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**Senate Bill 918, Printer's Number 1109**

**Local Government Commission Summary<sup>1</sup>**

**“CONSOLIDATED COUNTY ASSESSMENT LAW”**

**I. What the Consolidated Law Does**

- (1) This bill will amend Title 53 (Municipalities Generally) by adding Chapter 88, entitled The Consolidated County Assessment Law. This chapter will NOT apply to Philadelphia or Allegheny County except for the provisions relating to the valuation of real property used for the purpose of wind energy generation.<sup>2</sup>
- (2) The consolidated law substantially reenacts the language in the General County Assessment Law, the Fourth to Eighth Class County Assessment Law, and the Third Class County Assessment Board Law pertaining to the subjects of local taxation, and exemptions from taxation, and the method by which property is valued and assessed for taxation purposes.
- (3) The provisions of Act 142 of 2006,<sup>3</sup> Act 38 of 2007,<sup>4</sup> and Act 167 of 2006 have

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<sup>1</sup> Comprehensive derivation and disposition tables are available from the Local Government Commission. A detailed Commentary about the Consolidated County Assessment Law is also available.

<sup>2</sup> Act 167 of 2006 amended the Fourth to Eighth Class County Assessment Law to delineate the method by which wind turbine generators, wind energy appliances and equipment, including towers and tower foundations, and the property on which such is situated is to be valued and assessed. Because Act 167 applies to ALL counties, the formal short title of the Fourth to Eighth Class County Assessment Law was changed to “The Fourth to Eighth Class and Selective County Assessment Law.” The Consolidated County Assessment Law incorporates the contents of Act 167. **PLEASE NOTE: For purposes of this summary and accompanying footnotes, “The Fourth to Eighth Class and Selective County Assessment Law” will be referred to as the Fourth to Eighth Class County Assessment Law.**

<sup>3</sup> Act 142 of 2006 amended the County Code by adding Section 1770.9, which prohibits the assessment of signs and sign structures for real estate tax purposes regardless of whether the structure has become affixed to the real estate.

<sup>4</sup> Act 38 of 2007 amended the Second Class County Code by adding Section 1902-B, which prohibits the assessment of signs and sign structures for real estate tax purposes regardless of whether the structure has become affixed to the real estate.

been added to this bill.

## **II. What the Consolidated Law Does Not Do**

- (1) The Consolidated Law is NOT intended to be assessment REFORM. This bill simply consolidates three assessment laws into one statute. The consolidated law would not mandate countywide reassessments or change the predetermined ratio for counties.
- (2) This bill would not apply to Philadelphia or Allegheny County other than the aforementioned provisions. (See footnote 2.)

## **III. Substantive Changes Made by the Consolidated Law to Current Law**

Many of the substantive changes were a result of reconciling the differing provisions of the current assessment laws and/or codifying case law.

### **A. The most important changes**

- (1) The addition of telecommunication towers as a subject of taxation incorporates the holding of *Shenandoah Mobile v. Dauphin County Board of Assessment*, 869 A.2d 562 (Pa.Cmwlth. 2005). (Re-argument denied.)
- (2) The addition of language stipulating that if this law is inconsistent with the Institutions of Purely Public Charity Act (IPPCA), then the IPPCA prevails.
- (3) Spot reassessment provisions are updated to comport with case law.
- (4) The bill preserves the anti-windfall provisions for school districts as set forth in section 327 of Act 1, Special Session 1, 2006.

### **☞ Discussion:**

Traditionally, the assessment laws<sup>5</sup> have contained provisions limiting the amount of real estate tax revenues that could be levied by a political subdivision<sup>6</sup> in the year following a countywide reassessment or a change in the predetermined ratio. These provisions are commonly referred to as the “anti-windfall” provisions. Prior to 2004, the laws required a political subdivision<sup>7</sup> to reduce its millage rate so that the total amount of taxes levied on the properties in the year following a reassessment increased by no more than a specified percentage from the previous year.<sup>8</sup>

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<sup>5</sup> The General County Assessment Law, §402 (b); The Fourth to Eighth Class and Selective County Assessment Law, §602 (b); The Second Class County Code, §1980.2.

<sup>6</sup> Political subdivisions include counties and school districts.

<sup>7</sup> These provisions do not apply to Philadelphia.

<sup>8</sup> The General County Assessment Law limited the increase to 10% for both municipalities and school districts. The Fourth to Eighth Class County Assessment Law limited the increase to 5% for municipalities and 10% for school districts. The Second Class County Code limited the increase to 5% for both municipalities and school districts in a second class county.

In 2004 and 2005, three bills were signed into law<sup>9</sup> which changed the implementation of the anti-windfall procedures by political subdivisions. These acts require political subdivisions to follow a “two-step” process when increasing real property taxes by a percentage permitted by law following a countywide reassessment. The first step requires a political subdivision to establish a revenue-neutral millage rate.<sup>10</sup> The second step is optional. By a separate vote, a political subdivision may institute a final tax rate that limits the total amount of taxes levied to no more than the maximum percentage increase delineated by the assessment laws.

In 2006, the Taxpayer Relief Act<sup>11</sup> was enacted (Act 1). Act 1 contains its own anti-windfall provision which applies to all school districts.<sup>12</sup> Section 327 directs that after a countywide reassessment,<sup>13</sup> a school district which, after July 1, 2006, for the first time levies its real estate taxes on that revised assessment or valuation, must reduce its millage rate so that the total amount of taxes levied on the properties subsequent to the reassessment increases “less than or equal to the index for the preceding year.” Section 327 does **not** require a school district to adhere to a “two-step” process similar to, or in accordance with, the existing provisions in the assessment laws.

Therefore, two standards presently exist for implementing the anti-windfall procedures following a countywide reassessment: one for school districts, pursuant to Act 1, and one for counties and municipalities, pursuant to the assessment laws.

The proposed Consolidated County Assessment Law would apply to counties of the second class A through eighth class and all of the municipalities and school districts therein. The fact that two anti-windfall standards exist, one for school districts and one for counties and municipalities, had to be addressed. Thus, section 8823 explicitly recognizes the application of section 327 of the act of June 27, 2006, Special Session 1, No. 1, known as the Taxpayer Relief Act, as the anti-windfall provision applicable to school districts and, for all other taxing districts, retains the “two-step” process under which the taxing district must first establish a revenue-neutral millage rate and only then may it, by a separate vote, institute a final tax rate that limits the total amount of taxes levied up to a fixed percentage.

- (5) Anti-windfall limitations are made *uniform* for all counties and municipalities. Section 8823 would make the anti-windfall provisions uniform by implementing the 10% anti-windfall provisions currently found in the General County Assessment Law for all counties and municipalities in the year following a reassessment.

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<sup>9</sup> Act 91 of 2004; Act 71 of 2005; and Act 91 of 2005.

<sup>10</sup> Excluding newly constructed buildings and structures, as well as improvements made to existing structures.

<sup>11</sup> 2006, Special Session 1, No. 1.

<sup>12</sup> Except Philadelphia.

<sup>13</sup> Includes a change in the county predetermined ratio.

- (6) The language pertaining to the appointment, compensation, and duties of the chief assessor has been revised and updated. Language was added to require that any person appointed to the position of chief assessor must be *currently* licensed as a Certified Pennsylvania Evaluator (CPE) pursuant to the Assessor's Certification Act<sup>14</sup> and applicable regulations.<sup>15</sup>
- (7) The office of elected assessor is abolished.

☞ Discussion:

Section 8832 (d) contains a substantive change. This subsection abolishes the office of elected assessor. The responsibility of the locally elected assessor for the valuation of property for real estate tax purposes has been tendered increasingly obsolete.<sup>16</sup> The office of elected assessor is already abolished for municipalities located in counties of the 2A and third class.<sup>17</sup> Act 166 and Act 167 of 2006 abolished the office of elected assessor in all second class townships in the Commonwealth. The election of local assessors is still required for boroughs, towns, and townships of the first class in counties of the fourth to eighth class.<sup>18</sup>

Legislation has been introduced in the 2009-10 session to abolish the office of elected assessor in boroughs, towns, and townships in counties of the fourth to eighth class.<sup>19</sup>

B. Other important changes

- (1) The consolidated draft makes a substantive change for 4<sup>th</sup> to 8<sup>th</sup> class counties to permit the designation of an appeal deadline as early as the first day of August. This language currently exists for 2A and 3<sup>rd</sup> class counties. The current appeal date for 4<sup>th</sup> to 8<sup>th</sup> class counties is fixed on September 1.
- (2) The consolidated law contains a substantive change for 4<sup>th</sup> to 8<sup>th</sup> class counties by extending from 30 days to 40 days the time period in which a property owner has to appeal following a countywide reassessment.<sup>20</sup>
- (3) The consolidated law creates an informal review process by which taxpayers can request an informal meeting to discuss their proposed assessment with the county assessment office or its designee (reassessment contractor) prior to completion of

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<sup>14</sup> 1992, P.L. 155, No. 28.

<sup>15</sup> 49 Pa.Code Ch. 36, Subch. C (relating to Certified Pennsylvania Evaluators).

<sup>16</sup> Assessors must be licensed as a Certified Pennsylvania Evaluator (CPE) pursuant to the Assessor's Certification Act, 1992, P.L. 155, No. 28.

<sup>17</sup> Third Class County Assessment Board Law, § 16.

<sup>18</sup> Borough Code §851; First Class Township Code §515; The General County Assessment Law, §301; and Fourth to Eighth Class County Assessment Law, §501.

<sup>19</sup> Senate Bills 139, 140, and 141.

<sup>20</sup> Section 509 of the General County Assessment Law requires that notice be given "...by advertisement in one or more newspapers printed in or nearest to the seat of justice of the proper county, *at least three weeks before the day of appeal*, of the time and place fixed for such appeal from *triennial assessments*." (Emphasis added.)

the final assessment roll. This language currently exists in the Third Class County Assessment Board Law as per Act 89 of 1996.

- (4) The current provisions of the assessment laws regarding the establishment and function of the board of assessment appeals and the board of assessment revision are consolidated in this draft by: (1) preserving the authority of the commissioners in counties of the 2A and 3<sup>rd</sup> class to appoint a separate board of assessment appeals; (2) authorizing the commissioners in counties of the 4<sup>th</sup> to 8<sup>th</sup> class to appoint a board similar to that in 2A and 3<sup>rd</sup> class counties with the same powers and duties; (3) permitting county commissioners in counties of the 4<sup>th</sup> to 8<sup>th</sup> class to retain their authority to serve as the county board of assessment “revision.” A different name was assigned to the board when the commissioners are serving in this capacity in order to differentiate between them in the consolidated law.
- (5) If the commissioners in 4<sup>th</sup> to 8<sup>th</sup> class counties choose to appoint a separate assessment appeals board under the consolidated law, then the board would be responsible for the supervision and management of the county assessment office. This is a substantive change.
- (6) Appeals to court. The consolidated law states that only parties to the appeal before the court of common pleas may appeal to the Commonwealth or Supreme Courts.

☞ Discussion:

This is the current rule set forth in the 4th to 8th Class County Assessment Law as well as the general rule for all other appeals in civil matters in Pennsylvania. The provisions in the General County Assessment Law and Third Class County Assessment Board Law allow non-parties to appeal even though they did not participate in the lower court appeal. This causes uncertainty and added expense for the parties to an appeal that enter into a settlement agreement even though the agreement was reviewed by the court and approved. This substantive change will remove that uncertainty and encourage affected parties to participate in the action before the court of common pleas.

- (7) To reflect a Pennsylvania Supreme court decision,<sup>21</sup> it is specifically stated that provisions in this chapter concerning appeals shall not be construed to limit the right of an appeal based on an alleged violation of the “uniformity” requirements of the Pennsylvania Constitution.
- (8) A substantive change is added to clarify language delineating the method by which interest is to be calculated on refunds due to a taxpayer as a result of a successful appeal of a property assessment. The current law contains a provision that interest is to be paid, but the law does not state when interest begins to accrue. The Pennsylvania Commonwealth Court ruled in *Moore v. Berks County Bd. of Assessment Appeals*<sup>22</sup> that section 8426(a) of the Local Taxpayers Bill of

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<sup>21</sup> *Downingtown Area School District v. Chester County Board of Assessment Appeals*, 913 A.2d 194 (Pa. 2006).

<sup>22</sup> 888 A.2d 40 (Pa.Cmwlt. 2005).

Rights Act controls when interest begins to accrue.<sup>23</sup> Language has been added to section 8854(c) to reflect the ruling of this case. This section states that "overpayments of tax due a local taxing authority, including taxes on real property, shall bear simple interest from the date of overpayment until the date of resolution."

(9) The consolidated law primarily reflects the current language in the 4<sup>th</sup> to 8<sup>th</sup> Class County Assessment Law requiring building and demolition permits to be forwarded to the county assessment office with the addition of 3rd-party agencies and the Department of Labor and Industry.

(10) The optional exemption threshold for per capita and occupation taxes is raised from \$5,000 to \$12,000 per year to comport with Act 511. Reference to the occupational privilege tax (now the Local Services Tax) is omitted because the levy of and exemption from this tax is authorized under Act 511. The consolidated law provides that a county assessment office is not required to maintain an occupation tax assessment roll if no taxing district in the county levies an occupation tax. This language mirrors that in Chapter 4 of Act 511 "Optional Occupation Tax Elimination."

#### **IV. Repeals**

**Absolute repeals.**--The following acts or parts of acts are repealed absolutely:

- ◆ The act of May 21, 1943 (P.L. 571, No. 254), known as the Fourth to Eighth Class County Assessment Law.
- ◆ The act of June 26, 1931 (P.L. 1379, No. 348), referred to as the Third Class County Assessment Board Law.
- ◆ Sections 1770.3 and 1770.9 of the act of Aug. 9, 1955 (P.L. 323, No. 130), known as the County Code.

**Limited repeals.** - The following acts or parts of acts are repealed insofar as they relate to second class A, 3rd, 4th, fifth, sixth, seventh and eighth class counties:

- ◆ The act of May 22, 1933 (P.L. 853, No. 155), known as the General County Assessment Law.

**☞The General County Assessment Law would still be effective for counties of the first and second class, i.e., Philadelphia and Allegheny, respectively.**

In the 2007-2008 session, the bill was introduced as House Bill 1491. The bill was referred to the House Local Government Committee where it remained upon sine die adjournment.

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<sup>23</sup> Effective on January 1, 1999.

In the 2005-2006 session, the bill was introduced as House Bill 2273. The House Local Government Committee reported the bill, as amended, on November 28, 2005. The bill was given first consideration by the House on June 12, 2006, and re-committed to rules on that same date. House Bill 2273 was reported from the Rules Committee on September 25, 2006. The bill was laid upon the table where it remained upon sine die adjournment.