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LOCAL GOVERNMENT COMMISSION
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ACT 93 of 2010

(Senate Bill 918, Printer's Number 2205)

Local Government Commission Summary

"CONSOLIDATED COUNTY ASSESSMENT LAW"

I. What Act 93 Does

(1) This act amends Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes 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.[1]

(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.

[1] 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.

(3) The provisions of Act 142 of 2006,[2] Act 38 of 2007,[3] and Act 167 of 2006 have been incorporated into the act.

II. What Act 93 Does Not Do

(1) The Consolidated Law is ***not*** intended to be assessment ***reform***. Generally, this act consolidates three assessment laws into one statute. The consolidated law ***does not mandate countywide reassessments*** or change the predetermined ratio for counties.

(2) This act does not apply to the assessment structure or process in Philadelphia or Allegheny County other than the aforementioned provisions. (See footnote 2.)

(3) This act does ***not*** address the *Clifton* decision. House Resolution 334 of 2009 required the Legislative Budget and Finance Committee in conjunction with the LGC and STEB to conduct a study of the current property tax reassessment systems…and develop recommendations to improve and update the present systems. The House Resolution 334 report was released by the Legislative Budget and Finance Committee on September 22, 2010.

III. Substantive Changes Made by Act 93 to the Assessment Laws

Many of the substantive changes were a result of reconciling the differing provisions of the 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 Appeals*, 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 act preserves the anti-windfall provisions for school districts as set forth in Section 327 of Act 1, Special Session 1, 2006.

☞ Discussion:

[2] 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.
[3] 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.

Traditionally, the assessment laws[4] contained provisions limiting the amount of real estate tax revenues that may be levied by a political subdivision[5] 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[6] 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.[7]

In 2004 and 2005, three bills were signed into law[8] 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.[9] 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[10] was enacted (Act 1). Act 1 contains its own anti-windfall provision which applies to all school districts.[11] Section 327 directs that after a countywide reassessment,[12] 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."

Therefore, two standards 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 Consolidated County Assessment Law applies 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

[4] 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.
[5] Political subdivisions include counties and school districts.
[6] These provisions do not apply to Philadelphia.
[7] 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.
[8] Act 91 of 2004; Act 71 of 2005; and Act 91 of 2005.
[9] Excluding newly constructed buildings and structures, as well as improvements made to existing structures.
[10] 2006, Special Session 1, No. 1.
[11] Except Philadelphia.
[12] Includes a change in the county predetermined ratio.

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 implements the *10% anti-windfall* provision found in the General County Assessment Law for all counties and municipalities in the year following a reassessment.

☞Discussion:

The committee deemed it prudent to have one rate for all counties, municipalities, and school districts. The 10% rate was chosen because, when the bill was initially drafted in 2005, all school districts[13] (excluding Philadelphia and Pittsburgh) in the Commonwealth were permitted to increase revenue via a two-step process up to 10% in the year following a reassessment, as well as counties of the 2A and third class and the municipalities[14] within those counties. Nearly 1,300 taxing districts were under the 10% cap in 2005. As of 2010, there are approximately 777 taxing districts under the 10% cap. Counties of the fourth through eighth class and the municipalities within those counties are limited to a 5% increase. As of 2010, there are over 1,700 taxing district under the 5% cap. Again, the anti-windfall provisions contained in the assessment laws no longer apply to school districts due to the enactment of Act 1 of 2006.

(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[15] and applicable regulations. [16]

(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 rendered increasingly obsolete.[17] The office of elected assessor is already abolished for municipalities located in counties of the 2A and third class.[18] Act 166 and Act

[13] 499 out of 501.

[14] Including counties.

[15] 1992, P.L. 155, No. 28.

[16] 49 Pa.Code Ch. 36, Subch. C (relating to Certified Pennsylvania Evaluators).

[17] Assessors must be licensed as a Certified Pennsylvania Evaluator (CPE) pursuant to the Assessor's Certification Act, 1992, P.L. 155, No. 28.

[18] Third Class County Assessment Board Law, § 16.

167 of 2006 abolished the office of elected assessor in all second class townships in the Commonwealth. The election of local assessors was still required for boroughs, towns, and townships of the first class in counties of the fourth to eighth class.[19]

(8) Auxiliary appeal boards and alternates. County commissioners are authorized to appoint auxiliary appeal boards, outside the scope of a countywide reassessment, to hear and determine all annual appeals. The auxiliary appeal boards will exist for the period of time required to hear and determine appeals filed in accordance with Section 8844(e).

B. Other important changes

(1) The act makes a substantive change for 4th to 8th class counties to permit the designation of an appeal deadline as early as the first day of August. This language exists for 2A and 3rd class counties. The appeal date for 4th to 8th class counties was fixed on September 1.

(2) The consolidated law contains a substantive change for 4th to 8th 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.[20]

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

(4) The 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 act by: (1) preserving the authority of the commissioners in counties of the 2A and 3rd class to appoint a separate board of assessment appeals; (2) authorizing the commissioners in counties of the 4th to 8th class to appoint a board similar to that in 2A and 3rd class counties with the same powers and duties; (3) permitting county commissioners in counties of the 4th to 8th class to retain their authority to serve as the county board of assessment "revision." A different name is assigned to the board when the commissioners are serving in this capacity in order to differentiate between them in the consolidated law.

[19] Borough Code §851; First Class Township Code §515; The General County Assessment Law, §301; and Fourth to Eighth Class County Assessment Law, §501.

[20] 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.)

(5) If the commissioners in 4th to 8th 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 administrative and clerical functions 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 for 4th to 8th class counties as set forth in the Fourth to Eighth 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 permit 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,[21] 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 assessment 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*[22] that Section 8426(a) of the Local Taxpayers Bill of Rights Act controls when interest begins to accrue.[23] 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 requires every municipality, third-party agency, or the Department of Labor and Industry responsible for the issuance of building permits, to forward a copy of each building permit to the county assessment office on or before the first day of every month. The Fourth to Eighth Class County Assessment Law requires municipalities to submit building permit information to the county assessment office once a month.

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[21] *Downingtown Area School District v. Chester County Board of Assessment Appeals*, 913 A.2d 194 (Pa. 2006).
[22] 888 A.2d 40 (Pa.Cmwlth. 2005).
[23] Effective on January 1, 1999.

(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, entitled "Optional Occupation Tax Elimination."

IV. Amendments to Senate Bill 918 During the 2009-2010 Session[24]

Section 8853. Auxiliary appeal boards and alternates. The Senate amended the bill on second consideration on May 4, 2010, to authorize county commissioners to appoint auxiliary appeal boards, outside the scope of a countywide reassessment, to hear and determine all annual appeals. The auxiliary appeal boards will exist for the period of time required to hear and determine appeals filed in accordance with Section 8844(e).

Section 8861. Abstracts of building and demolition permits to be forwarded to the county assessment office. The House Local Government Committee amended this section on June 15, 2010, to remove the requirement that permits contain specified information as currently set forth in the Section 602.2.[25]

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[24] Additional amendments include: (1) Section 3. Added Subpart D (Employment and Employees), Chapter 91 (Municipal Pensions), Subchapter B (Cities of the Second Class). The Senate amended the bill on third consideration on May 25, 2010, by adding Chapter 91 to require that notwithstanding the provisions of Section 902 (a)(2) of Act 205, any proceeds generated in connection with the lease or sale of the City of Pittsburgh's Parking Authority garages be deposited into: 1) the City's municipal pension system fund; or 2) a fund established within PMRS, in the event the City's pension fund is transferred to PMRS management under Section 902 (c) of Act 205. The amendment also requires that if the administration of the City's pension fund is to be transferred to PMRS, that transfer will be accomplished by October 30, 2011. This section will take effect immediately; and (2) The House amended Senate Bill 918 on third consideration on September 21, 2010, by adding Section 2317. This amendment is an addition to Subpart D (Area Government and Intergovernmental Cooperation), Chapter 23 (General Provisions), Subchapter A (Intergovernmental Cooperation) which provides for agreements for fire protection services in cities of the second class.

[25] "…the date of issuance, the names and addresses of the persons owning and a description sufficient to identify the property for which the permit was issued, the nature of the improvements and the amount in dollars in which issued."

V. 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 is still effective for counties of the first and second class, i.e., Philadelphia and Allegheny, respectively.