

## **POLICY MEMORANDUM**

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**SUBJECT: SB 346, Property Tax Administration Procedures**

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SB 346 proposes numerous changes to the procedures for property tax administration, particularly the appeals procedures, and a couple of changes to the assessment process. This memorandum summarizes the major changes and their implications, and raises questions that might need to be addressed regarding some of the proposed changes.

### Section 1-1

1. The legislation would require the county board of tax assessors to notify each property owner as to the assessed value of his or her property each year, even if there was no change in value. Currently, such notice is given only in the case of a change in assessed value. In a world in which market values are decreasing, such a notice would seem to be appropriate.
2. Notification is relevant because it can trigger a property owner to initiate an appeal. Property owners can appeal, and in recent years have, even if the property value has decreased. However, without receiving a notice, property owners may not take the opportunity to appeal.
3. The legislation would require a state-wide uniform assessment notice form.
4. The legislation would require that the data used to arrive at the assessed value be made available upon request. Would it be reasonable to require that all sales data be made

available via internet, so that property owners would not necessarily have call the assessors' office to gain access to the data?

5. The legislation would extend the deadline for applying for an appeal from the current 30 days to one year from the time of the notice of assessed value. One issue with allowing the application to extend into the following year is that if property owners wait until the end of the deadline to file their appeals, the workload from the appeals might overlap with the preparation of the subsequent year's assessed values, potentially requiring the assessor's office to employ more people.
6. There is a statement in the proposed legislation regarding the right to appeal. The statement requires listing a contact telephone number. Consideration should be given to allowing the information to be provided on-line as well.

#### Section 2-1

7. Provision is given to allow counties to agree to a regional board of equalization. Consideration might be given to allowing counties to share a common office of tax assessor and office of tax commissioner.
8. The proposed legislation specifies an oath for members of boards of equalization. That oath states that, "I also agree not to discuss any case or any issue with any person except when all of the parties are present." The obvious intent seems to be to prevent the board from making decision behind closed doors. However, what happens if the taxpayer does not want to be present? Does the language require that the tax appraiser and any witness be present? Would the language prevent the board from asking the tax assessor to provide additional information prior to the meeting with the property owner?
9. The proposed legislation changes the method by which an appeal is terminated prior to it going to the board of appeals. Currently, if the property owner does not agree with any correction made by the board of tax assessors, he must notify the board of tax assessors that he is continuing the appeal. In other words, the presumption is that the property owner will not continue the appeal and thus must act to continue the appeal. The proposed legislation presumes that the tax payer wishes to continue the appeal, and must sign an agreement to accept the correction to end the appeal. It is unclear what happens if the tax payer does not intend to continue the appeal but simply refuses to sign the agreement. And, if that happens and the board of equalization holds a meeting and the property owner does not appear, the oath referred to above would seem to prevent the board from discussing the issue, and thus not being able to end the appeal.

10. The proposed legislation requires that the commissioner periodically update and revise the rules that boards of equalization must follow. The language would seem to require that changes be made, even if not needed. Perhaps the language should be “Such rules shall be reviewed, and updated and revised as appropriate, periodically...” The same issue applies to similar language in found in Section 4-1.
11. The proposed legislation states that if an appeal is not determined until after August 1 any tax increase will be paid as part of the subsequent tax bill. Will this provide an incentive for the property owner to hold off on appealing so that the determination cannot be made until after August 1?
12. In an appeal, any decision by the board of equalization to set a value higher than the value asserted by the property owner must be unanimous.
13. For counties for which the tax digest for commercial property exceeds \$1 million, the proposed legislation requires the commissioner to appoint a licensed appraiser who will serve as the board of equalization. This provision increases the likelihood that the appeal will be heard by someone with skills in appraising. The proposed language states that the commissioner will appoint “a” licensed appraiser. Does that mean that the commissioner can appoint only one such person in any given county? Does it mean that the board of equalization for commercial property is just one person? It is not clear who pays for the appraiser. What is the meaning of commercial property in this context? One of the classifications of property specified by the Department of Revenue is commercial; but that category does not include industrial property.

### Section 3-1

14. The proposed legislation eliminates the term “returned” for real property. That term is a carryover from when property owners did in fact have to report their property and specify its value to the tax commissioner. It simply says that property shall be “subject to taxation”. A possible concern with this change is whether it eliminates any legal responsibility for the property owner to be forthcoming regarding property that she owns. For example, could a property owner lie about real property that she own, e.g., denying the existence of a structures not visible from the road?

### Section 5.1

15. The proposed legislation would not allow the exclusion of property sold by banks in determining market value when the comparative sales method is being used to determine value. This means that the sales price of foreclosed property would have to be considered in determining market value in a neighborhood. First, foreclosure sales could be made by institutions other than banks. Second, appraisal standards for professional appraisers call for the exclusion of forced sales, either due to foreclosure or the threat of foreclosure, under the principal that such sales do not reflect fair market value. To illustrate, suppose for some irrational reason a car dealer sold one car at half the price of all other cars he sold, no one would assume that the market price of cars had come down. However, if most of the property sales are foreclosures, then those prices begin to be the market price. The proposed language would not allow any distinction between the two extremes of one foreclosure versus a high volume of foreclosures. Alternative language that might be considered. For example, the legislation might allow consideration of foreclosures if they don't exceed 10 percent of home sales in a neighborhood.
16. The proposed legislation would set the sales price of an arm's length transaction as the maximum allowable assessed value. The language probably needs to be changed since sales price would reflect market or appraised value, while assessed value is 40 percent of the appraised value.

## Section 5.2

17. This section would require that only current zoning be used, would prohibit the use of future highest and best use, and would require that value at current use at current zoning be used in determining market value. It is very likely that these provisions would violate the Georgia Constitution's uniformity requirement. For that reason, the Constitution had to be amended to allow agricultural land to be assessed at current use value rather than fair market value.

## Section 5.3

18. The proposed legislation would prohibit the use of view factor in determining value. Thus, if a property had a mountain or ocean view, that view could not be considered in setting the properties market value, even though such a view clearly affects market value. This provision could have unintended consequences. For example, if a property with an ocean view sold, the tax assessor would be required to use that sales value in determining the value of a property a block off the ocean. The tax assessor could not adjust the sales price by deducting the value that is added by the ocean view in valuing properties without an ocean view. Likewise, if a property had a view of a land fill, it would not be possible

to reduce the appraised value of that property to account for the reduced market value due to the view.

#### Section 9-1

19. The proposed legislation changes the language regarding installment payments so that a local jurisdiction can establish due dates via local ordinance.

#### Section 10-1

20. Current law requires two different public notifications regarding property tax rates. The proposed legislation eliminates one of these requirements. It leaves in place the requirement that there be public notification of a property tax increase, defined as a rate above the “roll-back” rate.