



Legislation Text

File #: R-543-19, Version: 2

Tax Levy Ballot Issue
Mayor's Office
G. DeBacker (x-1001)

Providing for an election on the question of the approval of the passage of an ordinance to amend Chapter 1905 of the Toledo Municipal Code to provide for the following: the repeal of the City's temporary additional three-quarters percent (3/4%) municipal income tax effective July 1, 2020; and the enactment of a new temporary one and one-quarter percent (1¼%) municipal income tax for the period commencing July 1, 2020 and ending December 31, 2030 and providing for forty percent (40%) of the proceeds of the tax levy to be allocated to the Capital Improvements Fund and prohibiting any transfer of levy revenues allocated to the Capital Improvement Fund to the General Fund, providing for sixty percent (60%) of the proceeds of the tax levy to be allocated to the General Fund, and providing that such levy revenues may be used for the purpose of assisting pre-kindergarten education for residents of the City; and declaring an emergency.

WHEREAS, Chapter 1905 of the Toledo Municipal Code provides for, among other things, the levying of one percent and one-half percent municipal income taxes that are in effect for a continuing period of time (the "Continuing Levies"); and

WHEREAS, on November 8, 2016, the voters of the City of Toledo approved Ordinance No. 236-16, passed by this Council on the November 15, 2016, providing for the continuation of a temporary three-quarters percent (3/4%) municipal income tax, which tax was first imposed by an ordinance approved by the voters of the City in 1982 and extended by prior ordinances approved by votes of the electors of the City in 1985, 1989, 1993, 1997, 2002, 2005, 2008 and 2013, in addition to the Continuing Levies; and

WHEREAS, this Council desires and believes it necessary, in order to improve city roads, residential streets, sidewalks and make other city public infrastructure and capital improvements and to provide essential city services, including police, fire, parks and recreation and other services, to approve an ordinance to provide for the repeal and replacement of the three-quarters percent (3/4%) income tax as of July 1, 2020 and to enact a new temporary tax of one and one-quarter percent (1¼%) for a period commencing July 1, 2020 and ending December 31, 2030; and

WHEREAS, Council desires and believes it necessary that that forty percent (40%) of revenue from the new tax levy be allocated to the Capital Improvements Fund ("CIP") and sixty percent (60%) of the revenue from the new tax levy be allocated to General Fund purposes; and

WHEREAS, in order to ensure consistent and continuous funding of public infrastructure improvements, including residential streets, in the city, Council believes is it necessary that any transfer of the levy revenue from the CIP to the General Fund be prohibited; and

WHEREAS, the provisions of Chapter 718 of Ohio Revised Code require that the passage of such an

ordinance receive the approval of the electors of the City;

NOW, THEREFORE, Be it resolved by the Council of the City of Toledo:

SECTION 1. That the Council hereby authorizes and directs that there be submitted to the electors of the City of Toledo at an election to be held on March 17, 2020, the question of the approval of the passage of an ordinance to amend Sections 1905.01 and 1905.14 of the Toledo Municipal Code in order to provide, among other things, for the repeal the City's existing three-quarters percent (3/4%) municipal income tax levy effective July 1, 2020, for the levying of a one and one-quarter percent (1¼%) municipal income tax for a period commencing July 1, 2020 and ending December 31, 2030, with forty percent (40%) of the proceeds of that tax levy to be allocated to the Capital Improvement Fund and sixty percent (60%) of the proceeds of that tax levy to be allocated to the General Fund, and prohibiting any transfer of levy proceeds allocated to the Capital Improvements Fund to the General Fund, and providing that General Fund levy proceeds may be used for the purpose of assisting pre-kindergarten education for residents of the City.

SECTION 2. That the proposed ordinance submitted to the electors of the City for their approval pursuant to this resolution shall be as follows:

ORD. 544-19

Amending Sections 1905.01 and 1905.14 of the Toledo Municipal Code to provide, among other matters, for the repeal of the City's temporary three-quarters percent (3/4%) municipal income tax levy effective July 1, 2020, and for the levying of a one and one-quarter percent (1¼%) municipal income tax for a period commencing July 1, 2020 and ending December 31, 2030, to provide revenues for the Capital Improvements Fund and for General Fund purposes; and for the allocation of those funds; and to prohibit the transfer of levy funds from the Capital Improvements Fund to the General Fund; and declaring an emergency.

Be it ordained by the Council of the City of Toledo:

SECTION 1. That Section 1905.01 of the Toledo Municipal Code, as presently written, to wit:

"1905.01 Declaration of Purposes and Levying of Tax.

(A) There shall be and are hereby levied the following annual taxes on the income of every person residing in or earning or receiving income in the Municipality, as measured by each such person's municipal taxable income, all as hereafter provided in this Chapter:

(1) To provide funds for general municipal operations, maintenance, new equipment and capital improvements of the City, a tax on municipal taxable income at a uniform rate of one percent (1.00%) per year.

(2) To provide funds one-half (½) of which shall be allocated to the General Fund for wage and salary increases and services and one-half (½) of which shall be allocated to the Capital Improvements Fund, as provided in Ordinance No. 605-66, passed by the Council of the City of Toledo on August 1, 1966, and approved by the City's voters at an election on November 8, 1966, a tax on municipal taxable income at a uniform rate of one-half percent (0.50%) per year.

(3) During the period commencing January 1, 2017 and ending December 31, 2020, a tax on municipal taxable income at a uniform rate of three-quarters percent (3/4%) to provide funds one-third (1/3) of which shall be allocated to the General Fund for Police, Fire and other Safety Department responsibilities, one-third (1/3) of which shall be allocated to the General Fund, and one-third (1/3) of which shall be allocated to the Capital Improvements Fund; provided, however, that the Council, upon its determination of financial need, may, at the request of the Mayor, cause any unencumbered funds allocated as provided herein to the Capital Improvements Fund to remain in the General Fund or to be transferred back to the General Fund and to be appropriated and used for any purpose set forth in division (D) of Section 1905.14.

(B) Consistently with the provisions of division (A) of this Section, there shall be levied and imposed upon the municipal taxable income of every person residing in or earning or receiving income in the Municipality an aggregate annual income tax as follows: (1) for the period commencing January 1, 2017 and ending December 31, 2020, a tax at the uniform rate of 2.25% per year for the purposes specified in division (A)(1), (2) and (3) of this Section; and (2) thereafter, unless a separate ordinance providing for a different rate or rates is approved by the electors of the City and this Council or otherwise passed in accordance with law, a tax at the uniform rate of 1.50% per year tax for the purposes specified in the division (A)(1) and (2) of this Section. The provisions of division (A) of this Section 1905.01 and of Section 1905.14 shall govern the crediting, allocation, appropriation and use of funds obtained from the taxes levied under this Chapter.

(C) The taxes levied under this Chapter 1905 shall be levied in accordance with the provisions and limitations set forth in Chapter 718 of the Ohio Revised Code to the fullest extent required for the Municipality to continue to levy those taxes. The required provisions and limitations of Chapter 718 of the Ohio Revised Code are hereby incorporated into this Chapter 1905, and those required provisions or limitations of Chapter 718 of the Ohio Revised Code shall control to the extent there is a conflict between a provision or limitation of this Chapter 1905 and an express provision or limitation of Chapter 718 of the Ohio Revised Code.

(D) As used herein, all references in this Chapter 1905 to provisions or limitations of Chapter 718 of the Ohio Revised Code and to any Section of that Chapter 718 shall include those provisions or limitations of that Chapter or Section as in effect on January 1, 2016, of any successor statute, and of any subsequent amendment to that Chapter or Section or a successor statute in effect from time to time to the fullest possible extent required for the Municipality to continue to levy the taxes specified under this Chapter 1905. All references in this Chapter 1905 to "ORC" are to the Ohio Revised Code."

be and is hereby amended to read as follows:

"1905.01 Declaration of Purposes and Levying of Tax.

(A) There shall be and are hereby levied the following annual taxes on the income of every person residing in or earning or receiving income in the Municipality, as measured by each such person's municipal taxable income, all as hereafter provided in this Chapter:

(1) To provide funds for general municipal operations, maintenance, new equipment and capital improvements of the City, a tax on municipal taxable income at a uniform rate of percent (1.00%) per year.

(2) To provide funds one-half ($\frac{1}{2}$) of which shall be allocated to the General Fund for wage and salary increases and services and one-half ($\frac{1}{2}$) of which shall be allocated to the Capital Improvements Fund, as provided in Ordinance No. 605-66, passed by the Council of the City of Toledo on August 1, 1966, and approved by the City's voters at an election on November 8, 1966, a tax on municipal taxable income at a uniform rate of one-half percent (0.50%) per year.

(3) During the period commencing July 1, 2020 and ending December 31, 2030, a tax on municipal taxable income at a uniform rate of one and one-quarter percent ($1\frac{1}{4}\%$) to provide funds forty percent (40%) of which shall be allocated to the Capital Improvements Fund and sixty percent (60%) of which shall be allocated to the General Fund, and any transfer of the allocation from the Capital Improvements Fund to the General Fund is and shall be prohibited.

(B) Consistently with the provisions of division (A) of this Section, there shall be levied and imposed upon the municipal taxable income of every person residing in or earning or receiving income in the Municipality an aggregate annual income tax as follows: (1) for the period commencing July 1, 2020 and ending December 31, 2030, a tax at the uniform rate of 2.75% per year for the purposes specified in division (A)(1), (2) and (3) of this Section; and (2) thereafter, unless a separate ordinance providing for a different rate or rates is approved by the electors of the City and this Council or otherwise passed in accordance with law, a tax at the uniform rate of 1.50% per year tax for the purposes specified in the division (A)(1) and (2) of this Section. The provisions of division (A) of this Section 1905.01 and of Section 1905.14 shall govern the crediting, allocation, appropriation and use of funds obtained from the taxes levied under this Chapter.

(C) The taxes levied under this Chapter 1905 shall be levied in accordance with the provisions and limitations set forth in Chapter 718 of the Ohio Revised Code to the fullest extent required for the Municipality to continue to levy those taxes. The required provisions and limitations of Chapter 718 of the Ohio Revised Code are hereby incorporated into this Chapter 1905, and those required provisions or limitations of Chapter 718 of the Ohio Revised Code shall control to the extent there is a conflict between a provision or limitation of this Chapter 1905 and an express provision or limitation of Chapter 718 of the Ohio Revised Code.

(D) As used herein, all references in this Chapter 1905 to provisions or limitations of Chapter 718 of the Ohio Revised Code and to any Section of that Chapter 718 shall include those provisions or limitations of that Chapter or Section as in effect on January 1, 2016, of any successor statute, and of any subsequent amendment to that Chapter or Section or a successor statute in effect from time to time to the fullest possible extent required for the Municipality to continue to levy the taxes specified under this Chapter 1905. All references in this Chapter 1905 to "ORC" are to the Ohio Revised Code."

SECTION 2. That Section 1905.14 of the Toledo Municipal Code, as presently written, to wit:

“1905.14 Allocation of funds.

The funds collected under the provisions of this Chapter 1905 shall be credited to the General Fund and applied for the following purposes and in the following order:

(A) Administration. Such part thereof as shall be necessary to defray all costs of collecting all income taxes levied and the cost of administering and enforcing the provisions of this Chapter 1905 shall be appropriated by Council to the Income Tax Division.

(B) Allocation of One-Half Percent ($\frac{1}{2}\%$) Tax Increase. One-half ($\frac{1}{2}$) of the increase in funds resulting from the increase of one-half percent ($\frac{1}{2}\%$) in the City's income tax, as provided in Ordinance No. 605-66, passed by the Council of the Municipality on August 1, 1966, and approved by the City's electors on November 8, 1966, shall remain in the General Fund for wage and salary increases and services, and one-half ($\frac{1}{2}$) shall be allocated to the Capital Improvements Fund.

(C) Allocation of Three-Quarters Percent ($\frac{3}{4}\%$) Tax Increase. Commencing January 1, 2017 and continuing until December 31, 2020, one-third ($\frac{1}{3}$) of the increase in funds resulting from the continuation (by Ordinance No. 283-16, which was approved by the City's electorate on November 8, 2016) of the prior increase of three-quarters percent ($\frac{3}{4}\%$) in the City's income tax, as originally provided in Ordinance No. 157-82, passed by the Council of the Municipality on March 16, 1982, and approved by the City's electorate on June 8, 1982, shall remain in the General Fund for Police, Fire and other Safety Department responsibilities, one-third ($\frac{1}{3}$) of said increase shall remain in the General Fund, and one-third ($\frac{1}{3}$) of said increase shall be allocated to the Capital Improvements Fund; provided, however, that the Council, upon its determination of financial need, may, at the request of the Mayor, cause any unencumbered funds allocated as provided in this division (C) to the Capital Improvements Fund to remain in the General Fund or to be transferred back to the General Fund and to be appropriated and used for any purpose set forth in division (D) of this Section.

(D) General Fund. The balance of funds resulting from the City's municipal income taxes remaining in the General Fund shall be available for appropriation, as deemed necessary by the Council of the Municipality, for the following purposes: general municipal operations, including but not limited to, municipal services, maintenance, and acquisition of equipment and/or appropriation to the Capital Improvements Fund for the purposes specified in division (E) of this Section. Provided, however, funds shall be appropriated for police and fire uniform personnel in an amount equal to the 1981 personnel appropriations, plus additional funds equal to one-third ($\frac{1}{3}$) of the increase resulting from the three-quarters percent ($\frac{3}{4}\%$) increase in the payroll income tax, shall be used for Police, Fire and other Safety Department responsibilities.

(E) Capital Improvements Fund. Funds allocated to the Capital Improvements Fund under divisions (B) and (C) of this Section and funds appropriated under division (D) of this Section to the Capital Improvements Fund shall be utilized for the purposes of construction and acquisition of capital improvements and costs incidental thereto.

From the Capital Improvements Funds, there shall be appropriated each year into the General Obligation Debt Service Fund such sum or sums as may be required to meet principal and interest charges on indebtedness for capital improvements and urban renewal.

For the purposes of this Chapter, "capital improvement" shall be defined as the original

construction and/or purchase of any property, asset, or improvement with an estimated life or usefulness of five years or more, including land and interests therein, and including reconstructions, enlargements, and extensions thereof having an estimated life or usefulness of five years or more. Reconstruction as used herein does not include repair.”

be and the same is hereby amended to read as follows:

“1905.14 Allocation of funds.

The funds collected under the provisions of this Chapter 1905 shall be credited to the General Fund and applied for the following purposes and in the following order:

(A) Administration. Such part thereof as shall be necessary to defray all costs of collecting all income taxes levied and the cost of administering and enforcing the provisions of this Chapter 1905 shall be appropriated by Council to the Income Tax Division.

(B) Allocation of One-Half Percent ($\frac{1}{2}\%$) Tax Increase. One-half ($\frac{1}{2}$) of the increase in funds resulting from the increase of one-half percent ($\frac{1}{2}\%$) in the City's income tax, as provided in Ordinance No. 605-66, passed by the Council of the Municipality on August 1, 1966, and approved by the City's electors on November 8, 1966, shall remain in the General Fund for wage and salary increases and services, and one-half ($\frac{1}{2}$) shall be allocated to the Capital Improvements Fund.

(C) Allocation of One and One-Quarter Percent ($1\frac{1}{4}\%$) Tax Increase. Commencing July 1, 2020 and continuing until December 31, 2030, forty percent (40%) of the increase in funds resulting from the one and one-quarter percent ($1\frac{1}{4}\%$) municipal income tax approved by the City's electorate on March 17, 2020 shall be allocated to the Capital Improvements Fund and used to pay costs of improving city roads, residential streets, sidewalks and other public infrastructure and capital improvements and related debt service as provided in division (F) of this Section, and sixty percent (60%) of such increase in funds shall remain in the General Fund and be used to provide police and fire protection and safety services, park and recreational services and other general municipal operations, and to support pre-kindergarten education for residents of the City in addition to other purposes of that Fund. No funds allocated to the Capital Improvements Fund under this Division (C) may be transferred from that Fund to the General.

(D) General Fund. The balance of funds resulting from the City's municipal income taxes remaining in the General Fund shall be available for appropriation, as deemed necessary by the Council of the Municipality, for the following purposes: general municipal operations, including but not limited to, municipal services, maintenance, and acquisition of equipment and/or appropriation to the Capital Improvements Fund for the purposes specified in division (E) of this Section, and for the support of pre-kindergarten education for residents of the City.

(E) Capital Improvements Fund. Funds allocated to the Capital Improvements Fund under divisions (B) and (C) of this Section and funds appropriated under division (D) of this Section to the Capital Improvements Fund shall be utilized for the purposes of construction and acquisition of capital improvements and costs incidental thereto.

From the Capital Improvements Funds, there shall be appropriated each year into a debt service fund or funds such sum or sums as may be required to meet principal and interest

charges on indebtedness for capital improvements and urban renewal.

For the purposes of this Chapter, "capital improvement" shall be defined as the original construction and/or purchase of any property, asset, or improvement with an estimated life or usefulness of five years or more, including land and interests therein, and including reconstructions, enlargements, and extensions thereof having an estimated life or usefulness of five years or more. Reconstruction as used herein does not include repair."

SECTION 3. That effective July 1, 2020, Sections 1905.01 and 1905.14 of the Toledo Municipal Code, as they have heretofore existed, be and the same are hereby repealed. Provided, however, that no provision of this Ordinance, including the repeal of Sections 1905.01 and 1905.14 of the Toledo Municipal Code, as they have heretofore existed, shall in any way affect any rights or obligations of the City, any taxpayer, or any other person, official or entity, with respect to the 2.25% municipal income tax levied and imposed by Chapter 1905 of the Toledo Municipal Code, as it has heretofore existed and shall remain in effect until July 1, 2020.

SECTION 4. That Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken, and all deliberations of this Council and of any of its committees that resulted in such formal action were held, in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 5. That this Ordinance shall be in full force and effect from and after July 1, 2020.

SECTION 3. That it is the desire and request of this Council that the ballot language presented to the electors of the City for said question shall be substantially in the following form:

A Majority Affirmative Vote is Necessary for Passage.

Shall the ordinance (Ordinance No. 544-19) repealing the City's temporary three-quarters percent (3/4%) municipal income tax levy effective July 1, 2020 and enacting a one and one-quarter percent (1¼%) levy on income for the period commencing on July 1, 2020 and ending December 31, 2030, and for forty percent (40%) of the proceeds of that levy to be used to pay costs of improving city roads, residential streets, sidewalks and other public infrastructure and capital improvements and related debt service, and prohibiting any transfer of such proceeds for General Fund purposes, and for sixty percent (60%) of the levy proceeds to be allocated to the General Fund to pay the costs of providing police and fire protection, parks and recreation services and other general municipal operations, and to support pre-kindergarten education for residents of the City, which levy shall be in addition to the City's one percent and one-half percent levies on income that are in effect for a continuing period of time, be passed?

_____ For the Income Tax

_____ Against the Income Tax

SECTION 4. That the Clerk of Council be and is hereby authorized and directed to file a certified copy of this Resolution with the Board of Elections of Lucas County, Ohio, before 4 p.m. on December 18, 2019.

SECTION 5. That this Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the adoption of this Resolution were taken, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were held, in meetings open to the public, in compliance with the law.

SECTION 6. That this Resolution hereby is declared to be an emergency measure and shall be in force and effect from and after its adoption. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety, and property and for the further reason that this Resolution must be immediately effective in order to comply with the statutory deadline for submission of the question to the electors at an election on March 17, 2020.

Vote on emergency clause: yeas 12, nays 0.

Adopted: December 10, 2019, as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger
Clerk of Council

Matt Cherry
President of Council

Approved:

December 11, 2019
Wade Kapszukiewicz
Mayor