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TAX APPEALS IN NEW JERSEY:

A CRITIQUE AND A PROGRAM FOR LEGISLATIVE ACTION,

Report of the ⁴Special Committee on Tax Appeals Procedure.
of the ³Senate of ¹New Jersey. ²Legislature.
(pursuant to Senate Resolution No. 30 of 1976)

June 26, 1977

Members of the Special Committee:

- Senator Thomas G. Dunn, Chairman
- Senator Joseph A. Maressa
- Senator John M. Skevin
- Senator Frank Davenport
- Senator Garrett W. Hagedorn
- Senator Peter J. McDonough

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The Honorable Members of the Senate of New Jersey

Ladies and Gentlemen:

The Special Committee to study the State tax appeals procedure, and to make recommendations to the Senate for the professionalization, modernization and improvement of said procedure, created pursuant to Senate Resolution 30 of 1976, herewith respectfully submits its report in compliance with the terms of the resolution.

Thomas G. Dunn

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INTRODUCTION

The Senate Special Committee on Tax Appeals Procedure was established by Senate Resolution 30* of 1976. This resolution directed the Senate Special Committee to conduct a thorough study of the State tax appeals procedure, and to make recommendations to the Senate for the professionalization, modernization and improvement of that procedure. The Senate Special Committee was directed to give particular attention to:

- a. Replacing the present administrative State tax appeal system and instituting a tax court, to be part of the Judicial Branch of State Government, subject to the supervision and discipline of the Supreme Court;
- b. Staffing such tax court with judges who will be required to devote full time to the exercise of their judicial duties; and,
- c. Designing such tax court to be of sufficient size, and with adequate support personnel, to handle expectable case loads on a year-round basis, so as to make fair decisions speedily available to taxpayers who cannot afford the delays and uncertainties of the present system.

The Senate Special Committee began its work in November 1976, and for the next seven months conducted a vigorous investigation into the State tax appeals procedure. Public hearings were held on March 15, 1977, and March 30, 1977, at which individuals and officials concerned with the tax appeals process from every level of government testified and provided valuable expertise and information. The presidents and secretaries of the various county boards of taxation were particularly cooperative in providing the Senate Special Committee with data and information concerning tax appeals. Barbara McConnell, Secretary to the Division of Tax Appeals was also extremely helpful to the Special Committee in clarifying certain aspects of

*See Appendix A

the State tax appeals procedure, and in opening the Division's files so that the Special Committee could assemble certain evidence and statistics. Without this cooperation and assistance the Special Committee could not have fulfilled its required duties without considerably more difficulty and delay than was in fact involved.

Even with this cooperation and assistance, the Senate Special Committee found that the task of conducting a thorough study of the State tax appeals procedure was an extremely formidable and even frustrating responsibility. The Special Committee quickly learned that, except for a few lines in the State budget, the Legislature had very little information, and even less data, on the activities of the State Division of Tax Appeals. If the Special Committee was to secure such information and data, it would have to do the collecting itself, since the Division of Tax Appeals had neither the staff nor the facilities to do so. It should be known that the data presented in this report have never been previously collected by either the Executive or the Legislative branches of government. Never before has any State body attempted to assemble the type of evidence and statistics which would furnish an overview of the activities and performance of the Division of Tax Appeals and of the county boards of taxation. There were no Division statistical reports, no county board statistical tables on tax appeals, no reports of previous Legislative committees, and no reports of independent commissions to which the Special Committee could turn for the data from which it could secure the necessary perspective on the State tax appeals procedure. If, therefore, the information and statistics presented in this report are not complete in some respects, and if there are aspects of the tax appeals procedure for which this report does not supply data,

it should be borne in mind that the Special Committee started with nothing, and only assembled this information with the expenditure of a great deal of effort and staff-time.

The frustrating aspect of the Special Committee's task has arisen from the general lack of public awareness of the importance of an efficient and fair tax appeals procedure to the taxpayers and governmental units of the State. Every property owner knows that a rise in the tax-rate translates directly, and almost immediately, into higher taxes. The public, therefore, rightfully demands that governmental expenditure policies and revenue measures be equitable, restrained and publicly accountable. But very few property owners realize that tax appeals for reduced assessments also affect the tax-rate which they pay on their properties. The effect is indirect, and often occurs years after the original assessment was made. Since few residential property owners utilize the tax appeal procedure themselves, and since an appeal is often costly to undertake and often involves extremely complex issues and standards, the average taxpayer finds it difficult to focus attention on this procedure. "Taxes" is a glamour issue; "tax appeals" is not.

These two difficulties encountered by the Special Committee in its investigation are only reflections of the character of the tax appeals procedure in New Jersey. The factor which pervades the whole structure of that procedure, and which has allowed to come into existence the type of inefficiency and laxity which the Special Committee has found to prevail within that procedure, is the absence of any serious commitment at the State level to an efficient and fair system of tax appeals. Throughout this decade

and even in the one which preceded, various tax study commissions and individual Legislators and Governors have proposed major structural reform of the State tax appeals procedure. These proposals, while often farsighted, were based upon impressionistic evidence, and were never enacted into law. The failure of these proposals was at least partially the result of a lack of information on the part of the residents of the State and their elected representatives concerning the effect of tax appeals on the State, its political subdivisions, and its population.

More importantly, however, the lack of a State commitment to maintain an efficient and effective tax appeals procedure resulted from a certain philosophical outlook towards tax appeals. In the past, when property tax rates in the State were relatively low, when the tax structure of the State was much less complex, and when the State and its counties and municipalities were not expected to provide so many, or such a high level of, services, property tax appeals, let alone appeals from other taxes, were regarded as insignificant aberrations within the total tax structure of the State. It was, therefore, acceptable that tax assessments be appealed to, and adjudicated by, quasi-citizen agencies, the members of which served on a part-time basis and possessed as their chief qualification, political acceptability to the appointing agency. Professionalism, efficiency, regularized reporting procedures, and consistent standards of adjudication were not considered to be as important in that era of few appeals with little impact upon the revenue structure of the State, as were a familiarity with citizen needs and a shared community of interests.

While the Special Committee finds these latter goals to be worthy, particularly at the first level of appeal to the county, the evidence is overwhelming that in an era characterized by high property tax rates, by an increasingly complex tax structure, and by new and experimental property tax relief measures, tax appeals adjudication must be efficient, consistent and accountable. The tax appeals procedure is an integral part of the tax structure of the State. Tax appeals in New Jersey in 1977 are not intermittent, infrequent appeals by random taxpayers disturbed with the assessments on their property. Tax appeals have become increasingly routine actions for property owners, particularly for owners of large commercial properties. Tax appeals have also become in this tax environment a major source of business to certain law firms specializing in this area. The tax environment of New Jersey in the 1970's and the 1980's demands a respected, professional and efficient tax appeals body at the State level, and an increased accountability of that body to the tax policy-making officials of the State.

The Senate Special Committee concludes from the evidence herein presented that the State tax appeals procedure has reached a crisis of such proportions that it can be rectified only through a fundamental restructuring of that procedure. The Division of Tax Appeals in the Department of the Treasury is structurally inadequate to its task as the principal State agency to hear and adjudicate tax appeals. The current backlog of some 28,000 tax appeals at the State level, wherein a 4 to 5 year delay exists

from the time an appeal is filed until it is heard, demonstrates the inefficiency of that procedure. The need for increased efficiency, professionalism and accountability is further demonstrated when one considers that the approximately \$6 billion in assessed valuations appealed to the Division of Tax Appeals in 1976, was approximately twice the amount of the general State operating budget for that year. And, yet, these enormous sums may be reduced, increased, or set aside by a State agency consisting of overworked, understaffed, part-time judges who operate under conditions which prevent even the most conscientious among them from recognizing the overall implications of their individual case decisions. The Division of Tax Appeals does not, nor is it statutorily required to, submit annual reports to the Governor and Legislature on the manner in which it disposes of these appeals. And, yet, the lengthy delay in hearing appeals at the State level has created dire fiscal problems for several municipalities when required to refund taxes to successful appellants of large assessments along with 4 or 5 year's interest.

The recommendations of the Special Committee concerning tax appeals procedure at the State level are fundamental and structural. The Special Committee, however, recognizes that the crisis situation at the State level is, in many respects, a reflection of problems which exist in the adjudication of appeals at the county level. The Special Committee, therefore, does not believe it should limit its recommendations entirely to tax appeals procedure at the State level. The Special Committee is including in this report certain recommendations concerning tax appeals procedure at the level of the county boards of taxation. Many of these

recommendations are simply designed to synchronize the procedures at the county level with those recommended for the State level. Several, however, are designed to improve the operations of the county boards of taxation in order to strengthen their capability to provide meaningful and objective rulings on the appeals brought before them, while preserving the particular character and responsiveness of the county boards to the needs of average citizens and taxpayers.

The Special Committee feels that an investigation of assessment practices and standards at the municipal level was generally beyond the charge received from the Senate pursuant to Senate Resolution 30. The Special Committee recognizes that tax assessment and tax appeal are difficult, if not impossible, to separate, and that a major reform of tax assessment standards and practices is overdue. However, the Special Committee also believes that the evidence presented in this report is so conclusive regarding the need for restructuring the tax appeals procedure, that to delay implementation of that restructuring until an overhaul of assessment practices and standards can also be implemented, would be to invite further taxpayer disenchantment and fiscal hardships for local governments. Moreover, the Special Committee believes that the establishment of a respected, professional and efficient State body to adjudicate tax appeals will have a direct beneficial affect on assessment standards and procedures at the municipal level.

SUMMARY OF RECOMMENDATIONS

The Senate Special Committee on Tax Appeals Procedure recommends to the Senate that the following measures be adopted for the professionalization, modernization and improvement of the State tax appeals procedure:

1. That the Division of Tax Appeals in the Department of the Treasury be abolished and that all its powers, jurisdiction and employees be transferred to a tax court;
2. That a tax court be established as an inferior court of limited jurisdiction in the Judicial branch of government, and that the tax court exercise the powers and jurisdiction now exercised by the Division of Tax Appeals, and in addition thereto exercise the jurisdiction currently exercised by the Superior Court with regard to eminent domain and transfer inheritance taxation;
3. That there be established within the tax court a Small Claims Division to operate for the use of taxpayers appealing small tax liabilities or small assessed valuations, wherein the proceedings would be conducted on an informal basis and where a party could appear without the necessity of an attorney;
4. That the tax court be provided with sufficient staff to allow for the expeditious and efficient processing, hearing and adjudication of appeals;

5. That the tax court be required to furnish sufficient notice to parties of the calendaring of an appeal and be given authorization to impose fines for adjournments which are not for good and sufficient reason;
6. That the tax court be required to file annual statistical and informational reports with the Governor and the Legislature;
7. That the tax court be funded primarily through the imposition of filing fees for appeals and that such fees be imposed according to an equitable fee schedule;
8. That the county boards of taxation be required to record all proceedings before them and set forth written findings of fact and conclusions on each appeal heard, that a transcript of the recording and a copy of the findings be made available to any party to an appeal upon payment of a \$5.00 fee; that appeals to the tax court involving an assessed valuation of \$150,000 or more be required to contain an appraisal of the property conducted by a qualified real estate appraisal firm, a transcript of the record of the proceedings before the county board, and a copy of the findings of fact and conclusions of the county board;
9. That the period within which county boards of taxation are required to hear appeals be lengthened from 3 months to 4 months, and that the date for filing with the tax

court be set at January 31 following the county board decision, rather than December 15;

10. That the filing fee schedule for appeals to the county boards of taxation be modernized and made more equitable through the imposition of a uniform rate;
11. That the office of president of the county board of taxation be made a full-time position; that the president be required to be, whenever feasible, an attorney at the time of appointment and, if not, to possess an assessor's certificate; and, that the salary of the presidents of county boards in counties with a population in excess of 300,000 be \$30,000, and in other counties \$20,000; and,
12. That the salaries of part-time members of county boards of taxation be raised by \$3,000; and, that the salaries of secretaries to the county boards be fixed at \$15,000 for counties with a population over 300,000, and \$10,000 for other counties.

The Senate Special Committee on Tax Appeals Procedure specifically recommends that legislation permitting the direct appeal of assessed valuations over \$100,000 to the State level not be adopted by the Legislature.

DETAILED PRESENTATION OF
RECOMMENDATIONS WITH SUPPORTING EVIDENCE

RECOMMENDATION #1 - That the Division of Tax Appeals in the Department of the Treasury be abolished and that all its powers, jurisdiction and employees be transferred to a tax court.

The Senate Special Committee concludes that the Division of Tax Appeals is structurally inadequate to serve as the State agency with the principal responsibility for adjudicating tax appeals. The Division of Tax Appeals, as presently constituted, staffed and funded, is incapable of meeting the demands placed upon it in an era of escalating New Jersey property values and local tax rates by an increasingly complex tax structure, and by the expectation of taxpayers for efficient and equitable treatment under the laws of this State relating to taxation. Furthermore, while the present funding and staffing situation which prevails in the Division of Tax Appeals is deplorable, the Special Committee considers it imprudent for the State to devote more money and staff to an agency which is not structured in a manner that will allow it to effectively respond to its responsibilities. The evidence presented in this section will conclusively demonstrate that New Jersey can no longer afford a State tax appeals procedure which is staffed with part-time judges and which does not possess the capability of formulating an overview of the tax appeals procedure of the State.

A. THE DIVISION OF TAX APPEALS: HISTORY AND STRUCTURE

For the information of the general reader, the Division of Tax Appeals, created pursuant to chapter 2 of Title 54 of the Revised

Statutes, is a quasi-judicial body located in the Department of the Treasury in the Executive branch of government. The division is composed of a board of 7 judges, appointed by the Governor, with the advice and consent of the Senate, for terms of 5 years. The Governor designates one of the judges to serve as presiding judge. No more than 4 of the judges may belong to the same political party. At least 4 of the 7 judges are required to be attorneys-at-law of the State of New Jersey of at least 10 years standing, and are chosen because of their special qualifications, knowledge and experience in matters concerning the valuation and taxation of property, particularly of real property. At the present time, all 7 judges are attorneys-at-law. The judges are part-time office holders, and are required by statute to devote to their office only such time as shall be required for efficient performance. The salaries of the judges are fixed by statute at \$17,000 for each judge, except the presiding judge, whose salary is \$18,000. These salaries have not been changed since 1966. In addition to their salaries, the judges are reimbursed for necessary expenses.

The Division of Tax Appeals is an appellate body only, and possesses no administrative responsibilities. It receives appeals by taxpayers and taxing districts from local assessments, railroad assessments levied by the State, State corporation and business taxes, public utility gross receipts and franchise taxes, State sales and use taxes, the gross income tax, and all other taxes levied by the State, with the exception of transfer inheritance taxes. The division also hears appeals by taxing districts from the school aid equalization tables and county equalization tables.

The basic structure of the Division of Tax Appeals has remained the same since 1931. At that time, the State made a fundamental

decision to separate the administrative and adjudicatory aspects of taxation, and the State Board of Taxes and Assessment was abolished. A new State Tax Department, later to become the Division of Taxation in the Department of the Treasury, was established possessing administrative responsibilities relating to taxation, and a State Board of Tax Appeals was created with responsibilities relating solely to tax appeals (P.L. 1931, c.100). The State Board of Tax Appeals was later transferred to the Department of the Treasury, and constituted the Division of Tax Appeals (P.L. 1944, c. 112 and P.L. 1948, c. 92). Despite these changes in name, the responsibilities of the agency have remained virtually the same since 1931, with the exception of the addition of appeals from such new State taxes as have been enacted during the last 46 years. The only major structural change since 1931, has been an increase in the number of part-time judges from 5 to 7, and an increase from 2 to 4 in the number of these judges required to be attorneys.

The reason that a State tax appeals procedure created in 1931 remains virtually unchanged in the 1970's is not that it has continued to meet the present-day needs of New Jersey, but that no State commitment to an efficient, modern and equitable tax appeals procedure has yet emerged. The absence of this commitment is demonstrated by a review of the following table showing the budgetary history of the Division of Tax Appeals in recent years, and the increased burdens placed upon the division in this period:

BUDGET INFORMATION FOR DIVISION OF TAX APPEALS

| <u>Fiscal Year</u> | <u>Appeals Filed</u> | <u>Appeals Pending¹</u> | <u>Division Budget</u> | <u>Judges Salaries</u> | <u>Other²</u> |
|--------------------|----------------------|------------------------------------|------------------------|------------------------|--------------------------|
| 1967 | 3,256 | not available | \$226,581 | \$120,000 | \$106,581 |
| 1968 | 3,737 | not available | 271,529 | 120,000 | 151,529 |
| 1969 | 4,294 | not available | 266,224 | 120,000 | 146,224 |
| 1970 | 4,710 | 4,112 | 262,147 | 120,000 | 142,147 |
| 1971 | 5,521 | 5,786 | 284,182 | 120,000 | 164,182 |
| 1972 | 4,822 | 6,682 | 343,018 | 120,000 | 223,018 |
| 1973 | 5,320 | 8,219 | 320,940 | 120,000 | 200,940 |
| 1974 | 6,095 | 11,008 | 353,522 | 120,000 | 233,522 |
| 1975 | 7,287 | 13,475 | 379,399 | 120,000 | 259,399 |
| 1976 | 11,413 | 17,428 | 360,597 | 120,000 | 240,597 |
| 1977 | 13,500 | 18,755 | 377,481 | 120,000 | 257,481 |
| | (estimate) | (estimate) | | | |

1. Includes appeals filed and not closed during previous fiscal years, but not appeals filed during the current fiscal year.

2. Represents the division budget minus the judges' salaries.

The workload of the Division of Tax Appeals has reached crisis proportions. The number of tax appeals filed with the division has increased from 3,256 in fiscal year 1967, to 13,500 estimated for fiscal year 1977. The percentage of increase has been 318% over 10 fiscal years. The number of appeals pending from previous fiscal years has increased from 4,112 in fiscal year 1970, to 18,775 estimated for fiscal year 1977. The percentage of increase over those 7 fiscal years has been 356%.

On the other hand, the budget of the Division of Tax Appeals has increased from \$226,581 for fiscal year 1967, to \$377,481 for fiscal year 1977. The percentage of increase in the budget over this period has been only 63%. When the salaries of the part-time judges, which are fixed by statute, are excluded, the budget has increased from \$106,581 for fiscal year 1967, to \$257,481 for fiscal year 1977, or a percentage of increase of 141%. In 1967, the division consisted of 20 employees including the 7 judges; in 1977, the

division still consists of 20 employees, including the 7 judges. Of the 13 employees who are not judges, 12 are secretaries and clerks. The only professional staff in the division is the administrative secretary.

This history of under-funding and under-staffing has produced a situation where it is estimated that on February 1, 1977, the Division of Tax Appeals possessed a backlog of some 28,000 appeals. Some of the appeals in this backlog date from 1972 and 1973. In other words, some appeals are waiting 4 or 5 years to be resolved. The average length of time for an appeal to be resolved after being filed with the division is 2 years. The following shows a breakdown of appeals pending on February 1, 1977, according to the year filed:

| <u>1976</u> | <u>1975</u> | <u>1974</u> | <u>1973</u> | <u>1972</u> | <u>Total</u> |
|-------------------|-------------|-------------|-------------|-------------|--------------|
| 13,500(estimated) | 9,422 | 4,118 | 923 | 25 | 27,988 |

It should be noted that the Division of Tax Appeals, within the limits of its budgetary and personnel capabilities, has attempted to respond to the massive influx of new appeals in recent years, and to the resultant backlog, by adopting certain administrative changes to more expeditiously handle and dispose of the appeals being filed. The judges of the division are currently hearing and disposing of appeals at a much increased rate. In testimony from certain judges and the administrative secretary of the division, the Special Committee was informed that each of the 'part-time' judges devotes from 30 and 40 hours a week to his duties. The data in the following tables compiled from the judges' calendars for the years 1975 and 1976, demonstrate that the average annual appeals calendar for a judge

is about 2,000 cases. While almost 60% of these calendared cases were adjourned, and a significant number were dismissed, withdrawn or settled out of court, the burden of cases is enormous. The average judge tried 167 cases per year during 1975 and 1976, which amounts to a case every 2.2 days. Since the judges were required to submit a written opinion on each case tried, a significant amount of time outside the courtroom was devoted to reading briefs and writing decisions. The division provided the judges with no personal secretaries or law clerks to assist them in these duties, although the judges do receive some compensation for using their private secretaries for these purposes.

1975 Appeals Calendar

| Month | Cases on Calendar | Cases ¹ Tried | Settled ² | With- ³ drawn | Ad- ⁴ journed | Dismissed ⁵ Lack of Pros. | Stipulated ⁶ or Withdrawn from file |
|------------|-------------------|--------------------------|----------------------|--------------------------|--------------------------|--------------------------------------|--|
| Jan. 1975 | 879 | 59 | 265 | 39 | 505 | 11 | 23 |
| Feb. 1975 | 1,498 | 248 | 297 | 79 | 867 | 7 | 27 |
| March 1975 | 1,010 | 39 | 224 | 98 | 618 | 31 | 18 |
| April 1975 | 1,222 | 88 | 318 | 114 | 690 | 12 | 161 |
| May 1975 | 1,337 | 100 | 208 | 106 | 914 | 9 | 131 |
| June 1975 | 1,155 | 64 | 224 | 70 | 780 | 17 | 205 |
| July 1975 | 1,046 | 101 | 266 | 21 | 634 | 24 | 76 |
| Aug. 1975 | 89 | 13 | 9 | 3 | 64 | 0 | 182 |
| Sept. 1975 | 327 | 23 | 91 | 11 | 191 | 11 | 43 |
| Oct. 1975 | 748 | 52 | 128 | 34 | 517 | 17 | 119 |
| Nov. 1975 | 536 | 64 | 175 | 46 | 231 | 20 | 54 |
| Dec. 1975 | 1,135 | 79 | 221 | 104 | 717 | 14 | 106 |
| Total 1975 | 10,982 | 930 | 2,426 | 725 | 6,728 | 173 | 1,145 |

1976 Appeals Calendar

| Month | Cases on Calendar | Cases ¹ Tried | Settled ² | With- ³ drawn | Adjourn- ⁴ ed | Dismissed ⁵ Lack of Prosecution | Stipulated ⁶ or With-drawn from Files |
|------------|-------------------|--------------------------|----------------------|--------------------------|--------------------------|--|--|
| Jan. 1976 | 1,578 | 102 | 242 | 210 | 1,009 | 15 | 55 |
| Feb. 1976 | 928 | 40 | 302 | 106 | 478 | 2 | 52 |
| March 1976 | 1,997 | 50 | 829 | 64 | 1,032 | 22 | 253 |
| April 1976 | 1,495 | 85 | 286 | 108 | 994 | 22 | 307 |
| May 1976 | 2,439 | 123 | 1,079 | 146 | 1,074 | 17 | 104 |
| June 1976 | 1,433 | 88 | 412 | 102 | 809 | 22 | 103 |
| July 1976 | 745 | 85 | 145 | 66 | 445 | 4 | 57 |
| Aug. 1976 | 669 | 167 | 31 | 85 | 382 | 4 | 32 |
| Sept. 1976 | 1,076 | 46 | 169 | 81 | 777 | 3 | 92 |
| Oct. 1976 | 1,683 | 262 | 92 | 33 | 1,286 | 10 | 17 |
| Nov. 1976 | 1,312 | 171 | 415 | 61 | 647 | 18 | 74 |
| Dec. 1976 | 785 | 87 | 142 | 42 | 508 | 6 | 128 |
| Total 1976 | 16,140 | 1,306 | 4,144 | 1,104 | 9,841 | 145 | 1,274 |

1. Cases actually tried by a judge after being placed on a judge's calendar.
2. Cases settled between the parties to the case after being placed on a judge's calendar. These cases were not actually tried.
3. Cases withdrawn by the appellant after being placed on a judge's calendar.
4. Cases adjourned by the judge after being placed on a judge's calendar. These cases may have been adjourned for a variety of reasons, and may have reappeared on the calendar later in the year.
5. Cases dismissed by the judge because of a lack of grounds for prosecution, after they were placed on the judge's calendar.
6. Cases stipulated or settled between the parties, or withdrawn by the appellant, before being placed on the judge's calendar.

Data on Workload of Judges 1975-1976

| Judge | Cases on Calendar | Cases Tried | Settled | With- drawn' | Ad- journed | Dis- missed Lack of Prose- cution |
|---------------------------|-------------------|-------------|---------|-----------------|----------------|---|
| Pres. Judge A.M. Lario | 1,195 | 160 | 299 | 87 | 620 | 29 |
| C. W. Convery | 5,044 | 356 | 1,172 | 297 | 3,190 | 20 |
| P. E. Doherty | 3,073 | 370 | 759 | 278 | 1,600 | 69 |
| J. F. Evers | 2,527 | 243 | 744 | 155 | 1,426 | 8 |
| J. A. Mott | 3,713 | 471 | 589 | 200 | 2,400 | 53 |
| C. F. Savino | 8,850 | 560 | 2,327 | 602 | 5,262 | 101 |
| I. M. Stanziale | 3,375 | 177 | 863 | 246 | 2,137 | 51 |
| Average Per Year | 1,984 | 167 | 474 | 133 | 1,188 | 22 |

Upon review of the data contained in these tables, several elements stand out which the Special Committee feels should be brought to the attention of the Legislature. The first is the extraordinarily high percentage of cases which were adjourned after being placed on the judges' calendars. Over the two year period, approximately 60% of the cases calendared were adjourned. When adjournments are combined with all other cases disposed of in some manner other than being tried, the Division of Tax Appeals had to calendar approximately 12 cases in order to get 1 tried by a judge. The Special Committee understands that many of these adjournments were granted for legitimate reasons. Still, such an extraordinary rate of adjournment is cause for alarm, considering the impact of delay in the adjudication of appeals upon the fiscal well-being of New Jersey municipalities. The Special Committee has received testimony that many of these adjournments were granted either because of scheduling difficulties within the Division of Tax Appeals, or for minor or capricious causes. The Special Committee is, therefore, making certain specific recommendations with regard to adjournments under recommendation #5 below.

The second element which the Special Committee believes to be noteworthy is the obvious uneven distribution among the 7 judges of the division caseload. The Special Committee was informed by those judges who testified at the public hearings that the differences in caseload among the judges were the result of both the personal circumstances of the judges and the region of the State in which the various judges sat. The number of appeals filed with the Division of Tax Appeals varies considerably from one region

of the State to another. While the Special Committee does question the wisdom of assigning any one judge to a particular region of the State on any permanent basis, the geographic differences in caseload are understandable, and to some extent, acceptable. The personal circumstances which lead to such differences are not, however, quite so acceptable. R.S. 54:2-8 requires each of the judges within the Division of Tax Appeals to "devote such time as shall be required for the efficient performance of the duties of office." Obviously, some judges are devoting much more time than others. The time which each judge does devote appears to vary according to the demands of his professional law career, and according to the personal and domestic circumstances of the judge. Those judges who carried the greatest caseload during the two year period were those who were retired from the legal profession, and those whose children were no longer at home. The Special Committee does not believe that the State of New Jersey can realistically require a lawyer with a full-time practice and with children to support, to devote the time and energy to his State duties which those duties require. The Special Committee understands quite well that each part-time judge will, necessarily, find himself able to make a different degree of sacrifice in the performance of the duties of office. However, there exists a considerable gap between what the statute requires and what many of the part-time judges of the division are able to give, for a 28,000 appeal backlog certainly indicates that the duties of the division are not being efficiently performed.

The third element to be noted is that about 3 times as many appeals were settled after appearing on the judges' calendars as were adjudicated by the judges. The Special Committee received

conflicting testimony in this regard. Municipal assessors and attorneys have communicated to the members of the Special Committee their experience that in many instances these settlements or compromises were reached at the strong suggestion of the judge who would have heard the case if it came to trial. As might be expected, municipal officials view any such forced compromise as harmful to their interests, since a settlement must by its nature result in a lowering of the original municipal assessment. However, both Judge Evers and Judge Savino testified before the Special Committee at the public hearings that it was not their personal practice to suggest such settlements, and that they did not believe that such was the prevalent practice of any of the judges of the division.

Since the Special Committee was unable to establish in its public hearings whether or not such practices were, in fact, prevalent, the Special Committee will limit itself in this report to the following observations. First, it would not be at all surprising, considering the tremendous backlog of appeals in the division, the lack of sufficient time for judges to read and digest materials presented by parties to an appeal, the absence of any professional staff to assist the judges in preparing for cases or in arriving at independent judgments based upon the merits of the assessment, and the intolerable conditions under which the judges have been forced to function in preparing and trying cases, that the judges might press to have appeals settled without the necessity of a hearing.

Second, it may be that, in the absence of sufficient preparation time for the judges, or of adequate professional assessment expertise at their disposal to allow the judges to establish

facts relating to appealed properties, the judges are forced either to rely on the tax expertise of municipal assessors or on the expertise of the tax experts and attorneys the appellants hire to present their cases, or to attempt to get the two parties to the various appeals to settle without trying the case. In other words, a high ratio of settlements to cases tried may be the product of the judges' general unwillingness to accept the tax expertise of the parties to the appeal, and of their lack of professional staff to furnish them with independent tax expertise.

Third, it is obvious from a review of the differences in overall statistics for the two calendar years that the Division of Tax Appeals has been attempting to calendar and dispose of more cases in order to reduce the growth of its backlog. However, the data would tend to suggest that the price the division may be paying to achieve this goal is a higher ratio of cases settled to cases tried. In 1975, 10,982 appeals were placed on the judges' calendars. Of these appeals, 930 were actually tried, while 2,426 were settled. This is a ratio of 2.60 appeals settled to every 1 appeal tried. In 1976, 16,140 appeals were placed on the judges' calendars. Of these appeals, 1,306 were actually tried, while 4,144 were settled. This is a ratio of 3.17 appeals settled to every 1 appeal tried.

The evidence presented so far speaks eloquently to the need for a fundamental reform of the tax appeals procedure at the State level. The current funding and staffing levels of the Division of Tax Appeals make it virtually impossible for the division to dispose of the appeals filed with it, let alone to formulate any type of overview of the tax appeals system in the State. The evidence strongly suggests that a board of part-time judges, who devote as much time to their duties as their personal circumstances reason-

ably allow, is no longer an adequate means through which the State may adjudicate tax appeals. The situation has reached the point at which the State can no longer afford to tolerate such a situation.

B. IMPACT OF TAX APPEALS ON LOCAL FINANCES

Perhaps the most intolerable consequence of the situation prevailing in the Division of Tax Appeals is its effect on the financial stability of New Jersey municipalities. The Senate Special Committee received statement after statement concerning the profound impact of the enormous division backlog on municipalities of the State. Mr. Robert A. Gladstone, of the law firm of Warren, Goldberg and Berman, which acts as municipal attorney for the Township of East Windsor, spoke most forcefully to this situation when he stated to the Special Committee that : "...municipalities with a relatively small number of very large taxpayers can be financially crippled when hearings and decisions are delayed within the Division of Tax Appeals. Unfortunately, I have personally observed that Division of Tax Appeals personnel have become increasingly overwhelmed by a staggering quantity of work over the last several years. This condition has led, inevitably, to a backlog which continues to extend the number of years between appeal and resolution in the Division."

Mr. Gladstone went on to cite a specific instance of the delay of resolution of an appeal which had serious consequences for the Township of East Windsor:

The senior citizen housing development, known as Meadow Lakes, was placed on the books as a ratable in 1966 at a value of \$2,781,000, which was appealed. After four years spent going up to the Supreme Court and down again, and after five more years within the Division of Tax Appeals, the case was finally decided in 1975. During the intervening years the property's assessment went through two reevaluations and rose

to \$15,484,100. Meadow Lakes paid its full taxes to the municipality each year. When the case was finally decided, ten tax years were involved, multiplying a serious loss to the municipality ten-fold. Projections indicated a possible return of tax dollars to Meadow Lakes in the amount of \$1,650,000. Fortunately, the case was settled by the parties. Nevertheless, the municipality was required to repay \$931,448 to Meadow Lakes. The loss could not be absorbed by the Township from current funds, so bonds were issued to meet the obligation.

The Special Committee received other testimony reciting such "horror" stories. For example, the Borough of Collingswood lost an appeal on a large apartment complex and was required to issue debt obligations in the amount of \$335,000 to refund taxes paid, plus interest. One of the most eloquent appeals to the Special Committee for legislative action in this regard was submitted by Mayor Richard A. Nest of the Borough of Fort Lee. Mayor Nest asked the Special Committee to consider the disastrous situation his municipality could face in the near future given the backlog in the division, if Fort Lee were to be required to refund taxes with 3 or 4 years interest to appellants. He stated: "In 1973 we experienced a total of \$29,450,000 of ratables on appeal, and still pending before the State Division. This figure has grown, like a cancer, to \$226,200,000 in 1976. Our total ratables for the year 1976 were only \$438,751,000. I do not need to tell you learned Senators of the profound effect the foregoing facts could have on the Borough's tax levels."

Such municipalities as Fort Lee and East Windsor are currently undergoing extraordinary hardships in this regard, partially as a result of legislation which was adopted in 1975 (P.L.1975,c.361), which required taxpayers to pay 90% of their taxes upon appeal, and required municipalities to refund taxes paid on successful

appeals at 8% interest per annum. Yet, such statutory requirements are entirely reasonable. A 90% payment requirement allows a municipality which has one or two large taxpayers, to continue to operate, while levying a reasonable tax rate upon other municipal residents, during that period in which a large appeal is being resolved. The 8% per annum interest requirement is equal to that which delinquent taxpayers are required to pay on the first \$1,000 of delinquency, and is lower than the 12% interest which taxpayers are required to pay on the amount of a delinquency over \$1,000. What is not reasonable here is the 28,000 appeals backlog in the Division of Tax Appeals which delays the resolution of appeals for 3 or 4 years, and a 60% adjournment rate for appeals calendared by the division.

In light of the seriousness of the impact of appeals' resolution on the municipalities of the State, the Special Committee felt that a review of the decisions of the judges of the Division of Tax Appeals was imperative. An examination of the docket cards for appeals adjudicated in 1976, showed approximately 900 judgments involving real property taxes in which at issue were the assessments as determined by the county boards of taxation on appeal. A sample was made of 450, or 50% of these judgments. The sample revealed that of the 900 such judgments rendered by the division judges in 1976, 532, or 59%, resulted in a reduction of the assessment on the properties; 124, or 14% resulted in an increase of the assessment; and, 244, or 27% resulted in an affirmation of the determination of the county board of taxation. The total assessed valuation of all properties represented in these 900 judgments was \$702,695,376 upon filing with the division. The total assessed valuation

of these 900 properties after judgment by the division was \$519,720,734, representing an overall reduction for all judgments of \$182,974,642. The average assessed valuation for these 900 appeals adjudicated was \$780,773 at the time the appeal was filed. After judgment, the average assessed valuation was \$577,467. This represents an average reduction for each property of \$203,306, or 26% of the assessed valuation of the property. These figures include all 900 appeals on which judgments were made, including increases and affirmations, and not simply the 532 appeals on which reductions were granted.

The 532 reductions granted resulted in a total of \$188,196,436 in reduced assessed valuation. The total tax at the State-wide rate of 4.32 per \$100 on the \$415,371,045 in assessed valuation of these 532 appeals would have been \$17,944,029. With the 90% prepayment requirement, \$16,149,626 of these taxes would have been prepaid, leaving 10% of the taxes unpaid. The tax to be refunded to the successful appellants, again based on the 4.32 State-wide rate of 4.32 per \$100, would have been \$6,335,683 (\$8,130,086 tax refund minus \$1,794,403 unpaid). If these appeals took an average of three years to resolve, the interest at 8% per annum paid by municipalities to these successful appellants would have been \$1,520,562. The total amount of refunded taxes and interest paid by municipalities to successful appellants would have been \$7,856,245.

This estimate is, of course, an extremely conservative one. The municipalities for which appeals were adjudicated during 1976, were for the most part municipalities with tax rates above the State-wide rate.

Moreover, many of the reductions granted by the division were in addition to reductions which had previously been granted by the county boards of taxation when the appeals were heard at that level. The amount to be refunded, and the interest to be paid, by a municipality to a successful appellant would be based on the difference between the original municipal assessment and the assessment after judgment by the Division of Tax Appeals. The figures utilized here represent only the difference between the assessment after the county board of taxation determination and the assessment after the division's judgment.

It should also be pointed out that the impact of this \$7,856,245 in total refunded tax and interest would not be distributed equally among the various municipalities of the State, but would impact directly on only certain municipalities. In other words, these figures do not reflect the intensity of the effect of division judgments on municipalities, but only the general magnitude of the effect. It should also be recalled from the previous discussion that almost three times as many appeals are settled after being calendared by the division than are ever tried. These settlements by their very nature must result in reduced municipal assessments.

It might very well be suggested that the prudent municipality would set aside taxes paid by an appealing taxpayer in an interest bearing account in order to prevent the type of fiscal hardships encountered in the examples cited above. It might be argued that the State should require this in the interest of forestalling local fiscal calamities. However, the Special Committee finds little justice in requiring the other taxpayers of a municipality

to pay a higher tax rate to support necessary local services, in order to guarantee against an eventuality which may, indeed, not occur. Moreover, the municipality would never know in advance the amount required to guarantee against such an appeal. The remaining taxpayers of the municipality would have just grounds for protesting any amount so budgeted, however fiscally prudent such an action might prove to be.

The Special Committee discerned, from testimony and other communications it received from municipal assessors and municipal elected officials, considerable suspicion concerning the manner in which the judges of the Division of Tax Appeals regarded the position of the municipality in tax appeals proceedings, and concerning the objectivity of the judges' rulings. The Special Committee realizes that a certain degree of resentment is inevitably present whenever one level of government exercises the power to overrule the activities and determinations of another level of government. However, the Special Committee also sees how a 59% reduction rate in judgments and a 26% average reduction per appeal might give municipal officials the impression that the division judges were not exercising their powers in an equitable manner. Indeed, the Special Committee found that rate of reductions granted by county boards of taxation on appeals at that level during the 1976 tax year was only 53%. The 59% reduction rate at the State level is startling in comparison, since the county boards hear far more small residential appeals, and reportedly, are more empathetic to these residential appellants. The Special Committee does not, of course, question the integrity

or the qualifications of the judges making these decisions. The Special Committee, indeed, does not wish to question the rectitude of the individual judgments of the division. Such an interrogation would involve an examination of each decision rendered by each judge of the division over the last several years. The Special Committee does not wish to imply that judgments should be rendered based upon some "quota system," or that each individual tax appellant does not possess the right to have his appeal adjudicated upon its merits, regardless of the number of other reductions granted by the judges, or of the immediate impact of that appeal on the municipality from which it originated. In fact, the Special Committee would wish to assure that any tax appeals adjudicatory agency would not be influenced by such factors. However, it is mandatory that the Legislature and Governor receive the data with which they can review the cumulative effects of the assessment standards applied in these individual case decisions on the fiscal structure of local government. Without the compilation of such data by the judges, the Legislature and Governor, themselves, are denied the substantive basis for addressing the legitimate concerns of municipal officials in this area.

C. THE CHARACTER AND ENVIRONMENT OF THE TAX APPEALS PROCESS

Of particular concern to the Special Committee, both in its investigation of the existing State tax appeals procedure and in its consideration of recommendations for the Legislature, was the character and environment of the tax appeals process in the State. The Special Committee would include under this topic those elements of the tax appeals process which are, for the

most part, determined by factors outside of the structure of the Division of Tax Appeals itself, or even of the tax appeals procedure as a whole. Specifically, the Special Committee wished to establish what types of appellants were utilizing the procedure, and what degree of concentration prevailed among the attorneys representing these appellants. Such factors would be determined more by the resources at the disposal of taxpayers, by local assessment practices and by the characteristics of the State market for legal services, than by the structure of the Division of Tax Appeals.

However, such outside factors are extremely important for evaluating the existing tax appeals structure, and for taking appropriate legislative actions. One of the most persistent criticisms of governmental regulatory agencies today is the degree to which such agencies tend to fall prey to the very groups and professions which the agencies are required to regulate. While the Division of Tax Appeals is not a regulatory agency as such, it is still pertinent to ask to what degree the division interacts heavily with certain "client groups," and to make some observations concerning the possible consequences of such interaction. Thus, while the Special Committee finds no evidence which would in any way tend to impugn the integrity of the judges of the Division of Tax Appeals, or the rectitude of their judgments, the Special Committee does express considerable concern about the atmosphere and environment within which the judges' individual decisions are being made.

The Special Committee found in its questioning of witnesses at the public hearings that some discontinuity exists between the

assessment standards utilized by municipal assessors in valuating properties, and the standards utilized by the judges of the Division of Tax Appeals in adjudicating appeals on these properties. One such area of disagreement, which appears to have resulted in rather large reductions in the original valuations given by municipal assessors, is the problem of whether apartment housing complexes are to be assessed on the basis of replacement costs, as are industrial properties, or on the basis of income production. The Special Committee does not intend to attempt to recommend the adoption of any specific assessment standards. What the Special Committee does find, however, is that the Division of Tax Appeals does not appear to command either the respect for its judgments, or the acceptance of the objectivity of the standards it utilizes, necessary to resolve these assessment standard disputes.

On the other hand, the Special Committee also finds that the location of the Division of Tax Appeals in the Department of the Treasury does little to inspire taxpayer confidence in the objectivity of its judgments. The Department of the Treasury is, of course, the State department which is charged with the administration of revenue-raising legislation, and therefore, to a considerable degree, with assuring that State revenues meet the projections of the Governor and Legislature. The average taxpayer, aware of these departmental responsibilities, cannot help but wonder whether his appeal from a State tax will be treated impartially by the Division of Tax Appeals.

The Special Committee did establish some evidence concerning the type of taxpayer actively utilizing the tax appeals procedure at the State level. The table Appeals to County Boards of Taxation

(1976 tax year), which follows, allows the reader to compare characteristics of tax appeals filed at the county board of taxation level with those of tax appeals filed at the State Division of Tax Appeals level, and to make certain generalizations based upon those comparisons. The figures compiled in the table are based upon data received from the county boards of taxation for the 1976 tax year. The figures received from the county boards were in some instances incomplete, and the Special Committee was required to estimate these figures on the basis of partial returns, and upon figures received from counties with similar demographic and geographic characteristics. The figures do not include, in most cases, municipal appeals or appeals from added or omitted assessments. In spite of these deficiencies, the figures should be accurate enough for general comparative purposes, but should not be viewed as necessarily contradicting estimates of the number of appeals filed with the Division of Tax Appeals, since such estimates would be for the 1976-1977 fiscal year and would include municipal appeals and appeals from added or omitted assessments.

The tax appeals procedure at the State level is utilized far more actively by large commercial property owners, than is the tax appeals procedure at the county level. In 1976, 43,348 appeals were filed with the county boards of taxation. Of these, 23,645, or 55% were class II residential property appeals. Class IV

APPEALS TO COUNTY BOARDS OF TAXATION (1976 TAX YEAR)^{1/}

| COUNTY | APPEALS FILED | CLASS II RESIDENTIAL APPEALS | CLASS IV COMMERCIAL APPEALS | APPEALS ASSESSED VALUATION OVER \$100,000 | REDUCTIONS GRANTED | ASSESSMENTS AFFIRMED | APPEALED TO STATE | STATE CLASS II RESIDENTIAL APPEALS | STATE CLASS IV COMMERCIAL APPEALS | STATE APPEALS OVER \$100,000 |
|------------|---------------|------------------------------|-----------------------------|---|--------------------|----------------------|-------------------|------------------------------------|-----------------------------------|------------------------------|
| Atlantic | 2,991 | 934 | 313 | 183 | 1,356 | 622 | 482 | 380 | 37 | 35 |
| Bergen | 3,566 | 2,550 | 1,016 | 721 | 432 | 1,537 | 493 | 186 | 307 | 304 |
| Burlington | 838 | 529 | 140 | 166 | 484 | 148 | 168 | 102 | 40 | 49 |
| Camden | 5,582 | 4,004 | 665 | 467 | 3,296 | 1,561 | 352 | 223 | 67 | 124 |
| Cape May | 1,513 | 921 | 129 | 105 | 974 | 506 | 208 | 17 | 24 | 23 |
| Cumberland | 446 | 150* | 45* | 45 | 412 | 121 | 25 | 18* | 5* | 6 |
| Essex | 4,773 | 2,973 | 980 | 1,464 | 3,387 | 1,386 | 2,500 | 1,107 | 963 | 870 |
| Gloucester | 2,063 | 745 | 164 | 101 | 1,624 | 390 | 68 | 9 | 29 | 37 |
| Hudson | 2,883 | 1,062 | 1,579 | 847 | 1,401 | 821 | 939 | 331 | 510 | 411 |
| Hunterdon | 450* | 150* | 50* | 45* | 410* | 120* | 25* | 18* | 5* | 19 |
| Mercer | 974 | 730* | 200* | 143 | 684 | 290 | 174 | 78 | 96 | 92 |
| Middlesex | 1,479 | 625 | 353 | 357 | 641 | 750 | 454 | 38 | 193 | 221 |
| Monmouth | 2,860 | 1,136 | 335 | 262 | 1,356 | 511 | 934 | 270 | 419 | 214 |
| Morris | 3,210* | 2,266* | 402* | 216* | 1,500* | 600* | 260* | 162* | 53* | 87 |
| Ocean | 3,161 | 965 | 262 | 340 | 1,393 | 1,315 | 580 | 200 | 75 | 124 |
| Passaic | 2,248 | 1,411 | 392 | 455 | 1,560 | 688 | 594 | 286 | 193 | 300* |
| Salem | 392 | 137 | 37 | 22 | 349 | 41 | 25* | 18* | 5* | 6* |
| Somerset | 824 | 625 | 199 | 96 | 617 | 103 | 357 | 35 | 322 | 46 |
| Sussex | 1,321 | 515 | 53 | 64 | 276 | 540 | 205 | 10 | 9 | 21 |
| Union | 1,354 | 702 | 547 | 451 | 650 | 507 | 409 | 52 | 325 | 308 |
| Warren | 1,320* | 515* | 50* | 45* | 275* | 540* | 25* | 18* | 5* | 21 |
| TOTALS | 43,348 | 23,645 | 7,911 | 6,695 | 23,077 | 13,097 | 9,277 | 3,566 | 3,682 | 3,398 |

* Data not received from county board. Number given represents an estimate based upon partial data received, and upon figures received from counties with similar demographic and geographic characteristics.

^{1/} Does not include, in most cases, municipal appeals or appeals for added or omitted assessments.

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commercial property appeals amounted to 7,911, or 18%. Of the 9,277 appeals later taken to the State, 3,566, or 38%, were class II residential property appeals, while class IV commercial property appeals to the State amounted to 3,682, or 40%. Obviously, commercial property owners find it necessary, or are more able and willing, to fully utilize every step of the tax appeals procedure than are residential property owners. The percentage of commercial property tax appeals filed with the county boards which were subsequently taken to the State Division of Tax Appeals was 47%. The percentage of residential property tax appeals taken to the State was only 15%.

Appeals to the county boards of taxation for which the assessed valuation of the property appealed was \$100,000 or more, numbered 6,695, or 15% of all appeals to the county boards. Appeals to the State Division of Tax Appeals for which the assessed valuation was \$100,000 or more, numbered 3,398, or 37% of all appeals filed at the State level. The percentage of county board appeals for which the assessed valuation was \$100,000 or more, which were subsequently appealed to the State, was 51%. The Special Committee believes that, after municipal appeals and added and omitted assessment appeals are added, the percentage of \$100,000 or more appeals to the division would be about 40%. Here again, it is the property owner with a large assessed valuation who needs, or is able and willing, to fully utilize the tax appeals procedure at all levels.

With respect to the character and atmosphere of the tax appeals procedure at the State level, the Special Committee was also extremely concerned about the degree of concentration among the legal firms representing tax appellants. In the course of its investigation, allegations came to the attention of the Special Committee of large

tax firms bringing appeals into the Division of Tax Appeals in "boxloads" on the filing date for appeals, of the solicitation by large tax firms of commercial property owners to appeal assessments, and of favorable treatment for large tax firms by the division in scheduling their appeals. These allegations were denied at the public hearings both by witnesses representing the Division of Tax Appeals, and by witnesses representing various legal firms active in the field.

The Special Committee, however, has received evidence demonstrating an alarming degree of concentration among the law firms specializing in this area. Mayor Richard A. Nest of Fort Lee Borough has furnished statistics to the Special Committee showing that in 1976, one attorney represented 46% of all properties under appeal in the Borough, which amounted to almost 24% of the total ratables of the municipality. The Special Committee discovered that in 1976, 142 appeals were filed with the division from the City of Elizabeth for which the assessed valuation was over \$100,000, and that 53, or 37% of these over \$100,000 appeals were represented by one law firm. The total assessed valuation for these 142 appeals was \$153,175,900; the 53 appeals represented by the one law firm accounted for \$70,867,500, or 46% of the total.

The following table is based upon lists furnished by the county boards of taxation of appeals taken to the State division for which the assessed valuation was over \$100,000. The table amply demonstrates the high degree of concentration among large firms in eight northern New Jersey counties in the representation of large property tax appeals.

Six Most Active Tax Firms in
Eight Northern New Jersey Counties

Appeals to State Division of over \$100,000 in 1976

| County | Total Assessed Valuation Taxpayer Appeals | Total Taxpayer Appeals | Total Assessed Valuation Rep- resented by Six Firms | % | Total Ap- peals Repre- sented by Six Firms | % |
|-----------|--|------------------------------|--|-------------|---|-------------|
| Bergen | \$ 589,707,500 | 320 | \$ 267,052,100 | 45.3 | 94 | 29.4 |
| Hudson | 427,799,900 | 385 | 217,781,250 | 40.9 | 157 | 40.8 |
| Middlesex | 388,526,700 | 215 | 168,207,999 | 43.3 | 87 | 40.5 |
| Monmouth | 204,096,800 | 204 | 96,159,350 | 47.1 | 65 | 31.8 |
| Morris | 136,370,100 | 87 | 67,068,404 | 49.1 | 41 | 47.1 |
| Sussex | 31,647,500 | 21 | 22,606,500 | 71.4 | 4 | 19.0 |
| Union | 367,113,300 | 293 | 184,397,700 | 50.2 | 140 | 47.8 |
| Warren | <u>17,264,700</u> | <u>21</u> | <u>14,411,567</u> | <u>83.5</u> | <u>13</u> | <u>61.9</u> |
| Total | \$2,162,515,500 | 1,546 | \$1,037,684,870 | 48.0 | 601 | 38.9 |

It should be noted that the \$2,162,515,500 in assessed valuation for taxpayer appeals was about 5.5 of the total ratables of the eight counties, and that the \$1,037,684,870 in assessed valuation represented by the six law firms was about 2.6% of the total ratables of the eight counties.

It should be noted that in testimony at the public hearings the judges of the Division of Tax Appeals demonstrated little awareness of the degree of concentration among law firms representing large tax appeals which is indicated by these charts. Even in response to specific questions to this point, and to citations of certain preliminary evidence in this area compiled by Special Committee staff, the judges exhibited little anxiety concerning the possible impact of law firm concentration upon the State tax appeals procedure.

The following table shows the total appeals of over \$100,000 in assessed valuation represented by the most active law firm in the field. The table also shows the geographic concentration of this firm's activities. This law firm is located in Newark, and most of its appeals to the State are from Essex and neighboring northern counties. However, the firm does represent several large properties from the southern portion of the State.

Most Active Tax Firm

Appeals to State Over \$100,000

1976

| <u>County</u> | <u>Total Taxpayer Appeals</u> | <u>Firm's Appeals</u> | <u>%</u> |
|---------------|-------------------------------|-----------------------|-------------|
| Atlantic | 27 | 1 | 3.7 |
| Bergen | 320 | 36 | 11.2 |
| Burlington | 49 | 1 | 2.0 |
| Camden | 167 | 8 | 4.8 |
| Cape May | 21 | 0 | 0.0 |
| Cumberland | 6 | 2 | 33.3 |
| Essex | 870 | 425 | 48.8 |
| Gloucester | 37 | 0 | 0.0 |
| Hudson | 385 | 22 | 5.7 |
| Hunterdon | 13 | 1 | 7.7 |
| Mercer | 92 | 7 | 7.6 |
| Middlesex | 215 | 41 | 19.1 |
| Monmouth | 204 | 17 | 8.3 |
| Morris | 87 | 26 | 29.9 |
| Ocean | 91 | 2 | 2.2 |
| Passaic* | - | - | - |
| Salem* | - | - | - |
| Somerset | 46 | 8 | 17.4 |
| Sussex | 21 | 1 | 4.8 |
| Union | 293 | 93 | 31.7 |
| Warren | <u>21</u> | <u>7</u> | <u>33.3</u> |
| Total | 2,965 | 698 | 23.5 |

*Information not received. Based upon the pattern of geographic distribution of the tax firm's appeals, Passaic appeals would probably raise the overall percentage somewhat, and Salem would probably lower the overall percentage somewhat.

The Special Committee believes that some basic questions are raised concerning the structure of the State tax appeals procedure by the heavy utilization of the tax appeals process by large commercial property owners, by the high degree of concentration of legal firms in the tax appeals field, and by the Special Committee's finding that the total assessed valuation of appeals filed for fiscal year 1977 will be between \$6 and \$7 billion, with the average appeal around \$500,000. The Special Committee does not believe that 7 understaffed, overworked and underpaid part-time judges, with little Legislative and Executive review of the overall impact of their individual decisions, can reasonably be expected not to have their perspectives influenced through continued exposure to the same attorneys representing the same types of appellants. If the past pattern of division judgments continues as revealed in the sample of division judgments discussed above, the \$6 or \$7 billion in assessed valuation for the 1976 appeals now pending in the division backlog, will be reduced by approximately 26%, or \$1.5 billion. While this reduction pattern may, or may not, be linked to the environment within which appeals are being adjudicated, the strong conjunction of these two factors tends to raise such a suspicion.

Thus, while such gross figures as those discussed above do not demonstrate that the Division of Tax Appeals has been "captured" by those appellants and attorneys who most actively utilize it, the Special Committee believes that the structure of the division is such that the danger of this occurring is quite high.

D. SUMMARY

In light of the foregoing discussion and evidence, the Special Committee recommends that the Division of Tax Appeals be abolished. This action is recommended for the following reasons:

1. The present funding and staffing situation in the division make it virtually impossible for it to discharge its responsibilities efficiently or equitably; or to formulate any information overview of the tax appeals procedure;
2. The State cannot reasonably expect part-time judges to devote the time and energy to their duties which is necessary to dispose of the high volume of new appeals being filed and a 28,000 appeals backlog;
3. The current backlog of tax appeals portends a fiscal crisis of drastic proportions for many municipalities of this State, and cannot be eliminated without the establishment of full-time judges supported with adequate staff and resources;
4. The Division of Tax Appeals lacks the prestige and respect for its decisions necessary to act as a positive vehicle for rectifying serious disputes in the area of assessment standards and practices;
5. The location of the Division of Tax Appeals within the Department of the Treasury does not foster taxpayer confidence in the objectivity of its judgments;

6. The high percentage of large commercial properties appealed to the division, and the high degree of concentration among the law firms handling tax appeals, pose a serious danger that the Division of Tax Appeals may become unduly influenced by those appellants, and those attorneys, who actively utilize the tax appeals procedure; and,
7. The prevailing atmosphere of distrust and suspicion concerning the tax appeals procedure dictates a break with past institutional structures and a reconstitution of the State tax appeals procedure on a new foundation.

RECOMMENDATION #2 - That a tax court be established as an inferior court of limited jurisdiction in the Judicial branch of government, and that the tax court exercise the powers and jurisdiction now exercised by the Division of Tax Appeals, and in addition thereto exercise the jurisdiction currently exercised by the Superior Court with regard to eminent domain and transfer inheritance taxation.

The Special Committee finds that the inefficiency and other difficulties which now afflict the Division of Tax Appeals are the result, not only of a history of underfunding and understaffing, but of the structure of that division, and the character and environment of the tax appeals process in New Jersey. The recommendations of the Special Committee for the reform of the tax appeals procedure must necessarily, if they are to be appropriate to the task, be structural in nature, and be addressed to the existing character and environment of the process.

The Special Committee believes that only a well-staffed, well-informed tax court, with full-time judges assisted by qualified appraisal employees, will be able to command the confidence and respect for its decisions necessary to positively influence tax assessment standards and practices in the State, and to assure an efficient and equitable disposition of tax appeals at the State level. A tax court of full-time tenured judges, possessing the staff capability to assemble and establish facts relating to individual appeals and to the tax appeals process as a whole, would possess the resources necessary to maintain objectivity of

perspective in the face of a high level of concentration of legal firms specializing in tax appeals, and in the face of the obvious interest of municipalities in preserving the original assessments on real properties. Furthermore, the location of the tax court in the Judicial Branch of the State Government, and the publication of its opinions, should impart a greater prestige and confidence in the impartiality of the tax appeals procedure.

The tax court, as an inferior court of limited jurisdiction authorized pursuant to Article VI, Section I, paragraph 1 of the New Jersey Constitution, should have jurisdiction over all tax appeals now taken to the Division of Tax Appeals. The tax court should also have the jurisdiction over matters related to eminent domain and to transfer inheritance taxation now exercised by the Superior Court. The tax court should have the power to hear and determine all issues of fact and law de novo. Appeals from the tax court, as now from the Division of Tax Appeals, should be to the Appellate Division of the Superior Court on issues of law only.

The tax court should consist of no less than 5, nor more than 9, judges, depending upon need, appointed by the Governor with the advice and consent of the Senate. While the Special Committee wishes to see the current backlog of appeals eliminated as quickly as possible, it also recognizes that, should that reduction occur, the tax court might find itself with too many judges. Therefore, the Special Committee does not recommend any fixed number of judges, but does recommend that the Chief Justice of the Supreme Court be authorized to transfer judges from the Superior Court to the tax court, and vice versa, as the need arises.

The Special Committee recommends that the tax court judges serve for the same terms, receive the same salaries and pensions, and possess the same tenure rights and privileges, as Superior Court judges. The judges should be required to devote full time to their duties, and should be removable from office in the same manner as Superior Court judges. The judges should be attorneys of at least 10 years standing, and should be chosen for their special qualifications, knowledge and experience in matters of taxation.

Staffing, funding and reporting requirements of the tax court are discussed under recommendations # 4, 6, and 7 below.

Legislation establishing tax courts throughout the United States has been recommended by the Advisory Commission on Intergovernmental Relations, and by the Council of State Governments. The legislation recommended by the Special Committee is modeled after that proposed by these organizations, with certain adaptations to the governmental and taxation structure of New Jersey. To this date 3 States: Maryland, Oregon and Hawaii, have established tax courts. In addition, Michigan has recently established a Tax Tribunal, similar to a tax court, but in keeping with that State's constitutional restrictions, located in the Executive branch of government.

In reviewing the tax appeals agencies of the remaining States, the Special Committee found no structural pattern prevalent. In many States, tax administration and tax appeals duties are still performed by the same independent agency, often entitled the State Tax Commission, or by the State department charged with State financial administration. Independent agencies performing

only tax appeals duties, where they exist, are often part-time in nature.

The Special Committee does not recommend that New Jersey adopt tax court legislation simply because it is the type of legislation recommended by such research and advisory organizations as the ACIR and the Council of State Governments. A tax court is well fitted to the property tax structure and the tax appeals environment of New Jersey. A property tax administration system which is founded upon the assessment of property by local assessors individually elected or appointed in their taxing districts, demands an authoritative and objective agency at the pinnacle of the State tax appeals procedure to address problems relating to property tax assessments. A tax court, through its published decisions, and through its annual reports to the Governor and Legislature, will fulfill this need. The Special Committee does not foresee in the immediate future the establishment of a State administered property assessment apparatus. The costs to the State of such an assessment system, and the local "home rule" considerations involved, tend to militate against such a State assumption of this function. However, since those States which have established a tax court also possess a more centralized assessment system than New Jersey, a tax court is not incompatible with a State administered system.

The Special Committee believes that a tax court would be better able to preserve its autonomy of perspective within the existing tax appeals environment than would a tax appeals agency located in the Executive branch of government. It is extremely important to the efficacy of any adjudicatory process that it be

separate from administrative and policy-making functions. Both the taxpayer and the taxing district have the right to expect that a tax appeal will be decided upon its merits, and not according to State revenue needs or the facility of administrating the decision. And, certainly, the parties to an appeal have the right to expect that the court will make its decision on the basis of consistent assessment standards and principles of law.

In this regard, one of the primary concerns of the Special Committee in making this recommendation is to incorporate within the legislation establishing a tax court, an effective check against the court becoming, or appearing to become, a captive of those attorneys who appear before it. The Special Committee noted under recommendation # 1 that the danger of this occurring in the case of the present State tax appeals structure is quite high. While individual appeals must be decided upon their merits, and according to uniform standards and principles, the body of law being applied in these individual cases must be responsive to the needs of the citizens of the State. Inbreeding within a small fraternity of lawyers leads eventually to a body of law which is more responsive to the needs of the legal profession than to the needs of the State. Thus, the Special Committee believes that the annual reports required to be filed with the Governor and Legislature pursuant to recommendation # 6, should contain not only statistics on the activities of the tax court for the previous year, but also a description of the assessment standards and principles of law utilized by the tax court in deciding appeals for that year. The Special Committee sees these annual reports of the tax court as being especially important both for providing the Governor and Legislature with an overview of tax court activities and

standards, and for providing the Governor and Legislature with direction concerning necessary clarifications of statutory language and legislative intent.

In recommending a tax court, the Special Committee has no illusions that the adoption of this measure will in itself produce any magical reduction in the existing tax appeals backlog. Although a tax court consisting of full-time judges should be able to process and adjudicate more appeals than an agency consisting of part-time judges, the Special Committee is aware that quite a large backlog of cases now exists in the Superior Court system. If the tax appeals backlog is to be reduced, recommendations # 3, 4 and 5 which follow, providing for adequate supporting staff for the judges, and for measures designed to expedite the processing and hearing of appeals, are of particular importance.

Also in this regard, the assumption by the tax court of cases relating to the valuation of real property under eminent domain and to transfer inheritance taxation will provide the Superior Court with some relief from its own case backlog. All matters related to taxation and property evaluation should be handled by the court with special jurisdiction in the area, and with the staff resources to establish necessary facts.

It is always difficult to estimate the cost of a new State agency before the agency is established. The operating cost for each tax court judge, however, is relatively easy to estimate. The Superior Court budget for 120 judges is \$9,204,807 for fiscal year 1978, or about \$76,700 per judge. If in the judgment of the Governor and the Senate 7 tax court judges were required in the initial year after establishment, the operating budget would be \$536,000. What is difficult to estimate is the amount which would be required

for court services and administration. Obviously, adding a new court to the judicial system would entail some additional court services and administration costs, since the tax court would require court reporters, legal assistance, and management services. The decisions of the tax court would be required to be published. However, the Special Committee does not believe that the addition of 7 judges to the court system would necessarily entail an expansion of every part of the judicial staff and information services. The Special Committee believes an amount of \$60,000 for each judge, or \$420,000 for 7 judges, may prove to be reasonable to supply these services. In addition to these amounts, certain costs would be incurred from the special staff for the tax court recommended under recommendation #4 below. The administrative secretary should be a trained statistician compensated at an appropriate salary of \$30,000. The administrative secretary will require a staff of secretaries to assist in processing filing fees and compiling data. Six such secretaries at \$10,000 each would entail \$60,000 in salaries. The real estate appraisal and assessment employees required pursuant to that recommendation should receive salaries of about \$20,000 each. Five such employees would entail \$100,000 in salaries. On the basis of these figures, the Special Committee estimates that a tax court would cost approximately \$1,146,200.

Before turning to the discussion of the remaining recommendations, the Special Committee wishes to touch upon the problem of housing a tax court. This lack of housing for a tax court was brought to the attention of the Special Committee at several times during the public hearings. The Special Committee, however, believes that the present is an auspicious time to institute a

tax court, since it appears likely that a new justice building, housing the Supreme Court, the Superior Court and the Department of Law and Public Safety, may be constructed in the near future. The Special Committee recommends that room be found in this new facility to house the tax court. Until such building is constructed, the State should establish a systematic program of renting and sharing courtrooms and chambers from which the tax court judges could operate, either from the various county courts or from the Superior Court courtrooms throughout the State. If a judicial building is not constructed, or if it should prove impossible to house the tax court therein, the Special Committee believes that a program of renting and sharing courtrooms, if conscientiously formulated, may very well prove adequate to this purpose.

RECOMMENDATION #3 - That there be established within the tax court a Small Claims Division to operate for the use of taxpayers appealing small tax liabilities or small assessed valuations, wherein the proceedings would be conducted on an informal basis and where a party could appear without the necessity of an attorney.

The Senate Special Committee is particularly concerned that the establishment of a tax court not adversely affect the interests of residential property owners. If a tax court is to be created, a Small Claims Division within such court, wherein appeals could be heard on a per se basis without the benefit of an attorney, is essential. The Special Committee finds that the major factor which acts against small appellants fully utilizing the tax appeals procedure is that of cost. The State tax appeals procedure should not be so expensive that it prohibits any taxpayer, whatever his financial means, from appealing his assessment or tax liability. An equitable and uniform fee requirement will help to realize this end. But the principal expense to small appellants is not filing fees, but attorneys' fees. For this reason, a Small Claims Division has been recommended for the existing Division of Tax Appeals, and has been included in the past in virtually every proposal for the creation of a tax court.

The Special Committee also recommends that the assessors to be hired by the tax court, pursuant to recommendation #4 below, be available to be assigned to the Small Claims Division to act as hearing officers therein, but that all judgments on appeals within the division be rendered by judges of the tax court.

RECOMMENDATION # 4 - That the tax court be provided with sufficient staff to allow for the expeditious and efficient processing, hearing and adjudication of appeals.

The Senate Special Committee has devoted a great deal of attention to the problem of staffing the tax appeals procedure at the State level. The current staffing situation in the Division of Tax Appeals is intolerable, and is one of the primary causes of the massive backlog of appeals in the division. If 7 judges working on a part-time basis are inadequate to dispose of the caseload in the division, certainly the inadequacies of the division are compounded many times over by the absence of any legal or other professional staff to assist the judges in reading briefs on the cases, or establishing facts related to the appeals in question.

The Special Committee is particularly concerned that the tax court possess, as nearly as possible, all of the information necessary to hear and adjudicate an appeal before the appeal is calendared for hearing. The result which hopefully will be attained is that the judges will have sufficient lead-time to review the appeals prior to calendaring, and, thereby, will be able to reduce the time devoted to actually hearing cases in court. The Special Committee believes that such a more efficient allocation of time on the part of the judges is necessary if the current backlog of appeals is to be eliminated, and if the Legislature is to be assured that such an enormous backlog is not to accumulate again. The requirement that appeals involving an assessed valuation of over \$150,000 contain an appraisal of the property, a transcript of the proceedings before the county board of taxation, and a copy of the county board's findings of fact and conclusions, as proposed in recommendation # 8 below, is one step toward this goal.

However, the task which will be handed to the new tax court is awesome. Not only will the judges assume the burden of adjudicating the 28,000 backlogged appeals, but also of adjudicating new property tax appeals, which can be expected to be filed at least at the current rate of 13,000 a year; appeals from State taxes; and, appeals from recently enacted taxes and property tax relief measures, such as the gross income tax and the homestead rebate program. In addition, the tax court will assume jurisdiction over matters related to eminent domain and transfer inheritance taxation. If the tax court is to expeditiously dispose of its responsibilities, a strong staff corresponding to the particular character of the court will be absolutely necessary.

The staff necessary to the tax court consists of two types. The first is that which is allocated to all State courts, consisting of a chief clerk, assistant law clerks, legal secretaries and recording clerks. This staff is necessary to assist the judges in reading cases, writing and typing opinions, recording courtroom proceedings, etc. All of these staff employees would be under the direct supervision of the presiding judge and of the chief clerk.

The second type of staff would consist of those who are necessary because of the particular character of the jurisdiction of the tax court. These staff employees would also be under the supervision of the presiding judge and the chief clerk, but their duties would be oriented less to the legal aspect of the tax court's activities, than to the statistical, assessment and accounting aspects of the tax court's activities.

Recommendation # 7 below would provide that the tax court would continue to be funded through filing fees paid at the time of appeal. These fees must be expeditiously processed, accounted

for, and deposited in the general State fund. Recommendation # 6 below would require the tax court to file annual statistical and informational reports with the Governor and Legislature. These reports should contain the type of aggregate and other data necessary for the Governor and Legislature to oversee the tax appeals process and to act to clarify legislative language and intent in the area of tax law. In order to implement these recommendations the Special Committee believes that additional staff, including an administrative secretary with some statistical experience, and such secretaries as the administrative secretary may require to carry out his duties, is necessary. These particular duties should be executed by specialized personnel, and should not be imposed upon the chief clerk and his legal staff.

In addition, the Special Committee believes that the judges of the tax court should have available to them a staff of 5 to 9 employees trained in the appraisal and assessment of real property. These personnel should be available to the judges to conduct such research and make such appraisals as the judges may require to objectively and impartially dispose of the cases before them. The judges should have the capability of establishing facts relating to the assessment appeals before them and to conduct general and comparative research relating to assessment standards and practices. The tax court should not be forced to rely upon the statements of municipal assessors, of the appraisers hired by appellants, or of the county boards of taxation for facts relating to assessment appeals, although all of this information should be available to the tax court.

It might very well be asked whether a full-time staff of assessors would be necessary to the tax court considering the appraisals which appellants of properties over \$150,000 would be required to submit with their appeals. Obviously, if the tax court felt that independent assessments of properties were necessary, it could hire on retainer or another basis private real estate appraisal companies, or even be entitled to avail itself of the assessment expertise of the Division of Taxation, to conduct such surveys. However, a full-time staff of assessors would furnish the tax court with certain staffing flexibility which it otherwise would not possess. These assessors should be available for assignment, from time to time as the need arises, to the Small Claims Division of the tax court to act as hearing officers for cases referred there. The Special Committee recommends that in their capacity as hearing officers these assessors should not be empowered to render final judgments on appeals. In the interests of consistency and legal principle such judgments should be rendered only by a judge of the tax court. Nevertheless, allowing the assessors to act as hearing officers within the division would provide significant relief for the judges from time required to be spent in court on such cases, and might enable the tax court to efficiently function with somewhat fewer judges than the caseload would appear to dictate. Since the Special Committee estimates that it will cost approximately \$136,700 to support each tax court judge, this staff of assessors may ultimately result in a savings to the State.

RECOMMENDATION #5 - That the tax court be required to furnish sufficient notice to parties of the calendaring of an appeal and be given authorization to impose fines for adjournments which are not for good and sufficient cause.

One obstacle to eliminating the backlog of 28,000 appeals at the State level has been the high incidence of adjournment after appeals were calendared for hearing by the Division of Tax Appeals. Of the 27,122 cases placed on the judges' calendars in 1975 and 1976, 16,569, or about 60% of the cases, were adjourned. While some of these adjournments were granted in order to accommodate the division's own scheduling problems, or in order to allow parties the necessary preparation time for hearing cases, testimony received by the Special Committee indicates that many of these adjournments were requested for minor causes, and that some abuse of this procedure by representing attorneys has occurred.

It is difficult for the Special Committee to accept that a Division of Tax Appeals in the Department of the Treasury, realizing the impact of the State tax appeals procedure upon the fiscal stability and budgetary policies of New Jersey municipalities, would allow tax appeals to be adjourned for minor or frivolous reasons. Every adjournment of a case from a judge's calendar results in higher costs to the municipality from which the appeal originates, if the ultimate judgment results in a refund of taxes to the appellant, since municipalities are currently required to pay interest at 8% a year on refunded taxes. And, yet, the information received by the

Special Committee is that adjournments are being granted by the division for minor causes.

One of the reasons for the high incidence of adjournments may be that the Division of Tax Appeals currently notifies appellants of the appearance of their case on the calendar only about 30 days in advance of the scheduled date. This notification period causes scheduling problems for appellants and their attorneys.

The Special Committee recommends that the tax court be required to furnish 60 days notification to all parties of the calendaring of an appeal, that a 10 day period be afforded within which an adjournment may be requested, and that the tax court be authorized to impose a \$100 fine for an adjournment after such 10 day period, except for good and sufficient reason, such as sickness or death.

The Special Committee is aware that the incidence of adjournment of cases is high in most of the State courts, and that the existing courts are not authorized to impose such adjournment penalties. However, the Special Committee believes that the unique fiscal impact of the cases which would be taken to a tax court must be taken into account, and that, given the unfortunate situation prevailing in the Division of Tax Appeals at this time, every effort should be made to furnish the tax court with adequate tools and authority to eliminate the existing appeals backlog.

RECOMMENDATION #6 - That the tax court be required to file annual statistical and informational reports with the Governor and the Legislature.

One of the most disturbing findings of the Special Committee in its investigation of the Division of Tax Appeals is the absence of any compilation by the division of aggregate data on the number of appeals filed with the division, the assessed valuation of the relevant properties, the number and amount of reductions or increases in assessed valuations granted by the judges, the number of appeals filed according to the various assessment categories or according to the amount of assessed valuation appealed, etc. When the Chairman of the Special Committee requested such information from the division, he was informed that, although the division wished to cooperate with the Special Committee's investigation, it possessed neither the staff nor the time to compile the requested information. The Special Committee was able to compile such information and data as are contained in this report only by assigning Special Committee staff to review the individual appeal docket cards in the division files and the monthly calendars of the division judges, and by requesting the various county boards of taxation to compile for the Special Committee data on appeals taken from their individual counties to the State Division of Tax Appeals.

What is most disturbing about this is not that the Special Committee was required to expend more time and resources compiling data on the division's activities than it otherwise would have been

required to do, or that the Special Committee was forced to ask the county boards of taxation to compile certain information on State appeals that the division should have been compiling, but that, if this information was not compiled in aggregate figures accessible to the Special Committee, it was also not accessible to those officials charged with formulating tax policy for the State. The fact that the judges of the division were rendering judgments on tax appeals involving billions of dollars of assessed valuation without any periodic review by the Governor and Legislature of the cumulative effect of their judgments, was startling. It is especially important that the Governor and the Legislature be able to obtain, on a regular basis, overall statistics on tax appeals which could be used to review tax assessment standards and practices and to make necessary corrections in legislation relating to tax assessment.

The Special Committee realizes that the transferral of the responsibility for adjudicating tax appeals from the Executive to the Judicial branch of the State government, while essential for other reasons set forth in this report, will not facilitate Executive or Legislative oversight of the tax appeals procedure. The Special Committee, therefore, strongly recommends that the tax court be required to annually report to the Governor and the Legislature on its activities in the preceding year. The Special Committee realizes that to require such reports of a court is somewhat extraordinary; but the public interest dictates that the branches of State government responsible for formulating and administering tax policy possess accurate information concerning the cumulative effects of tax appeals adjudication on the revenue

structure of the State, and concerning the standards and principles of law utilized in adjudicating these tax appeals.

The Special Committee recommends that the annual reports to be submitted by the tax court to the Governor and Legislature be required to contain such information and statistics as may be appropriate to demonstrate for the previous year the total number of appeals pending before the tax court, the disposition of the various appeals disposed of during that year, the character of appeals filed during that year with regard to the tax from which they are appealed, the total amount of assessment involved in those appeals, the number of appeals filed in each filing fee category during that year, and the classification of properties for which appeals were filed during that year. Such reports should also set forth the total amount of reductions or increases of assessed valuation granted during that year, and a brief description of the standards of assessment and of legal principle utilized by the tax court in making judgments on cases during that year. Such reports should also contain whatever recommendations the presiding judge of the tax court may wish to make to the Governor and Legislature for their consideration regarding the clarification or revision of legislation or rules and regulations relating to taxation.

The Special Committee further recommends that the Division of Taxation in the Department of the Treasury be required to annually review the tax court report and to report to the Governor and the Legislature concerning the impact of the tax appeals process on the fiscal and revenue structure of the State and its political subdivisions.

The Special Committee believes that if these reports were

to be annually submitted to the Governor and the Legislature, the elected officials of the State charged with the responsibility for establishing revenue policy would possess far more information on the effect of the tax appeals process on the State tax structure than is now the case with the tax appeals responsibility situated in the Executive branch of government. Moreover, the Special Committee believes that the tax court reports should serve the Governor and Legislature well with respect to clarifying legislative intent concerning departmental rules and regulations.

RECOMMENDATION #7 - That the tax court be funded primarily through the imposition of filing fees for appeals and that such fees be imposed according to an equitable fee schedule.

The primary argument in the past against the establishment of a tax court has been that of expense. Several times during the public hearings conducted by the Special Committee various witnesses have asserted that a tax court would be too expensive to the State to allow one to be established in the near future. Specifically, both Judge Carmine F. Savino and Judge John F. Evers of the Division of Tax Appeals testified to their personal belief that while the establishment of a tax court is the long-range goal toward which the State should move, the cost would at this time be prohibitive. The judges, therefore, urged a more immediate solution, such as adding 2 more part-time judges to the Division of Tax Appeals to help cope with the 28,000 appeals backlog, and raising the salaries of the division judges. The Special Committee believes that it is extremely doubtful, given the fundamental structural difficulties of the Division of Tax Appeals, that such an "immediate solution" would do much to rectify even the short-term problems of the tax appeals procedure at the State level, let alone effectively address the more basic structural issue of creating an efficient and equitable tax appeals system.

The Special Committee finds that the data compiled in this report demonstrate:

1. That an efficient, well-staffed, full-time tax court can be established and operated without any additional expenditure of State revenues, except revenues received from filing fees paid to the tax court itself; and,
2. That, in fact, the revenue necessary for this purpose would already exist if appellants of large commercial properties

were paying their proportionate share of the cost of operating the tax appeals system. In other words, if the filing fees charged to appellants with assessed valuations above \$150,000, were levied at the same rate as those charged to appellants with valuations below \$20,000, the State would receive from these filing fees more than enough revenue to operate a tax court.

The Division of Tax Appeals is currently largely self-sustaining. In 1976, the division received approximately \$300,000 in revenues from filing fees. The total division budget for fiscal year 1976, was \$360,597. The current filing fee schedule for tax appeals is fixed by statute (R.S. 54:2-45). The following chart shows the fees charged for each category of assessed valuation for property tax appeals, and the rate which each such fee represents:

CURRENT SCHEDULE

| <u>IF ASSESSED VALUATION IS:</u> | <u>FEE IS:</u> | <u>RATE:</u> |
|----------------------------------|----------------|---------------|
| Less than \$20,000 | \$ 2.00 | 0.02% |
| \$ 20,000 to \$ 50,000 | \$ 5.00 | 0.014% |
| \$ 50,000 to \$100,000 | \$15.00 | 0.02% |
| \$100,000 or more | \$50.00 | 0.05% or less |

In addition, a \$50.00 filing fee is authorized for appeals from the determination of the Director of the Division of Taxation on State taxes.

Several characteristics and consequences of the current filing fee schedule should be pointed out:

1. While the \$50.00 fee for appeals involving an assessed valuation of \$100,000 or more, does represent 0.05% of \$100,000, the Special Committee has received data from the county boards of taxation on appeals taken to the State that demonstrate that this category includes appeals on properties with assessed valuations as high as \$65 million. In other words, a taxpayer with a residence assessed at \$110,000, a taxpayer with a small commercial

property assessed at \$250,000, and a taxpayer with a shopping mall or large apartment complex assessed at \$25 million, all pay the same filing fee of \$50.00.

2. The Special Committee estimates that approximately 40% of the appeals filed with the Division of Tax Appeals fall in the category of assessed valuations of \$100,000 or more. The following chart, showing the breakdown of the appeals filed in this category, was compiled from lists received from the county boards of taxation on appeals for \$100,000 or more taken from their determination to the State. The data in most cases does not include municipal appeals or appeals for added or omitted assessments, and does not include any municipal cross appeals on properties. Each of these 4,860 appeals paid a filing fee of \$50.00.

BREAKDOWN OF APPEALS IN \$100,000 CATEGORY

| <u>ASSESSED VALUATION:</u> | <u>MIDDLE:</u> | <u>NUMBER:</u> | <u>RATE:</u> |
|------------------------------|----------------|----------------|-----------------|
| \$ 100,000 to \$ 150,000 | \$ 125,000 | 611 | 0.04% |
| \$ 150,000 to \$ 500,000 | \$ 325,000 | 1845 | 0.015% |
| \$ 500,000 to \$ 1,000,000 | \$ 750,000 | 907 | 0.006% |
| \$ 1,000,000 to \$ 2,000,000 | \$ 1,500,000 | 664 | 0.003% |
| \$ 2,000,000 to \$ 3,000,000 | \$ 2,500,000 | 358 | 0.002% |
| \$ 3,000,000 to \$ 4,000,000 | \$ 3,500,000 | 153 | 0.0014% |
| \$ 4,000,000 to \$ 5,000,000 | \$ 4,500,000 | 84 | 0.001% |
| \$ 5,000,000 to \$ 6,000,000 | \$ 5,500,000 | 52 | 0.0009% |
| \$ 6,000,000 to \$ 7,000,000 | \$ 6,500,000 | 48 | 0.0008% |
| \$ 7,000,000 to \$ 8,000,000 | \$ 7,500,000 | 31 | 0.0006% |
| \$ 8,000,000 to \$ 9,000,000 | \$ 8,500,000 | 13 | 0.0005% |
| \$ 9,000,000 to \$10,000,000 | \$ 9,500,000 | 22 | 0.0005% |
| \$10,000,000 to \$15,000,000 | \$ 12,500,000 | 41 | 0.0004% |
| \$15,000,000 to \$20,000,000 | \$ 17,500,000 | 9 | 0.0003% |
| Over \$20,000,000 | - | 22 | 0.0002% or less |
| | | <u>4,860</u> | |

As the rate percentages in this chart demonstrate, the owner of property with an assessed valuation of \$20 million pays a filing fee equivalent to 0.0002% of his assessed valuation. The owner of property assessed at \$10,000 pays a filing fee

equivalent to 0.02% of his assessed valuation, or 100 times greater than the owner of the \$20 million property.

3. The current filing fee schedule is, therefore, clearly inequitable. Although the schedule does provide for a \$2.00 fee for appeals under \$20,000, and thereby makes appeals for such small assessments inexpensive in real terms, the relative burdens imposed by the filing fee schedule on appellants systematically favors appellants of large commercial property assessments.
4. The current filing fee schedule does not realistically reflect the high property values prevailing in New Jersey at this time, and the assessment categories do not proportionally reflect the types of properties and amounts of assessed valuation being appealed to the State in 1977. Today, fewer residential property appeals would probably fall in the under \$20,000 category, than would fall in the over \$100,000 category. In other words, residential property owners are not benefitted by the existence of a \$2.00 fee category for appeals under \$20,000. The greatest majority of the 15% of appeals which fall in this lowest category are for vacant properties.

The Special Committee recommends that an equitable and modern schedule of filing fees for appeals to the tax court be adopted. The recommended schedule which follows would subject all appeals to a uniform rate of 0.02% of assessed valuation and would modernize the filing fee categories to reflect the nature of appeals being taken to the State in 1977. An estimate of the number of property tax appeals which would have fallen in each category of assessed valuation in 1976,

and an estimate of the revenues which the schedule would have produced in that year are included.

PROPOSED SCHEDULE FOR FILING FEES TO THE TAX COURT

| <u>ASSESSED VALUATION:</u> | <u>MIDDLE:</u> | <u>FEE:</u> | <u>RATE:</u> | <u>NUM- BER</u> | <u>REVENUE:</u> |
|----------------------------|----------------|-------------|--------------|---------------------|-----------------|
| Under \$150,000 | \$ 75,000 | \$ 15.00 | 0.02% | 7901 | \$ 118,515 |
| \$ 150,000 to \$ 500,000 | \$ 325,000 | \$ 65.00 | 0.02% | 1845 | \$ 119,925 |
| \$ 500,000 to \$1,000,000 | \$ 750,000 | \$ 150.00 | 0.02% | 907 | \$ 136,050 |
| \$1,000,000 to \$5,000,000 | \$3,000,000 | \$ 600.00 | 0.02% | 1259 | \$ 755,400 |
| Over \$5,000,000 | - | \$1,000.00 | 0.02% | 238 | \$ 238,000 |
| | | | or | 12,150 | \$1,367,890 |
| | | | less | | |

In addition, the Special Committee recommends that the filing fee for appeals from the determination of the Director of the Division of Taxation on State taxes, except the Gross Income Tax, remain at \$50.00. The Special Committee further recommends that the filing fee on appeals from the Gross Income Tax be fixed at \$15.00, rather than the current \$50.00.

Several informational and technical points should be made concerning the proposed filing fee schedule:

1. The number of appeals estimated for each filing fee category is based upon lists of appeals and other data received from the various county boards of taxation for the 1976 tax year. The estimated total of 12,150 property tax appeals, as well as the estimated 40% of appeals in the over \$100,000 range, is more conservative than the estimates currently utilized by the Division of Tax Appeals in producing revenue estimates of 13,000 property tax appeals, and 50% of appeals in the over \$100,000 range. The more conservative estimate guidelines are used: (1) in order to assure that the estimates produced do not inflate expected revenues; and, (2) in order to compensate for the fact that using the division's estimate guidelines the 11,413 appeals filed in fiscal year 1975-76 should have produced \$338,132, where the actual revenues from

filing fees given in the 1977 budget for that fiscal year were \$300,000.

2. The revenue estimate of \$1,367,890 is for property tax appeals alone. Estimates of revenues from filing fees for appeals from State taxes are not included. The Division of Tax Appeals estimates about 10% of its appeals are from these State taxes. The revenue estimate also does not include estimates for appeals from the Gross Income Tax or the homestead rebate program. These new appeals areas, also, would not be included in the 10% figure cited above. It should also be pointed out that the tax court could expect to receive some additional revenues from the adjournment fees recommended in recommendation #5.
3. The proposed filing fee schedule would affect small property appellants little, if at all, whereas it would merely subject appellants of large properties to the same rate now shouldered by appellants of small properties. The following sets forth the effect of the proposed schedule on small property appellants:

ASSESSED VALUATION:

CHANGE IN FEE:

| | |
|------------------------|---------------------------------|
| Under \$20,000 | Raised from \$2.00 to \$15.00 |
| \$ 20,000 to \$ 50,000 | Raised from \$5.00 to \$15.00 |
| \$ 50,000 to \$100,000 | Remains at \$15.00 |
| \$100,000 to \$150,000 | Lowered from \$50.00 to \$15.00 |

By subjecting all appeals below \$150,000 to the same \$15.00 fee, the schedule would assure that virtually all residential property appellants would pay that fee. The Special Committee considers that the lowering of the fee for appeals on properties with assessed valuations between \$100,000 and \$150,000 from \$50.00 to \$15.00 to be particularly important in a State with such inflated property values as New Jersey.

Some might object to requiring taxpayers with assessed valuations of over \$500,000 to pay filing fees of \$150.00, \$600.00, or \$1,000.00 in order to have their case heard by the tax court. Nevertheless, a prima facie case exists that all appellants should pay filing fees based upon a standard rate, and that, if small property owners are to be required to pay filing fees based upon some percentage of their assessed valuation, then large property owners should pay filing fees based upon the same percentage. Moreover, it is doubtful that a \$1,000 filing fee would deter the owner of a property assessed at \$5 million or \$10 million, who is probably seeking to have his assessment reduced by some hundreds of thousands of dollars, from appealing to the State level.

The more important question confronted by the Special Committee in recommending the retention of filing fees for appeals to the tax court is more philosophical in nature. Filing fees, of course, are not the traditional means through which State courts are funded. Besides helping to defray the cost to the State of operating a tax court, filing fees, if justified, should serve some other function within the tax appeals process. The Special Committee believes that if the proposed filing fee schedule were to be adopted, owners of large properties would be less likely to make frivolous appeals, or to appeal simply to avoid paying some portion of their property taxes, than they would under the current fee schedule, or than they would if no filing fees were to be required for appealing to the tax court. One of the primary aims of the Special Committee in making the recommendations contained in this report is to significantly reduce the backlog of appeals at the State level, and to assure that such a backlog does not accumulate again. In 1975 and

1976, 1,829 appeals were withdrawn by the appellant after being placed on the calendars of the judges of the Division of Tax Appeals. An additional 318 appeals were dismissed in court for a lack of prosecution. Some 2,419 appeals were stipulated or withdrawn from the files without being placed on the judges' calendars. These figures would appear to indicate that over these two years as many as 4,566 appeals were filed with the Division of Tax Appeals which the appellant realized were not serious in character, or decided not to bother to prosecute. With such a serious backlog problem in the division, such appeals waste State resources processing these appeals, and, more importantly, waste valuable courtroom preparation time for the judges. Thus, while the filing fees set forth in the proposed schedule should not deter any serious appellant from going to the tax court, an equitable and modernized fee schedule should assist in reducing the backlog of property tax appeals.

While the Special Committee does not recommend that the tax court be funded in perpetuity from filing fees, the Special Committee does recommend that an equitable and modernized fee schedule be instituted for the tax court, and that such schedule be retained until such time as a significant reduction in the appeals backlog indicates that filing fees are no longer required. At such time, the State could fund the tax court through general State revenues as other courts are, if such funding is deemed to be appropriate.

The following chart sets forth the estimated cost of funding a tax court, and balances these costs against the revenues the proposed filing fee schedule could be expected to produce based

upon property tax appeals alone:

| | |
|--|-------------------|
| Operating Budget for 7 judges | \$ 536,200 |
| Court Services and Administration | 420,000 |
| Administrative Secretary and 6 secretaries | 90,000 |
| Real Estate Appraisers (5) | <u>100,000</u> |
| <hr/> Estimated Total Cost | <hr/> \$1,146,200 |
| <hr/> Estimated Fee Revenues | <hr/> \$1,367,890 |
| Balance | \$ 221,690 |

This estimate does not include the cost of housing a tax court. Of course, the buildings for the Superior Court have already been constructed, so such construction costs do not enter into its current budget, and would not, therefore, be reflected in the operating budget or court service and administration figures given above. Still, the balance of over \$200,000 should leave sufficient revenue for the State to establish a systematic program of renting and sharing courtrooms and chambers from which the tax court judges could operate, either from the various county courts or the Superior Court courtrooms throughout the State. Moreover, it should be borne in mind that the projected balance of \$221,690 is based upon an extremely conservative estimate of the revenues which the tax court could expect to receive from fees, and, therefore, that the \$221,690 balance could very easily be increased by several hundred thousand dollars.

RECOMMENDATION #8 - That the county boards of taxation be required to record all proceedings before them and set forth written findings of fact and conclusions on each appeal heard; that a transcript of the recording and a copy of the findings be made available to any party to an appeal upon payment of a \$5.00 fee; and, that appeals to the tax court involving an assessed valuation of \$150,000 or more be required to contain an appraisal of the property conducted by a qualified real estate appraisal firm, a transcript of the record of the proceedings before the county board, and a copy of the findings of fact and conclusions of the county board.

The New Jersey Tax Policy Committee in its report to Governor Cahill in 1972, recommended that the following steps be taken to improve and modernize the county boards of taxation:

1. 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.
2. County tax board appeal petitions, rules and procedures should be standardized throughout the State.
3. Proceedings of the county tax boards should be recorded and should be available to any party to such proceedings.
4. County Tax boards should be required to set forth findings of fact and conclusions to support their determinations.
5. Direct appeal to the tax court (or Division of Tax Appeals, if retained) should be permitted, at the election of either party, where the value of property subject to the appeal exceeds \$100,000.

These proposals were once again recommended for the consideration of the Special Committee by various groups testifying at the public hearings held on March 15 and 30. One of the most consistent criticisms of the tax appeals procedure in the State voiced at these

public hearings was that the county boards of taxation did not possess the time or the facilities to objectively review and adjudicate the tax appeals brought before them. The Special Committee was informed that appellants of large commercial property assessments in some instances did not bother to present a detailed argument or brief before the county boards, since they did not believe their case would receive the proper attention. In such an atmosphere, appeal from the determination of the county board of taxation to the Division of Tax Appeals has become increasingly automatic for these appellants. The backlog of appeals at the State level is partially a result of this county board situation.

The Special Committee believes that the first of the New Jersey Tax Policy Committee proposals listed above is not practical at this time, and will not be practical until such time as another regional body is found which can assume the important administrative duties now being shouldered by the county boards of taxation. However, the Special Committee believes that the resolution of this problem of dual county board responsibilities is not possible without a general overhaul of tax assessment practices and procedures, and, therefore, lies beyond the limitations of the Special Committee's responsibilities. Complete State funding of the county boards is a worthwhile goal, and should be seriously pursued by the Legislature and the Governor as additional revenues are discovered which can be used to reduce local fiscal burdens. The State already pays the salaries of the members of the county boards, and some additional cost to the State will accrue from the adoption of the new increased salaries proposed in recommendations #11 and #12 of this report. In addition, the new filing fees proposed in recommendation #10 below will provide some additional funds for county board improvements. The Special

Committee does not, however, believe State assumption of the full cost of the county boards should be implemented until such time as necessary additional State revenues are available for the purpose, and until the property tax administrative role of the county boards is resolved.

In addition, this first proposal recommended the establishment of qualifications for county board members. This proposal was partially implemented by P.L. 1973, c. 320 (C. 54:3-2) which required at least two members of county boards in counties of the first class, and one member in other counties, to complete assessor's training courses within one year of appointment or to possess an assessor's certificate at the time of appointment. The Special Committee believes that the implementation of recommendation #11 of this report will constitute a major step toward the attainment of this goal of county board positions being filled by knowledgeable and qualified persons.

The second proposal of the New Jersey Tax Policy Committee was implemented by P.L. 1973, c. 119 (C. 54:3-14). County boards must now adopt such standardized petitions of appeal, rules, regulations and procedures as are prescribed by the Director of the Division of Taxation.

The Special Committee strongly recommends that proposal 5 of the New Jersey Tax Policy Committee not be implemented at this time. While the Special Committee realizes that appellants of large assessed valuations may not believe that the county boards of taxation are able to give sufficient attention to their appeals, it also is all too well aware of the tremendous backlog of appeals existing in the Division of Tax Appeals. The data assembled by the

Special Committee demonstrates that of the 6,695 appeals filed with the county boards in 1976, for properties having an assessed valuation in excess of \$100,000, 3,398, or 51%, were later appealed to the Division of Tax Appeals. If this proposal had been in effect during that year, the 28,000 appeal backlog in the division could very well have been increased by some 3,297 appeals. Given the burdens which will be thrust upon the new tax court if the recommendations of the Special Committee are adopted, the Special Committee does not believe this proposal should be considered by the Legislature until such time as the backlog of appeals pending before the tax court is significantly decreased. At such time the merits of such a proposal should be carefully reviewed before adoption.

The Special Committee believes that the correct approach to improving the operations of the county boards of taxation is not to allow certain large appeals to by-pass the county board level, but to strengthen the capacity of the county boards to provide meaningful and objective rulings on the appeals brought before them. During the public hearings conducted by the Special Committee, and in the process of requesting and receiving certain data from the county boards of the State, it became apparent to the Special Committee that the degree of modernization of the record retention and the data compilation capabilities of the individual county boards vary greatly. Some of the boards are highly efficient and modern in this regard. Many are not. The Special Committee believes that these capabilities require reinforcement.

The Special Committee is, therefore, recommending that the third and fourth proposals of the New Jersey Tax Policy Committee be implemented as soon as possible by the Legislature.

The Special Committee believes that requiring the county boards of taxation to record all proceedings on appeals and to set forth findings of fact and conclusions on appeals will result in a reinforcement of the county boards' position as the first level of appeal in the State tax appeals procedure, and in a more effective relationship between the county boards and the new tax court, than currently exists between the county boards and the Division of Tax Appeals. The Special Committee, however, believes that the desired results in this regard will be attained only if recommendations 9 through 12 of this report are also implemented. It will be impossible for the county boards to undertake these responsibilities without a full-time president, more funds and more time to hear appeals.

The Special Committee recommends that appeals to the tax court involving an assessed valuation of \$150,000 or more contain an appraisal of the property conducted by a qualified real estate appraisal firm, a transcript of the record of the proceedings before the county board, and a copy of the findings of fact and conclusions of the county board. The Special Committee recommends these requirements for two reasons. First, they will increase the efficacy of the decisions of the county boards of taxation within the State tax appeals procedure. The Special Committee finds that under the existing tax appeals procedure the decisions of the county boards have little, if any, standing when appeals are subsequently taken to the State. While the Special Committee does not wish to deny to the tax court the authority to establish facts relating to appeals, the receipt of the findings of the county boards will tend to relieve the necessity for the tax court

to do so. It will also tend to force appellants to present detailed arguments at the county level. Second, the receipt of these materials will furnish the tax court with more lead-time in investigating appeals, and, thereby, reduce the amount of time judges will have to devote to hearing cases. This factor is extremely important if the current backlog of appeals is to be eliminated.

The Special Committee does not believe that requiring appellants of assessed valuations of \$150,000 or more to submit appraisals of their properties will result in any undue hardship to them. The vast majority of these appellants would have such an appraisal of their property made anyway, and would present it to the tax court at the time the case is heard. All this recommendation would require is that the appellant present the appraisal at the time of filing so that the tax court would have sufficient time to study the appraisal before hearing the case. It would also tend to dissuade taxpayers from appealing to the tax court in instances where a qualified real estate appraisal firm is unable to establish substantive grounds for the appeal.

RECOMMENDATION #9 - That the period within which county boards of taxation are required to hear appeals be lengthened from 3 months to 4 months, and that the date for filing with the tax court be set at January 31 following the county board decision, rather than December 15.

The current three month period allowed to county boards of taxation to hear and adjudicate tax appeals is inadequate, given the existing responsibilities assigned to the county boards and the current volume of appeals being filed at that level. If the county boards of taxation are to be required to record the proceedings on each of these appeals, and to set forth findings of fact and conclusions for each, then an extended period within which these appeals may be heard is imperative. The recommended period would give the county boards another month to hear appeals. In such case, the deadline for filing with the tax court must be set back accordingly. The Special Committee believes that an extra month should be sufficient for this purpose, since the transformation of the office of president of the county board into a full-time position should assist in the expediting of appeals and in the writing of the findings of fact and conclusions.

RECOMMENDATION # 10 - That the filing fee schedule for appeals to the county boards of taxation be modernized and made more equitable through the imposition of a uniform rate.

The current filing fee schedule for appeals to the county boards of taxation demonstrates little regard for equity or uniformity, for property values as they prevail in the State at this time, or for the nature of the appeals being brought before the county boards in recent years.

As will be seen from the following chart, the current fee schedule, as fixed by statute, makes little effort to subject appeals to a uniform rate:

CURRENT FEE SCHEDULE

| <u>ASSESSED VALUATION</u> | <u>MIDDLE</u> | <u>FEE</u> | <u>RATE</u> |
|---------------------------|---------------|------------|---------------|
| Less than \$5,000 | \$ 2,500 | \$ 1.00 | 0.04% |
| \$5,000 to \$20,000 | \$12,500 | \$ 2.00 | 0.016% |
| \$20,000 to \$50,000 | \$35,000 | \$ 3.00 | 0.0086% |
| \$50,000 to \$100,000 | \$75,000 | \$ 5.00 | 0.0066% |
| Over \$100,000 | - | \$10.00 | 0.01% or less |

The filing fee schedule recommended by the Special Committee would impose a uniform rate on all appeals at the lowest rate imposed by the current fee schedule. However, the recommended fee schedule would also modernize the filing fee schedule categories to assure that the very largest appeals shall also pay at the same rate. The recommended filing fee schedule is more reflective of prevailing property values and of the nature of the appeals being taken to the county boards. Furthermore, it should be easier to administer, since it would contain fewer categories and would subject all appeals

under \$150,000 to the same fee. The vast majority of appeals taken to the county boards are residential in nature and would fall in the lowest category.

RECOMMENDED FEE SCHEDULE

| <u>ASSESSED VALUATION</u> | <u>MIDDLE</u> | <u>FEE</u> | <u>RATE</u> |
|---------------------------|---------------|------------|-----------------|
| Less than \$150,000 | \$ 75,000 | \$ 5.00 | 0.0066% |
| \$150,000 to \$500,000 | \$325,000 | \$20.00 | 0.0061% |
| \$500,000 to \$1,000,000 | \$750,000 | \$50.00 | 0.0066% |
| Over \$1,000,000 | - | \$65.00 | 0.0065% or less |

The Senate Special Committee requested and received the following information from Marita Borzaga, President of the Hudson County Board of Taxation, concerning the revenues which county boards of taxation could expect to receive from the recommended fee schedule. In 1976, a total of 2,883 appeals were filed with the Hudson County Board of Taxation. The total fees paid by taxpayers amounted to \$15,351. Based upon the recommended fee schedule, the fees would have amounted to \$33,795 , an increase of \$18,444, or 120%.

The Hudson County Board of Taxation supplied the following breakdown of the amount which it would have received under each filing fee category:

| <u>CATEGORY</u> | <u>NUMBER OF APPEALS</u> | <u>FEE</u> | <u>AMOUNT</u> |
|--------------------------|--------------------------|------------|---------------|
| Under \$150,000 | 2,237 | \$ 5.00 | \$11,185 |
| \$150,000 to \$500,000 | 394 | \$20.00 | \$ 7,880 |
| \$500,000 to \$1,000,000 | 110 | \$50.00 | \$ 5,500 |
| Over \$1,000,000 | 142 | \$65.00 | \$ 9,230 |
| | | | \$33,795 |

While it can not be expected that the recommended filing fee schedule would equally affect all county boards of taxation across the State, each county board should receive significantly more revenues from the new schedule. The Special Committee believes that the new schedule, combined with the recording fees proposed in recommendation # 8 above, would assist in deferring a large portion of the increased costs which the county boards would be required to incur in modernizing and improving their administrative and record-keeping systems.

RECOMMENDATION #11 - That the office of president of the county board of taxation be made a full-time position; that the president be required to be, whenever feasible, an attorney at the time of appointment and, if not, to possess an assessor's certificate; and, that the salary of the presidents of county boards in counties with a population in excess of 300,000 be \$30,000, and in other counties be \$20,000.

The growth in administrative responsibilities of, and the increased volume of appeals filed with, the county boards of taxation in the past decade have sorely tested the capacities of the part-time members of the county boards to responsibly and efficiently execute their duties and dispose of these appeals. The Special Committee is well aware that the record-keeping responsibilities, and the requirement that the county boards set forth findings of fact and conclusions on appeals heard, will entail more time, a higher degree of professionalism and a general increase in paperwork from members of county boards of taxation already overwhelmed with the demands of their positions.

It has been suggested to the Special Committee that the present workload of county board members, coupled with the new responsibilities entailed in these recommendations, dictate that the full membership of the county boards be required to devote full-time to their duties. The Special Committee, however, believes that an essential quality of the county boards might very well be lost, if such a transformation of the membership were to occur. The Special Committee believes it is important to the confidence of the average small property taxpayers of this State that the first level of the tax appeal procedure exhibit not only the qualities of efficiency and professionalism,

but the qualities of a shared community of interests with taxpayers and of responsiveness to the problems encountered by the average property owners.

Yet, the Special Committee acknowledges that if the county boards of taxation are to continue to occupy a responsible and respected position in the tax appeals procedure of this State, it is absolutely necessary that their judgments and their findings of fact and conclusions be made and written in a professional and uniform manner based upon consistent standards and principles of law. If this is to be required of the county boards, then at least the president of the board should be required to be a full-time officer. Furthermore, since the president of the county board would be expected to shoulder the responsibility for writing the findings of fact and conclusions, the office should be filled, whenever feasible, by an attorney. The qualification "whenever feasible" is made in acknowledgement of the fact that in the least populous counties of the State it may not be necessary for an attorney to fill the position of president. However, the Special Committee does believe that whenever the county board president is not an attorney, he should, perhaps, be required to possess an assessor's certificate at the time of appointment and one of the other board members be required to be an attorney.

The Special Committee recommends that the salaries of the county board presidents be fixed at \$30,000 for counties with a population in excess of 300,000, and at \$20,000 for all other counties. The Special Committee believes that these salaries would be consistent with the duties and qualification requirements recommended in this report, and with the expected workloads

in the respective counties. Since the salaries of the presidents of the county boards of taxation are paid by the State, the new salaries set forth in this recommendation would result in an increased cost to the State of \$388,750.

RECOMMENDATION #12 - That the salaries of part-time members of county boards of taxation be raised by \$3,000 and, that the salaries of secretaries to the county boards be fixed at \$15,000 for counties with a population of over 300,000, and \$10,000 for other counties.

The salaries of members and secretaries of the county boards of taxation are fixed by statute. These salaries have not been raised since 1962. In the period since 1962, the administrative and adjudicative responsibilities of the county boards have increased enormously. For example, in 1961, the last year before these salaries were raised, 948 appeals were filed with the Hudson County Board of Taxation; in 1976, 2,880 appeals were filed. This involved an increase of over 300% in appeals filed. Data supplied by the county boards of taxation demonstrate that the number of appeals filed at the county level has increased by approximately 62% over the last 5 years.

The increased responsibilities and time required for county board duties indicate that, if qualified and interested citizens are to continue to be attracted to serve as county board members, some increase in compensation is required. Since the Special Committee is recommending that the office of president of the county board be made a full-time position, it is no longer practical to require the salary of the secretary of the board to equal that of the president. The Special Committee, therefore, recommends that the secretaries' salaries be fixed at an amount equal to one half of that to be paid to the presidents of the boards.

The increased salaries of the part-time members of the county boards would result in an increased cost to the State of \$144,000. Since the counties are required to pay the salaries of the

secretaries to the county boards, the increased salaries recommended herein would result in an increased expenditure of \$123,750 for all counties or an average of \$5,893 per county.

SENATE RESOLUTION No. 30

STATE OF NEW JERSEY

INTRODUCED AUGUST 12, 1976

By Senator DUNN

(Without Reference)

A RESOLUTION creating the Special Senate Committee on Tax Appeals procedure, and prescribing the powers, functions and duties thereof.

1 WHEREAS, The local property tax is the single most significant
2 source of public revenue in this State; and

3 WHEREAS, Equitable means of assessing and administering the
4 said tax has been a primary concern of the Legislature for many
5 years; and

6 WHEREAS, In view of the large proportion of public services
7 financed, on the local government level, through this form of
8 taxation, it is essential that the burden be equitably apportioned,
9 both among the several local government units which rely upon
10 this source of revenue to discharge the responsibilities laid upon
11 them by the State, and among the several individual taxpayers
12 within each taxing district; and

13 WHEREAS, In recent years significant improvements have been
14 made, by legislative revision of the methods and basis of assess-
15 ment, to assure that property assessments shall be made on a
16 uniform and equitable basis, by professional methods, and kept
17 up to date; and

18 WHEREAS, Improvement in basic assessment standards and pro-
19 cedures have not been matched by corresponding improvements
20 in the procedures for appeal of assessments by individual tax-
21 payers; and

22 WHEREAS, The said appeals procedure remains lengthy, complex
23 and expensive, and is not a practicable means of relief for small
24 residential taxpayers, who in most cases cannot hope to attain

25 assessment reductions commensurate with the trouble and ex-
26 pense of the procedure; and

27 WHEREAS, There have been allegations that the existing tax appeals
28 system, with its cumbersome procedures, complex requirements
29 and part-time judges, is heavily weighted toward the benefit of
30 the larger property owners and the attorneys who specialize in
31 prosecuting their appeals; and

32 WHEREAS, It is desirable that the State tax appeals procedure be
33 professionalized, modernized and provided with sufficient staff
34 and efficient procedures to expedite fair disposal of appeals by
35 all taxpayers; now, therefore

1 BE IT RESOLVED by the Senate of the State of New Jersey:

1 1. There is hereby created the Special Senate Committee on
2 Tax Appeals Procedure, which shall be composed of six members
3 of the Senate, no more than three of whom shall be of the same
4 political party, to be appointed by the President of the Senate,
5 who shall designate the chairman thereof.

1 2. It shall be the duty of the said special committee to conduct
2 a thorough study of the State tax appeals procedure, and to make
3 recommendations to the Senate for the professionalization, mod-
4 ernization and improvement of the said procedure. In the course
5 of such study the special committee shall (without limitation on
6 the general authorization herein) give particular attention to:

7 a. Replacing the present administrative State tax appeal system
8 and instituting a Tax Court, to be part of the Judicial Branch of
9 State Government, subject to the supervision and discipline of the
10 Supreme Court, for the handling of tax appeal matters only;

11 b. Staffing the said Tax Court with judges who will be required
12 to devote full time to the exercise of their judicial duties; and,

13 c. Designing the said Tax Court to be of sufficient size, and
14 with adequate support personnel, to handle expectable case loads
15 upon a year-round basis, so as to make fair decisions speedily
16 available to taxpayers who cannot afford the delays and un-
17 certainties of the present system.

1 3. The special committee shall be entitled to call to its assistance
2 and avail itself of the services and assistance of such employees
3 of any State, county or municipal department, board, bureau,
4 commission or agency as it may require and as may be available
5 to it for said purpose, and to employ such stenographic and clerical
6 assistants and incur such traveling and other miscellaneous ex-
7 penses as it may deem necessary, in order to perform its duties,

8 and as may be within the limits of funds appropriated or otherwise
9 made available to it for said purposes.

1 4. For the purpose of carrying out the terms of this resolution
2 the special committee shall have all the powers conferred pursuant
3 to chapter 13 of Title 52 of the Revised Statutes.

1 5. The special committee may meet and hold hearings at such
2 place or places as it shall designate during the sessions or recesses
3 of the Senate and shall report its findings and recommendations to
4 the Senate, accompanying the same with any legislative bills to
5 which it may desire to recommend for enactment.

SENATE, No. 3332

STATE OF NEW JERSEY

INTRODUCED JUNE 27, 1977

By Senators DUNN, MARESSA, SKEVIN, HAGEDORN
and McDONOUGH

Referred to Committee on Revenue, Finance and Appropriations

AN ACT establishing a tax court, providing for its powers, functions, judges and personnel, abolishing the Division of Tax Appeals in the Department of the Treasury, transferring certain powers, jurisdiction and employees to the tax court, establishing certain fees to be paid thereto, amending R. S. 54:33-2, R. S. 54:34-13, R. S. 54:38-10 and P. L. 1971, c. 361, supplementing Title 54 of the Revised Statutes, and repealing chapter 2 of Title 54 of the Revised Statutes as amended and supplemented.

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

1 1. The Legislature finds that the Division of Tax Appeals in the
2 Department of the Treasury is inadequate to its task as the
3 principle State agency to hear and adjudicate tax appeals; that
4 the increased complexity and magnitude of the tax structure of
5 this State necessitate a more immediate and more uniform treat-
6 ment of tax appeals than can reasonably be provided by the
7 existing State tax appeals procedure; that the current backlog of
8 some 28,000 tax appeals at the State level, wherein a 4 to 5 year
9 delay exists from the time a real property tax appeal is filed
10 until it is heard, represents a crisis which penetrates to the very
11 structure of that tax appeals procedure; that the assessed value
12A tions of property tax appeals filed at the State level for the
12 year 1976, total over \$6 billion; that it is no longer acceptable that
13 such enormous sums may be reduced, increased or set aside by a
14 State agency consisting of overworked, understaffed, part-time
15 judges who operate under conditions which prevent even the most
16 zealous among them from recognizing the overall implications of
17 their individual case decisions; that the lengthy delay in the

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

18 adjudication of cases has resulted in severe financial hardship to
19 several municipalities of this State; that real property owners of
20 this State are not receiving the fair and expeditious treatment of
21 appeals that an efficient and equitable system of taxation demands;
22 and, that the location of the State tax appeals body in the State
23 department generally responsible for administering and collecting
24 taxes does not inspire public confidence in the objectivity and fair-
25 ness of its decisions.

1 2. The Legislature hereby declares that it is the public policy of
2 this State to provide for an equitable and efficient tax appeals pro-
2A cedure at the State level; to assure that such procedure is neither
3 too cumbersome nor too expensive to accommodate the needs of
4 residential property owners of this State; to assure through the
5 creation and maintenance of a competent, well-staffed, efficient
6 State agency that appeals will be heard and judged in an objective,
7 fair and expeditious manner; to establish Legislative and Execu-
8 tive oversight over the fiscal implications and effects of the tax
9 appeals procedure through the requirement of annual reports;
10 to assure that tax appeals shall be adjudicated on the basis of
11 predictable, fair and consistent standards of assessment and prin-
12 ciples of law; to fund this tax appeals procedure for the most part
13 through an equitable and reasonable fee schedule; and, to maintain
14 for the taxpayers of this State a modern, professional, objective
15 and efficient tax appeals procedure in the Judicial branch of gov-
16 ernment, removed from the State department responsible for
17 administering taxation legislation and collecting revenues.

1 3. A tax court is hereby established as an inferior court of
2 limited jurisdiction, pursuant to Article VI, Section I, paragraph 1
3 of the New Jersey Constitution.

1 4. The tax court shall consist of no less than five, nor more than
2 nine judges, each of whom shall exercise the powers of the court,
3 subject to the rules of the Supreme Court. The tax court shall
4 maintain permanent locations in Trenton and Newark but shall
5 meet and hold sessions in such other counties of the State as shall
6 be necessary to accommodate taxpayers or the calendar of the
7 court, whenever such meetings and sessions are consistent with the
8 efficient functioning of the court.

1 5. The tax court shall be a court of record, having a seal, and
2 shall have jurisdiction to hear and determine all tax appeals and
3 other matters of such character as were previously taken to, and
4 heard and determined by, the Division of Tax Appeals in the
5 Department of the Treasury. The tax court shall have jurisdiction

6 with respect to all matters in condemnation conferred by the "Eminent Domain Act of 1971" (P. L. 1971, c. 361, c. 20:3-1 et seq.).

1 6. a. The tax court, in all causes within its jurisdiction, and
2 subject to law, may grant legal and equitable relief so that all
3 matters in controversy between the parties may be completely
4 determined.

5 b. The tax court may hear and determine all issues of fact and
6 of law denovo, but the determination of the county board of taxation or of the Director of the Division of Taxation in the Department of the Treasury shall be affirmed unless contrary to a
7
8 preponderance of the evidence.

9
10 c. All decisions of the tax court shall be published in such manner
11 as are decisions of the Superior Court.

1 7. The tax court shall include a division therein known as the
2 Small Claims Division which shall have the powers and duties
3 prescribed in sections 7 through 10 of this act. The Small Claims
4 Division shall have jurisdiction of the following classes of cases:

5 a. A proceeding for refund with respect to any year for which
6 the amount of refund claimed does not exceed \$1,000.00, exclusive
7 of interest and penalties.

8 b. A proceeding to set aside additional taxes assessed or taxes
9 assessed with respect to any year for which the amount is contro-
10 versy does not exceed \$1,000.00, exclusive of interest and penalties.

11 c. A proceeding by a taxpayer from a determination of a county
12 board of taxation where said board has determined that either the
13 parcel of land or the total improvements thereon, has a true value
14 not in excess of \$100,000.00 or that personal property has a true
15 value not in excess of \$10,000.00.

1 8. The clerk of the tax court shall assign cases to the Small
2 Claims Division when he finds from an examination of the petition
3 that jurisdiction exists under section 7 of this act.

1 9. The hearing in the Small Claims Division shall be informal,
2 and the judge, or assessment employee, may hear such testimony
3 and receive such evidence as he deems necessary or desirable for
4 a just and equitable determination of the case, except that all
5 testimony shall be given under oath, and that all proceedings shall
6 be recorded.

1 10. A party may appear on his own behalf or may be repre-
2 sented or accompanied by an attorney, certified public accountant
3 or such other person as the court may permit to be present and
4 participate in the proceeding before the Small Claims Division.

1 11. The jurisdiction, powers and functions of the tax court may
2 be altered by law as the public good may require.

1 12. Appeals may be taken to the Appellate Division of the
2 Superior Court.

1 13. The Governor shall nominate and appoint, with the advice
2 and consent of the Senate, the judges of the tax court.

1 14. The judges of the tax court shall each, prior to his appoint-
2 ment, have been admitted to the practice of law in this State for
3 at least 10 years, and shall be chosen for their special qualifications,
4 knowledge and experience in matters of taxation.

1 15. The Chief Justice shall appoint one of the judges of the tax
2 court to be the presiding judge of the tax court.

1 16. The judges of the tax court who shall be hereafter appointed
2 shall hold their offices for initial terms of 7 years and until their
3 successors are appointed and qualified, and upon reappointment
4 shall hold their offices during good behavior. Such judges shall be
5 retired upon attaining the age of 70 years.

1 17. The judges of the tax court shall be subject to impeachment,
2 and any judicial officer impeached shall not exercise his office until
3 acquitted. They shall also be subject to removal from office by the
4 Supreme Court for such causes and in such manner as shall be
5 provided by law.

1 18. Whenever the Supreme Court shall certify to the Governor
2 that it appears that any judge of the tax court is so incapacitated
3 as substantially to prevent him from performing his judicial duties,
4 the Governor shall appoint a commission of 3 persons to inquire
5 into the circumstances and, on their recommendation the Governor
6 may retire the judge from office, on pension, as may be provided
7 by law.

1 19. Each judge of the tax court shall receive for his services an
2 annual salary in the same amount as is payable to a judge of the
3 Superior Court and which shall not be diminished during the term
4 of his appointment. No judge, while in office, shall engage in the
5 practice of law or other gainful pursuit.

1 20. Each judge of the tax court shall be entitled to the same
2 pension rights and privileges of judges of the Superior Court.

1 21. The judges of the tax court shall hold no other office or
2 position of profit under this State or the United States. Any such
3 judge who shall become a candidate for an elective public office shall
4 thereby forfeit his judicial office.

1 22. The Chief Justice of the Supreme Court may from time to
2 time assign judges of the Superior Court to the tax court, as
3 need appears, and may from time to time assign judges of the tax
4 court to the Superior Court or to any other court as the need

5 appears, and any judge so assigned shall have all the powers and
6 jurisdiction vested in or exercised by a judge of the court to which
7 he is assigned.

1 23. The tax court may compel obedience to its process, orders,
2 judgments and sentences in contempt, as fully and amply as the
3 Superior Court.

1 24. The clerk of the tax court shall be appointed by the Supreme
2 Court.

1 25. The tax court shall be staffed with such employees, and
2 shall enjoy such court services, as any court within the Superior
3 Court.

4 In addition to such employees and services, the clerk of the tax
5 court shall employ:

6 a. An administrative secretary, who shall supervise the process-
7 ing of appeals and filing fees, and shall compile such statistics
8 and reports as are required to be reported to the Governor and
9 Legislature pursuant to section 39 of this act;

10 b. Such clerical staff as the administrative secretary may re-
11 quire to carry out his assigned duties; and,

12 c. No less than 5, nor more than 9, employees trained in the
13 appraisal and assessment of real property, who shall be available
14 to the judges of the tax court to conduct such research and make
15 such appraisals as the judges may require to objectively and
16 impartially dispose of the cases before them. Such employees may
17 be assigned by the presiding judge, from time to time as the
18 need arises, to hear cases within the Small Claims Division estab-
19 lished pursuant to sections 6 through 10 of this act, but all judg-
20 ments on such cases shall be rendered by a judge of the tax court.

1 26. The tax court shall review, hear and determine all appeals
2 by any person, taxing district, municipality or county aggrieved
3 by any act, proceeding, ruling, decision or determination of the
5 Division of Taxation in the Department of the Treasury.

1 27. Any action or determination of a county board of taxation
2 may be appealed for review to the tax court, under such rules and
3 regulations as it may from time to time prescribe, and it may review
4 such action and proceedings and give such judgment therein as it
5 may think proper. Nothing contained in this section shall apply to
6 any appeal provided for in section 29 and 30 of this act.

1 28. A county equalization table may be reviewed by the tax court
2 on the complaint of any taxing district or taxpayer in the county,
3 or on its own motion, but such review shall not suspend the appor-
4 tionment of moneys or collection of taxes. No change shall be

5 made in the table except after a hearing in the county, of which
6 five days' notice shall be given by mail to the governing body of
7 each taxing district. If, after the hearing, the tax court shall deter-
8 mine that the aggregate valuation of any district or districts as
9 fixed by the county board was erroneous, it shall revise and correct
10 the equalization table, and ascertain the difference between the
11 amount of State and county taxes actually charged against each
12 district in the county or distributed to it and the amount which
13 should have been charged or distributed according to the corrected
14 table. The difference shall be debited or credited, as the case may
15 be, to each taxing district on account of its share of State and
16 county taxes next due or distributable, as the case may be.

17 The tax court may make all orders necessary to carry out the
18 provisions of this section, but such review shall be completed
19 before September tenth, annually. A certified copy of the revised
20 and corrected table shall be transmitted to each official or board to
21 whom the original table was required to be transmitted.

1 29. Any appellant who is dissatisfied with the judgment of the
2 county board of taxation upon his appeal may appeal from that
3 judgment to the tax court by filing a petition of appeal, in such
4 manner and form as the court shall prescribe on or before
5 January 31 following the date fixed for final decisions by the
6 county boards, and the tax court shall proceed summarily to hear
7 and determine all such appeals and render its judgment thereon
8 as soon as may be.

9 Each petition of appeal shall be verified and shall contain full
10 and complete information as to the land, including the size of the
11 lot, a description of the buildings and structures thereon, if any,
12 and the use thereof and further shall detail the income and expense
13 of operation in cases of income-producing property. Where the
14 petition of appeal is from a judgment as to the assessed valuation
15 of the appellant's property, there shall be annexed to the petition
16 evidence of payment of that portion of the taxes due and payable
17 as to the property which are not in substantial controversy.
18 Whenever the assessed valuation of the property appealed is
19 \$150,000.00 or more, the petition of appeal shall also contain an
20 appraisal of the property conducted by a real estate appraisal firm
21 qualified to conduct valuations and revaluations of real property
22 pursuant to P. L. 1971, c. 424 (C. 54:1-35.35 et seq.), a transcript
23 of the record of the proceedings before the county board of taxa-
24 tion from which the appeal is taken, and a copy of the findings of
25 fact and conclusions of the county board from which the appeal is

26 taken. No appeal, however, shall lie to the tax court where the
27 appeal to the county board of taxation has been (a) withdrawn at
28 the hearing, or previously thereto in writing by the appellant or
29 his agent; (b) dismissed because of appellant's failure to prosecute
30 the appeal at a hearing called by the county tax board; (c) settled
31 by mutual consent of the taxpayer and assessor of the taxing
32 district. This provision shall not preclude an appeal to the tax
33 court in the event that the appeal was "dismissed without preju-
34 dice" by the county board of taxation.

1 30. A copy of the petition of appeal shall be served by the appel-
2 lant upon the county board of taxation whose judgment is appealed
3 from, or its secretary, and upon the assessor, clerk or attorney of
4 the taxing district. Service of such copies shall be evidenced by
5 affidavit upon the original petition of appeal filed with the tax court
6 or service thereon acknowledged. A copy of each judgment of
7 the tax court whether of affirmance, reversal, modification or
8 otherwise shall be sent to the taxpayer and, at the same time, to
9 the collector and to the assessor or board of assessors of the taxing
10 district and the secretary of the county board of taxation in which
11 said taxing district is situated. The tax court shall also give
12 prompt notice to the taxpayer and, at the same time, to the
13 collector and to the assessor or board of assessors of the taxing
14 district and to the secretary of the county board of taxation, in
15 whose county the taxing district is situated, of the withdrawal and
16 dismissal of petitions of appeal filed with tax court.

1 31. a. In any proceeding before the tax court where deeds or
2 other instruments of conveyance do not state the true consideration
3 or sales price of the property, which is the subject of appeal, the
4 realty transfer fee, if any, paid upon the recording of such deeds
5 or instruments as well as the affidavit of consideration attached to
6 and filed with any such deed or instrument shall be admitted as
7 prima facie evidence of the true consideration or sales price of
8 the said property.

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

15 c. If the average ratio is below the county percentage level and
16 the ratio of the assessed value of the subject property to its true
17 value exceeds the county percentage level, the tax court shall reduce

18 the taxable value of the property by applying the average ratio to
19 the true value of the property.

20 d. If both the average ratio and the ratio of the assessed value
21 of the subject property to its true value exceed the county per-
22 centage level, the tax court shall revise the taxable value of the
23 property by applying the county percentage level to the true value
24 of the property.

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

1 32. Where a final judgment has been rendered by the tax court
2 involving real property such judgment shall be conclusive and
3 binding upon the municipal assessor and the taxing district, par-
4 ties to such appeal, for the assessment year and for the 2 assess-
5 ment years succeeding the assessment year covered by the final
6 judgment, except as to changes in the value of the property
7 occurring after the assessment date. Where such changes are
8 alleged, the petition of appeal shall specifically set forth the nature
9 of the changes relied upon as the basis for such appeal. However,
10 the conclusive and binding effect of such judgment shall terminate
11 with the tax year immediately preceding the year in which a pro-
12 gram for a complete revaluation of all real property within the
13 district has been put into effect.

1 33. The clerk of the tax court shall notify all parties to an appeal
2 at least 60 days prior to the date that such appeal will be heard,
3 that such appeal has been calendared by the tax court for such date.
4 If, within 10 days of the receipt of such notification, any part to
5 such appeal shall request that such appeal be recalendared for
6 another date, an adjournment shall be granted. No adjournment
7 shall be granted after such 10-day period, except upon good and
8 sufficient reason, such as sickness or death, or upon the payment
9 of a \$100.00 fee by the party requesting such adjournment.

1 34. Whenever an appeal shall hereafter be taken to the tax court
2 pursuant to any law in which provision is or shall be made for
3 such appeal, the petitioner shall pay a fee or fees as provided in
4 this act.

1 35. a. When the appeal shall involve only the assessed valuation
2 of property, whether such appeal shall be taken to review the
3 valuation assessed in the first instance by any assessing official or

4 body or to review the determination or judgment of any appellate
5 official or body with respect thereto, for each parcel, item or
6 improvement separately assessed on the tax map or assessment
7 records, as the case may be, by the assessing official or body, the
8 fee or fees shall be according to the following schedule:

9 If the total valuation of land and improvements is:

| | |
|--|------------|
| 10 Less than \$150,000.00, the fee shall be | \$15.00 |
| 11 \$150,000.00 or more, but less than \$500,000.00, the fee | |
| 12 shall be | \$65.00 |
| 13 \$500,000.00 or more, but less than \$1,000,000.00, the | |
| 14 fee shall be | \$150.00 |
| 15 \$1,000,000.00 or more, but less than \$5,000,000.00, the | |
| 16 fee shall be | \$600.00 |
| 17 \$5,000,000.00 or more, the fee shall be | \$1,000.00 |

18 b. When the appeal shall involve only the classification of prop-
19 erty, for each parcel of property sought to be reclassified the fee
20 shall be \$150.00.

21 c. When the appeal shall involve both the assessed valuation of
22 property and the classification of property, the fees shall be accord-
23 ing to the provisions of a. and b. of this section.

24 d. When the appeal is taken to the tax court pursuant to N. J. S.
25 54A :9-10 (New Jersey Gross Income Tax), the full fee to be paid
26 shall be \$15.00.

27 e. When the appeal shall involve a matter not covered by a., b.,
28 c. or d. above, the full fee to be paid shall be \$50.00.

1 36. No appeal shall be heard by the tax court unless the fee or
2 fees payable under this act shall have been paid in full. All fees
3 required pursuant to section 36 of this act shall be payable upon
4 the taking of the appeal, and all fees required pursuant to section
5 34 of this act shall be payable prior to the recalendar of the
6 appeal. All fees shall be paid to the administrative secretary of
7 the tax court, and shall be by him reported and accounted for as
8 provided by law for moneys collected by the various State depart-
9 ments and agencies. All such fees shall be for the use of the State,
10 and when paid in full shall not be returned to the petitioner for
11 any reason.

1 37. The State shall provide courtrooms, chambers and officers
2 for the tax court, either on a rental, shared or permanent basis.

1 38. a. The presiding judge shall annually cause a report to be
2 written and submitted to the Governor and Legislature. Such
3 report shall contain such information and statistics as may be
4 appropriate to demonstrate for the previous fiscal year the total

5 number of appeals pending before the tax court, the disposition of
6 the various appeals disposed of during that fiscal year, the
7 character of appeals filed during that fiscal year with regard to
8 the tax from which they are appealed, the total amount of assess-
9 ment involved in those appeals, the number of appeals filed in each
10 filing fee category during that fiscal year, and the classification of
11 properties for which appeals were filed during that fiscal year.
12 Such report shall also set forth the total amount of reductions or
13 increases of assessed valuation granted during that fiscal year,
14 and a brief description of the standards of assessment and of legal
15 principle utilized by the tax court in making judgments on cases
16 during that fiscal year. Such report may also contain such recom-
17 mendations as the presiding judge may wish to make to the
18 Governor and Legislature for their consideration regarding the
19 clarification or revision of legislation or rules and regulations
20 relating to taxation.

21 b. The Division of Taxation in the Department of the Treasury
22 shall annually review the report required under subsection a. of
23 this section and shall report annually to the Governor and the
24 Legislature concerning the impact of the tax appeals process on
25 the fiscal and revenue structure of the State and its political
26 subdivisions.

1 39. All present employees of the Division of Tax Appeals shall
2 be transferred to the office of the clerk of the tax court, and all
3 of such employees shall retain their present civil service status.
4 All future appointments of assistants to the office of the clerk shall
5 be made by the clerk of the tax court in accordance with provi-
6 sions of the Civil Service Law.

1 40. All causes and proceedings pending in the Division of Tax
2 Appeals, shall be transferred to the tax court, together with all
3 existing files and records.

1 41. On the effective date of this act, the terms of office of the
2 judges of the Division of Tax Appeals in the Department of the
3 Treasury, then in office, shall terminate and the said Division of
4 Tax Appeals shall be abolished.

1 42. Whenever in any law, rule, regulation, order, contract,
2 document, judicial or administrative proceedings, or otherwise,
3 reference is made to the Division of Tax Appeals in the Department
4 of the Treasury, the same shall be considered to mean and refer to
5 the tax court established under this act.

1 43. The transfer of responsibilities directed by this act, except
2 as otherwise provided herein, shall be made in accordance with the

3 "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1
4 et seq.).

1 44. All acts and parts of acts inconsistent with any of the pro-
2 visions of this act are, to the extent of such inconsistency super-
3 seded and repealed.

1 45. R. S. 54:33-2 is amended to read as follows:

2 54:33-2. The **[Appellate Division of the Superior Court]** *tax*
3 *court* on appeal shall have jurisdiction to hear and determine all
4 questions in relation to a tax levied under the provisions of
5 chapters 33 to 36 of this Title (§ 54:33-1 et seq.).

1 46. R. S. 54:34-13 is amended to read as follows:

2 54:34-13. Any interested person dissatisfied with the appraise-
3 ment or assessment so made may appeal therefrom to the
4 **[Appellate Division of the Superior Court]** *tax court* within
5 60 days after the making and entering of the assessment, on giving
6 a bond, approved by a Judge of the **[Superior Court]** *tax court*,
7 conditioned to pay the tax so levied, with interest and cost, if the
8 same be affirmed by the **[Appellate Division of the Superior Court]**
9 *tax court*.

1 47. R. S. 54:38-10 is amended to read as follows:

2 54:38-10. The **[Appellate Division of the Superior Court]** *tax*
3 *court* on appeal shall have jurisdiction to hear and determine all
4 questions in relation to any tax imposed under the provisions of
5 this chapter. Any executor, administrator, trustee, person or cor-
6 poration liable for the payment of any tax imposed by this chapter
7 may appeal to the **[appellate division]** *tax court* for a review
8 thereof within 60 days of the date of notice assessing the tax
9 complained of, on giving bond, approved by a judge of the
10 **[Superior Court]** *tax court*, conditioned to pay said tax, together
11 with interest and costs, if said tax be affirmed by the court.

1 48. Section 2 of P. L. 1971, c. 361 (C. 20:3-2) is amended to
2 read as follows:

3 2. When used in this act, unless the context or subject matter
4 otherwise requires, the following words shall have the meanings
5 ascribed to them under this section:

6 (a) "Condemn" means to take private property for a public
7 purpose under the power of eminent domain;

8 (b) "Condemnor" means the entity, public or private, including
9 the State of New Jersey, which is condemning private property for
10 a public purpose under the power of eminent domain;

11 (c) "Condemnee" means the owner of an interest in the private
12 property being condemned for a public purpose under the power
13 of eminent domain;

- 14 (d) "Property" means land, or any interest in land, and (1) any
15 building, structure or other improvement imbedded or affixed to
16 land, and any article so affixed or attached to such building, struc-
17 ture or improvement as to be an essential and integral part thereof,
18 (2) any article affixed or attached to such property in such manner
19 that it cannot be removed without material injury to itself or to
20 the property, (3) any article so designed, constructed, or specially
21 adapted to the purpose for which such property is used that (a)
22 it is an essential accessory or part of such property; (b) it is not
23 capable of use elsewhere; and (c) would lose substantially all its
24 value if removed from such property;
- 25 (e) "Court" means [Superior Court] the tax court of New
26 Jersey;
- 27 (f) "Rules" means the applicable rules governing the courts of
28 the State of New Jersey as promulgated from time to time by the
29 Supreme Court of New Jersey;
- 30 (g) "Action" means the legal proceeding in which
- 31 (1) Property is being condemned or required to be con-
32 demned;
- 33 (2) The amount of compensation to be paid for such con-
34 demnation is being fixed;
- 35 (3) The persons entitled to such compensation and their
36 interests therein are being determined; and
- 37 (4) All other matters incidental to or arising therefrom are
38 being adjudicated.
- 39 (h) "Compensation" means the just compensation which the
40 condemnor is required to pay and the condemnee is entitled to
41 receive according to law as the result of the condemnation of
42 property;
- 43 (i) "Award" means the award of compensation made by the
44 commissioners provided for herein;
- 45 (j) "Judgment" means the adjudication by the court of any
46 issue of fact or law, or both arising under this act. The adjudica-
47 tion of the right to condemn shall be a final judgment. All other
48 judgments shall be interlocutory or final, according to law, or as
49 may be prescribed by the rules;
- 50 (k) "Recording office" means the county office of each county
51 in which the property being condemned, or any part thereof, is
52 located, in which office conveyances of real property may be
53 recorded;
- 54 (l) "Days" means calendar days, calculated in accordance with
55 the rules of court;

56 (m) "Public utility" means and includes every public utility, as
 57 the same are enumerated in Revised Statutes 48:2-13, and every
 58 natural gas pipeline utility as defined in P. L. 1952, chapter 166
 59 (C. 48:10-2 et seq.) vested with the power of eminent domain and
 60 subject to regulation under State or Federal law.

61 (n) Words used in the singular shall include the plural and vice
 62 versa. Words used in the neuter gender shall include masculine
 63 and feminine gender, as the case may be.

1 49. Chapter 2 of Title 54 of the Revised Statutes, as amended and
 2 supplemented, is repealed, including the following supplementary
 3 legislation:

| | | |
|----|--|--------------|
| 4 | Section 16 of P. L. 1946, c. 161 | C. 54:2-40.1 |
| 5 | Section 11 of P. L. 1946, c. 161 | C. 54:2-40.2 |
| 6 | Section 12 of P. L. 1946, c. 161 | C. 54:2-40.3 |
| 7 | Section 15 of P. L. 1946, c. 161 | C. 54:2-40.4 |
| 8 | Section 5 of P. L. 1959, c. 28 | C. 54:2-41.1 |
| 9 | Section 6 of P. L. 1959, c. 28 | C. 54:2-41.2 |
| 10 | Section 7 of P. L. 1959, c. 28 | C. 54:2-41.3 |
| 11 | Section 8 of P. L. 1959, c. 28 | C. 54:2-41.4 |
| 12 | Section 13 of P. L. 1946, c. 161 | C. 54:2-42 |
| 13 | Section 14 of P. L. 1946, c. 161 | C. 54:2-43 |
| 14 | Section 1 of P. L. 1947, c. 98 | C. 54:2-44 |
| 15 | Section 2 of P. L. 1947, c. 98 | C. 54:2-45 |
| 16 | Section 3 of P. L. 1947, c. 98 | C. 54:2-46 |
| 17 | Section 4 of P. L. 1947, c. 98 | C. 54:2-47 |

1 50. This act shall take effect July 1 next following its enactment,
 2 except any appointment, any confirmation of any appointment, and
 3 any action permitted or required by this act and necessary to
 4 effectuate this act as of such date may be made or undertaken prior
 5 to such date.

STATEMENT

This bill is the result of the study conducted by the Senate Special Committee on Tax Appeals Procedure, established pursuant to Senate Resolution 30 of 1976. The special committee was charged with the responsibility of making recommendations for the professionalization, modernization and improvement of the State tax appeals procedure.

This bill would:

1. Establish a tax court, staffed with no less than five, nor more than nine, full-time judges, as an inferior court of limited jurisdiction in the Judicial branch of government;

2. Abolish the Division of Tax Appeals in the Department of Treasury and transfer its functions, powers and employees to the tax court;

3. Transfer to the tax court the jurisdiction previously exercised by the Superior Court with regard to eminent domain, and to transfer inheritance taxation;

4. Establish within the tax court a Small Claims Division to operate for the use of taxpayers appealing small tax liabilities or small assessed valuations, wherein the proceedings would be conducted on an informal basis and where a party could appear without the necessity of an attorney;

5. Provide the tax court with the same staff and court services as any court within the Superior Court;

6. Provide the tax court with certain additional special staff which will process and account for the filing fees authorized under the act, compile certain statistics and write certain reports required under the act, and conduct appraisals of real property at the direction of the judges of the tax court;

7. Change the deadline for filing a State appeal from December 15 following the date fixed for county board decisions, to January 31 following the date fixed for county board decisions;

8. Require that whenever the assessed valuation of property appealed is \$150,000.00 or more, the petition of appeal shall, in addition to the information now required, contain an appraisal of the property conducted by a qualified real estate appraisal firm, a transcript of the record of the proceedings before the county board, and a copy of the findings of fact and conclusions of the county board;

9. Require 60 days notification to all parties of the calendaring of an appeal, provide for a 10-day period within which an adjournment may be requested, and provide for a \$100.00 fine for adjournment after such period, except for good and sufficient reason such as sickness or death;

10. Provide for a fair and equitable filing fee schedule, whereby most property tax appeals shall pay a fee equal to 0.02% of the assessed valuation of the property;

11. Provide that the filing fee for appeals from other taxes shall be \$50.00, except that the fee for gross income tax appeals shall be \$15.00;

12. Provide that the State shall provide courtrooms, chambers and offices to the tax court, either on a rental, shared or permanent basis;

13. Require the tax court to annually report to the Governor and Legislature certain statistics and information concerning its activities in the preceding year, including a brief description of the standards of assessment and of legal principle utilized by the tax court in making judgments, and such recommendations as the presiding judge may wish to make concerning the clarification of taxation legislation and of tax rules and regulations; and,

14. Require the Division of Taxation to review this report and report to the Governor and Legislature on the impact of tax appeals on the fiscal and revenue structure of the State and its political subdivisions.

The Senate special committee recommends this legislation out of its conviction that fundamental structural change is needed if the State tax appeals procedure is to be made efficient and equitable.

As a result of data compiled by the Senate special committee, it is possible to estimate that the fee schedule contained in this bill should raise at least \$1,360,000.00 from property tax appeals alone. This estimate does not include fees paid for appeals from other taxes, or adjournment fees established under section 34 of the act.

The special committee supplies the following estimate of the cost of establishing the tax court:

| | |
|--|----------------|
| Operating Budget for 7 judges (based upon operating budget for Superior Court) | \$536,200.00 |
| Court Services and Administrative | \$420,000.00 |
| Administrative secretary (Statistician) and 6 secretaries to process appeals | \$90,000.00 |
| Real Estate Appraisers (5 appraisers at \$20,000.00) | \$100,000.00 |
| Total | \$1,146,200.00 |

The estimated cost does not include any estimate of the cost of housing the tax court. However, the balance of more than \$200,000.00 could be used to rent chambers and courtrooms around the State, until such time as a new court building is built. At such time, the tax court could be housed therein.

SENATE, No. 3331

STATE OF NEW JERSEY

INTRODUCED JUNE 27, 1977

By Assemblymen DUNN, MARESSA, SKEVIN, HAGEDORN
and McDONOUGH

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning county boards of taxation, amending sections 54:3-2, 54:3-5, 54:3-6, 54:3-8, 54:3-14, and 54:3-26 of the Revised Statutes, and section 1 of P. L. 1947, c. 93, and supplementing chapter 3 of Title 54 of the Revised Statutes.

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

1 1. R. S. 54:3-2 is amended to read as follows:
2 54:3-2. Each board shall, as heretofore, be known as the
3 county board of taxation, and be composed of three
4 members, except as hereinafter provided, to be appointed by the
5 Governor by and with the advice and consent of the Senate. Each
6 member shall be a resident and citizen of the county in and for
7 which he is appointed. Members shall be chosen because of their
8 special qualifications, knowledge and experience in matters concern-
9 ing the valuation and taxation of property, particularly of real
10 property. At no time shall more than two of the members belong to
11 the same political party. In counties of the first class there shall
12 be five members of whom no more than three shall belong to the
13 same political party. Nothing herein contained shall be construed
14 to affect members of county boards of taxation serving on the
15 effective date of this act. At least one member, *other than the*
16 *president*, shall furnish proof that he has received certificates
17 indicating satisfactory completion of training courses designated
18 in section 4 of P. L. 1967, c. 44 (C. 54:1-35.28) within a year of his
19 appointment or that he possesses an assessor's certificate issued
20 pursuant to P. L. 1967, c. 44, as supplemented and in counties where
21 there are five members of the board, at least two members shall
22 furnish such proof.

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

23 *In addition, if the president of the board is not an attorney at*
 24 *law, at least one of the other members of the board shall be an*
 25 *attorney at law.*

1 2. R. S. 54:3-5 is amended to read as follows:

2 54:3-5. **[Each county board shall upon organization elect from**
 3 **its members a president.]**

4 *The Governor, with the advice and consent of the Senate, shall*
 5 *appoint one member of the county board to act as president. The*
 6 *president of the board, whenever feasible, shall be an attorney at*
 7 *law at the time of appointment, or, if not, shall possess an assessor's*
 8 *certificate issued pursuant to P. L. 1967, c. 44, as supplemented.*
 9 *The president of the county board shall devote full time to his*
 10 *duties and shall not engage in any other employment or practice*
 11 *during his term of office.*

1 3. R. S. 54:3-6 is amended to read as follows:

2 54:3-6. The salaries of the members of the several boards shall
 3 be paid biweekly in a biweekly amount by the State Treasurer
 4 upon warrants drawn by the Director of the Division of Budget
 5 and Accounting in the Department of the Treasury. Each biweekly
 6 payment shall be made at a time fixed by the State Treasurer and
 7 the Director of the Division of Budget and Accounting, but not
 8 later than the tenth working day following the biweekly period for
 9 which the salary is due. **[Salaries]** *Except for the president of the*
 10 *board, the salaries of the members of the board shall be as follows:*
 11 *In counties having a population of more than 500,000, an annual*
 12 *salary of **[\$8,125.00]** \$11,125.00; in counties having between 275,000*
 13 *and 500,000 inhabitants, an annual salary **[\$6,250.00]** \$9,250.00;*
 14 *in counties having between 200,000 and 275,000 inhabitants, an*
 15 *annual salary of **[\$5,625.00]** \$8,625.00; in counties having between*
 16 *150,000 and 200,000 inhabitants, an annual salary of **[\$5,000.00]***
 17 *\$8,000.00; except as hereinafter provided, in counties having*
 18 *between 75,000 and 150,000 inhabitants, an annual salary of*
 19 ***[\$4,375.00]** \$7,375.00; except as hereinafter provided, in counties*
 20 *having not more than 75,000 inhabitants, an annual salary of*
 21 ***[\$3,750.00]** \$6,750.00; in counties bordering upon the Atlantic*
 22 *ocean, and having not **[less than 50,000 nor]** more than 150,000*
 23 *inhabitants, an annual salary of **[\$5,000.00]** \$8,000.00.*

24 The president of **[each]** *the county board in counties having a*
 25 *population in excess of 300,000 shall*, in addition to the above,
 26 receive **[the further sum of \$625.00 per annum]** *a salary of*
 27 *\$30,000.00; the president in all other counties shall receive a salary*
 28 *of \$20,000.00.*

1 4. R. S. 54:3-8 is amended to read as follows:
 2 54:3-8. The board of chosen freeholders shall fix the annual
 3 salary to be paid to the secretary of the county board of taxation
 4 and the annual compensation to its other clerical assistants. The
 5 salary of the secretary shall not be less than [the salary payable
 6 to the president of the board of that county, pursuant to R. S.
 7 54:3-6] \$18,000.00 in any county having a population in excess of
 8 300,000, per \$10,000.00 in any other county. Such salaries and com-
 9 pensation shall be paid by the county treasurer on warrants ap-
 10 proved by the president of the board.

1 5. R. S. 54:3-14 is amended to read as follows:
 2 54:3-14. Each board shall adopt such standardized petitions of
 3 appeal, rules, regulations and procedures as are prescribed by the
 4 Director of the Division of Taxation, and issue such directions as
 5 may be necessary to carry into effect the provisions of this title.
 6 Each board shall record all proceedings before it involving tax
 7 appeals, and shall furnish a transcript of the record of an appeal
 8 upon request to any party to that appeal upon the payment of
 9 \$5.00 fee.

1 6. R. S. 54:3-26 is amended to read as follows:
 2 54:3-26. The county board of taxation shall hear and determine
 3 all such appeals within [3] 4 months after the last day for filing
 4 such appeals, and shall keep a record of its judgments thereon in
 5 permanent form, and shall transmit a memorandum of its judg-
 6 ment to the taxpayer, and in all cases where the amount of tax
 7 to be paid shall be changed as a result of an appeal, to the collector
 8 of the taxing district.
 9 The county board shall set forth in written form findings of fact
 10 and conclusions to support its judgment and shall furnish a copy
 11 of such findings and conclusions upon request to any party to an
 12 appeal upon payment of a fee of \$5.00, unless the party also requests
 13 a transcript of the record of the appeal, in which case the total fee
 14 for both shall not exceed \$5.00.

15 Where no appeal is taken to the [Division of Tax Appeals in the
 16 State Department of Taxation and Finance] tax court to review
 17 the action or determination of the county board involving real
 18 property the judgment of the county board shall be conclusive and
 19 binding upon the municipal assessor and the taxing district for
 20 the assessment year, and for the 2 assessment years succeeding
 21 the assessment year, covered by the judgment, except as to changes
 22 in value of the property occurring after the assessment date.
 23 Where such changes are alleged the petition of appeal shall
 24 specifically set forth the nature of the changes relied upon as the

25 basis for such appeal. However, the conclusive and binding effect
26 of such judgment shall terminate with the tax year immediately
27 preceding the year in which a program for a complete revaluation
28 of all real property within the district has been put into effect.

1 7. Section 1 of P. L. 1947, c. 93 (C. 54:3-21.3) is amended to
2 read as follows:

3 1. Upon the filing of a petition of appeal by any taxpayer with
4 the county board of taxation in any county pursuant to section
5 54:3-21 of the Revised Statutes, such taxpayer or the person acting
6 on his behalf shall pay to the secretary of such county board a
7 fee for each such petition according to the following schedule:

8 (a) If the valuation involved is:

| | | |
|----|---|---------|
| 9 | Less than \$5,000.00, the fee shall be | \$1 00 |
| 10 | \$5,000.00 or more but less than \$20,000.00, the fee shall be | \$2 00 |
| 11 | \$20,000.00 or more but less than \$50,000.00, the fee shall be | \$3 00 |
| 12 | \$50,000.00 or more but less than \$100,000.00, the fee shall be | \$5 00 |
| 13 | \$100,000.00 or more, the fee shall be | \$10 00 |
| 14 | Less than \$150,000.00, the fee shall be | \$5 00 |
| 15 | \$150,000.00 or more but less than \$500,000.00, the fee shall be | \$20 00 |
| 16 | \$500,000.00 or more but less than \$1,000,000.00, the fee shall | |
| 17 | be | \$50 00 |
| 18 | \$1,000,000.00 or more, the fee shall be | \$65 00 |

19 (b) When the appeal shall involve only the classification of prop-
20 erty, for each parcel of proerty sought to be reclassified the fee
21 shall be ~~[\$10.00]~~ \$20.00.

22 (c) When the appeal shall involve both the assessed valuation of
23 property and the classification of property, the fees shall be accord-
24 ing to the provisions of (a) and (b) of this section.

25 (d) When the appeal shall involve a matter not covered by (a),
26 (b) or (c), the full fee to be paid shall be ~~[\$10.00]~~ \$20.00.

27 Each such secretary shall be liable for all such fees paid into
28 his hands and he shall pay over all such fees to the treasurer of
29 the county, who shall receive, account and dispose of such fees as
30 revenues of the county:

1 8. All revenues received by the county from fees, either estab-
2 lished or increased pursuant to this amendatory and supplementary
3 act, shall be used exclusively for the purposes of modernizing the
4 record-retention capabilities of the county board of taxation, for
5 defraying the costs incurred by the county board of taxation in
6 transcribing appeal proceedings, setting forth findings of fact and
7 conclusions and in providing copies thereof, and for paying any
8 salary required to be paid by the county which is increased pursuant
9 to this amendatory and supplementary act.

1 9. This act shall take effect July 1 next following enactment.

STATEMENT

This bill is the result of the study conducted by the Senate Special Committee on Tax Appeals Procedure, established pursuant to Senate Resolution 30 of 1976. The special committee was charged with the responsibility of making recommendations for the professionalization, modernization and improvement of the State tax appeals procedure. This bill is a necessary companion measure to Senate Bill, establishing a tax court.

The purpose of this bill is to further professionalize county boards of taxation, and to modernize their record keeping capabilities. The intention of the bill is to fund these improvements partially through a modernized fee schedule, whereby each appellant shall pay an equitable fee at the rate of approximately .0066% of assessed valuation.

The provisions of this bill are:

1. To raise the salaries of part-time members of county boards of taxation by \$3,000.00;
2. To fix the salaries of secretaries of county boards at \$15,000.00 for counties with a population over 300,000, and \$10,000.00 for other counties;
3. To provide that the office of president of the county board of taxation shall be a full-time position, that the president shall be, whenever feasible, an attorney at the time of appointment and, if not, shall possess an assessor's certificate; that the salary of presidents of the county boards in counties with a population in excess of 300,000 shall be \$30,000.00, and in other counties shall be \$20,000.00;
4. To require that each county board shall record all proceedings before it, and shall set forth written findings of fact and conclusions on each appeal heard;
5. To require that a transcript of the recording and a copy of the findings be made available to any party to an appeal upon payment of a \$5.00 fee; and,
6. To lengthen the period within which county boards of taxation are required to hear appeals from 3 months to 4 months.

The Senate special committee estimates that the new filing fee schedule provided herein would increase the amount received by the county boards of taxation from filing fees by approximately 120%.

Since the State pays the salaries of the members of the county boards of taxation, this bill would involve \$532,750.00 in increased State expenditures beginning July 1, 1978.

Addendum to

Tax Appeals in New Jersey; A Critique and a Program for
Legislative Action: Report of the Special Committee on Tax Appeals
Procedure of the Senate of New Jersey, June 26, 1977

Additional Statement and Recommendations of the Special
Committee

July 25, 1977

Since the Senate Special Committee on Tax Appeals Procedure submitted its report to the Senate on June 26 of this year, certain information has come to its attention which the members believe makes necessary modifications in certain recommendations contained in that report. The recommendations which require modification are those relating to reform of the county boards of taxation; that is, recommendations #8 through 12 of the Special Committee report. The Special Committee would like to clarify its intentions with respect to county boards of taxation, and to explain the necessity for the modifications contained in this addendum to the report.

In light of the specific direction to the Special Committee contained in Senate Resolution 30 of 1976, "to conduct a thorough study of the State tax appeals procedure, and to make recommendations to the Senate for the professionalization, modernization and improvement of that procedure," the Special Committee did not believe that it was within its charge to study or make recommendations concerning tax administration or policy. In fact, the Special Committee believed that its recommendations concerning tax appeals procedure should not be tied to any specific proposal to reform the administration of the

property tax; and, moreover, should endeavor to establish a tax appeals procedure which would be, as far as possible, compatible with any future changes in the property tax administrative structure. The fulfillment of this objective became particularly difficult when the Special Committee turned to the problem of formulating recommendations concerning the county boards of taxation. In making its recommendations, the Special Committee intended to preserve the unique characteristics of the county boards of taxation, and to acknowledge and maintain their singular status as administrative-appeals bodies, while at the same time instituting certain changes necessary to make their proceedings consistent with those recommended at the State level for the tax court, and strengthening the overall standing of the judgments of the county boards in the State tax appeals procedure.

Such are still the intentions of the Special Committee with respect to county boards of taxation. However, it has become obvious that if these intentions are to be realized, the recommendations of the Special Committee in this regard require somewhat greater specificity, and must address the problem of differentiating in statutory language those functions, duties and powers of the county boards in the area of tax appeals, from those in the area of property tax administration. The need for making this type of statutory distinction has come about because of the evolution which has occurred in the internal workings of the county boards of taxation of this State since the basic statute establishing these boards was enacted in 1906. As the number of tax appeals filed at the county board

level has increased over the years, and as the tax administrative duties shouldered by the county boards have become more complex and more burdensome, it became increasingly necessary for the part-time members of the county boards in the more populous counties to informally delegate more and more responsibilities to a professional, full-time person. This person was the secretary of the county board of taxation. Today, in most counties of the State, it is the secretary of the board who strikes the tax rate, prepares the equalization table, supervises the local assessors, etc., all functions statutorily charged to the county board of taxation. In most counties, these secretaries are full-time, highly competent and professional persons. Many county governing bodies have recognized the qualities and efforts of their secretaries, and have rewarded them with quite adequate salaries.

However, this pattern does not hold true for all counties of the State. The functions and duties performed by the secretaries vary widely from one county to another. In the least populous counties of the State the secretaries are generally not full-time officers. And, as one might expect, given these disparities in responsibilities and in time required to be devoted to the office, the salaries paid to the county board secretaries vary over a wide range; according to information provided to the Special Committee, from as little as \$5,688 in 1976 in one of the least populous counties, to as much as \$30,183 in 1976 in one of the most populous. Since the secretaries are not statutorily required to be full-time officers, and since the only statutory restriction on the salaries of the secretaries is that they shall not be paid less than the president of the county board of

taxation (the salaries of the current part-time presidents of the board are fixed by statute and range from a high of \$8,750 to a low of \$4,375), county governing bodies possess, and have exercised, a great deal of latitude in fixing the compensation to be paid to their secretaries.

As stated at the outset, the objective of the Special Committee in making its recommendations was to professionalize, modernize and make more efficient the New Jersey tax appeals process. It was not the intention of the Special Committee to disturb or reallocate the responsibility for the performance of the functions of the county boards of taxation, outside of the tax appeals process, as they have evolved over time. Therefore, in recommending that the president of the county board of taxation be required to be a full-time officer, the objective of the Special Committee was to strengthen the capacity of the county boards to efficiently and professionally adjudicate tax appeals and to place the responsibility for writing the findings of fact and conclusions on appeals heard by the county boards squarely on a full-time professional person capable of writing uniform and consistent opinions. The purpose was not to alter the functions now being performed by the county board secretaries in the area of tax administration, but to assure that the burden of writing the findings and conclusions not be added to their already enormous responsibilities.

It is the strong belief of the Special Committee that if New Jersey is to have a strong, efficient and respected first level of tax appeals adjudication, professionally written findings of fact and conclusions are absolutely necessary. It is also its belief that a full-time professional officer is necessary to perform the

county tax administration functions. Thus, the Special Committee wishes to recommend to the Senate the attached committee substitute for Senate 3331, which would do the following:

1. Change the title of the secretary of the county board of taxation to executive director of the county board of taxation;
2. Accord the president of the county board general supervisory powers over the operations of the board, except for those operations specifically charged to the executive director of the board;
3. Set forth in detail the responsibilities of the president of the board with regard to tax appeals procedure;
4. Provide that those duties of the county board relating to tax lists and to the equalization of assessments, and to the supervision of the local assessors, shall be performed through the office of the executive director;
5. Provide that after the effective date of the act, no person may be newly appointed as executive director, unless he devotes full-time to his duties and possesses a tax assessor's certificate;
6. Include a "grandfather clause" to protect the status and tenure of those individuals holding the office of secretary on the effective date of the act by providing that such persons shall hold the office of executive director, even though they do not devote full-time to their duties or do not possess a tax assessor's certificate, but to provide that no person shall be newly accorded tenure

after the effective date of the act who does not devote full-time to his duties and possess a tax assessor's certificate;

7. Provide that the salary of those executive directors who are not required to devote full-time to their duties shall continue to be fixed by the county board of freeholders as it sees fit;
8. Provide that the president of the board in counties with a population in excess of 400,000 shall be paid a salary of \$30,000; in counties with a population between 200,000 and 400,000, shall be paid a salary of \$25,000; and in counties with a population of less than 200,000, shall be paid a salary of \$20,000;
9. Provide that no full-time tenured executive director of the board of taxation shall be paid a salary less than that paid to the president of the board, with provision for a 5 year phase-in for these salaries in counties where such an executive director (secretary) is now paid more than \$5,000 less than the new requirement;
10. Extend the period of time within which the county board of taxation must hear and determine tax appeals from 3 months to 6 months;
11. Require the county board of taxation to record all proceedings before it involving tax appeals, and furnish a transcript of the record to any party to an appeal upon request and payment of a \$15.00 fee;
12. Require the county board to set forth written findings of fact and conclusions to support its judgments, and to furnish a copy to any person

upon request and payment of a \$15.00 fee, unless a transcript of the county board record of the appeal is also requested, in which case the total fee for both shall not exceed \$25.00; and,

13. Require the president of the county board to annually report to the Director of the Division of Taxation and the presiding judge of the tax court, certain information and statistics concerning the tax appeals adjudicated by the county board during the preceding 6 month period.

The committee substitute hereby proposed continues without substantial modification or change, the following recommendations concerning county boards of taxation originally proposed in the Special Committee report:

1. That the filing fee schedule for appeals to the county boards of taxation be modernized and made more equitable through the imposition of a uniform rate (recommendation #10 of the Special Committee Report);
2. That the office of the president of the county board of taxation be made a full-time position and that the president be required to be, whenever feasible, an attorney at the time of appointment, and if not, to possess an assessor's certificate (recommendation #11 of the Report modified with regard to president's salaries by recommendation #8 of this addendum); and
3. That the salaries of part-time members of county boards of taxation be raised by \$3,000 (recommendation #12 of the Report modified with regard to county board secretary

salary by recommendations #7 and 9 of this addendum).

In addition to the proposed committee substitute, there are attached to this addendum certain amendments to Senate Bill 3332, establishing a tax court, which are necessary in order to accommodate the proposed changes to Senate Bill 3331.

The fiscal costs of Senate 3331 as set forth in the Special Committee Report should be revised in accordance with the provisions of the proposed committee substitute. In the report the increased cost to the State was estimated at \$532,750, of which \$388,750 would result from the transformation of the office of president of the board into a full-time position, and \$144,000 would result from the recommended \$3,000 increase in salary for the part-time members of the board. Since the salary recommendation for the county board president is somewhat different in the committee substitute, the increased cost to the State in that regard would be \$368,750, for a total increased cost to the State of \$512,750.

In the report, the Special Committee anticipated that the new salaries recommended for the county board secretaries would result in an increased cost to all of the counties of the State of \$123,750. This estimate was based upon the recommendation to raise the minimum salary to be paid to county board secretaries to \$15,000 in counties having a population in excess of 300,000, and \$10,000 in other counties. However, this amount of \$123,750 would not have accrued fully to the counties since the county board secretaries in many of the counties are already paid at, or well above, the minimum salary recommended for their county in the report, as can be discerned from the following chart:

Salaries of Secretaries of County Boards of Taxation

1976

| | |
|-------------------|----------|
| Atlantic County | \$17,283 |
| Bergen County | 30,183 |
| Burlington County | 17,000 |
| Camden County | 15,016 |
| Cape May County | 17,672 |
| Cumberland County | 7,000 |
| Essex County | 17,334 |
| Gloucester County | 11,000 |
| Hudson County | 14,550 |
| Hunterdon County | 12,000 |
| Mercer County | 20,609* |
| Middlesex County | 16,300 |
| Monmouth County | 13,000 |
| Morris County | 23,005* |
| Ocean County | 21,435 |
| Passaic County | 19,245 |
| Salem County | 5,688 |
| Somerset County | 17,088 |
| Sussex County | 16,800 |
| Union County | 16,612* |
| Warren County | 8,584 |

*Includes longevity

The salaries for executive directors proposed in this addendum would not result in any sharp increases in cost to the counties. In counties where a part-time tenured secretary is now employed, no cost to the county would necessarily accrue since the county board of freeholders would continue to fix the salary of the executive director of the board of taxation as it sees fit. If such part-time secretary were not tenured, the same would apply, except that if he, as executive director, were to later become tenured, his salary would have to comply with the minimum set for full-time, tenured executive directors.

In some counties now having full-time, tenured secretaries, a considerable gap exists between the salary the secretary now receives and the minimum salary set for an executive director in those counties. However, the county would be allowed a five year period within which it could phase-in to the new salary requirement, and, thereby, minimize the impact of the minimum salary requirement. In one county, the minimum salary requirement for executive directors would have no effect at all, since that secretary is already paid above the minimum requirement.

Although the new salary requirements proposed for the position of executive director will result in some increased costs to counties in certain instances, these costs will not accrue to all counties of the State, will be phased-in over a period of time, and should, therefore, be offset completely by the increased filing fees on appeals to the county boards recommended by the Special Committee in its report.

The Special Committee trusts that the addition of this statement to its report will be viewed as consistent with, and demonstrative of, the conscientious effort it made to address the problems present in the tax appeals process of this State. The modifications proposed in this statement should not be regarded as altering the basic objectives and findings of the Special Committee as stated in the report, but as an attempt to more nearly effectuate the intentions and objectives therein expressed.

Senate Committee Substitute

for

Senate Bill 3331

by Senators Dunn, Maressa, Skevin, Hagedorn and McDonough

AN ACT concerning county boards of taxation, amending sections 54:3-2, 54:3-5, 54:3-6, 54:3-7, 54:3-8, 54:3-9, 54:3-10, 54:3-11, 54:3-14, 54:3-16, 54:3-17, 54:3-18, and 54:3-26 of the Revised Statutes, and section 1 of P.L. 1947, c. 93, and supplementing chapter 3 of Title 54 of the Revised Statutes.

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

1. R. S. 54:3-2 is amended to read as follows:

54:3-2. Each board shall, as heretofore, be known as the county board of taxation, and be composed of three members, except as hereinafter provided, to be appointed by the Governor by and with the advice and consent of the Senate. Each member shall be a resident and citizen of the county in and for which he is appointed. Members shall be chosen because of their special qualifications, knowledge and experience in matters concerning the valuation and taxation of property, particularly of real property. At no time shall more than two of the members belong to the same political party. In counties of the first class there shall be five members of whom no more than three shall belong to the same political party. Nothing herein contained shall be construed to affect members of county boards of taxation serving on the effective date of this act. At least one member, *other than the president*, shall furnish proof that he has received certificates indicating satisfactory completion of training courses designated in section 4 of P. L. 1967, c. 44 (C. 54:1-35.28) within a year of his appointment or that he possesses an assessor's certificate issued pursuant to P. L. 1967, c. 44, as supplemented and in counties where there are five members of the board, at least two members shall furnish such proof.

In addition, if the president of the board is not an attorney at law, at least one of the other members of the board shall be an attorney at law.

2. R. S. 54:3-5 is amended to read as follows:

54:3-5. **[Each county board shall upon organization elect from its members a president.]**

a. *The Governor, with the advice and consent of the Senate, shall appoint one member of the county board to act as president. The president of the board, whenever feasible, shall be an attorney at law at the time of appointment, or, if not, shall possess an assessor's certificate issued pursuant to P. L. 1967, c. 44, as supplemented. The president of the county board shall devote full time to his duties and shall not engage in any other employment or practice during his term of office.*

b. *The president of the county board shall exercise general supervisory powers over the operations and activities of the county board of taxation, except for those operations and activities specifically charged to the office of the executive director of the board in this amendatory and supplementary act. The president shall supervise the processing, scheduling, and hearing of tax appeals brought before the county board, the provision of transcripts of recordings and findings of fact and conclusions as required herein, the preparation and submission of such reports as are required herein, and the processing and accounting for any fees to be paid to the county board relating to any appeal. The president shall have sole responsibility for the writing of the findings of fact and conclusions on appeals required herein and each such finding and conclusion shall be under his signature, as well as the signature of any other member of the board who participated in the rendering of the county board judgment on the appeal.*

3. R. S. 54:3-6 is amended to read as follows:

54:3-6. The salaries of the members of the several boards shall be paid biweekly in a biweekly amount by the State Treasurer upon warrants drawn by the Director of the Division of Budget and Accounting in the Department of the Treasury. Each biweekly payment shall be made at a time fixed by the State Treasurer and the Director of the Division of Budget and Accounting, but not later than the tenth working day following the biweekly period for which the salary is due. [Salaries] *Except for the president of the board, the salaries of the members of the board shall be as follows:* In counties having a population of more than 500,000, an annual salary of ~~[\$8,125.00]~~ \$11,125.00; in counties having between 275,000 and 500,000 inhabitants, an annual salary ~~[\$6,250.00]~~ \$9,250.00; in counties having between 200,000 and 275,000 inhabitants, an annual salary of ~~[\$5,625.00]~~ \$8,625.00; in counties having between 150,000 and 200,000 inhabitants, an annual salary of ~~[\$5,000.00]~~ \$8,000.00; except as hereinafter provided, in counties having between 75,000 and 150,000 inhabitants, an annual salary of ~~[\$4,375.00]~~ \$7,375.00; except as hereinafter provided, in counties having not more than 75,000 inhabitants, an annual salary of ~~[\$3,750.00]~~ \$6,750.00; in counties bordering upon the Atlantic ocean, and having not ~~[less than 50,000 nor]~~ more than 150,000 inhabitants, an annual salary of ~~[\$5,000.00]~~ \$8,000.00.

The president of ~~[each]~~ *the county board in counties having more than 400,000 inhabitants shall*, in addition to the above, receive ~~[the further sum of \$625.00 per annum]~~ an annual salary of \$30,000.00; in counties having between 200,000 and 400,000 inhabitants, an annual salary of \$25,000.00; and in all other counties, an annual salary of \$20,000.00.

4. R.S. 54:3-7 is amended to read as follows:

54:3-7.

a. Each county board [may] shall appoint [a secretary]
an executive director, who shall hold office for a term of three

years, and, with the approval of the [board of chosen
freeholders] governing body of the county ,

appoint such other clerical assistants as may be necessary.

b. After the effective date of this amendatory act, any
person newly appointed as executive director to a county board of
taxation shall devote full-time to his duties, and shall not engage
in any other profession or employment while in office.

c. After the effective date of this amendatory act, no person
shall be newly appointed as executive director to a county board
of taxation unless he shall hold a tax assessor certificate issued by
the Director of Taxation pursuant to P.L. 1967, c.44 (C.54:1-35.25
et seq.).

5. R.S. 54:3-8 is amended to read as follows:

54:3-8. The [board of chosen freeholders] governing body of the county
shall fix the annual salary to be paid to the [secretary] executive director
of the county board of taxation

and the annual compensation to its other clerical assistants. The

salary of the [secretary shall not be less than the salary payable

to the president of the board of that county, pursuant to R. S.

54:3-6] executive director shall be commensurate with the duties
and qualifications required of him pursuant to this amendatory and
supplementary act, and with the time he is required to devote to
his duties, but in no case shall the salary paid to any full-time,
tenured executive director be less than that paid to the president
of the board; provided, however, that any county, in which a full-
time, tenured executive director is receiving on the effective date
of this amendatory and supplementary act a salary which is more than
\$5,000.00 less than that to which he would be entitled pursuant to
this section, may comply with the salary requirement imposed here-

under in incremental steps until the commencement of the sixth year after the effective date of this amendatory and supplementary act, at which time, or sooner, as the case may be, the full salary entitlement of the executive director shall be provided by such county.

Such salaries and compensation shall be paid by the county treasurer on warrants approved by the president of the board.

6. R.S. 54:3-9 is amended to read as follows:

54:3-9. All ~~[secretaries]~~ executive directors hereafter appointed who shall have received two consecutive appointments as such ~~[secretary]~~ executive director, and all ~~[secretaries now in office]~~ executive directors who have heretofore acquired tenure pursuant to this section,

shall hold office during good behavior, efficiency and residence in the county where employed, and shall not be removed for political reasons or for any cause other than incapacity, misconduct, nonresidence or disobedience of just rules or regulations established by the ~~[county board of taxation]~~,

Director of the Division of Taxation.

7. R.S. 54:3-10 is amended to read as follows:

54:3-10. No ~~[secretary]~~ executive director hereafter appointed who shall have received two consecutive appointments as such ~~[secretary, and no secretary now in office]~~

executive director, and no executive director who

has heretofore acquired tenure pursuant to R.S. 54:3-9,

shall be removed from office except for just cause, as provided in section 54:3-9 of this Title, and after a written charge or charges of the cause of complaint shall have been preferred against him, signed by the person making the charge, and filed with the president of the county board of taxation, and, after the charge has been publicly examined into by the board, upon such reasonable notice to

the person charged and in such manner and examination as the rules and regulations of the board may prescribe. Every [such secretary] executive director against whom a charge for any cause may be preferred hereunder, shall receive a fair trial upon the charge and have every reasonable opportunity to make a defense thereto.

8. R.S. 54:3-11 is amended to read as follows:

54:3-11. The county boards of taxation shall have all the powers formerly exercised by commissioners of appeal and local boards charged with the duty of reviewing taxes on appeal, under such rules as they may from time to time adopt, and shall , through the office and under the supervision of its executive director, perform all the duties formerly performed by county boards of equalization or other county boards charged with the review or equalization of tax assessments or tax lists, and all the duties formerly performed by the county boards of assessors.

9. R. S. 54:3-14 is amended to read as follows:

54:3-14. Each board shall adopt such standardized petitions of appeal, rules, regulations and procedures as are prescribed by the Director of the Division of Taxation, and issue such directions as may be necessary to carry into effect the provisions of this title.

Each board shall record all proceedings before it involving tax appeals, and shall furnish a transcript of the record of any appeal to any party to that appeal upon request and upon payment of a fee of \$15.00.

10. R.S. 54:3-16 is amended to read as follows:

54:3-16. Each county board of taxation shall, through the office of its executive director, have supervision and control over all officers charged with the duty of making assessments for taxes in every taxing district in the county. Such

officers shall be subject to, and shall, in making assessments, be governed by such rules, orders or directions as may be issued by the county board, in the enforcement of the objects of this title. [Before making any such rules, orders or directions, the county board shall submit them to the state tax commissioner, and no rule, order or direction shall be considered adopted by the county board until approved by him.]

11. R.S. 54:3-17 is amended to read as follows:

54:3-17. Each county board of taxation through the office of its executive director, shall annually ascertain and determine, according to its best knowledge and information, the general ratio or percentage of true value at which the real property of each taxing district is in fact assessed according to the tax lists laid before the board. [It] The Executive Director

shall prepare an equalization table showing, for each district, the following items:

(a) the percentage level established pursuant to law for expressing the taxable value of real property in the county;

(b) the aggregate assessed value of the real property, exclusive of class II railroad property;

(c) the ratio of aggregate assessed to aggregate true value of the real property, exclusive of class II railroad property;

(d) the aggregate true value of the real property, exclusive of class II railroad property;

(e) the amount by which the valuation in item (b) should be increased or decreased in order to correspond to item (d);

(f) the aggregate assessed value of machinery, implements and equipment and all other personal property used in business;

(g) the aggregate true value of machinery, implements and equipment and all other personal property used in business;

(h) the aggregate equalized valuation of machinery, implements and equipment and all other personal property used in business, computed by multiplying the aggregate true value thereof by the lower of (1) that percentage level established pursuant to law for expressing the taxable value of real property in the county, or (2) the average ratio of assessed to true value of real property as promulgated by the director on October 1 of the pretax year, pursuant to chapter 86, laws of 1954, for State school aid purposes, as the same may have been modified by the [Division of Tax Appeals;] tax court;

(i) the amount by which the valuation in item (f) should be increased or decreased in order to correspond to item (h).

A copy of the table shall be mailed to the assessor of each district, and to the Division of Taxation, and be posted at the courthouse, at least 1 week before the hearings provided for in section 54:3-18 of this Title.

12. R.S. 54:3-18 is amended to read as follows:

54:3-18. The executive director of the county board of taxation in each county shall ~~[meet]~~ convene a meeting annually on February 1 (or if that date is a Sunday or a legal holiday, on the next succeeding day which is neither a Sunday nor a legal holiday) for the purpose of ~~[equalizing the assessments of property among]~~ reviewing the equalization table prepared pursuant to R.S. 54:3-17 with respect to the several taxing districts of the county. At the meeting a hearing shall be given to the assessors and representatives of the governing bodies of the various taxing districts for the purpose of determining the accuracy of the ratios and valuations of property as shown in the equalization table. The executive director shall complete his review on or before March 1 at which time he shall present the equalization table to the county board of taxation, along with an accurate summary of the testimony presented at the hearing, and the board shall confirm or revise the table in accordance with the facts. The hearings may be adjourned from time to time but the equalization shall be completed before March 10. At the first hearing any taxing district may object to the ratio or valuation fixed for any other district, but no increase in any valuation as shown in the table shall be made by the board

without giving a hearing, after 3 days' notice, to the governing body and assessor of the taxing district affected.

13. R.S. 54:3-26 is amended to read as follows:

54:3-26. The county board of taxation shall hear and determine all such appeals within ~~[3]~~ 6 months after the last day for filing such appeals, and shall keep a record of its judgments thereon in

permanent form, and shall transmit a memorandum of its judgment to the taxpayer, and in all cases where the amount of tax to be paid shall be changed as a result of an appeal, to the collector of the taxing district.

The county board shall set forth in written form findings of fact and conclusions to support its judgment, and shall furnish a copy of such findings and conclusions upon request to any person upon payment of a fee of \$15.00, unless the person also requests a transcript of the county board record of the appeal, in which case the total fee for both shall not exceed \$25.00.

Where no appeal is taken to the [Division of Tax Appeals in the State Department of Taxation and Finance] *tax court* to review the action or determination of the county board involving real property the judgment of the county board shall be conclusive and binding upon the municipal assessor and the taxing district for the assessment year, and for the 2 assessment years succeeding the assessment year, covered by the judgment, except as to changes in value of the property occurring after the assessment date. Where such changes are alleged the petition of appeal shall specifically set forth the nature of the changes relied upon as the basis for such appeal. However, the conclusive and binding effect of such judgment shall terminate with the tax year immediately preceding the year in which a program for a complete revaluation of all real property within the district has been put into effect.

14. Section 1 of P.L. 1947, c. 93 (C.54:3-21.3) is amended to read as follows:

1. Upon the filing of a petition of appeal by any taxpayer with the county board of taxation in any county pursuant to section 54:3-21 of the Revised Statutes, such taxpayer or the person acting

on his behalf shall pay to the secretary of such county board a fee for each such petition according to the following schedule:

(a) If the valuation involved is:

| | |
|---|----------------|
| Less than \$5,000.00, the fee shall be | \$1 00 |
| \$5,000.00 or more but less than \$20,000.00, the fee shall be .. | \$2 00 |
| \$20,000.00 or more but less than \$50,000.00, the fee shall be .. | \$3 00 |
| \$50,000.00 or more but less than \$100,000.00, the fee shall be .. | \$5 00 |
| \$100,000.00 or more, the fee shall be | \$10 00 |
| <i>Less than \$150,000.00, the fee shall be</i> | <i>\$5 00</i> |
| <i>\$150,000.00 or more but less than \$500,000.00, the fee shall be ..</i> | <i>\$20 00</i> |
| <i>\$500,000.00 or more but less than \$1,000,000.00, the fee shall</i> | |
| <i>be</i> | <i>\$50 00</i> |
| <i>\$1,000,000.00 or more, the fee shall be</i> | <i>\$65 00</i> |

(b) When the appeal shall involve only the classification of property, for each parcel of property sought to be reclassified the fee shall be ~~[\$10.00]~~ \$20.00.

(c) When the appeal shall involve both the assessed valuation of property and the classification of property, the fees shall be according to the provisions of (a) and (b) of this section.

(d) When the appeal shall involve a matter not covered by (a), (b) or (c), the full fee to be paid shall be ~~[\$10.00]~~ \$20.00.

Each such secretary shall be liable for all such fees paid into his hands and he shall pay over all such fees to the treasurer of the county, who shall receive, account and dispose of such fees as revenues of the county.

15. (New Section) a. The president of each county board of taxation shall annually on or before August 15 report to the Director of the Division of Taxation in the Department of the Treasury and to the presiding judge of the tax court. Such report shall contain such information and statistics as may be appropriate to demonstrate for the immediately preceding 6 months period during which tax appeals were heard by the county board; the total number of appeals filed with the county board; the disposition of the various appeals disposed of during that

period; the character of appeals filed with regard to the classification of properties appealed; the total amount of assessment involved in those appeals; the number of appeals filed in each filing fee category during that period; and, the total amount of reductions and increases of assessed valuation granted by the board during that period.

b. The Director of the Division of Taxation shall annually review the reports required under subsection a. of this section, and shall include pertinent information thereof, and his conclusions thereon, in his annual report to the Governor and the Legislature concerning the impact of the tax appeals process on the fiscal and revenue structure of the State and its political subdivisions.

16. (New Section)

All revenues received by the county from fees, either established or increased pursuant to this amendatory and supplementary act, shall be used exclusively for the purposes of modernizing the record-retention capabilities of the county board of taxation, for defraying the costs incurred by the county board of taxation in transcribing appeal proceedings, setting forth findings of fact and conclusions and in providing copies thereof, and for paying any salary required to be paid by the county which is increased pursuant to this amendatory and supplementary act.

17. (New section) Any person holding the office of secretary to the county board of taxation on the effective date of this amendatory and supplementary act shall have the title and hold the office of executive director of the county board of taxation notwithstanding the fact that he does not meet the requirements set forth in R.S.54:3-7.c., and no person holding the office of secretary on said date shall

be required to devote full-time to the duties of office pursuant to R.S. 54:3-7b. No provision of this amendatory and supplementary act shall terminate or affect in any way the tenure of any person holding the office of secretary to the county board of taxation on the effective date hereof, except that no person shall be newly accorded tenure as executive director the county board of taxation after the effective date hereof who does not comply with the provisions of R.S. 54:3-7.b.and: c.

18. (New Section) Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the office of secretary of the county board of taxation, the same shall be considered to mean and refer to the office of the executive director of the county board of taxation established pursuant to this act.

19. This act shall take effect July 1 next following enactment.

to

Senate Bill No. 3332

Proposed by: Senator Dunn

Amend:

| Page | Sec. | Line | |
|------|------|-------|--|
| 6 | 29 | 5 | Omit "January 31" insert "April 1" |
| 6 | 29 | 22-24 | Omit "a transcript of the record of the proceedings before the county board of taxation from which the appeal is taken, and" insert ". Each petition of appeal to the tax court shall contain" |

| Date | Time | Location | Remarks |
|----------|-------|-------------|-------------|
| 11/15/51 | 10:00 | [Illegible] | [Illegible] |
| 11/15/51 | 11:00 | [Illegible] | [Illegible] |
| 11/15/51 | 12:00 | [Illegible] | [Illegible] |
| 11/15/51 | 13:00 | [Illegible] | [Illegible] |
| 11/15/51 | 14:00 | [Illegible] | [Illegible] |
| 11/15/51 | 15:00 | [Illegible] | [Illegible] |
| 11/15/51 | 16:00 | [Illegible] | [Illegible] |
| 11/15/51 | 17:00 | [Illegible] | [Illegible] |
| 11/15/51 | 18:00 | [Illegible] | [Illegible] |
| 11/15/51 | 19:00 | [Illegible] | [Illegible] |
| 11/15/51 | 20:00 | [Illegible] | [Illegible] |
| 11/15/51 | 21:00 | [Illegible] | [Illegible] |

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