

58:14-15

LEGISLATIVE HISTORY CHECKLIST

HJSA 58:14-15 (Sewer authorities -- intermunicipal -- in lieu of tax payments -- amount formula)

LAWS OF 1979 CHAPTER 40

Bill No. A201

Sponsor(s) Visotcky and others

Date Introduced Pre-filed

Committee: Assembly County Government

Senate Revenue, Finance & Appropriations

Amended during passage XXX No Substituted for S719 (attached)

Date of Passage: Assembly May 4, 1978

Senate May 18, 1978

Date of approval March 15, 1979

Following statements are attached if available:

Sponsor statement Yes XX (Below)

Committee Statement: Assembly Yes XX

Senate Yes XX

Fiscal Note XXX No

Veto message XXX No

Message on signing Yes XX

Following were printed:

Reports XXX No

Hearings Yes XX Held 4-11-78. Tapes not transcribed. (Contact Legislative Hearing Officer at 2-7925)

Sponsor's statement:

This bill is designed to nullify the effect of P.L. 1975, c.254. The need for in lieu tax payments to municipalities is recognized. However, it should be done by general legislation rather than on a piecemeal basis.

med 9/1/78

CHAPTER 40 LAWS OF N. J. 1979
APPROVED 3-15-79

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 201

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Assemblymen VISOTCKY, PELLECCIA, CONTILLO, BURNS,
BAER, HOLLENBECK and BATE

AN ACT concerning the fair apportionment of the loss of real estate taxes by a single municipality caused by the forced location therein of sewerage plant facilities which serve many other municipalities within the Passaic Valley Sewerage District and amending R. S. 58:14-15.

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

1 1. R. S. 58:14-15 is amended to read as follows:

2 58:14-15. The cost of maintenance, repair and operation of said
3 sewer, plant and works shall, by the terms of the contract, be
4 apportioned annually to the respective municipalities entering into
5 the contract, according to the amount of sewage delivered or dis-
6 charged by them respectively into any sewer or other receptacle
7 provided or constructed by the commissioners for the reception of
8 the same.

9 **[Included in the cost of operation shall be a sum equal to the loss**
10 **of real estate tax revenues experienced by any municipality by**
11 **reason of the location therein of a sewer plant serving other**
12 **municipalities. The moneys received by the commissioners for this**
13 **cost of operation shall annually be paid by them to the munici-**
14 **pality in which the sewer plant is located. In determining the**
15 **annual lost real estate taxes the commissioners shall assume that**
16 **but for the use of the subject lands for public purposes by the**
17 **commission, the lands would have been fully developed at their**
18 **highest use under the municipality's zoning regulations then exist-**
19 **ing for the area in question.]**

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

20 **Included in the cost of operation shall be an amount to compen-*
21 *sate any municipality for the loss of real estate taxes which would*
22 *be due otherwise on the land exempted from taxation for the loca-*
23 *tion thereon of a sewer plant serving other municipalities. The*
24 *annual lost real estate taxes shall be calculated by applying the*
25 *general tax rate of the municipality to the assessed value of the*
26 *lands so exempted. The assessed value of such exempt lands shall*
27 *be determined by multiplying the number of acres and the average*
28 *assessed value per acre of taxable lands contiguous to the exempt*
29 *land. The moneys received by the commissioners for this purpose*
30 *shall be paid annually by them to the municipality in which the*
31 *sewer plant is located.**

1 2. This act shall take effect immediately.

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18 highest use under the municipality's zoning regulations then exist-
19 ing for the area in question.]

1 2. This act shall take effect immediately.

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

STATEMENT

This bill is designed to nullify the effect of P. L. 1975, c. 254. The need for in lieu tax payments to municipalities is recognized. However, it should be done by general legislation rather than on a piecemeal basis.

ASSEMBLY COUNTY GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 201

STATE OF NEW JERSEY

DATED: APRIL 19, 1978

This bill would amend R. S. 58:14-15 to prohibit the payment of any compensation to any municipality in the Passaic Valley Sewerage Authority for the loss of real estate taxes it had experienced on land owned by the Authority. Such payments were authorized by P. L. 1975, c. 254 which required that the Passaic Valley Sewage Authority compensate any such municipality at a rate as if the land owned by the authority had been developed at its highest use under a municipality's zoning regulations. In essence, the Legislature was permitting the Passaic Valley Sewage Authority to compensate the city of Newark for land purchased by the Authority to build its main sewage treatment facilities. Money for the payments from the Passaic Valley Sewage Authority to Newark was to be collected from the other 28 municipalities in the district.

The committee, after holding a public hearing on Assembly Bill No. 201, amended the bill in an effort to find an equitable solution to a problem which has caused dissension among the municipal members of Passaic Valley Sewage Authority since 1975. The committee decided that the payments required by P. L. 1975, c. 254 would greatly burden every municipality in Passaic Valley Sewage District, and, therefore, would hurt more citizens of the State than it would benefit. However, Assembly Bill No. 201, unamended, would prohibit any compensation to Newark and this would be unfair.

The committee amended the bill to provide Newark with reasonable compensation by creating a formula in which the lands owned by the Passaic Valley Sewage Authority will be valued in accordance with the taxable lands contiguous thereto, at a rate equivalent to the average of those taxable lands. The annual lost real estate taxes will be calculated by applying the general tax rate of the municipality to the assessed value of the lands owned by the authority. Payments will be made only on the assessed value of the land and not on any improvements made on the land. If the value of the contiguous land now taxable does increase or if the tax rate of the city of Newark increases, or if

both should occur, the payments will fluctuate with the changes in those values and tax rates, but in no case will there be any precipitous rise. This will protect the other municipal members of the system from any unforeseen large increase in their budgetary requirements, while providing Newark with reasonable compensation.

ASSEMBLY COMMITTEE AMENDMENT TO
ASSEMBLY, No. 201

STATE OF NEW JERSEY

ADOPTED APRIL 20, 1978

Amend page 1, section 1, line 19, after line 19, insert as follows:

“Included in the cost of operation shall be an amount to compensate any municipality for the loss of real estate taxes which would be due otherwise on the land exempted from taxation for the location thereon of a sewer plant serving other municipalities. The annual lost real estate taxes shall be calculated by applying the general tax rate of the municipality to the assessed value of the lands so exempted. The assessed value of such exempt lands shall be determined by multiplying the number of acres and the average assessed value per acre of taxable lands contiguous to the exempt land. The moneys received by the commissioners for this purpose shall be paid annually by them to the municipality in which the sewer plant is located.”.

SENATE REVENUE, FINANCE AND
APPROPRIATIONS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 201

—◆—
STATE OF NEW JERSEY
—◆—

DATED: MAY 4, 1978

This bill amends that provision in law which requires the payment of a sum equal to real property taxes otherwise attainable to a municipality wherein there is located sewerage plant facilities owned and operated by the Passaic Valley Sewerage District.

Under the current law a sum equal to the real estate tax revenue on the subject land were it developed to its highest use, is required to be included as a cost of operation and an annual payment is required to be made to the host municipality. The allocation of total operating cost, and thus the amount of the property tax equivalent, is made on the basis of proportionate use measured by sewerage discharge.

The language of this current property tax equivalent provision has created a conflict between the host municipality — Newark — and the other constituent municipalities. In particular, the phrase “. . . highest use . . .” has caused the problem. The interpretation and implementation of this provision has placed a value of \$460,000.00 per acre on the land, which would generate, at 1977 tax rates, a property tax payment of \$3.5 million. This value seems inconsistent with the average valuation of contiguous property of \$28,700.00 per acre.

The host municipality — Newark — has attempted to maximize income under this payment requirement resulting in a majority of other constituent municipalities bringing suit to avoid payment, and introduction of a bill effectively repealing the payment requirement.

[OFFICIAL COPY REPRINT]

SENATE, No. 719

STATE OF NEW JERSEY

INTRODUCED JANUARY 26, 1978

By Senators GRAVES, J. RUSSO, HIRKALA, ORECHIO,
SCARDINO, BEDELL, HAGEDORN, ERRICHETTI and FORAN

Referred to Committee on Revenue, Finance and Appropriations

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SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
SENATE, No. 719
with committee amendments

STATE OF NEW JERSEY

DATED: MAY 4, 1978

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The language of this current property tax equivalent provision has created a conflict between the host municipality—Newark—and the other constituent municipalities. In particular, the phrase “. . . highest use . . .” has caused the problem. The interpretation and implementation of this provision has placed a value of \$460,000.00 per acre on the land, which would generate, at 1977 tax rates, a property tax payment of \$3.5 million. This value seems inconsistent with the average valuation of contiguous property of \$28,700.00 per acre.

The host municipality—Newark—has attempted to maximize income under this payment requirement resulting in a majority of other constituent municipalities bringing suit to avoid payment, and introduction of a bill effectively repealing the payment requirement.

A compromise position has been developed which has reportedly been agreed to by the parties concerned. This compromise, reflected in committee amendments, is to value the land by multiplying the number of acres involved by the average assessed value of taxable lands contiguous to the exempt land owned by the Passaic Valley Sewerage District. This compromise will provide Newark with reasonable recompense for a nonratable and will protect the other constituent municipalities from the highly subjective land valuation at “highest and best use.”

SENATE COMMITTEE AMENDMENT TO
SENATE, No. 719

STATE OF NEW JERSEY

ADOPTED MAY 4, 1978

Amend page 1, section 1, after line 19, insert as follows:

“Included in the cost of operation shall be an amount to compensate any municipality for the loss of real estate taxes which would be due otherwise on the land exempted from taxation for the location thereon of a sewer plant serving other municipalities. The annual lost real estate taxes shall be calculated by applying the general tax rate of the municipality to the assessed value of the lands so exempted. The assessed value of such exempt lands shall be determined by multiplying the number of acres and the average assessed value per acre of taxable lands contiguous to the exempt land. The moneys received by the commissioners for this purpose shall be paid annually by them to the municipality in which the sewer plant is located.”.

FROM THE OFFICE OF THE GOVERNOR

MARCH 15, 1979

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

PAT SWEENEY

Governor Brendan Byrne today signed A-201 in a public ceremony at Garfield City Hall at 11:30 am.

Sponsored by Assemblyman Richard F. Visotcky (D-Bergen), the bill, for the first time, will produce payments in lieu of taxes for land and improvements owned by the Passaic Valley Sewerage Commission in the City of Newark. Those revenues will be in excess of \$300,000 annually.

The bill amends P.L. 1975, c.254, which assessed the value of the land on the basis of its highest use. Since the participating municipalities challenged the constitutionality of that law, Newark never received funds from the Passaic Valley Sewerage Commission.

A-201 assesses the land at the same value as taxable contiguous land. In addition, according to the bill, the cost of maintenance, repairs and operation of the plant is apportioned to the participating municipalities.

Attending the public bill signing were the Democratic leadership in both the Senate and Assembly; Mayors in the affected area; and members of the Passaic Valley Sewerage Commission.

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