

New Jersey



Assessors

Bulletin



MEMBER
International Association
of Assessing Officers

Vol. 28, No. 4

NOVEMBER 1989

PRESIDENT'S MESSAGE

It's been a long two years and while my predecessors have expressed mixed emotions at this time, I find it very easy to place the President's gavel into the caring hands of our new leader, Victor Hartsfield. As I place the gavel in Victor's hand, I also pledge my full support during his tenure, as should every member of this Association.



I thank the membership for their support during my tenure, as well as my wife, Judy, for without her patience, understanding, and full support, what seemed difficult at times, would have been impossible.

I hold in high esteem every member of our Executive Board for their conviction to improve the system. I greatly appreciate the hard work many committees and individuals put forth during my term as President. I am extremely grateful to our Association Counsel, Ed Rosenblum, for his guidance over some rough periods.

Local Property Supt. Jack Raney and Asst. Supt. Al Bills, did everything within their powers to support the assessor, and are still working toward improving the system, for which all of us are grateful.

My sincere thanks to the Association of County Tax Boards, Commissioners, and Administrators. Our joint meetings and our continuing efforts will not go unrewarded.

I would like to extend my thanks and appreciation to Dr. Reock, Ray Bodnar and staff, and Bill

Rae, for allowing the IAAO to host two workshops at the June Conference this year. Many thanks to John Murray for putting it all together. Also, IAAO, for undertaking this first time program.

I would be remiss, if I did not express my appreciation to Director John Baldwin, for the opportunity to meet and discuss assessor's concerns. Our meetings have enabled us to voice our concerns, opinions, and remonstrations in order to promote the best possible direction to be followed by all those responsible for carrying out the duties of Title 54. I hope that we can continue to work toward this end and I challenge everyone involved to continue toward that goal.

I am satisfied with the knowledge that during my tenure our Association promoted education, communication, and participation. We must continue those efforts.

With complete humility and sincerity, I thank the membership for the honor of allowing me to lead this eminent association these past two years. It has been a very rewarding experience for me. Now, the gavel and the leadership are in Victor's hands. Let's support him with our active participation in our common goal; the improvement of our system.

Robert W. Pastor

ASSISTANT ASSESSOR WANTED

East Brunswick Township is accepting applications for the position of Assistant Tax Assessor. CTA Certificate required. Two years experience in assessing field or related work. Salary range \$30,200-\$33,000 based on experience. Send resume or apply at the Personnel Office, P.O. Box 218, 1 Jean Walling Civic Center, East Brunswick, N.J. 08816.

SENATE, No. 3372

By Senators CARDINALE, BASSANO, BUBBA,
CONNORS, HAINES, DiFRANCESCO,
PATERNTI, GAGLIANO, JACKMAN
and McMANIMON

AN ACT providing property tax relief for certain senior citizens and supplementing Title 54 of the Revised Statutes.

STATEMENT

This bill, designated the "Senior Citizen Property Tax Relief Act," would exempt senior citizens who are 65 years of age or more from further tax increases.

Any senior citizen would be eligible for this exemption so long as he or she has resided in the dwelling unit on which they are being taxed and making application for a period of not less than five years.

A surviving spouse of a senior citizen who received the tax exemption in their lifetime would continue to be eligible for the exemption so long as he or she remains unmarried, continues to reside in the same dwelling house for which the exemption was originally granted and was not more than 20 years younger than the decedent.

A senior citizen or surviving spouse would continue to receive the exemption on an annual basis without reapplication; however, the onus would be on the senior citizen or surviving spouse to report any change in his or her status which would make them ineligible to continue to receive the exemption. Such changes in status would include a change of residence or a transfer of the property to someone ineligible to continue receiving the exemption or, in the case of a surviving spouse, remarriage.

The bill is intended to resolve a very serious and growing problem in this State. Senior citizens, many of whom are on fixed incomes, are under increasing pressure to maintain their status as homeowners in light of formidable tax increases to which many have been subjected in recent years.

The trauma and dislocation experienced by a senior citizen in selling a house for financial reasons can be so devastating as to undermine the health and well-being of that individual. It is particularly difficult to accept the fact that forced sales of the homes of senior citizens are occurring when the Legislature has the power to address this devastating situation.

Moreover, it is both inequitable and unfair for senior citizens to be placed in financial jeopardy by property tax increases when they contribute to the need for these tax increases insignificantly, if at all.

Although it may be too late to help senior citizens who have already been forced to relocate because of an inability to afford skyrocketing tax increases, there may be time to help those who have not yet suf-

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ferred dislocation. Accordingly, it is the sponsor's intent in introducing this bill to correct a situation which at best is inequitable and unfair, and at worst will result in the continued dislocation of those citizens least able to cope with its impacts.

SENATE, No. 3380

By Senators, EWING, ZIMMER and DiFRANCESCO

AN ACT concerning exemption from taxation of certain property of nonprofit organizations and amending R.S. 54:4-3.6.

STATEMENT

This bill provides that when a portion of land, along with certain improvements thereto, that is exempt from property taxation because it is owned by a nonprofit organization and used for a tax-exempt purpose is leased to a profit-making organization or is otherwise used for purposes that are not themselves exempt from taxation, that portion will be subject to property taxation and the remaining portion only will be tax-exempt.

Under current law, if a portion of land that is tax-exempt is used for a purpose that is not tax-exempt, the entire piece of land loses its tax exemption.

Procrastination: A person with a wait problem.

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SENATE, No. 3354

By Senators FELDMAN and STOCKMAN

AN ACT concerning limitations on county tax levies and permissible municipal spending increases, supplementing P.L.1976, c.68 (C.40A:a4-45.1 et seq.), and repealing parts of the statutory law.

STATEMENT

This bill requires counties to reduce their county tax levies and municipalities to reduce their municipal budget on which permissible spending increases are determined for the purpose of calculating the cap in order to ensure that the State assumption of any costs currently borne by the counties and municipalities results in a reduction in the property tax levy. The bill contains provisions specifying the procedures that will be followed to bring about the reduction in county tax levies and municipal budgets on which municipal and county spending increases are based.

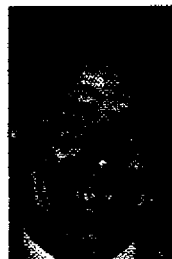
The bill also repeals the provisions of existing law that place limitations on county tax levies and municipal budgets on which municipal and county spending increases are based. This repealer will take effect, and the above provisions requiring counties to reduce their tax levies and municipalities to reduce their budgets will expire, three local budget years after laws are enacted and take effect implementing intergovernmental structural reforms that involve assumption by the State of certain costs formerly borne by counties and municipalities, including the costs of public assistance benefits, the trial court system, and care in State and county psychiatric hospitals and development centers.

This bill implements recommendation numbers 24, 25, 26, 27 and 28 of the State and Local Expenditure and Revenue Policy Commission Final Report, 1988.

When a person is down in the world, an ounce of help is better than a pound of preaching.

LEGISLATIVE REPORT

As this article is being written, there is less than one week remaining until election day. With the



Assembly members busy campaigning for re-election, things are relatively quiet on the legislative front. However, if history repeats itself, this week is the lull before the storm



and the eye of the hurricane all wrapped up in one bundle.

The time after election day, leading up to the end of a legislative session, is usually the period requiring the most alertness on the part of those who monitor the status of legislation for any organization.

With over 160 bills on our legislative agenda, your committee will be active as members of both houses push to have their bills passed and sent on to the Governor before the end of the session. Those bills not passed into law by the end of the term must be pre-filed for the 1990 legislative term and start the review process from the beginning.

While we have the able assistance and cooperation of the legislative staff of the League of Municipalities and daily updates from the Government News Network on computer, we may still need to call on you, our fellow members, for help.

Your relationship with your local legislator could make the difference on an issue important to all Assessors in New Jersey. Please be prepared and willing to make that phone call or that trip to Trenton if you are asked.

Bill Birchall & Walt Kosul, Co-Chairmen

What a misfortune it would be if we could only work happily with those who saw things as we do.

Old minds are like old horses; you must exercise them if you wish to keep them in working order.

LEGAL CORNER

VALUATION—INDUSTRIAL PROPERTIES



In a decision which represents a dramatic departure from an earlier trend in the law regarding the valuation of industrial properties, Judge Rimm of the Tax Court has ruled that a series of buildings erected as a glass manufacturing facility should not be valued on the basis of alleged comparable sales of "general purpose industrial facilities", but rather for the purpose for which it was specifically designed and erected. In *Brockway Glass Company v. Freehold Township*, 10 N.J. Tax 356 (1989), a case in which I represented the Township of Freehold, the taxpayer appealed contesting an \$11,000,000 assessment on a group of buildings containing 926,000 square feet of manufacturing and warehouse area. The improvements were originally built in 1955 and were subsequently expanded in 1967 and 1976.

Before trial, the parties entered into a stipulation regarding the reproduction cost approach as follows:

- (a) reproduction new as of the assessment date was \$19,800,000;
- (b) normal age-life depreciation was 30%; and
- (c) that the land value was \$562,000.

The parties further stipulated that the taxpayer would not be precluded from attempting to establish "market derived" depreciation by the use of comparable sales.

The taxpayer's expert testified that an allowance for "special depreciation" of 35% was appropriate on the basis of his analysis of comparable sales. The method employed consisted of a computation of the cost new of the improvements on the comparable property and the land value. He then deducted the land value from the sale price which, he stated, reflected the depreciated value of the improvements. A comparison was then made between the cost new and depreciated value of the improvements in order to develop a percentage depreciation factor.

In performing this approach, however, the taxpayer's expert left much to be desired. First, he estimated land values based upon sales which took place in Freehold and not in the vicinity of the comparables. Also, in computing the cost new for the improvements on each of the comparables, he failed to perform an analysis utilizing an accepted cost manual and instead attempted to adjust the cost new of the Brockway facility to each of his comparables.

Obviously, the court found these proofs lacking in credibility and, as a result, rejected the taxpayer's theory of market derived depreciation.

The taxpayer also claimed economic and functional obsolescence, both of which claims were likewise rejected by the court. Judge Rimm enumerated in his opinion the factors which may give rise to economic obsolescence:

1. Reduced demand for products or services caused by market forces;
2. Excessive costs of raw materials or supplies;
3. Changes in government regulations; and
4. Increased transportation costs.

The court found that the Brockway facility suffered from none of these shortcomings. First, it was ideally located equidistant from the New York and Philadelphia markets. Second, the plant was situated close to supplies of raw materials (sand—the New Jersey Shore). Lastly, the plant had been operating three shifts a day (24 hours) 365 days a year as of the assessment date and its production was sold out for 1-½ years into the future. These facts hardly support the taxpayer's claim of economic obsolescence.

The taxpayer's expert also allowed 35% for functional obsolescence. In response, Freehold introduced proofs that Brockway had recently constructed a glass manufacturing facility in Danville, Virginia which was a virtual clone of the Freehold facility. In the face of this evidence, the court found that there was no proof of functional obsolescence (antiquated design or failure to keep pace with current technology).

In the final analysis, the court rejected the market approach and placed exclusive reliance upon the cost approach, under the theory that a hypothetical buyer would clearly have purchased this property for its highest and best use as a glass manufacturing facility. Having so found, the court accepted the stipulation of the parties as to the elements of the cost approach and entered judgment increasing the assessment on the taxpayer's appeal by \$2,880,000 for 1984 and \$2,277,000 for 1985.

Edward G. Rosenblum

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ASSEMBLY, No. 4199

by Assemblyman BENNETT

AN ACT concerning exemption from taxation of real property used for conservation or recreation purposes and amending P.L.1974, c.167.

STATEMENT

Section 1 of P.L.1974, c.167 (C.54:4-3.63) states that "the Legislature hereby finds and declares that natural open space areas for public recreation and conservation purposes are rapidly diminishing; that public funds for the acquisition and maintenance of public open space should be supplemented by private individuals and conservation organizations; and that it is therefore in the public interest to encourage the dedication of privately-owned open space to public use and enjoyment as provided for in this act."

Despite the clear inclusion of land owned by "private individuals" the act goes on to limit its applicability to property owned by tax-exempt non-profit corporations and organizations. This limitation, which has no justification set forth in the act, removes any incentive for private individuals to open their lands to the public, thereby defeating the stated purpose of the act.

This bill would correct this inconsistency and result in the opening of more land to public use. Other changes that are made include the addition of language to make it clear that the public use may be proposed, as well as currently existing, and that prior notice of any hearing must be given to the appropriate officials of the municipality.

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NEW CRIMINAL OFFENSE

Purposeful Overspending by Public Officials, Public Laws of 1989, ch. 131

Effective August 2, 1989, the New Jersey Code of Criminal Justice was amended to make it a crime for a public official or employee to purposely and knowingly disburse moneys or incur obligations in excess of appropriations.

The new law prohibits purposeful and knowing overspending regardless of motive. Under its provisions, a person who is responsible for or has control of a State office, division, department or institution commits a crime if he purposely and knowingly disburses moneys or incurs an obligation in excess of the appropriation for that office, division, department or institution.

More specifically, this offense is committed if:

1. A State official or employee, either as an individual or by virtue of membership on a board of body, is responsible for or has control of a State office, division, department or institution; and
2. Either purposely and knowingly disburses, orders or votes for the disbursement of moneys or purposely and knowingly incurs an obligation; and
3. The disbursement or obligation is in excess of the appropriation and the limit of expenditure provided by law for that office, division, department or institution.

It must be emphasized, that this statute does not make it a crime to unwittingly overspend.

Under our Code of Criminal Justice, a person who purposely and knowingly assists, directs or causes another to engage in criminal overspending is also guilty of the offense.

The offense is a crime of the fourth degree, and a person who commits it may be imprisoned for a term not to exceed 18 months, *N.J.S.A. 2C:43-6(a)(4)*, and fined or ordered to make restitution, *N.J.S.A. 2C:43-3(b)(e)*. In addition, because the offense of overspending is one that necessarily touches upon public office or employment, a conviction would result in forfeiture of the current office

or employment and would be a permanent disqualification from holding public office or employment.

WHAT'S YOUR CATEGORY?

A lot of members are like wheelbarrows.
No good unless they are pushed.

Some are like trailers.
They have to be pulled along.

Some are like canoes.
They have to be paddled.

Some are like kites.
If you don't keep a string on them, they fly away.

Some are like balloons.
Full of wind and ready to blow up.

And then, some members are like good watches,
open faced, pure gold, quietly busy and full of good works.

Language makes culture, and we make a rotten culture when we abuse words.

The man who interferes with another's habits has the worst one.



Association of Municipal Assessors of New Jersey

NEW JERSEY ASSESSORS BULLETIN

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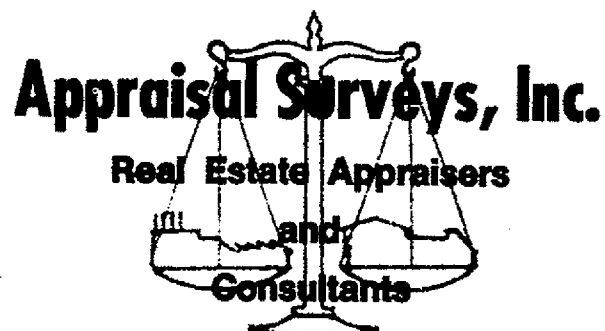
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ASSEMBLY, No. 3213

By Assemblywoman COOPER

AN ACT concerning tax exemptions and abatements for certain residential property and supplementing Title 54 of the Revised Statutes.

STATEMENT

This bill permits municipalities to grant property tax exemptions of up to five years for qualified residential property. Qualified residential property is defined as an existing residential structure which is used as a residence and which contains less than five units or a condominium or cooperative of any size.

The bill also allows municipalities qualifying for urban aid to provide for a maximum of 10 year tax abatement for housing units which qualify as affordable housing and are counted towards the fulfillment of its fair share quota by the Counsel on Affordable Housing.

The governing body effectuates the exemption by adopting an ordinance determining that an area or areas of the municipality are in need of rehabilitation as provided under Article VIII, Section I, paragraph 6 of the New Jersey Constitution. Additionally, the ordinance must determine that one or more buildings or structures in the area could be advantageously converted to qualified residential property.

The bill limits exemptions to five years and provides for a gradual phasing in of full property taxation on an exempted property. The assessor of the taxing district is to implement the program following the guidelines set forth in the ordinance. The implementation mechanism follows the standard procedures for other such exemptions allowed under Title 54 of the Revised Statutes.

Finally, this bill requires the termination of any existing exemption granted under its provisions on October 1st following revaluation.

ASSEMBLY CONCURRENT RESOLUTION No. 105

A CONCURRENT RESOLUTION proposing to amend Article VIII, Section I, paragraph 4 of the Constitution of the State of New Jersey.

STATEMENT

This concurrent resolution proposes a constitutional amendment authorizing the enactment of an increase in the annual real property tax deduction allowed certain home owners age 65 years or older or permanently and totally disabled. The deduction would be increased from \$250.00 to \$300.00 and the annual income limit for eligibility for the deduction would be increased from \$10,000.00 to \$15,000.00.

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ASSEMBLY, No. 3136

by Assemblyman FRANKS

AN ACT concerning exemption of public property from taxation, amending R.S. 54:4-3.3 and R.S. 54:4-3.6.

STATEMENT

This bill will establish a specific tax exemption from property tax for private for-profit schools which have been approved for placement of handicapped students, and which rent or lease school buildings from school districts, municipalities, or other non-profit organizations such as churches.

Currently, when a private school for the handicapped rents or leases space from a tax-exempt organization, it is subject to property taxes on the property. A private school must comply with strict Department of Education regulations regarding their operation as approved placement schools for handicapped students, including limitations on the amount of tuition it may charge and profit that it can make. In addition, under department regulations, it is permitted to include in the tuition being charged to the sending districts the property taxes it is being assessed. The result is that tuition costs are higher for a sending district that must place students in a private for-profit school.

EXECUTIVE BOARD MEETING, AMANJ Thursday, August 17, 1989

The Regular Executive Board Meeting of the Association of Municipal Assessors of New Jersey was called to order by President Robert W. Pastor on Thursday, August 7, 1989 at 10:30 am.

Following the Pledge of Allegiance, President Pastor asked for a moment of silence in memory of Joan Savage, Assessor of Deptford Township who died on August 11, 1989. A good friend of the Assessor's, Peter Clancey, Vice-President, First Fidelity Bank, Caldwell also passed away on August 11, 1989.

There were some items in the new proposed Constitution and By-Laws that were referred back to the Committee for possible revisions at the last meeting. There were also some items that Ed Rosenblum had questions on that need to be reviewed at this meeting. The following items were reviewed and the suggested changes are outlined, deletions or changes in sentence are underlined.

Constitution

1. Page 1—Article I Section 1. Motion was made by Bill Birchall, seconded by Bernie Marx that the words "A not for profit corporation, organized and existing under the laws of New Jersey." be added to the end of the present sentence.

2. Page 2—Article I Section 2. The sentence should be rewritten. The Association of Municipal Assessors of New Jersey is an organization of individual members, *with* a grant of authority to organize *and charter* County Associations *under the auspices of* the AMANJ. () Motion was made by Lee Serlenga and seconded by Bernie Marx. Motion passed.

3. Page 3—Article II Section 5. The sentence should be rewritten. "A *County Association shall indemnify and hold harmless* the Association of Municipal Assessors of New Jersey () from any liability financial or otherwise, incurred by *that* County Association." Motion was made by Lee Serlenga and seconded by Bill Birchall. Motion passed.

Attorney's Report—Ed Rosenblum reported that there has been a recent Appellate Court decision, Township of West Milford vs. Juanita Van Decker, which addresses spot assessing. This decision set aside an increased assessment in a non revaluation year where the assessment was increased following a sale of the subject property to a ratio slightly below the Chapter 123 ratio for the taxing district. Although the Chapter 123 ratio for 1985 was 41.46%, the Court concluded, after an exhaustive analysis, that the residential sales for the 12 month period ending June 30, 1985, that the

average ratio was only 32.93% resulted in a substantial overassessment of his property.

A petition for certification has been filed with the Supreme Court. The Attorney General's Office has asked for leave to intervene as an *amicus curial* to seek reversal of the Appellate Court decision saying that Chapter 123 should control.

Ed asked if the Association felt that it is necessary or important to get involved on an *amicus curial* basis, and if so, what position do we want to take—that Chapter 123 controls or some other position?

There was a lengthy discussion. Most felt that we should not defend the "spot assessing" issue, but that we should try to retain Chapter 123. Lee Serlenga made a motion, seconded by Kathi Meale that Ed should inform the Court that we wish to enter the case as an *amicus curial*. Motion passed.

Ed cautioned everyone that they should use extreme caution when levying assessment on newly constructed properties or condominium/cooperative conversion not to use Chapter 123 as an assessing tool since that ratio is the produce of a sales study which involves averaging with the prior year's study, and, in turn, years prior on a regressive basis. Thus, the Chapter 123 ratio will in most cases reflect a level of assessment higher than that which actually prevails in the taxing district. When assessing newly constructed properties or conversions, the better practice is to assess at the unweighted ratio reflected in the most recent sales sampling period.

William Mitchell, Upper Township, Cape May County—The Township Clerk and the Tax Collector have a set of keys to the Assessor's property record card file and were making copies of the property record cards without the Assessor's knowledge or approval. Bill has a full-time secretary who should be the only one who has access to the records in the absence of the Assessor.

Ed was asked to write a letter to the Mayor advising them that the property record card file is the records of the Assessor only.

Vicky Mickiewicz, CTA, SPA
Secretary

Fear of losing is what makes competitors so great.

* * * *

Some people have more problems than an arithmetic book.

The largest room in the world is the room for improvement.

The school of hard knocks has no graduates.

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ASSEMBLY, No. 4464

By Assemblymen PASCRELL and GIRGENTI

AN ACT concerning the revaluations of real property and supplementing chapter 4 of Title 54 of the Revised Statutes.

STATEMENT

This bill would allow certain municipalities to phase in, over a three-year period, property tax increases, resulting from revaluations. The bill recognizes that revaluations are necessary in attaining equity in property taxation, and that the short-term impact of a long delayed revaluation may be devastating on certain property owners, particularly homeowners.

The bill would apply to municipalities in which, on the basis of high tax burdens and significant revaluation-induced tax shifts, the potential for taxpayer "fiscal shock" is particularly high. The bill would provide for a revolving loan fund, in the State Treasury, to help qualifying municipalities absorb

part of the phase-in costs. Loans would carry a two-percent annual interest rate, and would be payable over ten years following the phase-in. Loans would also be available to help defray the cost of performing the revaluation.

SENATE, No. 3514

By Senator O'CONNOR

AN ACT concerning certain property tax appeals and amending R.S.54:3-27 and R.S.54:51A-1.

STATEMENT

This bill requires that, in order to appeal property taxes for the year in which a revaluation or complete reassessment of property is implemented by the municipality in which the property is located, the property owner need only pay an amount equal to three quarters of his previous year's taxes, if that amount is less than three quarters of the current year's taxes.

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