

54:3-22

LEGISLATIVE HISTORY CHECKLIST

NJSA 54:3-22 (Tax appeals - rebuttable presumptions)

Laws of 1973 Chapter 123

Bill No. A1266

Sponsor(s) De Korte

Date Introduced May 18, 1972

Committee: Assembly Taxation

Senate Judiciary

Amended during passage Yes No

Date of passage: Assembly March 19, 1973

Senate April 9, 1973

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Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes ~~No~~

Fiscal Note Yes No

Veto message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

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This bill was part of Governor Cahill's tax package.

See:

N.J. Tax Policy Committee.

Report, 1972.

Summary Volume (v.6) - pages 27-29 (Enclosed)

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CHAPTER 123 LAWS OF N. J. 19 73
APPROVED 5-9-73

ASSEMBLY, No. 1266

STATE OF NEW JERSEY

INTRODUCED MAY 18, 1972

By Assemblyman DE KORTE

Referred to Committee on Taxation

AN ACT concerning tax appeals, establishing certain rebuttable presumptions relating to cases of alleged discrimination, and amending R. S. 54:3-22 and R. S. 54:4-62 and section 15 of chapter 161 of the laws of 1946.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. *Definitions.*

2 a. The "average ratio" of assessed to true value of real prop-
3 erty for a taxing district for the purposes of this act shall mean
4 the unweighted, unclassified, arithmetic average as determined by
5 the Director of the Division of Taxation from the latest 1-year
6 study data compiled by the director for the purposes of P. L. 1954,
7 c. 86 (C. 54:1-35.1 et seq.), as of October 1 of the year preceding
8 the tax year as revised by the Division of Tax Appeals.

9 b. The "common level range" for a taxing district is that range
10 which is plus or minus 15% of the average ratio for that district.

1 2. Section 15 of P. L. 1946, c. 161 (C. 54:2-40.4) is amended to
2 read as follows:

3 15. a. In any proceeding before the Division of Tax Appeals
4 in the State Department of **[Taxation and Finance]** *the Treasury*
5 where deeds or other instruments of conveyance do not state the
6 true consideration or sales price of the property, which is the sub-
7 ject of appeal **[the United States documentary stamps, if any,**
8 attached to such deeds or instruments shall be admitted as prima
9 facie evidence of the true consideration or sales price of the said
10 property**],** *the realty transfer fee, if any, paid upon the recording*
11 *of such deeds or instruments as well as the affidavit of considera-*
12 *tion attached to and filed with any such deed or instrument shall*
13 *be admitted as prima facie evidence of the true consideration or*
14 *sales price of the said property.*

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

15 *b. Whenever the Division of Tax Appeals is satisfied by the*
 16 *proofs that the ratio of the assessed valuation of the subject prop-*
 17 *erty to its true value exceeds the upper limit or falls below the*
 18 *lower limit of the common level range, it shall revise the taxable*
 19 *value of the property by applying the average ratio to the true*
 20 *value of the property except as herinafter provided.*

21 *c. If the average ratio is below the county percentage level and*
 22 *the ratio of the assessed value of the subject property to its true*
 23 *value exceeds the county percentage level, the Division of Tax*
 24 *Appeals shall reduce the taxable value of the property by applying*
 25 *the average ratio to the true value of the property.*

26 *d. If both the average ratio and the ratio of the assessed value*
 27 *of the subject property to its true value exceed the county per-*
 28 *centage level, the Division of Tax Appeals shall revise the taxable*
 29 *value of the property by applying the county percentage level to*
 30 *the true value of the property.*

31 *e. The provisions of this act shall not apply to any appeal from*
 32 *an assessment of real property taken with respect to the tax year*
 33 *in which the taxing district shall have completed and put into*
 34 *operation a district-wide revaluation program approved by the*
 35 *Director of Taxation pursuant to chapter 424, laws of 1971*
 36 *(C. 54:1-35.35 et seq.).*

1 3. R. S. 54:3-22 is amended to read as follows:

2 *a. The board shall thereupon make such order respecting the*
 3 *time and manner for hearing the appeal at it may deem just, and*
 4 *shall summarily hear and determine the appeal, and revise and*
 5 *correct the assessment in accordance with the value prescribed by*
 6 *law. All appeals filed pursuant to the provisions of chapter 3 of*
 7 *Title 54 of the Revised Statutes shall be heard and determined*
 8 *by the board. It may compel the attendance of witnesses, the*
 9 *production of books and papers before it, examine witnesses or*
 10 *cause witnesses to be examined under oath before it, which oath*
 11 *may be administered by a member of the board.*

12 *b. In any proceedings before the board where deeds or other*
 13 *instruments of conveyance do not state the true consideration or*
 14 *sale price of the property, which is the subject of appeal, [the*
 15 *United States documentary stamps attached, if any, to such deeds*
 16 *or instruments as well as recitals in such deed or in other instru-*
 17 *ments of record with respect to such property shall be admitted*
 18 *as prima facie evidence of the true consideration or sales price*
 19 *of the said property.] the realty transfer fee paid upon the re-*
 20 *coding of such deeds or instruments as well as an affidavit of*
 21 *consideration attached to and filed with any such deed or instru-*

22 *ment shall be admitted as prima facie evidence of the actual amount*
 23 *of money and the monetary value of any other thing of value con-*
 24 *stituting the entire compensation paid for such transfer of realty.*

25 *c. Whenever the county board of taxation is satisfied by the*
 26 *proofs that the ratio of the assessed valuation of the subject prop-*
 27 *erty to its true value exceeds the upper limit or falls below the*
 28 *lower limit of the common level range, it shall revise the taxable*
 29 *value of the property by applying the average ratio to the true*
 30 *value of the property except as hereinafter provided.*

31 *d. If the average ratio is below the county percentage level and*
 32 *the ratio of the assessed value of the subject property to its true*
 33 *value exceeds the county percentage level, the county board of*
 34 *taxation shall reduce the taxable value of the property by applying*
 35 *the average ratio to the true value of the property.*

36 *e. If both the average ratio and the ratio of the assessed value*
 37 *of the subject property to its true value exceed the county percent-*
 38 *age level, the county board of taxation shall revise the taxable*
 39 *value of the property by applying the county percentage level to*
 40 *the true value of the property.*

41 *f. The provisions of this section shall not apply to any appeal*
 42 *from an assessment of real property taken with respect to the tax*
 43 *year in which the taxing district shall have completed and put*
 44 *into operation a district-wide revaluation program approved by*
 45 *the Director of Taxation pursuant to chapter 424, laws of 1971*
 46 *(C. 54:1-35.35 et seq.)*

1 4. R. S. 54:4-62 is amended to read as follows:

2 *a. If it shall appear to the satisfaction of the Superior Court,*
 3 *in a proceeding in lieu of prerogative writ, that an assessment of*
 4 *taxes reviewed thereby is at a rate higher than authorized by the*
 5 *law or resolution authorizing the assessment, or that the value of*
 6 *taxable property for which a person is therein assessed, is too*
 7 *great, the court shall amend the assessment and reduce it to the*
 8 *proper and just amount, [and thereupon affirm it according to the*
 9 *amendment and reduction and reverse it as to the excess only]*
 10 *in accordance with the provisions of this act.*

11 *b. Whenever the Superior Court is satisfied by the proofs that*
 12 *the ratio of the assessed valuation of the subject property to its*
 13 *true value exceeds the upper limit or falls below the lower limit*
 14 *of the common level range, it shall revise the taxable value of the*
 15 *property by applying the average ratio to the true value of the*
 16 *property except as hereinafter provided.*

17 *c. If the average ratio is below the county percentage level, and*
 18 *the ratio of the assessed value of the subject property to its true*

19 *value exceeds the county percentage level, the court shall reduce*
20 *the taxable value of the property by applying the average ratio*
21 *to the true value of the property.*

22 *d. If both the average ratio and the ratio of the assessed value*
23 *of the subject property to its true value exceed the county's per-*
24 *centage level, the court shall revise the taxable value of the prop-*
25 *erty by applying the county percentage level to the true value of*
26 *the property.*

27 *e. The provisions of this act shall not apply to any appeal from*
28 *an assessment of real property taken with respect to the tax year*
29 *in which the taxing district shall have completed and put into*
30 *operation a district-wide revaluation program approved by the*
31 *Director of Taxation pursuant to chapter 424, laws of 1971.*

1 5. a. On or before April 1 in each year the Director of the Di-
2 vision of Taxation shall, from the latest 1-year study data compiled
3 by the director for the purpose of P. L. 1954, c. 86 (C. 54:1-35.1
4 et seq.), as of October 1 of the year preceding the tax year, as
5 revised by the Division of Tax Appeals, determine the average
6 ratio and the common level range.

7 *b. On or before such date, the director shall mail to the secretary*
8 *of each county board of taxation and to the assessor or board of*
9 *assessors, and the municipal clerk of each municipality, a certified*
10 *list setting forth such average ratio and the common level range*
11 *determined by him for each taxing district.*

1 6. Where it is not possible for purposes of this act, to determine
2 the average ratio in any taxable district by reason of the fact that
3 there are no usable real estate sales during the period referred
4 to in section 1. a. of this act, the director may consider such other
5 data and studies as may be available and he may make such further
6 and different investigations of assessment practices as he may
7 deem necessary or desirable for establishing the "average ratio"
8 required by this act.

1 7. This act shall take effect immediately and shall be applicable
2 with respect to the tax year 1974 and thereafter.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1266

STATE OF NEW JERSEY

DATED: APRIL 2, 1973

This bill would establish procedures for adjusting the taxable value of property by the county boards of taxation, the Division of Tax Appeals and the Courts.

Under this bill, the Director of the Division of Taxation would determine by April 1 of each year the average ratio of assessed to true value of real property in each taxing district and a "common level range" for each district. That range would be plus or minus 15% of the average ratio.

The county boards of taxation and the State Division of Tax Appeals would then use that common level range as a comparison with the ratio of the assessed value to the true value of any property and if that ratio is outside of the range, the taxable value would be redetermined by applying the average ratio to the true value.

However, if the ratio of the assessed to the true value exceeds the county percentage level, then the lower of the taxing district's or the county's percentage level would be used to determine the taxable value based on true value.

This bill would also change the evidence which is prima facie evidence of the true consideration for property from the U. S. documentary stamps to the realty transfer fee and any affidavit of consideration filed with the deed.

This bill, if enacted, would be applicable to the tax year 1974 and thereafter.

The Committee recommends:

1. Adoption of property tax rate limits, based on equalized taxable valuations calculated over a three-year average, as follows:

County purposes—\$.50 per hundred exclusive of debt service.

Municipal purposes—\$1.50 per hundred exclusive of debt service and reserve for uncollected taxes.

School purposes—as voted only, except for debt service and the tax rate equivalent required to finance per pupil amounts over the certified State standard.

2. In order to provide some flexibility, the stated limits for county and municipal purposes may be exceeded by vote of the people at a referendum, provided no annual increase exceed 10 per cent of the preceding year's effective tax rate.

3. Non-Property taxing power should not be delegated to counties or municipalities.

Administration of the Property Tax

New Jersey has long been in the forefront of efforts to improve the administration of the property tax. Simple equity requires that inequality in assessments be eliminated as far as is feasible, whether at the present high levels of property taxation in New Jersey or at some future reduced level.

The Sixth Report of the Commission on State Tax Policy in 1953 touched off a number of steps aimed generally at eliminating inequalities in assessments by strengthening the office of the assessor and improving assessing techniques. In 1954 a new system of comparing the aggregate true market values of property among municipalities was developed as a basis for distributing State school aid. Comparisons of sales prices to assessed values were made for each property transfer in the State. A table of equalized valuations listing an average ratio of sales price to assessed value is published for each municipality each year. Similar ratios are used by counties to equalize the apportionment of county taxes among municipalities.

One valuable by-product of these continuous sales ratio studies is a vast amount of valuable information, which the State Division of Taxation has made available to the Committee.

The sales ratio data has been effectively used in the process of inter-district equalization for apportioning State aid to schools, apportioning county taxes and measuring local debt limitations.

However, intra-district equalization is even more important in a fair distribution of the tax burden. It is the process of making sure that neighbors and property owners within a municipality with like properties are treated alike on their tax bills. The basic skill of the assessor and his continuous attention to the factors which affect valuation are crucial to achieving equality of treatment.

Committee studies of inequality within districts explored three areas:

1. Disparities in assessments of individual properties of the same class.
2. Disparities in assessment of different classes of property.
3. Whether assessments were regressive (at higher percentages of value for lower-value properties), proportional (at the same percentage for all properties), or progressive (at higher percentages for higher-value properties).

An indicator of disparities among individual property assessments is the "coefficient of variation," a measure of the average deviation from true market values. A coefficient of 20, for instance, indicates the average assessment is 20 per cent off the mark. In a municipality using a 50 per cent assessment ratio a coefficient of 20 would lead one to expect assessments running at 40 to 60 per cent of true value. A coefficient of 100, on the other hand would mean assessments scattered from near 0 to over 100 per cent of true value. The coefficient expresses the average error. Thus a coefficient of 20 means many errors larger than 20 per cent. A coefficient of less than 20 indicates a relatively good assessment roll and 10 per cent is considered about the best that can be achieved consistently. A coefficient of 30 or more indicates some deficiency in the valuation process.

In checking all 73,050 usable sales which occurred from 1966 to 1970, Committee studies found the following average statewide deviations:

Property Class	Average Statewide Coefficients of Variation 1966-70			
	Average Coefficients of Variation			
	1967	1968	1969	1970
Vacant land	47.8	45.3	49.0	46.8
Residential	22.7	21.3	24.0	25.5
Farm	29.4	26.7	43.1	45.2
Commercial, Industrial, Apartment	32.0	32.1	32.7	31.8

In no category was there a majority of taxing districts within the desirable range of coefficients under 20. The lowest coefficient found was 2.8 per cent, very good indeed. The highest was 160, which means that the average error was 1.6 times the average assessment ratio for that municipal property class. In the vacant land category, less than one-tenth of the taxing districts fell within the range under 20 per cent average error.

The Committee concludes that the assessment process must be strengthened to reduce variations in individual assessments present in most municipalities.

Another tabulation compared assessments to see if there was any discrimination among the four classes of property. Vacant land was found frequently under-assessed in comparison with residential property. There appeared to be a more-than-accidental pattern of discrimination against commercial and industrial property.

This report has previously dealt with the regressivity of the property tax which stems from the fact that lower and moderate-income people spend a larger proportion of their income on housing than do higher-income groups. Even a property tax which is administered with a perfectly even hand is subject to this kind of regression. But if assessments decline as a percentage of true value as the value of property increases, another, compounding form of regressivity is introduced. A coefficient of regressivity can be calculated for each municipality and each class of property, through the use of computers. A coefficient of 1.0 means that assessments are at approximately equal percentages of true value for all properties, regardless of their total value. Coefficients under 1.0 mean that assessment percentages decline as the sales price goes up and are regressive. Coefficients over 1.0 mean that assessments increase in percentage of true value as the price goes up and are progressive. A coefficient between .9 and 1.1 was considered an indication of relatively equal treatment for properties in all price ranges. A tabulation of the data for 1970 showed:

<u>Property class</u>	<u>REGRESSIVITY</u>		
	<u>COEFFICIENT COUNT</u>		
	Number of municipalities with coefficients of:		
	Less than .9	.9 to 1.1	More than 1.1
Vacant land	140	16	31
Residential	319	102	45
Farm	3	2	0
Commercial, Industrial Apartments	60	22	17

The tabulation shows assessments are regressive in most municipalities: higher-valued property is assessed at lower percentages of true value. This was especially true of vacant land, where three-fourths of the municipalities displayed regressive assessment patterns. Residential property assessments were classified 68 per cent regressive and industrial, commercial and apartment properties 61 per cent regressive.

The committee concludes that regressivity of assessments is so widespread and of such proportions that the assessment process must be strengthened to correct this unfair distribution of the tax burden.

An Improvement Program

New Jersey now has a disorganized assessment system depending upon 900 different local assessors who are only loosely responsible to county boards of taxation. They are subject to supervision by the State Director of Taxation, but his authority is meant to be exercised only in extreme cases. The total spent on this structure by county and municipal governments has been estimated at \$23.2 million a year. It all comes out of the property tax.

Major strides in professionalization of assessing have been made in recent years. They have resulted in better training and more security for assessors. But the office is still open to considerable political pressure and there are too many part-time assessors. Some cannot cope with complicated problems of assessing larger and high-cost structures.

The Committee recommends:

1. **The Director of Taxation be empowered, after public hearing upon adequate notice, to prepare a map of assessment districts covering the State. Each district should be of sufficient area, roll composition, and administrative requirements, to justify the employment of at least one full-time professionally qualified assessor. No district should include property situated in more than one county, nor should any district boundary divide a municipality.**

2. **Within 2 years after the July 1 following the enactment of appropriate legislation, all valuations and assessment lists for property tax purposes should be prepared by the assessor of the district.**

3. **Each district should be headed by a single assessor to be appointed by the Director of Taxation from a list of certified assessors. An assessor shall be professionally qualified prior to his appointment. He should pass a certification examination authorized by Chapter 44, Laws of 1967, and be entitled to protected tenure of office.**

4. **Each office of district assessor should employ full-time, certified assistants to perform the various assessing duties in the district. Positions should be classified and salaries uniformly prescribed.**

5. **The Director of the State Division of Taxation should be required to promulgate rules and regulations to:**

- a. **Mandate uniform guidelines for assessing administration, including granting of exemptions;**
- b. **Mandate use of the State Appraisal Manual;**
- c. **Establish a uniform base year for purposes of revaluation;**

- d. Establish standards for revaluations and revaluation firms;
- e. Establish depreciation and compliance guidelines;
- f. Provide specific definitions of "maintenance" vs. "improvement" of real property and establish necessary guidelines for assessing improvements;
- g. Define various items of personal property to avoid duplicate assessment of such items as real property.

6. The Director of the State Division of Taxation should be required to provide technical assistance to assessors, when requested, for assessing specialized classes of property.

7. New Jersey should enact a statute, similar to one in effect in New York State, making mobile homes taxable as real estate.

8. In establishing sales ratios, the Director should supplement sales data with appraisals of properties where sales are sparse or unrepresentative.

9. Appeals

- a. Status of the county boards of taxation should be changed from an administrative-appeals body to an appeals body solely, with the State sharing all or part of the costs. Qualifications should be established for appointment of members to county boards of taxation.

- b. The State should enact a statute establishing a simplified appeals procedure in which established assessment ratios may be used as conclusive evidence. A proven deviation of 10% or more from the county ratio should be substantial evidence of an incorrect assessment.
- c. County tax board appeal petitions, rules and procedures should be standardized throughout the State.
- d. Proceedings of the county tax boards should be recorded and should be available to any party to such proceedings.
- e. County tax boards should be required to set forth findings of fact and conclusions to support their determinations.
- f. The Division of Tax Appeals in the Department of the Treasury should be replaced by a full-time tax court, an inferior court system within the judicial branch of government, such court to continue the use of informal procedures.
- g. Direct appeal to the tax court should be permitted, at the election of either party, where the value of property subject to the appeal exceeds \$100,000.
- h. Decisions of the tax court (or Division of Tax Appeals, if retained) should be published to assist in the achievement of uniformity and consistency.