up with the cost of inflation. The law forces us to be on the ballot every three years just to maintain programs. Energy and resources spent on these endeavors are lost to our main goal, which is educating students.

School districts that do manage to pass those levies just manage to maintain; there's no enhancement. And for those of us who have dealt with failed levies we're left with the ominous decision of what we have to cut just to balance a budget.

Fleeter: The combination of these two problems, the lack of local revenue growth and the phantom revenue effect, is one of the primary reasons Ohio school districts have so many operating levies on the ballot. As far as I can tell, there's not a single state that votes as often as we do. A lot of voters don't have any understanding of why that is.

Should HB 920 be revised?

Jerry Klenke, executive director of *Buckeye Association of School Administrators*: In my mind, HB 920 reflects what we oftentimes see relative to legislation and policy issues: a limited look at the impact of what is going to be done through the legislation. What we got was a situation where 920 did deal with these tremendous increases

in property taxes. What it failed to recognize is that that same increase in inflation was there in cost from the standpoint of the governmental entities, in particular our school districts.

From our standpoint House Bill 920 needs to be modified to allow for a reasonable growth in local tax revenue in line with inflationary cost increases. It may be the appropriate time to talk seriously about that, given what's going on with property tax values actually going down in most scenarios. It may be politically palatable to talk about how we modify 920.

It's put boards of education, superintendents, and school districts in a scenario where they're constantly going back to the taxpayer asking for additional money. We all know the angst and the anxiety and the frustration and hassle that we go through in running those tax levies, and how much the public despises that sort of thing.

Thomas M. Zaino, former *Ohio Tax Commissioner*: I'd like to make a couple comments on 920 from my experience as tax commissioner. First of all, it's designed to prevent too much tax from being imposed – essentially each school district gets to say, "Here's how much money we need" and the voters

in that area get to say, "Here's how much money you can have." Then every year from there it's designed to make sure they only collect that much money, essentially....

With the tax reduction factor under 920, you can only get to 20 mills, and it won't go below that 20 mill floor. So at that point any increases in value will increase the amount of taxes that are collected in that jurisdiction. Once that jurisdiction reaches the 20 mill floor, 920 is really no longer applicable. If you're in the schools and you're trying to create more revenue for the schools, that's terrific because you get the benefit of real estate values increasing every year – until this year – and that's something that when I was tax commissioner and we dealt with all these issues, we never dreamed would happen. So I think it is important that we keep that in mind as we (discuss changing) 920: whatever policy is adopted has to take into account contingencies that perhaps we don't even fathom today.

About half the districts are at the 20 mill floor. That means 920 is providing zero protection if you're a taxpayer. So in a way 920 is flawed because if we go back to what the goal was in '76 when it was adopted to be a tax limitation, it's not a tax limitation in about half the districts.

Fleeter: Another point is that the law was passed in 1976, and then four years later there was actually a Constitutional Amendment, which was a technical amendment to create separate classes of property. That change in 1980 took something that had initially been just legislation, and we all know that legislation can be changed, and put the House Bill 920 provisions into the Constitution. Some people have argued that this can be modified by making an interpretation of some very technical language in the Constitution. The general consensus would be if we are going to

do something which alters House Bill 920, it probably will involve a change in the Constitution. If you change it without changing the Constitution it's highly likely that someone will challenge it, so it makes this issue even harder to address.

What effect has HB 920 had on tax rates?

Johnson: In my district if (920) had never passed we'd be just about where we are, and we would have not gone through the heartache of all of the levies and the expense. All of that money could have then gone to my educational foundation helping students.

Fleeter: The phenomenon that has happened as a result of 920 is that it's not uncommon for the effective millage rate in a school district to be one half or one third of the number of voted mills. At one point an analysis showed that overall, statewide average, the effective millage rate in 1976 and the effective millage rate in the mid '90s were almost exactly the same. But we live in a state where we have, I think since 1984, had more than 10,000 operating levies. That's a large amount of levies, and if the effect is basically to just get the tax rate back to where it would have been without the law, it seems like that's a lot of time and effort.

Zaino: The question then becomes why have we had to vote on those 10,000 levies since 1976? What makes Ohioans want to do that? This idea of tax limitation in Ohio goes back a long, long way. In fact it's about the only place voters get a chance to really decide directly how much tax they're going to pay. And so in addressing anything with 920 you have to take into account this culture in Ohio of being able to decide.

Klenke: I think it's interesting that it's only at that level that we have