

# ***POLICY BRIEF***

An electronic publication of  
The Allegheny Institute for Public Policy

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January 21, 2010

Volume 10, Number 5

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## **More Reassessment Bluster from the Chief Executive**

*“Allegheny County will comply with the court-ordered 2012 reassessment...”*—press release from the Chief Executive, December 4, 2009

*“I will do everything in my power to make sure [a 2012 reassessment for Allegheny County] does not happen”*—quote from the Chief Executive from a County Council meeting, January 19, 2010. Further, in speaking to reporters the Executive indicated that as Governor he would put an end to court ordered re-assessments claiming that his power to do that derived from the Supreme Court’s ruling that the assessment issue is the purview of the Legislature.

The Executive’s comments raise two questions. First, what has transpired in the last forty five days to make him change his position on complying with the timeframe proposed by the County and accepted by Judge Wettick? It is a virtual repeat of the incident that took place at an October hearing on determining a reassessment timeline when the County’s Solicitor told Judge Wettick that “at this point, the County’s position is that when we are told do get it done, we will get it done” only to have the Executive threaten to appeal the Judge’s proposed timeline to Commonwealth Court shortly thereafter.

Second, and more important, exactly what does the Executive mean when he says he plans on “doing everything in his power” to stop the reassessment? There are several avenues he might try, all of which have deficiencies that will prevent the 2012 re-assessment from proceeding.

- *He could try to convince the Legislature to pass a bill instituting a moratorium on court-ordered reassessments.* Such a bill passed the House last summer but has languished in the Senate ever since; and for good reason. Enactment of a moratorium law would create a constitutional crisis by having the Legislature and the Governor countermanding a direct order of the Supreme Court regarding a constitutional issue. The bill would lead to an immediate court challenge and force the Supreme Court to declare the bill null and void. Who would enforce the law? The situation would devolve into a crisis of massive proportions.

If the Legislature and the moratorium bill were to prevail, the separation of governing powers would be out the window with unimaginable consequences for the state. If the Legislature wants to do something to get around court ordered re-assessments, it should pass a constitutional amendment removing the “uniformity clause” from the constitution as it applies to property taxes or to ban property taxes altogether. Do they have the wherewithal to tackle the issue in a constitutional manner?

- *He could try to convince the Legislature to study the issue, particularly as to how other states conduct reassessments.* The Court of Common Pleas has already provided a

comprehensive picture of assessment practices around the nation, as has the Allegheny Institute. The Supreme Court decision even noted that “twenty two of our sister states require annual reassessments, while twenty six permit reassessments to be conducted at intervals over one year, although they still require periodic reassessment”. If the Executive is trying to find another state that allows for indefinitely long base year assessments, he is not going to find evidence to bolster his case. Then too, it is a virtual impossibility that the state will have new assessment method in place by the time the court ordered reassessment goes into effect in Allegheny County.

- *Should he attain the office of Governor, he has indicated he would try to stop court ordered reassessments including Allegheny County's.* Again, this raises issues created by a legislative moratorium. The same separation of powers problem arises.

What's more, using the Executive's own argument that the Supreme Court has ruled that fixing the state's assessment situation is the purview of the Legislature, why would that give the Governor power to unilaterally issue an order to stop court ordered re-assessments? Besides, the Supreme Court did not mean in its comment about the Legislature having the responsibility for reforming state assessment laws that it could countermand a direct order of the Court.

So what is left? Here are some suggestions. If the Executive is worried about “backdoor tax increases”, that is, the revenue taxing bodies can garner after a reassessment without changing its millage rates, then push for a revenue neutral windfall. If he is worried about any type of property tax increase (like the scores of them that occurred in Allegheny County during the time of the base year) then push for taxpayer referendum on all tax increases. If he wants all counties treated the same, then move the assessment function to the state level, have assessments every three years, and eliminate the base year option altogether.

All of these options could happen, but none of them can, or should, absolve the County from carrying out a reassessment for 2012. After all, it is what they promised, no matter how grudgingly, to do.

Further, the Legislature has a moral obligation to move aggressively to rewrite the state's laws as they apply to property assessments for tax purposes. There are plenty of better models around the country to emulate. It is not rocket science. The problem is that any new law will have to require re-assessments in counties that have not done one in the past two or three years. Granted this presents a political nightmare for legislators, but it must be faced and dealt with.

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