



ADVISORY 2022-04

September 12, 2022

To: All County Boards of Elections
Board Members, Directors, and Deputy Directors

Re: House Bill 140 and Changes to Tax Levy Law

BACKGROUND

This Advisory is to alert boards of elections to changes in the administration of elections resulting from the passage of [House Bill 140](#) (“H.B. 140”). More specifically, H.B. 140 changes the required language to describe levy rate information in election notices and ballot language for property tax questions. Additionally, H.B. 140 restricts the use of boldface or differing font sizes in the text of ballot questions. This bill takes effect September 13, 2022 but does not apply to elections held before December 22, 2022.

SUMMARY

I. CHANGES TO PROPERTY TAX NOTICES AND BALLOT LANGUAGE

A. REQUIRED LANGUAGE FOR RATE INFORMATION

Prior law required election notices and ballot language for property tax questions to display the rate of tax being levied, renewed, or replaced in both mills (0.1¢) for each \$1 of taxable value and dollars for each \$100 or \$1000 of taxable value. H.B. 140 requires dollar amounts to be displayed numerically (*i.e.*, “\$1” instead of “one dollar”) in notices and ballot language. However, H.B. 140 does not change how the millage rate is displayed. Millage rate is still identified in whole numbers (*i.e.*, “5 mills”) rather than a fraction of a dollar (*i.e.*, “\$0.005”).

Prior law based the millage rate using terms such as “valuation” or “tax valuation” or did not specify what the millage rate was based on. H.B. 140 standardizes this terminology by replacing the previously used terms with “taxable value.”¹

H.B. 140 mandates that property tax election notices and ballot questions, except those for bond levies, display the estimated amount of revenue the tax would generate if approved, rounded to the nearest \$1,000.² It is the county auditor’s responsibility to calculate the estimate by multiplying the levy’s rate by the taxing district’s total taxable value in the year it is proposed.³

¹ [R.C. 133.18](#), [306.32](#), [306.322](#), [345.01](#), [345.03](#), [345.04](#), [505.48](#), [505.481](#), [511.27](#), [511.28](#), [511.34](#), [1545.041](#), [1545.21](#), [3311.50](#), [3318.01](#), [3318.06](#), [3318.061](#), [3318.062](#), [3318.063](#), [3318.361](#), [3318.45](#), [3381.03](#), [4582.024](#), [4582.26](#), [5705.01](#), [5705.192](#), [5705.195](#), [5705.196](#), [5705.197](#), [5705.199](#), [5705.21](#), [5705.213](#), [5705.215](#), [5705.218](#), [5705.219](#), [5705.233](#), [5705.25](#), [5705.251](#), [5705.55](#), [5748.01](#), [5748.02](#), [5748.03](#), [5748.08](#), and [5748.09](#) (versions effective after September 12, 2022).

² [R.C. 306.32](#), [306.322](#), [345.03](#), [345.04](#), [505.37](#), [505.48](#), [505.481](#), [511.28](#), [511.34](#), [513.18](#), [755.181](#), [1545.041](#), [1545.21](#), [3311.50](#), [3318.06](#), [3318.061](#), [3318.062](#), [3318.063](#), [3318.361](#), [3318.45](#), [3381.03](#), [4582.024](#), [4582.26](#), [5705.192](#), [5705.21](#), [5705.212](#), [5705.215](#), [5705.218](#), [5705.233](#), [5705.25](#), [5705.251](#), [5705.261](#), [5705.55](#), and [5748.03](#) (versions effective after September 12, 2022).

³ [R.C. 5705.03\(B\)\(1\)\(e\)](#) (version effective after September 12, 2022).

B. EXAMPLE OF PRIOR LAW AND H.B. 140 BALLOT LANGUAGE

In its [Final Analysis](#) of H.B. 140, the Legislative Service Commission provides the following example of how ballot language would compare for a fixed-rate levy under prior law and H.B. 140.

Prior law ballot language	H.B. 140 ballot language
"An additional tax for the benefit of . . . (subdivision) for the purpose . . . (purpose) at a rate not exceeding . . . mills for each one dollar of valuation, which amounts to . . . for each one hundred dollars of valuation, for . . . (term)."	"An additional tax for the benefit of . . . (subdivision) for the purpose of . . . (purpose), <u>that the county auditor estimates will collect \$. . . annually, at a rate not exceeding . . . mills for each one-dollar \$1 of valuation-taxable value, which amounts to \$. . . for each one hundred dollars \$100,000 of valuation the county auditor's appraised value, for . . . (term).</u> "

C. TYPEFACE MODIFICATIONS

H.B. 140 prohibits any portion of a ballot question proposing to levy a property tax, including the renewal or replacement of such a levy, from being printed in boldface type or in a font size that is different from the font size of other text in the ballot question. However, text next to the boxes in which the voter casts their vote and brief descriptive titles of the question or issues are excluded from the new restriction.⁴

Under previous law, ballot questions were required to display the levy's purpose clause in boldface type for bond and school district emergency levies. Additionally, purpose clauses were required to be twice the size of other ballot text for an emergency levy.⁵

II. APPLICATION OF TAX REDUCTION FACTOR TO THE LEVY RATE

For proposed levies that renew, decrease, increase, or expand an existing levy, H.B. 140 requires the displayed rate of the existing tax to take into account the effect on the tax's collections by a tax reduction factor's application against residential/agricultural property. For new and existing levies not subject to the tax reduction factor, such as fixed-sum levies, H.B. 140 requires the voted rate to be displayed.⁶

A fixed-sum levy collects a particular sum of money each year. A fixed-rate levy is imposed at a set voted rate and is not required to generate a particular sum of money.

The General Assembly passed tax legislation in 1976 that included a tax credit now known as the H.B. 920 tax reduction factor. The H.B. 920 tax reduction factor is applicable to most fixed-rate levies. It is a tax credit that generally prevents increases in tax collections due to appreciation in property values, except appreciation resulting from new construction. There are two classes – residential/agricultural and commercial/industrial – and there is a separate reduction factor for each class.

⁴ [R.C. 3505.06\(D\)](#).

⁵ See [R.C. 5705.197](#) (version effective prior to September 13, 2022, showing example of previously required typeface).

⁶ R.C. [133.18](#), [306.32](#), [306.322](#), [345.01](#), [345.03](#), [345.04](#), [505.48](#), [505.481](#), [511.27](#), [511.28](#), [511.34](#), [1545.041](#), [1545.21](#), [3311.50](#), [3318.01](#), [3318.06](#), [3318.061](#), [3318.062](#), [3318.063](#), [3318.361](#), [3318.45](#), [3381.03](#), [4582.024](#), [4582.26](#), [5705.01](#), [5705.192](#), [5705.195](#), [5705.196](#), [5705.197](#), [5705.199](#), [5705.21](#), [5705.213](#), [5705.215](#), [5705.218](#), [5705.219](#), [5705.233](#), [5705.25](#), [5705.251](#), [5705.55](#), [5748.01](#), [5748.02](#), [5748.03](#), [5748.08](#), and [5748.09](#) (versions effective after September 12, 2022).

The H.B. 920 tax reduction factor is a property tax credit that does not affect the voted rate of a levy, but it does impact the collections that may otherwise be generated by a particular levy. These reduced collections may be converted into an “effective” property tax rate by dividing them by the total taxable value in the applicable class of property. The county auditor is responsible for calculating this effective property tax rate when a subdivision submits a property tax question to voters.

III. ADDITIONAL RESPONSIBILITIES OF COUNTY AUDITOR

When a political subdivision intends to submit a property tax question to voters, the subdivision asks the county auditor for either (1) an estimate of the revenue the tax would generate or (2) the millage rate necessary to generate a specified amount of revenue. Upon receiving that information, the subdivision may submit the levy to voters by certifying a resolution to the appropriate county board of elections. When a request for an estimated rate is made, H.B. 140 requires the county auditor to certify the levy’s rate for each \$100,000 of the auditor’s appraised value so that boards of elections can provide that information on the ballot.⁷

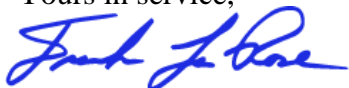
When the county auditor certifies the rate as described above, the auditor must also estimate the amount of revenue the tax would generate, rounded to the nearest \$1,000, if the levy is approved. The county auditor calculates this by multiplying the levy’s rate by the taxing district’s total taxable value in the year it is proposed.⁸

IV. EFFECTIVE DATE

H.B. 140 applies to property tax questions appearing on the ballot in any election on or after December 22, 2022 – 100 days after the act’s effective date.⁹ Therefore, the changes in H.B. 140 will not apply to tax levy issues on the November 8, 2022 General Election. For elections held in 2023 and thereafter, the changes in H.B. 140 apply to levies submitted by subdivisions and voter-initiated petitions to reduce certain levies.¹⁰

The Ohio Ballot Questions and Issues Handbook, including the ballot language templates, will be revised to reflect the changes in law described in this Advisory. The revised Handbook will be published after the changes in law take effect. Please share this Advisory with your legal counsel, the county prosecuting attorney, and the county auditor. If the board of elections’ website includes general information regarding tax levies, the board may include a link to this Advisory. If you have any questions regarding this Advisory, please contact the Secretary of State’s elections counsel at (614) 728-8789.

Yours in service,



Frank LaRose
Ohio Secretary of State

⁷ [R.C. 5705.03\(B\)\(1\)](#) (Version effective after September 12, 2022)

⁸ [R.C. 5705.03\(B\)\(1\)](#) (Version effective after September 12, 2022)

⁹ Section 3 of H.B. 140.

¹⁰ [R.C. 5705.261](#) and [5748.04](#)