AUDITOR OF STATE BULLETIN 98-012
NOVEMBER 23, 1998

TO: All School Districts
All County Auditors
All County Treasurers
All County Prosecutors
All IPAs

SUBJECT: Timing of the Adoption of the Annual Appropriation Measure by School Districts

The timing of the adoption of the annual appropriation measure by school districts continues to raise questions. This confusion is not surprising since the answer is not addressed in a single statute but rather through a combination of several statutes from different chapters of the Revised Code. Initial guidance is provided by Ohio Rev. Code §5705.38 (B) and §5705.36 (B).

These statutes indicate that the annual appropriation measure should be adopted by October 1 provided the amended certificates of estimated resources or the certifications that no amended certificates need be issued have been received from the county auditor. If the required certificates/certifications have not been received by October 1, adoption of the annual appropriation measure is delayed until the certificates/certifications have been received. Certificates/certifications are issued at several times under the provisions of Ohio Rev. Code §5705.36 (B). This Bulletin addresses two circumstances when the certificates/certifications would be issued after October 1.

One time a certificate/certification would be issued after October 1 is when the district has borrowed against its spending reserve. This certificate/certification would not be issued until second half personal property taxes are settled. A second time a certificate/certification would be issued after October 1 is when the delivery of a tax duplicate is delayed under Ohio Rev. Code §323.17 because a subdivision in your county has placed a levy on the November ballot which, if approved, will go on the current tax list and duplicate.

If your school district is in either of these two situations, passage of the annual appropriation measure should be delayed until the necessary certificates/certifications are received. Portions of the relevant statutes follow.

> §5705.38 (B) - A school district shall pass its annual appropriation measure by October 1. If, by October 1, the district has not received the amended certificates of estimated resources required by division (B) of section 5705.36 of the Revised Code or certifications that no amended certificates need be issued, the adoption of the annual appropriation measure shall be delayed until the amended certificates or certifications are received...
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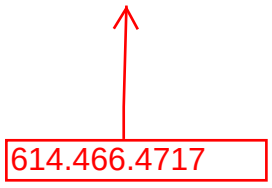
> §5705.36 (B) - At the time of settlement of taxes against which notes have been issued under section 133.301 or division (D) of section 133.10 of the Revised Code and at the time a tax duplicate is delivered pursuant to section 319.28 or 319.29 of the Revised Code, the county auditor shall determine whether the total amount to be distributed to each school district from

such settlement or duplicate, when combined with the amounts from any subsequent settlement, will increase or decrease the amount available for appropriation during the current fiscal year from any fund. The county auditor shall certify this finding to the budget commission, which shall certify an amended certificate reflecting the finding or certify to the school district that no amended certificate needs to be issued.

§319.28 - On or before the first Monday in August, annually, the county auditor shall compile and make up a general tax list of real and public utility property in the county... On or before the first Monday in September in each year, the auditor shall correct such lists in accordance with the additions and deductions ordered by the tax commissioner and by the county board of revision, and shall certify and on the first day of October deliver one copy to the county treasurer.

§319.29 - On or before the first Monday in August, annually, the county auditor shall compile and make up lists of the names of the several persons, companies, firms, partnerships, associations and corporations in whose names personal property required to be entered on the general tax list and duplicate has been listed and assessed... On or before the third Monday in August in each year the auditor shall correct such lists in accordance with the additions and deductions ordered by the department of taxation, and shall certify and deliver one copy of such corrected lists to the county treasurer.

§323.17 - When any taxing authority in the county has certified to the board of elections a resolution that would serve to place upon the ballot at a general election or at any special election held prior to the general election but subsequent to the first Tuesday after the first Monday in August the question of a tax to be levied on the current tax list and duplicate for any purpose, the time for delivery of the tax duplicate to the county treasurer by the county auditor as provided in section 319.28 shall be extended to the first Monday in December.

If you have any questions concerning this Bulletin, please contact the Local Government Services Division of the State Auditor's Office at ~~(800) 345-2519~~.