



## **ASSOCIATION OF MUNICIPAL ASSESSORS OF NEW JERSEY**

*Affiliated With The*

**INTERNATIONAL ASSOCIATION OF ASSESSING OFFICERS  
NORTHEASTERN REGIONAL ASSOCIATION OF ASSESSING OFFICERS**

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**NEW JERSEY STATE LEAGUE OF MUNICIPALITIES**

**Website: [www.amanj.org](http://www.amanj.org)**

September 3, 2013

Governor Chris Christie  
PO Box 022  
20 West State Street  
Trenton, NJ 08625-0022

**RE: S-533 the “Common Sense Shared Services Pilot Program Act”  
Potential Exclusion of Tax Assessors**

Dear Governor Christie,

S-533 was recently passed by the Legislature and forwarded to you for consideration. The bill would create a pilot program for shared services among municipalities. Significantly, it would eliminate tenure protection currently afforded Tax Assessors, Tax Collectors, Clerks and Financial Officers when shared services plans are implemented. The Association of Municipal Assessors of New Jersey (AMANJ) understands your support for shared services initiatives as a way to save local property taxes. However, we believe that as applied to the unique office of Tax Assessor, S-533 would save few, if any, tax dollars and could actually increase the burden on taxpayers. We request that for at least the pilot stage of the changes proposed by S-533, Tax Assessors is removed from the scope of the legislation. Upon completion of the pilot stage, the issue of Tax Assessor inclusion can be revisited, if necessary.

We very much appreciate the opportunity to present a brief history and description of the carefully crafted historic evolution of the Tax Assessor position in New Jersey. For purposes of brevity, we have presented here only a minimum amount of legal citations for this summary. Our legal counsel can provide you with a fully annotated version of this letter upon request.

Tax Assessors in New Jersey occupy a truly unique position in our government. Although Tax Assessors are appointed by the governing body of a municipality, the Tax Assessor's governmental function is authorized by the Legislature and is performed as an agent of the Legislature, not of the municipality. *Arace v. Irvington*, 75 N.J. Super. 258, 266 (Law Div.1962). The Legislature has prescribed that a Tax Assessor's fundamental responsibility is “after examination and inquiry, [to] determine the full and fair value of each parcel of real property situate in the taxing district at such price as, in his judgment, it would sell for at a fair and bona fide sale by private contract.” N.J.S.A. 54:4–23. Our Supreme Court has found it “well settled” that the assessor must perform that assessment function independently, and free of any direct or indirect municipal control. *Casamasino v. City of Jersey City*, 158 N.J. 333, 344 (1999).

To assure the independence of Tax Assessors and the integrity of the tax assessment process, the Legislature has established county boards of taxation in each county whose members are appointed by the Governor and confirmed by the Senate. N.J.S.A. 54:3–2. The county boards of taxation—not the municipal governing bodies—are the legislatively designated agencies directly responsible for reviewing the work of Tax Assessors, both administratively and through the tax appeal review procedure. Further, the ultimate authority over Tax Assessors is lodged with the Director of the Division of Taxation (Director), who is empowered to remove a municipal tax assessor for cause, N.J.S.A. 54:1–36, or to bring an action in Superior Court to

compel an assessor's removal. N.J.S.A. 54:1-37. That the Legislature entrusted to the Director the authority to remove assessors for cause clearly reflects a legislative determination that municipal governing bodies or officials should not be empowered to influence or intimidate assessors by removal or threats of removal prior to the expiration of their terms in office.

It is critical to understand that the current Tax Assessor position is the product of decades of careful and thoughtful legislative action and judicial review. In 1967, the Legislature enhanced the status and independence of assessors by creating a comprehensive examination and certification process. Under N.J.S.A. 54:1-35.30, only individuals holding an assessor's certificate can be appointed or reappointed and issuance of the certificate is limited to applicants who are college graduates or possess commensurate full-time experience as appraisers or assessors, and who pass an examination administered by the Director. N.J.S.A. 54:1-35.25. The statute also empowered the Director to revoke or suspend an Assessor's certificate for cause. In addition, the 1967 legislation established that an Assessor who had received a Tax Assessor's certificate, had served as or performed the duties of Tax Assessor for four consecutive years, and was reappointed as Assessor, would be entitled to tenure. Additional legislation intended to enhance the independence of Tax Assessors was enacted in 1982 through L. 1981, c. 393, which provided: that an Assessor's salary could not be used by a municipality as a tool of influence; mandated that the office of municipal Tax Assessor "not be assigned to a department of municipal government,"; and subjected the Tax Assessor's operations *only* to municipal budgetary, personnel, accounting, purchasing and data processing procedures. In addition, the statute exempted Tax Assessors from the removal power accorded to the municipal manager in the manager-council form of government.

Our decisional law has accorded consistent recognition to the need for Tax Assessors to be independent of municipal control and intimidation. Thus, in Arace, supra, 75 N.J.Super. 258, a municipal Tax Assessor sought to enjoin the municipality's governing body from conducting an investigation of the Assessor's methods of assessing property. In holding that the governing body was without power to investigate the Assessor's methodologies, the court noted that the municipality had the right of appeal to the county board of taxation if it was aggrieved by any assessment of property. *Id.* at 264. The court also emphasized the statutory directive that Assessors "exercise independent judgment in valuing real property." Finally, the court concluded that an investigation by the governing body of the Assessor's methods is irreconcilable with the legislative objectives of protecting the Assessor in exercising a "quasi-judicial authority" as an agent of the Legislature while insulating Assessors from municipal pressure or control, allowing them to "determine property values, like judges, without fear or favor".

In Ream v. Kuhlman, 112 N.J.Super. 175, 190 (App.Div.1970), certif. denied, 59 N.J. 267 (1971) taxpayers instituted a declaratory judgment action seeking a determination that the Tax Assessor, who had been duly elected under the township committee form of government, and reappointed following adoption of the council-manager form of government, continued in office notwithstanding the enactment of local ordinances that purported to shorten his four-year statutory term. Holding that the municipal attempt to diminish the Assessor's statutory term was unlawful, the court based its holding on the legislative objective of assuring independence to Tax Assessors:

The reasons for insulating a tax assessor with a fixed term of office are manifold. His office, an integral part of our state, county and municipal governments, is chargeable with the administration of a statutory system relating to the levy, assessment and collection of property taxes. He is an agent of the Legislature, and his discretionary judgment is reviewable only through the administrative and judicial processes provided by law. Although his jurisdiction is local, his powers and duties are prescribed by the Legislature, and it is of paramount importance that the integrity of his office be in no way diluted by local interference.

In Municipal Assessors v. Mullica Township, 225 N.J.Super. 475, (Law Div.1988), a municipal Tax Assessor sought to compel his municipality to award him a salary increase commensurate with the increases

awarded to other township employees. The Assessor relied on the 1982 amendment to N.J.S.A. 40A:9-165, which provided, in part, “[s]alaries, wages or compensation fixed and determined by ordinance may, from time to time, be increased, decreased or altered by ordinance. No such ordinance shall reduce the salary of, or deny without good cause an increase in salary given to all other municipal officers and employees to, any tax assessor...during the term for which he shall have been appointed.” The court saw the importance of enforcing the statute and specifically recognized the “obvious and overwhelming need of the assessor to be free from municipal interference in making his assessments and in carrying out his responsibilities as the assessor [and that] the use of a salary ordinance to control an assessor is the very thing the statute sought to avoid and is the very thing the municipality did in this case”.

Most recently, in Carlson v. City of Hackensack, 410 N.J.Super. 491 (App. Div., 2009), the Appellate Division determined that a municipality wrongfully reduces an Assessor’s salary even when the municipality also reduces the Assessor’s weekly work hours commensurate with the salary reduction. The court found that “because of the unique statutory framework established by the Legislature to protect the independence of local tax assessors, we conclude that a municipality is prohibited from reducing its tax assessor’s salary during the term of his or her office”.

In its present form, S-533 would eradicate and destroy the carefully constructed scheme outlined above and allow for precisely the kind of inappropriate interference on a Tax Assessor’s performance of his or her duties which are essential to the proper functioning of our assessment system. In addition, most municipalities seeking a shared services plan are small and currently employ part-time Tax Assessors who does not require a full benefits package, thereby already saving tax dollars.

Accordingly, the AMANJ asks you to consider a conditional veto of S-533 and remove Tax Assessor’s from the group of impacted positions, at least until the pilot phase of S-533 has been concluded and its results studied.

Please feel free to contact me at your convenience if you require further information.

Respectfully Submitted,



Scott J. Holzhauser, CTA, SCGREA  
AMANJ President

Co-written by John Lloyd, Esq.  
AMANJ Council