

P U B L I C   H E A R I N G

before

ASSEMBLY TAXATION COMMITTEE

on

ACR NO. 109 (Amending Constitution to provide  
homestead tax rebate or credit for senior citizens,  
disabled citizens and their surviving spouses)

and

ACR NO. 130 (Amending Article VIII, Section I,  
paragraph 4 of the Constitution to extend tax  
deduction to persons who occupy real property  
under a life estate or lease for 99 years or  
longer)

Held:

June 28, 1976

Assembly Chamber

State House

Trenton, New Jersey

COMMITTEE MEMBERS PRESENT:

Assemblyman Richard Van Wagner (Chairman)

Assemblyman John H. Dorsey

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ASSEMBLY CONCURRENT RESOLUTION No. 109

STATE OF NEW JERSEY

INTRODUCED MAY 24, 1976

By Assemblymen HAMILTON, VAN WAGNER, KEAN and BROWN

Referred to Committee on Taxation

A CONCURRENT RESOLUTION proposing to amend Article VIII, Section I, paragraph 5 to provide a homestead tax rebate or credit for senior citizens, disabled citizens and their surviving spouses under certain circumstances.

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

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

PROPOSED AMENDMENT

3 Amend Article VIII, Section I, paragraph 5 of the Constitution  
4 as follows:

5 5. The Legislature may adopt a homestead statute which entitles  
6 homeowners, residential tenants and net lease residential tenants  
7 to a rebate or a credit of a sum of money related to property taxes  
8 paid by or allocable to them at such rates and subject to such limits  
9 as may be provided by law. *Such rebates or credits may include*  
10 *a differential rebate or credit to citizens and residents who are of*  
11 *the age of 65 or more years, or less than 65 years of age who are*  
12 *permanently and totally disabled according to the provisions of*  
13 *the Federal Social Security Act, or are 55 years of age or more*  
14 *and the surviving spouse of a deceased citizen or resident of this*  
15 *State who during his lifetime received, or who, upon the adoption*  
16 *of this amendment and the enactment of implementing legislation,*  
17 *would have been entitled to receive a rebate or credit related to*  
18 *property taxes.*

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

6 county designated by the President of the Senate and the Speaker  
 7 of the General Assembly and the Secretary of State not less than  
 8 3 months prior to said general election.

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

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

6 1. 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  
 11 check (✓) in the square opposite the word "No."

12 2. In every municipality the following question:

	Yes.	CONSTITUTIONAL AMENDMENT RELATING TO HOMESTEAD REBATES OR CREDITS FOR SENIOR CITIZENS, DISABLED PERSONS OR THEIR SURVIVING SPOUSES.
	No.	Shall the amendment to Article VIII, Section I, paragraph 5 of the Constitu- tion, agreed to by the Legislature provid- ing a differential homestead rebate or credit to senior citizens, disabled citizens or their surviving spouses be adopted?

STATEMENT

The purpose of this amendment is to provide for a differential homestead rebate or credit on property taxes for senior citizens, disabled persons or their surviving spouses. The senior citizen and disabled homestead rebate or credit, under this amendment, follows the person who otherwise qualifies.

This Constitutional Amendment is designed to eliminate questions of interpretation of the language granting differential homestead tax rebates or credits for senior citizens, the disabled and surviving spouses which have arisen by virtue of a recent opinion of the Attorney General which seriously affects the application of differential homestead exemptions for senior citizens presently provided for in Assembly Committee Substitute, Official Copy Reprint, for Assembly Bill No. 1330 of 1976 now pending before the Legislature.

**ASSEMBLY CONCURRENT RESOLUTION No. 130**

**STATE OF NEW JERSEY**

INTRODUCED FEBRUARY 3, 1976

By Assemblymen HURLEY, CHINNICI, SNEDEKER,  
SAXTON and WEIDEL

Referred to Committee on Taxation

A CONCURRENT RESOLUTION proposing to amend Article VIII,  
Section I, paragraph 4 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 New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 Amend Article VIII, Section I, paragraph 4 of the Constitution:

4 4. The Legislature may, from time to time, enact laws granting  
5 an annual deduction from the amount of any tax bill for taxes on  
6 the real property of any citizen and resident of this State of the age  
7 of 65 or more years, or any citizen and resident of this State less  
8 than 65 years of age who is permanently and totally disabled  
9 according to the provisions of the Federal Social Security Act,  
10 residing in a dwelling house owned by him which is a constituent  
11 part of such real property or in a dwelling house erected at his  
12 own expense or at that of one of his predecessors in title on land  
13 occupied under a life estate or a lease for 99 years or longer which  
14 is a constituent part of such real property, but no such deduction  
15 shall be in excess of \$160.00 and such deduction shall be restricted  
16 to owners having an income not in excess of \$5,000.00 per year  
17 exclusive of benefits under any one of the following:

18 a. The Federal Social Security Act and all amendments and  
19 supplements thereto;

20 b. Any other program of the Federal Government or pursuant  
21 to any other Federal law which provides benefits in whole or in  
22 part in lieu of benefits referred to in, or for persons excluded from

23 coverage under, a. hereof including but not limited to the Federal  
24 Railroad Retirement Act and Federal pension, disability and re-  
25 tirement programs; or

26 c. Pension, disability or retirement programs of any state or  
27 its political subdivisions, or agencies thereof, for persons not  
28 covered under a. hereof;

29 provided, however, that the total amount of benefits to be allowed  
30 exclusion by any owner under b. or c. hereof shall not be in excess  
31 of the maximum amount of benefits payable to, and allowable for  
32 exclusion by, an owner in similar circumstances under a. hereof.

33 The surviving spouse of a deceased citizen and resident of this  
34 State who during his or her life received a real property tax deduc-  
35 tion pursuant to this paragraph shall be entitled, so long as he or  
36 she shall remain unmarried and a resident in the same dwelling  
37 house with respect to which said deduction was granted, to the  
38 same deduction, upon the same conditions, with respect to the same  
39 real property, notwithstanding that said surviving spouse is under  
40 the age of 65 and is not permanently and totally disabled, provided  
41 that said surviving spouse is 55 years of age or older.

42 Any such deduction when so granted by law shall be granted so  
43 that it will not be in addition to any other deduction or exemption to  
44 which the said citizen and resident may be entitled, but said citizen  
45 and resident may receive in addition any homestead rebate or  
46 credit provided by law. The State shall annually reimburse each  
47 taxing district in an amount equal to one-half of the tax loss to the  
48 district resulting from the allowance of tax deductions pursuant to  
49 this paragraph.

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 (×),  
 9 plus (+) or check (√) in the square opposite the word "Yes."  
 10 If you are opposed thereto make a cross (×), plus (+) or check  
 11 (√) in the square opposite the word "No."  
 12 b. In every municipality the following question:

	Yes.	<p style="text-align: center;"><b>REAL PROPERTY TAX DEDUCTION</b></p> <p>Shall the amendment of Article VIII, Section I, paragraph 4 of the Constitution of the State of New Jersey granting an annual deduction not to exceed \$160.00 from the tax bill for taxes on real property as therein provided of certain citizens and residents of this State on real property owned or occupied under a life estate or lease for 99 years or longer instead of the ownership requirement presently provided, be approved?</p>
	No.	

**STATEMENT**

The purpose of this resolution is to extend the tax deductions contained in Article VIII, Section 1, paragraph 4 of the New Jersey Constitution to persons who occupy real property under a life estate or lease for 99 years or longer instead of the ownership requirement presently provided.



ASSEMBLYMAN RICHARD VAN WAGNER (Chairman): At this time, we would like to start the public hearing.

We have two resolutions today, one of which is designed to bring legislation that has been passed into compliance with the Constitution.

The first resolution is Assembly Concurrent Resolution Number 109, which is in response to the objection by Attorney General Hyland to the Homestead Bill that was passed in this Assembly March 15th, in which the Attorney General said that that part of the Homestead Bill giving additional exemption to Senior Citizens and the disabled, could not become operative since it was unconstitutional. ACR 109, if passed in both Houses and approved by the voters, will cover the objection of the Attorney General in that matter.

Assembly Concurrent Resolution Number 130 simply extends the provisions of the Homestead Exemption to those persons who occupy real property under a life estate or lease for 99 years or longer.

I would like to introduce the other member of the Committee who is here. To my left is Assemblyman Dorsey. I am Assemblyman Van Wagner and to my right is Mr. Gilbert Deardorff, who is the Committee Staff Aide.

Do we have anybody who wishes to testify?

MR. DEARDORFF: Frank Haines.

ASSEMBLYMAN VAN WAGNER: Frank Haines is from the New Jersey Taxpayers Association.

F R A N K W. H A I N E S: Good morning, gentlemen.

I am Frank Haines, Executive Director of the New Jersey Taxpayers Association. The comments which I would offer today are general rather than addressed to the specifics of these two resolutions, ACR 109 and ACR 130.

A review of the historical development of amendments to our Constitution indicates that Article VIII is the most frequently amended article of our Constitution, and paragraph 4 is the most amended paragraph of the Constitution. It would appear from the volume of proposed amendments that we have had already this year that, if it keeps on, we can expect an average of one or two a year from now until we pass on.

In 1971, in testimony at a hearing on an amendment to remove the \$5,000 income limitation for senior citizens, the Association suggested an alternative to the frequent amendments which involve excessive detail might be an amendment which would reflect the constitutional principles of brevity and simplicity to deal with the matter of exemption, rebate or credit by general language, which would give the Legislature the broad power to deal with this entire problem by statute.

There may be some limitations, particularly in the amendment which you have before you today which the Attorney General has said is necessary if you are going to add a second exemption for senior citizens. But if that \$5,000 limit were removed and we went about this in broader language, you might eliminate the necessity for frequently changing income limits and dollar amounts and types of property which are subject to exemption or rebates or credit.

We note that ACR No. 115, which was just introduced recently, is an amendment to paragraph 4, which would take out the dollar amount. This is the principle which we espouse and which we would urge the Committee at some point to seriously consider, if possible, so that we are working in more comprehensive general language and thus avoiding constant efforts to make frequent changes which complicate really the administrative process of deductions and exemptions for local assessors and the Division of Tax Appeals and we might even save a little money in the cost of putting frequent amending language on the fall ballot.

That constitutes our general view on this, Mr. Chairman; and, as I say, it may be that somewhere language might be found that would avoid these constant changes which I

am sure many taxpayers don't understand, but certainly have their specific purposes. I don't know how long this can go on, but at some point we hope it could be changed.

(Written statement submitted by Mr. Haines can be found beginning on page 1 X.)

ASSEMBLYMAN VAN WAGNER: Mr. Haines, once again I would like to thank you and the New Jersey Taxpayers Association for the valuable service you continue to render the State by your observations.

I don't mean to put you on the spot, but I would like to ask your opinion on something - and you don't necessarily have to express this on behalf of the Taxpayers Association, just your own opinion. Last November, we placed on the ballot a question which was approved by the voters, relative to the granting of senior citizen exemptions. I learned through my own discussion with various legislators and attorneys that it was their opinion that this question approved by the voters was the kind of amendment that you have just referred to in your testimony. It was the kind of amendment that would enable the Legislature, without going back to the voters, to grant additional exemptions to senior citizens by virtue of legislation that it might enact into law. I was wondering whether you would care to comment on that.

MR. HAINES: That is a pretty technical legal question and, in retrospect, I would have to tell you that we questioned the nature of the amendments in the first place because we thought that they might have violated the constitutional intent by combining three aspects of deductions and abatements, etc. in one question. We had some very serious reservations about the constitutionality of that approach, not on the general specifics. So it was a complicated legal question which we were unable to get resolved in the courts for lack of funds to bring a suit.

I am not sure we addressed ourselves to that because we concentrated on a slightly different approach on it. It was broad language, but we felt that it was not clear in its over-all intent because of the combining of three questions in one.

ASSEMBLYMAN VAN WAGNER: In other words, you would say that at least procedurally the question was sufficiently clouded ---

MR. HAINES: We felt it was, yes.

ASSEMBLYMAN VAN WAGNER: (Continuing) --- so that question might arise.

MR. HAINES: We felt it was.

ASSEMBLYMAN VAN WAGNER: You don't have any feelings about the substantive language in the resolution itself? Given the fact that procedurally it was constitutional, was the language sufficient or broad enough to grant the kind of powers that you are talking about?

MR. HAINES: In two aspects, I think it probably was, talking as a non-lawyer. But in view of the fact that the Attorney General questioned whether you could grant an additional exemption which he felt was already prohibited by the Constitution, that again throws it apparently into a cloud which this resolution before you today would attempt to clarify.

ASSEMBLYMAN VAN WAGNER: I was interested in what is on page 2 of your testimony in the next to the last paragraph. You refer to ACR No. 115.

MR. HAINES: Yes.

ASSEMBLYMAN VAN WAGNER: Later on in that reference, you mention the fact that language might be drafted which is even more comprehensive and general. What I am looking for, I guess, is your observation as to whether or not ACR 115, merged with some of the language in the question we passed last November, might constitute a broad enough and comprehensive enough amendment?

MR. HAINES: As far as paragraph 4 goes, as I say, this is not to endorse the specific language of the Spizziri amendment, but to indicate it as the type of approach

which we advocate. This specific approach would get out the dollar amount and the income limits and leave that to statutory determination.

ASSEMBLYMAN VAN WAGERN: Right.

MR. HAINES: This would be a starter. Since this is in only one of the sections, it would then be necessary to look at the new section 5 in terms of whether again any modifications of that could be handled by statute.

ASSEMBLYMAN VAN WAGNER: I see.

Assemblyman Dorsey.

ASSEMBLYMAN DORSEY: I have no questions.

ASSEMBLYMAN VAN WAGNER: Mr. Haines, I would like to thank you and look forward to hearing from you again.

MR. HAINES: It has been my pleasure and thank you for hearing me.

ASSEMBLYMAN VAN WAGNER: Thanks for being here.

Is there anyone else who wishes to testify?

The Committee has before it a copy of a letter from Mr. Herbert W. Miller to Herbert Glickman of the Attorney General's Office. That letter will become a part of the record of this hearing.

(Mr. Miller's letter can be found beginning on page 3 X.)

If there is no one else who wishes to testify on these two particular resolutions, the Committee will adjourn, having satisfied the constitutional requirement. After the allotted amount of time has elapsed, I am sure these two resolutions will be brought to the floor for vote. Thank you.

(Hearing concluded)

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# NJTA

NEW JERSEY TAXPAYERS ASSOCIATION INC. • 104 NORTH BROAD STREET • TRENTON, N.J. 08608 • TELEPHONE: AREA CODE 609-394-3116

STATEMENT OF  
NEW JERSEY TAXPAYERS ASSOCIATION, INC.  
AT  
PUBLIC HEARING ON  
ASSEMBLY CONCURRENT RESOLUTIONS NO. 109 AND NO. 130  
BEFORE  
ASSEMBLY COMMITTEE ON TAXATION  
STATE HOUSE, TRENTON, N.J.  
JUNE 28, 1976

Mr. Chairman, Members of the Committee:

My name is Frank W. Haines. I am Executive Director of the New Jersey Taxpayers Association, a non-profit, non-partisan governmental research organization incorporated in 1930.

The two Constitutional amendments scheduled for consideration at this public hearing would amend (1) the new paragraph 5 of Article VIII, Section I to authorize granting an additional home and property tax rebate or credit to senior citizens, disabled citizens or their surviving spouses, and (2) paragraph 4 of Article VIII, Section I to extend the annual senior citizens deduction of \$160 on residential property to persons who occupy real property under a life estate or lease for 99 years or longer.

These two amendments would further modify the most frequently amended Article of the New Jersey Constitution -- Article VIII, and the most frequently amended paragraph -- paragraph 4.

In April 1971, in testimony at a hearing on an amendment to remove the \$5,000 income limitation for senior citizens, NJTA suggested an alternative to frequent amendments which involve excessive detail which might more logically be statutory material.

Believing in the Constitutional principles of brevity and simplicity, NJTA urged consideration be given to a broad amendment which will deal with the property tax deduction, rebate or credit in general language which constitutes a broad grant of legislative power to deal with the entire exemption problem by statute.

As an example of the approach we advocate, we call your attention to ACR No. 115, introduced June 14 by Assemblyman Spizziri which is an amendment to paragraph 4 eliminating the dollar amount of both the deduction and the income amount. Language might be drafted which is even more comprehensive and general. We urge efforts to avoid frequent changes in detail with incumbent cost of constantly placing amending questions on the fall ballot.

Thank you for the opportunity to present our views.

New Jersey Coordinating Council  
of Organized Older Citizens, Inc.

June 28, 1976  
425 Crest Drive, Northvale, N.J. 07647

Hon. Herbert Glickman, Deputy Att. Gen'l Chief  
Division of Law, Financial Section  
Dept. of Law and Public Safety  
36 West State Street, Trenton, N.J. 08625

Dear Mr. Glickman,

Thank you for your letter of June 23, 1976 with respect to my letter of June 11, 1976, that was sent to all Legislators, a copy of which Assemblyman Gewertz forwarded to you for further opinions.

It appears that there is some misunderstanding concerning my letter. Senior Citizens through this organization had been previously furnished with a copy of your opinion dealing with Bill A1330. Your opinion raised several questions in the minds of Senior Citizens throughout the State of N.J. accordingly, they directed me, as an official of both this State Organization and the Bergen County Coordinating Council to write the Legislators asking them to obtain the Attorney General's further opinion in order to satisfy the questions. A copy of my letter that was furnished you by Assemblyman Gewertz is enclosed. I respectfully ask the Attorney General for his opinion regarding each of the questions.

Specifically, in view of your opinion that the Legislature can not give preferential treatment to Senior Citizens based on personal characteristics we would like to know why additional homestead rebates or credits, under the Constitutional amendment approved by 1, 143,961 voters last November differs in respect from the \$160 now given low income Senior Citizens, Veterans exemptions and tax breaks given some businesses to induce them to locate in industrial areas. Are these not based on personal characteristics rather than property characteristics?

Furthermore, we observe the absence in your opinion to any reference relating to that part of the Referendum that amended the Constitution, which states:

Shall the amendment to Article VIII Section 1 of the Constitution, agreed to by the Legislature, extending the Senior Citizen property tax deduction, permitting Senior Citizens to receive a homestead tax rebate or credit in addition to any other deduction or exemption- - - - - , be adopted.

Thousands upon thousands of older Americans throughout the State went to the polls last November to vote for this Constitutional Amendment. They were told and believed that their approval of the amendment gave the Legislature broad powers and unlimited authority to grant homestead exemption to Senior Citizens and to the general public, from time to time in any form and manner they deemed appropriate in the circumstances, so that it would never again be necessary to go back to the people in future years to further amend the Constitution each time conditions changed.

I know you appreciate that it now comes as a complete shock to our elderly Citizens to learn from your opinion that it would be unconstitutional for the Legislature to give Senior Citizens special tax rebates or credits that in effect thwarts "The Will Of The People!" It also raises many questions, if your opinion is correct, about the competency of the Legislators who believed when they approved the resolution that it would give them authority to grant special homestead exemptions to Senior Citizens. On behalf of the Senior Citizens of New Jersey, I respectfully request the Attorney General's opinion as to exactly what the Legislature can and can not do under the aforesaid portion of the Constitutional amendment.

Please refer to my letter of June 9, 1976 in which I also asked the Legislators to obtain the opinion of the Attorney General as to whether or not the homestead security act, long sought by Senior Citizens, as set forth in Bills A1799, A1866 and S1399 meet the Constitutional requirements as amended, and if not I asked them to get together with your office to draft a Constitutional amendment that will permit implementation of this legislation. I believe Assemblyman Saxon has asked your office for such opinion.

Mr. Glickman, time is of essence. As you may or may not know the Assembly Taxation Committee has released for a floor vote ACR109 to overcome your opinion. You are aware that amendments to the Constitution must be properly publicized three months prior to the date the people vote upon it. The wording of ACR109 may or may not permit implementation of the Homestead Security Act sought by Senior Citizens, as set forth in Bills A1799, A1866 and S1399 therefore, I also requested the Legislators to obtain the opinion of the Attorney General as to whether or not this new amendment, if approved by the people, will permit implementation of the aforesaid Bills, before they vote on ACR109.

I offer a word of explanation about the Homestead Security Act as set forth in Bills A1799, A1866 and S1399. Homestead Security is for all the people. Everyone receives equal treatment and benefits. Bills A1799 and S1399 spell out the qualifications. Homestead Security works the same way as Social Security.

As stated in Bill A1866<sup>it</sup>, is to be paid for by a Special Homestead Security Tax. This tax will be shown separately on tax bills. The amount of Homestead Security Tax to be contributed by each person is determined at the rate of 10¢ per \$100 of real estate valuation as set forth in Bill A1866. This is not a property tax. It is a Homestead Security Tax. Revenues from this tax will be placed in a separate Homestead Security Fund to be administered by the State Treasurer. This fund will be used to reimburse taxing districts for homestead exemptions granted qualified beneficiaries.

Homestead Security needs no State financing. It is self supporting. It is to be administered separate and apart from general funds and can be used only for the above stated purpose. Senior Citizens believe this is necessary and desirable legislation to correct for all time tax injustices when a person is forced to live on a fixed income.

In view of the foregoing, inasmuch as there is no preferential treatment given any person or persons in the State of N.J. and all are afforded the same protection and benefits we believe this legislation may meet your objections of preferential treatment. I respectfully ask the Attorney

General for an official opinion as to whether or not this Homestead Security Act set forth in Bills A1799, A1866 and S1399 meet the Constitutional requirements or whether or not you believe that a further Constitutional amendment is necessary to implement this legislation.

Mr. Glickman, Senior Citizens have raised a number of important questions which are set forth in this letter and in the enclosed copy of my letter of June 9, 1976 to the Legislators. An early reply will be appreciated. Thank you.

Sincerely yours,



Herbert W. Miller, Vice President  
Authorized and Registered Legislative  
Agent for Senior Citizen Organizations

cc: Honorable Kenneth A Gewertz, Assemblyman

cc *Alton Sewell Hyland*





