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1983

PUBLIC HEARING

before

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS COMMITTEE

on

ASSEMBLY CONCURRENT RESOLUTION NO. 12 OCR Aa

(Do you approve the amendment to the Constitution of the State of New Jersey, agreed to by the Legislature, providing that the Legislature may, by law, permit a surviving spouse to receive the veterans real and personal property tax deductions?)

Held:  
March 14, 1983  
Room 348  
State House Annex  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Robert C. Janiszewski, Chairman  
Assemblywoman Catherine A. Costa  
Assemblyman Francis J. Gorman  
Assemblyman Richard Van Wagner  
Assemblyman John S. Watson  
Assemblywoman Leanna Brown  
Assemblyman C. William Haines  
Assemblyman Chuck Hardwick  
Assemblyman Walter J. Kavanaugh  
Assemblyman Karl Weidel

ALSO PRESENT:

William D. Zuzzio, Supervisor  
Office of Legislative Services  
Aide, Assembly Revenue, Finance  
and Appropriations Committee

\* \* \* \* \*

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# I N D E X

	<u>Page</u>
Assemblywoman Catherine A. Costa District 7	1
Louis Medved	1
Alma L. Saravia Executive Director Commission on Sex Discrimination in the Statutes	2
John Baldwin Acting Director Division of Taxation	2

MJZ: 1-5

[SECOND OFFICIAL COPY REPRINT]  
ASSEMBLY CONCURRENT RESOLUTION No. 12

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Assemblywoman COSTA, Assemblymen HOLLENBECK, DEV-  
ERIN, LESNIAK, Assemblywoman KALIK, Assemblymen  
SCHWARTZ, JANISZEWSKI and ROD

A CONCURRENT RESOLUTION proposing an amendment to paragraph  
3 of Section I of Article VIII of the Constitution of the State  
of New Jersey.

1 BE IT RESOLVED *by the General Assembly of the State of New*  
2 *Jersey (the Senate concurring):*

1 1. The following proposed amendment to the Constitution of  
2 the State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 Amend Article VIII, Section I, paragraph 3 to read as follows:  
4 3. Any citizen and resident of this State now or hereafter hon-  
5 orably discharged or released under honorable circumstances from  
6 active service, in time of war or other emergency as, from time to  
7 time, defined by the Legislature, in any branch of the Armed Forces  
8 of the United States shall be entitled, annually to a deduction from  
9 the amount of any tax bill for taxes on real and personal property,  
10 or both, in the sum of \$50.00 or if the amount of any such tax bill  
11 shall be less than \$50.00, to a cancellation thereof, which deduction  
12 or cancellation shall not be altered or repealed. Any person here-  
13 inabove described who has been or shall be declared by the United  
14 States Veterans Administration, or its successor, to have a service-  
15 connected disability, shall be entitled to such further deduction  
16 from taxation as from time to time may be provided by law. The  
17 \***[widow or widower]**\* *\*surviving spouse\** of any citizen and resi-  
18 dent of this State who has met or shall meet his *or her* death on

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

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Assembly committee amendments adopted February 14, 1983.

\*\*—Assembly amendments adopted February 28, 1983.

19 active duty in time of war or of other emergency as so defined in  
 20 any such service shall be entitled, during her widowhood *or his*  
 21 *widowerhood, as the case may be*, and while a resident of this State,  
 22 to the deduction or cancellation in this paragraph provided for  
 23 honorably discharged veterans and to such further deduction as  
 24 from time to time may be provided by law. The \***[widow or**  
 25 **widower]**\* *\*surviving spouse\** of any citizen and resident of this  
 26 State who has had or shall hereafter have active service in time of  
 27 war or of other emergency as so defined in any branch of the Armed  
 28 Forces of the United States and who died or shall die while on  
 29 active duty in any branch of the Armed Forces of the United States,  
 30 or who has been or may hereafter be honorably discharged or  
 31 released under honorable circumstances from active service in  
 32 time of war or of other emergency as so defined in any branch of  
 33 the Armed Forces of the United States shall be entitled, during  
 34 her widowhood *or his widowerhood, as the case may be*, and while  
 35 a resident of this State, to the deduction or cancellation in this  
 36 paragraph provided for honorably discharged veterans and to such  
 37 further deductions as from time to time may be provided by law.

1 2. When this proposed amendment to the Constitution is finally  
 2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,  
 3 it shall be submitted to the people at the next general election  
 4 occurring more than 3 months after such final agreement and shall  
 5 be published at least once in at least one newspaper of each county  
 6 designated by the President of the Senate and the Speaker of the  
 7 General Assembly and the Secretary of State, not less than 3  
 8 months prior to said general election.

1 3. This proposed amendment to the Constitution shall be sub-  
 2 mitted to the people at said election in the following manner and  
 3 form:

4 There shall be printed on each official ballot to be used at such  
 5 general election, the following:

6 a. In every municipality in which voting machines are not used,  
 7 a legend which shall immediately precede the question, as follows:

8 If you favor the proposition printed below make a cross (X),  
 9 plus (+) or check (✓) in the square opposite the word "Yes."  
 10 If you are opposed thereto make a cross (X), plus (+) or check  
 11 (✓) in the square opposite the word "No."

- 12 b. In every municipality the following question:

	Yes.	ALLOWS A <b>**[WIDOWER]**</b> <i>**surviving spouse**</i> TO RECEIVE THE VETERANS REAL AND PERSONAL PROPERTY TAX DEDUCTION
	No.	Do you approve of the amendment to the Constitution of the State of New Jersey which entitles a <b>**[widower]**</b> <i>**surviving spouse**</i> of a veteran to receive the veterans real and personal property tax deduction?



**ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE**

**STATEMENT TO  
ASSEMBLY CONCURRENT RESOLUTION No. 12**  
with committee amendments

**STATE OF NEW JERSEY**

**DATED: FEBRUARY 14, 1983**

At present, Article VIII, Section I, paragraph 3 entitles the widow of a veteran to receive a deduction from the amount of any tax bill for taxes on real or personal property in the sum of \$50.00 upon the death of the veteran so long as the widow remains unmarried and a resident of New Jersey. This legislation proposes an amendment to the State Constitution to extend this same benefit to the widower of a veteran.

**COMMITTEE AMENDMENTS**

Committee amendments, adopted at the suggestion of the Division of Taxation, insert the term "surviving spouse" in place of "widow or widower".





ASSEMBLYMAN ROBERT C. JANISZEWSKI (CHAIRMAN): Will the Committee members take their seats, please? The first thing the Committee will do, is perform its function as a vehicle through which public hearings are held. From this Committee, we previously released ACR No. 12, and we are first going to hold a public hearing on that. Anyone interested in speaking on that will be called forward. Then we will move toward the normal Committee agenda, copies of which are available on this table here. If there is anyone who wishes to speak on any matter which is on the agenda, we would appreciate it if you would fill out a witness slip, copies of which are also on the table here, so that at the appropriate time, and given the bill that is under discussion at that point, you may be called upon by the Chair to speak.

So, with that, we will announce that this is a public hearing on Assembly Concurrent Resolution No. 12. The public hearing is being held by the Assembly Revenue, Finance and Appropriations Committee, in compliance with the requirements of the State Constitution, as so ordered by the New Jersey General Assembly. Assembly Concurrent Resolution No. 12 proposed an amendment to the Constitution of the State of New Jersey providing that the Legislature may, by law, permit a surviving spouse to receive the veterans real and personal property tax deduction. The hearing is being held in this State, Room 348, State House Annex, Trenton. The sponsor of that concurrent resolution is present, and is also a member of the Committee, Assemblywoman Costa. The Chair will first entertain, for the purposes of the public hearing, comments by the sponsor. Assemblywoman Costa.

A S S E M B L Y W O M A N C A T H E R I N E A. C O S T A: Thank you, Mr. Chairman. This resolution is something that I think was not looked into at the time it was made into law and it is, to put it mildly, a sexist resolution, stating, "the widows," and I am sure the Legislature meant to put both male and female as being able to take advantage of this deduction. But, we have other people from the public who would like to speak on it.

ASSEMBLYMAN JANISZEWSKI: The Chair has received two requests -- one request actually to speak on this particular thing, but I know a person who is in the audience who has been a shepherd of this particular proposal. Mr. Medved, if you care to be heard on this particular thing, I would like to ask you to step forward. I will make sure that the staff has a chair available at the witness table, some member of the audience having borrowed it for a time. (laughter) Thank you, Assemblyman Deverin.

L O U I S M E D V E D: Thank you, Mr. Chairman. Catherine has covered it pretty well. I just want to mention the fact that it is the wording; it deals with semantics. By clarifying that in the language of the bill, you will preclude veterans being shunted aside from receiving the benefits that were originally intended by law to provide for veterans, benefits where a veteran dies due to service-connected causes. In the wording of Assembly Concurrent Resolution No. 12, on the voting block, if that will be corrected to reflect "spouse," instead of "widower," I think that will solve the problem.

ASSEMBLYMAN JANISZEWSKI: That is correct. Assemblywoman Costa sponsored a floor amendment, which was adopted on February 28, which changed the word "widower" within the context of the language to "surviving spouse" in the voting box as we had previously talked about, the Committee having previously amended the body of the bill to reflect "surviving spouse" as opposed to "widower." So, those amendments having been accomplished, Mr. Medved, I think the bill now

reflects the intent of the sponsor, whether it be in the body or in the box containing the question for purposes of the ballot.

MR. MEDVED: Thank you, Mr. Chairman.

ASSEMBLYMAN JANISZEWSKI: Mr. Medved, thank you very much. Also having requested to speak on this, Alma Saravia, from the Commission on Sex Discrimination in the Statutes.

A L M A L. S A R A V I A: Thank you, Mr. Chairman. I have a brief statement. I am Alma Saravia, Executive Director of the Commission on Sex Discrimination in the Statutes. I am here this morning on behalf of the Commission and Senator Wynona Lipman, Chairwoman of the Commission.

We have reviewed both the constitutional and statutory provisions authorizing a tax deduction on real property owned by the widow of any citizen or resident of New Jersey who met his death during the time of active duty or during her widowhood, and we feel that the current provision is discriminatory and that a strong, equal protection argument can be made that this benefit should be extended to include not only the widow, but the widower of a surviving spouse. We commend Assemblywoman Costa for putting forth this Assembly Concurrent Resolution, and we commend the Committee for releasing it. Thank you.

ASSEMBLYMAN JANISZEWSKI: Thank you very much. Are there any other speakers from the public who wish to be heard on ACR No. 12? (no response) For the purposes of the record, I would like to ask the Division of Taxation members who are present, as I know they usually are, to comment with regard to the fiscal impact that ACR No. 12 may have, insofar as deduction applicability and financial impact on the State are concerned. Are the members of the Division present who have such information?

J O H N B A L D W I N: Yes, Mr. Chairman. My name is John Baldwin. I am Acting Director of the Division of Taxation. We do not think the fiscal impact of this would be very great. We are a little bit concerned about what appears to be a conflict between the ACR and the proposed enabling legislation, Senate Bill 1338. Whereas the ACR addresses itself to the question of veterans, it does not speak to disabled veterans; the enabling legislation does. There is an apparent conflict, and we haven't totally sorted it out, to be perfectly honest with you.

ASSEMBLYMAN JANISZEWSKI: Well, at this point, the Committee has but a hearing jurisdiction, as opposed to an amendatory function with regard to the ACR. It may subsequently be amended by floor action, I would suspect, and/or a separate piece of legislation. We do have before us, Senate Bill 1338. The Committee, if I recall correctly, also passed on legislation, also under Assemblywoman Costa's sponsorship, not the question itself, but rather effectuating legislation as well. I do not know if that has been reviewed and has similar problems, or if perhaps it is more reflective of the ACR. I don't know.

MR. BALDWIN: We have not analyzed that. We are not opposed to, you know, releasing this back to the floor at this juncture. It may be that we will come back with an amendment at that time -- or a recommended amendment.

ASSEMBLYMAN JANISZEWSKI: All right. We will be anticipating then, some further commentary from the Division with regard to this prior to final adoption. Thank you very much. Is there anyone else who wishes to be heard on ACR No. 12?

ASSEMBLYMAN WEIDEL: Mr. Chairman, before Mr. Baldwin leaves --

ASSEMBLYMAN JANISZEWSKI: Mr. Baldwin.

ASSEMBLYMAN WEIDEL: I am very interested in the disabled veterans' section of this. Now, there is a conflict. Do we have to have another public hearing on this enabling legislation? Is there any way that we can, at this hearing, coincide with Mrs. Costa's resolution? We can't amend?

ASSEMBLYMAN JANISZEWSKI: No, the Committee would be beyond its jurisdictional scope to amend this during the course of a public hearing. We had that opportunity as a Committee, at which time this problem was not brought to our attention.

ASSEMBLYMAN WEIDEL: How can we have a floor amendment of something that is already passed?

ASSEMBLYMAN JANISZEWSKI: We would have to then, if amended, again lay on the desk and, again, hold a public hearing.

ASSEMBLYMAN KAVANAUGH: What is the time frame?

ASSEMBLYMAN JANISZEWSKI: Twenty days. Well, for laying on the desk, it would be twenty days, but this would be possibly a question on the ballot in November. So, we have adequate time to perform that function. Thank you, Assemblyman Weidel. Is there anyone else who wishes to be heard on ACR No. 12? Mr. Medved?

MR. MEDVED: I'm not too clear on what the gentleman just said.

ASSEMBLYWOMAN COSTA: I'm not too clear on that either.

MR. MEDVED: What seems to be the conflict? I can't quite grasp this.

ASSEMBLYMAN WEIDEL: We have enabling legislation, sir, which is Senate Bill 1338, which would supplement ACR No. 12. But, 1338 is different. It says, "spouses of disabled veterans and widows of deceased veterans." This amendment doesn't say anything -- this ACR No. 12 does not address wives of disabled veterans; it just addresses wives of deceased veterans.

ASSEMBLYWOMAN COSTA: No.

MR. MEDVED: No, that is not my understanding.

ASSEMBLYMAN WEIDEL: That is the comment from the Chair.

MR. MEDVED: The change to ACR No. 12, the change to the Constitution will reflect the spouse of a deceased veteran, the surviving spouse of a deceased veteran. That is a change to the Constitution.

ASSEMBLYMAN WEIDEL: Following this further then, you have to have a bill which would be enabling legislation to the Constitutional change. This one is tracking along, the way I understand it, right behind ACR No. 12, and the bill itself says, "spouses of disabled veterans," which is different than ACR No. 12. That is what it says. Then, you have to amend --

ASSEMBLYWOMAN COSTA: Mr. Chairman?

ASSEMBLYMAN JANISZEWSKI: Assemblywoman Costa.

ASSEMBLYWOMAN COSTA: I believe the Constitution already states "disabled." The only thing that is different here is changing the wording from "widows" to "spouses." That is the only change. The other language is already in. I don't see why anything further should have to happen.

ASSEMBLYMAN WEIDEL: I am not trying to argue with you.

ASSEMBLYWOMAN COSTA: I know that. I don't see why --

ASSEMBLYMAN WEIDEL: I'm just trying to get it straight.

ASSEMBLYWOMAN COSTA: Thank you, Karl.

ASSEMBLYMAN WEIDEL: How can the Constitution refer -- Do you mean to tell me that now we give benefits to spouses of disabled veterans?

ASSEMBLYWOMAN COSTA: The way it is written, it says "widows."

ASSEMBLYMAN JANISZEWSKI: The change, as Assemblywoman Costa points

out, appears -- If you refer to ACR No. 12 on the front, you can see by italics where the change would be, changing the term "widow" to "surviving spouse," which would include widow or widower. The balance --

ASSEMBLYMAN VAN WAGNER: It's a generic change.

ASSEMBLYMAN JANISZEWSKI: The balance of the statute appears as it is presently written, with the exception of the italics.

ASSEMBLYMAN KAVANAUGH: Mr. Chairman, if you are a disabled veteran, you are a veteran, so you are just talking semantics here.

ASSEMBLYMAN JANISZEWSKI: Exactly.

ASSEMBLYMAN KAVANAUGH: In fact, I think that Assemblywoman Costa is correct in her opinion. The only thing is, with Saxton's bill, he has something in there that is not grammatically, or --

ASSEMBLYMAN JANISZEWSKI: Generically correct, really.

ASSEMBLYMAN KAVANAUGH: Generically correct. Just amend that, and it makes everything proper.

ASSEMBLYMAN JANISZEWSKI: If I am not mistaken, Mr. Baldwin's point is that in a technical sense, there may be an inconsistency which may need to be addressed. Is that correct, Mr. Baldwin?

MR. BALDWIN: That is right. "May" is the operative word. It may not need to be addressed.

ASSEMBLYMAN JANISZEWSKI: That is a question they are looking at at the moment.

MR. BALDWIN: I would like to make one thing very clear for the record. The Division is not opposing this. We are trying to avoid technical problems with all of this intent down the road.

ASSEMBLYMAN KAVANAUGH: Couldn't counsel advise us on this, Mr. Chairman?

ASSEMBLYMAN WEIDEL: Why doesn't the Division advise us as quickly as possible, through you, Mr. Chairman?

ASSEMBLYMAN JANISZEWSKI: Yes.

ASSEMBLYMAN WEIDEL: That should be your instructions to Mr. Baldwin.

ASSEMBLYMAN JANISZEWSKI: All right. I thought I had suggested that a little bit earlier. Mr. Baldwin, I would appreciate it if you would get back, through the Chair, to the Committee on this subject as rapidly as possible.

Mr. Medved, thank you very much.

MR. MEDVED: May I just expand on this? Senate Bill 1338 deals with the current law that is on the books. That is 54:4-3.30. That bill dealt with providing tax exemptions to disabled -- to the widows of disabled veterans who are deceased. It was that wording that precipitated all this new legislation to eliminate and correct that, because when it goes to tax court, the lawyers get ahold of it, and they say, "Well, wait awhile, it only says 'widow,' it doesn't say 'widower.'" Then, when you have a female veteran, she suddenly becomes a second-class veteran, a second-class citizen, and she cannot pass her benefits on to her spouse. This is what we are trying to rectify. So I, as a veteran, and as the spouse of a veteran -- my wife is deceased -- suddenly in court they found a loop-hole here and said, "Well, you may be a veteran, and your wife was a veteran, but you are not a widow. So, consequently, you are not entitled to it." This is what we are trying to correct, so that if it ever goes back to court, we won't run into this problem again, because it was approved at the county tax board, but then was

denied in the tax court. The law itself is just changing -- As Assemblyman Van Wagner indicated, we are dealing with semantics. We have to correct the wording so there won't be any question when it goes to tax court. I hope I made my point clear on that.

ASSEMBLYMAN JANISZEWSKI: Thank you. Is there any other testimony to be heard on ACR No. 12? (no response)

ASSEMBLYWOMAN COSTA: Mr. Chairman, does that clarify the situation, because it is already in the initial legislation?

ASSEMBLYMAN JANISZEWSKI: Well, it does to a degree, but, again, Mr. Baldwin will be looking toward any particular technical conflict that may appear and, if so, he will so advise the Committee. Even were we to discover factually that a technical flaw was contained within ACR No. 12, the Committee would be powerless to act on it today in any event. So, given that caveat and Mr. Baldwin's promise to provide the Chair information for the Committee on the subject of these two bills, and seeing no further commentary to be put forward on ACR No. 12 at this point, I will close the public hearing on ACR No. 12 and direct it be laid on the desk. Thank you.

(HEARING CONCLUDED)

