



### **Millage Change Requirements Following Reassessments**

In the weeks since the 2012 assessed values were judicially postponed to become the 2013 assessed values, mailings have been sent out to property owners in some parts of the County. During this time statutes requiring the adjustment of millage rates to prevent revenue windfalls have been treated with disdain, disbelief, and disregard. Indeed, the County Executive has commented in news articles that such requirements have “no teeth” and that it is “only a theory”.

When the County last reassessed in 2002 taxing bodies in Allegheny County were permitted to take 105 percent of what they collected in tax revenue the year before the reassessment (new construction and improvements are not included). This was set out by Act 146 and reinforced for the County in Article II, Section 3 of the Home Rule Charter. A review by the County Controller’s office dated July 1, 2003 found that four of the County’s 43 school districts (9%) violated the 105 percent limit by taking in more than that amount without separately voting for a tax increase after the 2002 assessments.

The 105 percent requirement stayed in place until the state passed an amendment to the Second Class County Code which came to be known as Act 71 of 2005. That law stated that when there is a reassessment the County, the municipalities, and the school districts in Allegheny County would have to amend millage rates to be revenue neutral and could then, “by a separate and specific vote”, take another 5 percent over that revenue neutral amount. In other words, the old 105 percent could not come in one step without a vote letting the public know that it was happening. Taking in more than 105 percent under Act 71 requires Allegheny County and its municipalities to seek approval of the courts.

A year later (2006) the General Assembly held a special session on school property taxes and produced Act 1, which addressed tax shifting among types of taxes, limits on school property tax increases, exceptions to those limits, and tax increases through voter referenda. The act contained a section on property tax limits on reassessment and noted “notwithstanding any other provision of law” that a school board “shall...reduce its tax rate, if necessary, for the purpose of having the percentage increase in taxes levied for that year...be less than or equal to the index for the preceding year”. That does not mean revenue neutral, but within the index determining how much school taxes can increase under the statute.

Act 1 applies to all school districts in the Commonwealth including those in Allegheny County. Thus, the reassessment provisions of Act 71 have been superseded as far as school districts in the County are concerned. Finally, note that in non-reassessment years school tax increases are limited to the amount of the district's index as determined by the Department of Education. A district can apply to the Department for an exception to go beyond the index or submit the increase to the voters.

For Allegheny County these laws mean that in a reassessment year the taxing bodies are going to have to roll back millage rates but with different requirements depending on whether it is a school district or the County or one of its municipalities. The County, currently at 5.69 mills, and the 130 municipalities, with varying millage rates, do so under Act 71 while the 43 school districts do so under Act 1. While the Executive expresses skepticism about what the municipalities and school districts will do in regards to rollbacks he needs to keep in mind that the County is likewise required to comply.

So the questions, as far as the Allegheny County reassessment goes, are threefold. First, will the taxing bodies follow the law and roll rates back? That will only become clear once the reassessed values are certified and put into place. Conversations with assessing officials in counties that have reassessed in recent years (Adams in 2010, Luzerne in 2009) indicate that the taxing bodies from the county down to the school districts followed the law. Note that counties other than Philadelphia and Allegheny were until recently subject to other statutes but are now all under a consolidated act that requires revenue neutral rollbacks and a separate vote to take up to 10 percent above the prior year's revenue. The counties' actions were vetted by the contractors who conducted the reassessment.

An examination of the millage rates in those counties before and after can only tell so much about the impact of the law. In fact, the millage rates were lowered but there are complicating factors such as changes in the predetermined ratio (for instance raising the ratio of taxable amount to appraised value from 50 to 75 percent).

Second, what happens if taxing bodies refuse to comply with the anti-windfall provisions? A serious shortcoming of the laws is that they don't spell out who is in charge of ensuring that taxing bodies follow the requirement, nor specify what, if any, punishment should be imposed for refusal to follow statutory requirements. In the aforementioned 2003 Controller's study all that could be done was to make recommendations for corrective action. Moreover, there is nothing in the April 2009 Supreme Court decision ordering the Common Pleas court to ensure compliance on the rollbacks.

Clearly, refusal by elected officials to comply with state laws ought to be grounds for severe punishment, including possible removal from office. There is a dire need for the Legislature to write a blanket law or amend statutes to specify the actions that will be taken against elected officials when they refuse to obey laws they have taken an oath to obey. These actions need to be severe enough to dissuade elected officials from even contemplating ignoring or violating state laws.

Third, who will have the power to act and on what grounds? Perhaps it would fall to the Attorney General on the recommendation of a judge that has been petitioned by citizens who have documented evidence of the elected officials' malfeasance. Legislators can draw on constitutional and legal experts to draft the language. But it is high time that elected officials learn to live by the law and honor their oath to obey the laws. And they should be put on notice that elected office is not the proper venue for civil disobedience.

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