

No. 1982-269

AN ACT

HB 2561

Amending the act of June 26, 1931 (P.L.1379, No.348), entitled, as amended, "An act creating in counties of the second A and third class a board for the assessment and revision of taxes; providing for the appointment of the members of such board by the county commissioners; providing for their salaries, payable by the county; abolishing existing boards; defining the powers and duties of such board; regulating the assessment of persons, property, and occupations for county, borough, town, township, school, and poor purposes; authorizing the appointment of subordinate assessors, a solicitor, engineers, and clerks; providing for their compensation, payable by such counties; abolishing the office of ward, borough, and township assessors, so far as the making of assessments and valuations for taxation is concerned; and providing for the acceptance of this act by cities," providing for the use of actual values in determining the taxability of persons and property.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of June 26, 1931 (P.L.1379, No.348), referred to as the Third Class County Assessment Board Law, is amended by adding a section to read:

Section 1.1. The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Base year." The year upon which real property market values are based for the most recent countywide revision of assessment of real property or other prior year upon which the market value of all real property of the county is based. Real property market values shall be equalized within the county and any changes by the board of assessment appeals shall be expressed in terms of such base year values.

"Board." The board of assessment appeals in counties of the second A and third class.

"Common level ratio." The ratio of assessed value to current market value used generally in the county as last determined by the State Tax Equalization Board pursuant to the act of June 27, 1947 (P.L.1046, No.447), referred to as the State Tax Equalization Board Law.¹

"County commissioners." The board of county commissioners or other similar body in home rule charter counties.

"Established predetermined ratio." The ratio of assessed value to market value established by the board of county commissioners and uniformly applied in determining assessed value in any year.

Section 2. Section 3 of the act, amended October 26, 1972 (P.L.1028, No.253), is amended to read:

Section 3. (a) It shall be the duty of said board, in each county to which this act applies, to make and have supervision of the making of annual assessments of persons, property and occupations now or here-

¹"act of _____, 1982 (P.L. _____, No. _____)" in original.

after made subject to assessment for taxation for county, borough, town, township, school, poor and institution district purposes, and to make and have supervision of listing and valuation of property excluded or exempted from taxation. **[In making assessments of property at less than actual value, it shall accomplish equalization with other properties within the taxing district.]** The making of triennial assessments as provided by existing law is hereby abolished.

(b) With reference to land that is subject to a restrictive covenant under the provisions of the act of January 13, 1966 (1965 P.L.1292, No.515), entitled "An act enabling certain counties of the Commonwealth to covenant with land owners for preservation of land in farm, forest, water supply, or open space uses," the board shall determine the actual value with the restrictive covenant attached and the assessment shall be based thereon. The board shall also determine the actual value without the restrictive covenant and upon violation of the covenant the assessment shall be based thereon.

Section 3. Section 6 of the act, amended September 19, 1961 (P.L.1509, No.640), is amended to read:

Section 6. (a) The subordinate assessors shall make the annual **[assessment] valuation** of all property and persons, taxable upon occupations, subject to assessment for taxation for aforesaid purposes, together with a list of all persons subject to a school per capita tax or a poll tax, within their respective districts, and, in so doing, shall view all properties in their district taxable for said purposes**[, and in assessing such properties at less than actual value, shall accomplish equalization with other properties within the taxing district]**. They shall make a personal house to house canvass for their district, in order that the lists of persons taxable upon occupation or subject to a school per capita tax or poll tax may be accurate and correct insofar as it is possible to make them. They shall also have and possess, except as modified by this act, the same powers and perform the same duties and be subject to the same liabilities as are now or shall hereafter be conferred or imposed upon borough, ward, town, and township assessors with respect to making **[assessments and]** valuations for taxation purposes. All such assessors who shall fail to make **[assessments] valuations** and lists in the manner herein provided shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars, and, in default of the payment of such fine and costs, to undergo an imprisonment not exceeding ninety days.

(b) Notwithstanding any other provisions of this act, any county of the fifth class the classification of which has been ascertained according to its population by reference to the last preceding decennial United States census, and certified and recorded pursuant to section 211 of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," to be advanced in classification to a county of the third class, shall continue to operate a tax assessment system under the provisions of the act of May 21, 1943 (P.L.571, No.254), known as "The Fourth to Eighth Class County Assessment Law," and continue the permanent

system of records, including tax maps of the entire county, property record cards, and property owner's index and continue to take into consideration the value of property as indicated by the use of said permanent system of records, cost, charts and land values applied on the basis of zones and districts as well as the price for which property would bonafidely sell in accordance with the requirements of the act of May 21, 1943 (P.L.571, No.254), known as "The Fourth to Eighth Class County Assessment Law," as amended.

Section 4. Sections 7 and 8 of the act, amended October 5, 1978 (P.L.1143, No.270), are amended to read:

Section 7. (a) The said board shall, on or before the first day of July, examine and revise the said annual assessments and valuations, increasing or decreasing the same as in their judgment may seem proper, and shall add thereto and assess such property or persons taxable upon occupations as may have been omitted, and may also add thereto the names of any persons subject to a school per capita tax or poll tax as may have been omitted; and such added assessments may be used for the taxation of the property and persons for the following calendar and fiscal tax years for which the assessment roll is being prepared, for the current year and for the preceding three years if there was liability for such taxes under existing law.

(b) The board shall, on or before the fifteenth day of July, prepare an assessment roll or list of persons and property subject to local taxation, together with the value placed upon each person and each parcel or tract of real property. The board shall at the same time prepare a list of all property exempted by law from taxation.

(c) *The board shall assess real property at a value based upon an established predetermined ratio which may not exceed one hundred percent of actual value. Such ratio shall be established and determined by the board of county commissioners after proper notice has been given. In arriving at actual value the county may utilize the current market value or it may adopt a base year market value.*

(d) *In arriving at actual value, the price at which any property may actually have been sold, either in the base year or in the current taxable year, shall be considered but shall not be controlling. Instead such selling price, estimated or actual, shall be subject to revision by increase or decrease to accomplish equalization with other similar property within the taxing district. In arriving at the actual value, all three methods, namely, cost (reproduction or replacement, as applicable, less depreciation and all forms of obsolescence), comparable sales and income approaches, must be considered in conjunction with one another.*

(e) *The board shall apply the established predetermined ratio to the actual value of all real property to formulate the assessment roll.*

(f) The board is authorized to make additions and revisions to the assessment roll of persons and property subject to local taxation at any time in the year, so long as the notice provisions of subsection (b) of section 8 are complied with. All additions and revisions shall be a supplement to the assessment roll for levy and collection of taxes for the tax

year for which the assessment roll was originally prepared, in addition to being added to the assessment roll for the following calendar or fiscal tax years.

Section 8. (a) The assessment roll shall be open to public inspection at the office of the board at the county seat during ordinary business hours of each business day from the time of completion to and including the last day of October. Within fifteen days of completion of the assessment roll, the board shall give notice by publication once in one or more newspapers published in the county that such assessment roll has been completed and the place and times when such roll will be open for inspection, and shall, in the same notice, state that any person desiring to appeal from any assessment shall file with the board, on or before the first day of September, an appeal, in writing, designating the assessment appealed from.

(b) The board shall cause to be mailed to each owner of property or person assessed and taxing district having any interest therein, the value of whose property or personal assessment has not theretofore been separately fixed or the value of whose property or personal assessment has been changed from that finally fixed in the preceding assessment roll *or when the established predetermined ratio has been changed within the county*, at his last known address, a notice of such change and the amount of the old assessment, *valuation and ratio*, if the property or personal assessment was previously separately assessed, and the amount of the new assessment, *valuation and ratio*. Such notice shall be mailed within five days from the date the board made such change or added said property to the roll and shall state that any person aggrieved by any assessment and the said taxing districts may appeal to the board for trial by filing with the board, within forty days of the date of such notice, an appeal, in writing, designating the assessment or assessments by which such person is aggrieved and the address to which notice of the time and place for a hearing of the appeal shall be mailed.

(c) Any person aggrieved by any assessment, whether or not the value thereof shall have been changed since the preceding annual assessment, or any taxing district having an interest therein, may appeal to the board for relief. Any person or such taxing district desiring to make an appeal shall, on or before the first day of September, file with the board an appeal, in writing, setting forth:

(1) The assessment or assessments by which such person feels aggrieved;

(2) The address to which the board shall mail notice of the time and place of hearing.

For the purpose of assessment appeals under this act, the term "person" shall include, in addition to that provided by law, a group of two or more persons acting on behalf of a class of persons similarly situated with regard to the assessment.

(d) The board shall meet for the hearing of appeals and shall continue to meet for such purpose from time to time until all appeals have been heard and acted upon. The board shall have the power to compel

the attendance of witnesses and the furnishing of documents. All appeals other than appeals brought under subsection (b) of this section shall be heard and acted upon not later than the last day of October. When an appeal has been filed, the board shall notify each person and each taxing district having an interest therein of the time and place of hearing on said appeal by depositing such notice in the mail addressed to such person at the address designated in the appeal not later than the twentieth day preceding the day designated in the notice for such appearance. Any person or such taxing district who shall fail to appear for hearing at the time fixed shall be presumed to have abandoned his appeal.

(d.1) In any appeal of an assessment the board shall make the following determinations:

(1) The current market value for the tax year in question.

(2) The common level ratio.

(d.2) The board, after determining the current market value of the property for the tax year in question, shall then apply the established predetermined ratio to such value unless the common level ratio varies by more than fifteen percent from the established predetermined ratio, in which case the board shall apply the common level ratio to the current market value of the property for the tax year in question.

(d.3) Nothing herein shall prevent any appellant from appealing any base year valuation without reference to ratio.

(d.4) When the board has completed the hearing of appeals and has in each case entered its order it shall make such changes in the assessment roll as will make it conform to such orders.

(e) The board shall prepare three copies of the assessment roll and deliver them on or before the fifteenth day of November with its certificate that they are a true copy of the original assessment roll to the following:

(1) One copy to the chief clerk of the county commissioners;

(2) One copy of such portion of the roll as contains the assessment of persons or property within each school district to the secretary of the board of school directors of the respective school district; and

(3) One copy of such portion of the roll as contains the assessment of persons or property within each city accepting the provisions of this act, borough, town or township, to the respective city clerk, borough secretary, town clerk or secretary, or township secretary. All copies of such roll so furnished shall for all purposes be considered as originals. The original assessment roll and the true copies may be corrected, amended or changed after the fifteenth day of November as circumstances may require. The said copies, in addition to the information required to be shown on the original assessment roll, shall provide space to the right of each assessment for the entry of all taxes which may be levied thereon by the respective political subdivisions. The original assessment roll as corrected shall be preserved in the office of the chief assessor or of the board and shall be open to public inspection, subject to such regulations as the board may prescribe for the preservation and safekeeping of such roll.

(f) On or before the fifteenth day of November, the board shall

certify to the clerk or secretary of each political subdivision coming within the scope of this act within the county, the *assessed* value of real property, the value of occupations, and the number of persons subject to personal taxes appearing in the assessment roll and taxable by the respective political subdivisions.

(g) Notwithstanding any other provision of this section, when any county proposes to institute a countywide revision of assessments upon real property, the following notice requirements and appeal process shall be followed:

(1) All property owners shall be notified by mail at their last known address of the value of the new assessment and the value of their old assessment.

(2) All property owners shall have the right to appeal any new assessment value within thirty days of receipt of notice and each notice shall so state.

(3) The board shall mail all notices on or before the first day of July. The board at its discretion may commence with the hearing of appeals thirty days following the mailing of the initial notices of reassessment.

(4) The board shall notify each person and each taxing district having an interest therein, who has filed an appeal, of the time and place of hearing on said appeal by depositing such notice in the mail addressed to such person at the address designated in the appeal not later than the twentieth day preceding the day designated in the notice for such appearance. Any person or such taxing district who shall fail to appear for hearing at the time fixed shall be conclusively presumed to have abandoned his appeal unless said hearing date is re-scheduled by the mutual consent of the property owner and the board.

(5) On or before the fifteenth day of November, the board shall certify to the clerk or secretary of each political subdivision coming within the scope of this act within the county, the value of real property, the value of occupations, and the number of persons subject to personal taxes appearing in the assessment roll and taxable by the respective political subdivisions.

(6) All appeals shall be heard and acted upon by the board by not later than the last day of October.

Section 5. Section 9 of the act, amended August 5, 1977 (P.L.182, No.48), repealed in part April 28, 1978 (P.L.202, No.53), amended July 13, 1979 (P.L.114, No.45) and repealed in part October 5, 1980 (P.L.693, No.142), is amended to read:

Section 9. [(a) In the case of real property, the court shall determine, from the evidence submitted at the hearing, what ratio of assessed value to actual value was used generally in the taxing district, and the court shall direct the application of the ratio so found to the value of the property which is the subject matter of the appeal, and such shall be the assessment.]

(a) *In any appeal of an assessment the court shall make the following determinations:*

(1) *The current market value for the tax year in question.*

(2) *The common level ratio.*

(a.1) *The court, after determining the current market value of the property for the tax year in question, shall then apply the established predetermined ratio to such value unless the common level ratio varies by more than fifteen percent from the established predetermined ratio, in which case the court shall apply the common level ratio to the current market value of the property for the tax year in question.*

(a.2) *Nothing herein shall prevent any appellant from appealing any base year valuation without reference to ratio.*

(b) In any appeal by a taxable from an action by the board, the board shall have the power and duty to present a prima facie case in support of its assessment, to cross-examine the taxable's witnesses, to discredit or impeach any evidence presented by the taxable, to prosecute or defend an appeal in any appellate court, and to take any other necessary steps to defend its valuation[, assessment] and assessment [ratio].

(c) If a taxpayer has filed an appeal from an assessment, so long as the appeal is pending before the board or before a court on appeal from the determination of the board, as provided by statute, the appeal will also be taken as an appeal by the taxpayer on the subject property for any valuation for any assessment subsequent to the filing of such appeal with the board and prior to the determination of the appeal by the board or the court. This provision shall be applicable to all pending appeals as well as future appeals.

Section 6. Section 19 of the act, amended November 24, 1967 (P.L.538, No.263), is amended to read:

Section 19. (a) Any city in any county wherein such a board is created under this act may become subject to the provisions of this act, and the mayor and council of any such city may effect the same by an ordinance duly passed. A copy of such ordinance, approved by the mayor and duly certified, accompanied by a statement of the vote thereon with the names of the members of council voting for and against such ordinance, shall be forwarded to and filed in the office of the Secretary of the Commonwealth, and, when so filed, the Governor shall, under the great seal of the Commonwealth, certify the acceptance of the provisions of this act, which certificate shall be recorded among the minutes of the council and in the office for the recording of deeds in the proper county.

(b) From the date of the completion of such acceptance, the assessment of property in such city for city and school purposes shall be done only in accordance with the provisions of this act and by the officers designated in this act: Provided, That if a city in accepting the provisions of this act elects by ordinance to adopt [a] *an established* predetermined ratio different from that used by the county, then the city shall apply the ratio selected to the [market] *actual* valuation supplied by the county to determine assessed value for tax purposes. The *established* predetermined ratio selected by the city, if different from the ratio selected by the county, may be set at any value up to and including the [market] *actual* valuation supplied by county.

(c) Whenever any city accepts the provisions of this act, all the provisions thereof, including the right to appeal from assessments as provided for other municipal districts, shall apply to such city.

Section 7. This act shall apply to appeals initiated after January 1, 1983.

Section 8. This act shall take effect immediately.

APPROVED—The 13th day of December, A. D. 1982.

DICK THORNBURGH