REPORT OF THE

REVENUE RESOURCES AND ECONOMIC COMMISSION

ON

REAL PROPERTY TAXATION

TO

THE GOVERNOR

AND

THE GENERAL ASSEMBLY OF VIRGINIA

SENATE DOCUMENT No. 11

COMMONWEALTH OF VIRGINIA
DIVISION OF PURCHASES AND SUPPLY
RICHMOND
1979

MEMBERS OF COMMISSION

DELEGATE JOSEPH A. LEAFE, Chairman

SENATOR J. HARRY MICHAEL, JR., Vice-Chairman

DELEGATE BERNARD G. BARROW

WILLIAM F. BLOCHER, JR.

SENATOR DUDLEY J. EMICK, JR.

DELEGATE GEORGE W. JONES

DR. JOHN L. KNAPP

RAYMOND M. MUNSCH

DELEGATE OWEN B. PICKETT

MAYNARD H. SAYERS

SENATOR ELLIOT S. SCHEWEL

DELEGATE ALSON H. SMITH, JR.

DELEGATE WARREN G. STAMBAUGH

STAFF

Dr. James T. Lindley, Director
Judi S. Hepper
Patricia A. Wiseman

Sally T. Warthen, Counsel

Revenue Resources and Economic Commission
6 North Sixth Street, Suite 301
Richmond, Virginia 23219
(804)786-6526

HOUSE JOINT RESOLUTION NO. 155

WHEREAS, Article X, Sections 1 and 2 of the Constitution of Virginia require assessments of real estate at its fair market value and uniformity of the tax upon the same class of subjects within the territorial limits of the authority levying the tax; and

WHEREAS, historically, ascertainment of assessed values, in as uniform manner as possible, is an imperative factor in obtaining an equitable distribution of the tax burden; however, the timing of such assessments and methods of assessing utilized by local assessing officials vary substantially from one locality to another resulting in inequitable taxation of real estate between jurisdictions; and

WHEREAS, inflation has not only resulted in drastic increases in assessed valuations of real estate but also has increased the necessity for additional local revenues to meet current services; and

WHEREAS, the real estate tax is the largest single source of revenue for local governments in the Commonwealth; and

WHEREAS, there has become an excessive reliance on the real property tax by localities due to the limited tax resources of local government; and

WHEREAS, such dependence on this area of taxation has proved to result in extraordinary tax burdens on all citizen landowners and extreme tax burdens on the elderly, poor and persons subsisting on fixed incomes; and

WHEREAS, such tax burden is expanded further by the ever increasing amount of real estate which is exempted from taxation, thereby proliferating the tax burden to all other landowners within that particular locality; and

WHEREAS, the time is ripe for thoroughly examining this area of taxation and for formulating viable alternatives to the real property tax; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, that the Revenue Resources and Economic Commission is requested to study all aspects and phases of the real property tax, including, but not limited to, evaluating the role of property tax as a local tax and the merits of such tax, examining the equities of a real property tax, studying the incidence of the tax burden and relief for elderly and low-income families and analyzing the significance of tax rate and tax assessment disparities across the Commonwealth.

All agencies, officers and employees of the Commonwealth and of its political subdivisions shall cooperate with and assist the Commission in its work upon the Commission's request.

The Commission shall formulate its conclusions and legislative recommendations for presentation to the Governor and the General Assembly on or before November one, nineteen hundred seventy-eight.

Introduction

Pursuant to House Joint Resolution 155, the Revenue Resources and Economic Commission was requested by the 1978 session of the Virginia General Assembly to examine all aspects of the real property tax. Staff to the Commission conducted an in-depth data analysis of the tax, including such areas as burden, relationship to other revenue sources, growth trends, and dependence on the tax. In addition, administrative areas were examined thoroughly.

The Commission held monthly meetings throughout the year, hearing from many professionals in the field of property taxation. They also held four public hearings throughout the State, with excellent input from citizens and professionals alike.

This document attempts to delineate the general concerns of the Commission associated with the real property tax as well as legislative recommendations.

Many areas of the real property tax had been thoroughly examined previously (for example, the 1974 Governor's Property Tax Reform Study), but there remained a need to examine the present status of the tax, i.e., trends of increased dependence, burden on individual taxpayers, and improvements as a result of other studies. Other topical areas of the tax were not addressed by the Commission. Failure to do so was not an oversight but rather a decision to do so would have resulted in unnecessary duplication. For the most part, extensive study and attention has been or is being given by other groups to these areas. These areas include real property taxation of Public Service Corporations, real property rax relief for rehabilitation, real property tax exemptions and the taxation of mineral lands.

Overview

Evidence presented by staff (Chapter II, The Taxation of Real and Personal Property in Virginia, Revenue Resources and Economic Commission Staff Report, 1978) and garnered from public input indicated that a restructuring of the real property tax with reduced local reliance upon it would resolve many of the problems brought to the Commission's attention. Added to its reputation as the most undesirable form of taxation on the State and local level is the havoc inflation has played with property values in recent years. Concurrently, localities depend heavily upon real property taxes to supply the flexibility needed in local revenue raising endeavors. There is strong indication that substituting either sales or income taxes for real property taxes would alleviate most of the complaints regarding property tax. This is due to the fact that sales and income taxes are more palatable forms of taxation and are directly related to income flows, from which all taxes eventually must be paid.

The Commission reviewed the evidence on real property taxation in light of the diverse individual groups and localities found throughout the Commonwealth. They found dissatisfaction with property tax burdens, especially on the elderly and other fixed income people, and agreed that relief measures should be considered. Improvements in other areas of the tax, such as administration and assessment were recommended.

Although there was not a consensus by individual Commission members on every aspect of real property taxation, it was the Commission's feeling that all research done on the subject should be made available to members of the General Assembly. Armed with such information, members would then have the distinct advantage of making decisions based on empirical data and analysis. The Commission further felt that the information would prove useful to local governments as well as individual groups as they complete analysis on specific areas. All data (on a locality by locality basis in every instance) and analysis can be found in Part I in The Taxation of Real and Personal Property in Virginia, Revenue Resources and Economic Commission Staff Report, 1978.

Fiscal Position of Localities

In Local Fiscal Issues, A Staff Report (Revenue Resources and Economic Commission, 1977, pp. 14-22). evidence was presented regarding the fiscal position of localities.

Regarding locally raised revenues, some localities had less real (deflated) dollars in 1976 than in 1972. This was true for many on a per capita basis as well, leaving them with fewer dollars per person from which to provide services. In addition, many localities also received less per capita State revenues. A particular problem occurred in localities which had an overlapping of both reduced local and State real revenues. Significantly, those localities with less of both local and State real revenues did not have less total real revenue indicating that those localities supplemented their shortfalls with federal revenues. To those who view further reliance on federal funds as undesirable, this trend is disturbing.

The outlook for older, so-called core cities, can only be described as gloomy unless there are additional sources of revenue made available to them to replace their declining State and local revenues. Because of the serious financial plight of many localities, the role of the real property tax in their revenue picture is of extreme importance.

Role of the Real Property Tax

Examination of the percentage that property tax revenues play in the total revenue picture for local governments points out the relative importance of that tax source. For 1976, real property tax levies (including Public Service Corporation property) were 45.1% of all locally raised revenue and 25.5% of total local government revenues. (See Chapter II, The Taxation of Real and Personal Property In Virginia, Revenue Resources and Economic Commission Staff Report, 1978.)

Seven cities and fifty-three counties have property tax levies equal to 50% or more of locally raised revenues. There appear to be few conclusions to be drawn when considering common characteristics of the localities listed with the exception that the counties are predominately rural. Most are sparsely populated with the few exceptions such as Loudoun, Montgomery, Hanover, Pittsylvania and York. When viewing greater dependency on real property taxation (60% and above of locally raised revenues), cities are eliminated from the group and only rural sparsely populated localities remain.

Different localities appear when viewing levels of dependence on property tax levies as a percentage of total local government revenues. This points out that many of those localities depending heavily on the property tax as a local source of revenue acquire disproportionate revenue from outside sources. A majority of localities with one-third or more of total revenues coming from property taxes are in Northern Virginia. Localities that have at least one-fourth revenues from property tax levies appear to have little in common.

A discussion of local government dependence on the property tax as a source of revenue is incomplete without focusing on the reasons associated with the level of dependence. The descriptive data reviewed leads to a very limited amount of generalization. A locality may have a relatively greater percentage of its local sources of revenue and/or its total revenue raised from the real property tax because its other sources of revenue (i.e., sales tax; local business, professional, occupational license tax; state aid; federal aid) are less relative to what other localities raise. On the other hand, greater dependence on the real property tax may be a result of the citizens being desirous or in need of more services and the real property tax is the most accessible source to tap. Likewise, a lower level of dependence on the property tax may be at the expense of other sources of revenue or it may be the result of the lower level of expectations of citizens for services. In any case, the level of dependence of local government on the real property tax appears to be related to the propensity of citizens to seek tax relief.

Limitations on Real Property Taxes

Discussion of the real property tax would be incomplete without a discussion of the limitation phenomenon that is prevalent in Virginia as well as the rest of the nation. Propelled into national prominence by the success of Proposition 13 in California, real property tax limits will continue to be a proposed solution to real property taxation increases. It is apparent from the discussion on property taxation around the nation that limitation is seen as the most viable way to "limit" local government. In Chapter II, pages 18-22 of The Taxation of Real and Personal Property In Virginia, Revenue Resources and Economic Commission, 1978, the effect of a "Proposition 13" in Virginia is discussed. Twenty-two localities would be affected by a 1% limitation (Alexandria, Bristol Charlottesville, Chesapeake, Clifton Forge, Colonial Heights, Fairfax City, Falls Church, Hampton, Lynchburg, Manassas, Manassas Park, Newport News, Norfolk, Petersburg, Portsmouth, Richmond City, Roanoke City, Salem, Arlington, Fairfax County, and Prince William: 45% of the State's population). As most would have anticipated, the affected localities are mostly larger cities and urban counties, predominately in Tidewater, Northern Virginia, and Richmond areas.

Some differences between California and Virginia should be noted. California has significantly higher real estate taxes overall than Virginia. On a state average, Virginia has an average effective true tax rate of approximately $.90 per one hundred dollars of assessed valuation while, according to their tax department, California has a $2.50 rate. Nor does Virginia have the surplus in its State treasury that California held.

Another important consideration is that in Virginia, the property tax is the only major tax source on which localities have not been limited by the State. Both the State and localities share equally in the sales tax. For its major source of additional revenue, the State has the income tax which automatically increases revenues at a rate greater than inflation. Meanwhile, localities have the property tax which does not automatically increase with inflation to the extent that income taxes do. Added to that is the large divergence between the popularity of the two taxes. Property taxes are notoriously more unpopular than income taxes.

It is interesting to note that these same localities that impose a larger real property tax burden on their citizens are, largely, localities that send more money to the State than is returned to their local government. The study on State-local fund distribution is contained in pages 6-13 of Local Fiscal Issues, A Staff Report (Revenue Resources and Economic Commission, 1977). Twenty of the twenty-two localities with at least a 1% property tax rate as a percentage of assessed value send more money to the State than is returned to their local government and contribute 70% of that excess. In addition, fifteen of the localities have excesses greater than $43 per capita, which is the statewide per capita amount required to fund State expenditures. Of the net money sent to the State by all localities, 91% is sent by the twenty-two localities. Thus, those localities with higher real property tax rates are also those that, due to formula based distribution of funds, are supporting the bulk of the State's activities.

Despite it's present popularity as a topical issue, the Commission does not support real property tax limits that would reduce local governments' revenues unless replacement of the revenues could be assured. At the same time, the Commission does feel it is important to provide information on limitations in order to give proper perspective to the property tax situation in Virginia.

Recommendations

Assessment Practices

The 1974 Governor's Property Tax Reform Study on real property taxation resulted in many significant changes in real property assessment practices. The changes greatly increased uniformity and equity throughout the Commonwealth. However, reexamination of some of the issues associated with assessment practices points out areas in need of clarification.

Boards of Equalization

Boards of Equalization represent the appeal process prior to attempting judicial remedy (which may be costly relative to relief requested) for a citizen in need of clarification or assistance related to property assessment. At present, the existing law in Virginia is such that cities can have a Board of Equalization only once every four years (although most reassess annually) and most counties can elect to never have them. Thus an avenue of due process in the real property tax system is lost to many of Virginia's citizens.

Public hearing testimony and correspondence received by the Governor and forwarded to the Commission portray a great deal of citizen frustration in attempting to deal with their local government in matters of assessment. The increased frustration is due in part to the mandated increase in frequencies of assessments as well as individual property owners' lack of understanding when their local government initiates the required 100% assessment. The documented unpopular nature of real property taxation also contributes to this search on the part of property owners to find assessment answers via an appeal process.

The Commission feels that every citizen in the Commonwealth is entitled to an appeal process and therefore encourages all counties and cities to have a Board of Equalization following each reassessment. Furthermore, it is recommended that each Board member be trained by the State Department of Taxation, and the Commission encourages adequate State funding to make such training feasible.

Professional Assessment

In general, responsibility for reassessment lies with the court appointed Board of Assessors in each locality. Some forty localities have opted to have the Commissioner of Revenue or an Office of Assessment (under permissive statutes or local charters) provide this function. At the same time most areas temporarily hire, or have permanent, professional appraisers to provide the information for assessments. At the moment there is no requirement for the members of the Board of Assessors to have any training in assessment techniques. The Commission is reluctant to recommend mandatory training for members of the Board of Assessors, but it is concerned that the quality of assessment be as professional as possible. Therefore, the Commission strongly recommends the expansion of the present education program administered by the State Department of Taxation to include members of Boards of Assessors. The Commission also supports the expenditure of additional funds to bring about this much needed training.

The Commission is acutely aware that having both a Board of Assessors and a Board of Equalization could work a financial hardship on some localities. The Commission therefore recommends that localities be allowed to have a Board of Equalization in lieu of a Board of Assessors. In this case, the Board of Supervisors would certify assessed values based on the appraised values determined by professional (private or State) appraisers. Any discrepancies could be worked out by the Board of Equalization.

100% Assessment

Section 58-760 of the Code of Virginia requires that beginning January 1, 1977, "all general reassessments or annual assessments. shall be made at one hundred per centum fair market value." A few localities were already assessing close to one hundred per cent, while others were at percentages as low as nine. Although an important goal, it is recognized by all that 100% market value assessment is practically impossible in inflationary times because of the lag in gathering the needed information (assessment and sales data) for the Assessment/Sales Ratio Study conducted by the Virginia Department of Taxation. Furthermore, there is also a lag due to the time involved for the reassessment by a locality. Values are locked in at the beginning of the reassessment period which often extends for as much as two years. Nevertheless, many localities are capturing assessments quite accurately, but others remain low. Because of the inequities that can develop when assessment/sales ratios are low, the Commission, after hearing much professional testimony on the subject of assessment, wholeheartedly supports the concept of 100% assessment. While it was hoped that localities would see the benefit of 100% assessment, the Commission has had its attention drawn to the fact that not all localities are approaching what could be classified as a good faith effort to reach 100% assessment. If good faith efforts are not sufficient, other action may be necessary.

There is not, at present, any means to require compliance to the provision of 100% assessment nor any incentive on the part of the local government to strive for such a goal. The Commission, upon review of the matter, determined that an 80% assessment/sales ratio for the year of assessment is evidence of a good faith effort.

For localities not assessing at a minimal level of 80% (according to the assessment/sales ratio), ABC funds should be withheld until the following reassessment shows at least an 80% assessment/sales ratio. Such withheld funds would be subject to an 8% penalty per year.

Market Value

Numerous persons testified before the Commission regarding market value at public hearings. Specifically, many requested a legislative definition of fair market value. References were made to removing personal property (washers, dryers, et cetera), closing costs, and transfer fees from the value of a dwelling. Personal property, to the extent that it is involved in the transfer, should not be included as it is not part of the house. On the other hand, the dollar amount of personal property involved in a house is relatively small. If the value of personal property is $1,000 in a $50,000 house, the personal property is 1/50th or 2% of the total. It is doubtful if assessments in general are as close as 2% since the assessment of property is not an exact science. See Southern Railroad v. Commonwealth, 211 Va. 210, 176 S.E.2d 578 (1970).

Sales commissions and other fees are part of the value of a house since it is generally not possible to transfer property without them. If all such items are excluded and property values are across the board less, it is not clear that the levy would be less since the rate would likely be higher. In addition, if a sales commission were deducted from the value of a home sold through a realtor, and not from an identical home sold by the owner, you would have two different values on houses that have identical resale amounts. Furthermore, each time a house goes on the market an owner will attempt to recoup all costs (commission, et cetera) and, to the extent the market allows it, the new sales price will reflect those costs.

Moreover there presently exists a legal definition of fair market value: "The fair market value of property is the price which it will bring when it is offered for sale by one who desires, but is not obliged, to sell it, and is bought by one who is under no necessity of having it." See Tuckohoe Woman's Club v. City of Richmond, 199 Va. 734, 101 S.E.2d 571 (1958).

The Commission is of the opinion that the above legal definition is adequate and that excluding personal property, commissions, et cetera, would not significantly change the tax levy paid by taxpayers and would further complicate the statutes and the assessing process.

Income-Producing Property

In order to accurately assess commercial property, information regarding its income stream must be available. Usually assessors are voluntarily given this information. In those cases where it is not given, the assessor has no power to require the information.

Commissioners of Revenue are given access to such information while assessors are not. The Commissioner of Revenue cannot, however, under Section 58-46 of the Code, reveal this information to the assessor.

Since the Commission is aware of the importance of assessors having all necessary information, the recommendation is to authorize real property assessors access to the books of any persons, firm, or corporation owning rental property in order to establish rental income information and expenses for the purpose of assessments.

Leasehold Interest

Problems arise when an exempt property owner leases part or all of the property to a nonexempt tenant. In an attempt to have equity in the real property tax system the lessee is taxed on the lease in lieu of real property tax on the exempt owner (Section 58-758.1, Code of Virginia). This section places a declining value on the property depending on the length of the lease. Property with a lease less than 50 years is worth 2% of the assessed value per year. For example, a property with a 10 year lease is valued to the leaseholder at 20% of assessed value. Such a provision does not allow the capture of an equal amount of tax from leasehold property as nonexempt property. In addition assessors are not empowered to require proof of lease. Theoretically one could declare a short term lease for property tax purposes while actually holding a long term lease. Section 58-758 requires the assessment of a leasehold interest and a 1967 court case (Shaia V. City of Richmond) maps out acceptable methods of appraisal and assessment of leasehold interests.

Section 58-758.1, while providing for a specific manner of assessing leasehold interests, at the same time allows for the under taxation of these interests relative to nonexempt property. In order to increase equitable assessments of leasehold interests in tax exempt property versus other property, the Commission recommends an amendment to the above section of the Code to provide a more equitable taxation of leasehold interests. The method proposed is to capitalize the net market rental value of the leasehold interest by dividing it by the Federal Reserve discount rate. The resulting capitalized value would constitute the assessed value of the leasehold interest.

Elderly Property Tax Relief

By its very nature, the tax on real property is a tax on wealth. As such, it can be said to violate the "ability to pay" principle of taxation in instances where wealth in the form of real property and income do not coincide. Because the elderly are more likely to be faced with a situation where accumulated amounts of real property are high in proportion to current income, relief is often enacted to alleviate the "excessive" burden imposed on the elderly by this tax.

Presently, Section 58-760.1, Code, allows a local governing body to provide an exemption or deferral of all or a portion of the real property taxes on property owned by and occupied as the sole dwelling of a person or persons not less than 65 years old or who is determined to be totally or partially disabled if their total income does not exceed $12,000 and the net financial worth, excluding the property to be exempt, does not exceed $50,000. Eighty-seven of Virginia's cities and counties and twenty-two towns currently provide some form of real property tax relief for the elderly (constituting 85% of the State's population). Ten cities and counties have deferral programs, seventy-seven have exemptions, and five have both deferral and exemptions. The Virginia Department of Taxation reported that in 1977, 26,560 elderly households received relief under local option programs.[1]

An overwhelming amount of testimony was presented at Commission public hearings regarding real property tax relief for the elderly and handicapped with much support for a statewide exemption program fully funded by the State. Another common theme throughout the public hearings was that elderly property home owners were willing to live with the real property taxes they were paying when they retired; they had, in effect, planned for that amount. It has been the subsequent increases in taxes which have hit them the hardest. The suggestion, therefore, was to freeze individual real property taxes to the amount paid upon reaching 65. Such a program could be funded by the State repaying to localities the amount of unrealized revenue or the locality could simply absorb that amount.

In reviewing the evidence regarding the elderly and handicapped, four alternatives to the present situation presented themselves:

(1) A statewide deferral program with a revolving fund to temporarily reimburse localities

(2) A tax freeze of real property taxes at age 65 supported with State funds

(3) A graduated State funded circuit breaker with uniform State criteria

(4) State funding on a percentage basis of the present local option program

[1] Summary of Local Ordinances Allowing Property Tax Relief for the Elderly - 1977, Virginia Department of Taxation.

A detailed description of each of the four proposed programs is included in Chapter III, The Taxation of Real and Personal Property in Virginia, Revenue Resources and Economic Commission Staff Report, 1978. Data are included there that detail projected costs for each program for each locality throughout the State.

Statewide Deferral

The tax deferral program proposed would be uniform across the State with the State reimbursing localities on a temporary basis from a revolving fund. For the first year all localities would draw against the fund in the amount they had deferred taxes. Each successive year the localities would repay the State from those estates that had remitted and draw against the fund for new deferrals. The proposed tax deferral system would operate partially within the present $12,000 income limit and the $50,000 wealth limit. All real property tax for persons equal to or under the limits would be eligible for full deferral. All over the limits of $12,000 and/or $50,000 would be eligible for the product of the percentage that $12,000 is of their income and $50,000 is of their wealth.

Assuming a participation rate of 1% of those meeting income and wealth requirements for those under $12,000 income and a .25% participation rate for those above $12,000, the total amount of deferred tax for 1979 would be $361,600.[2] For succeeding years the amounts would depend on the rate of inflation, rate and direction of change in tax rates, and the rate of change in the elderly population.

[2] Participation rates are estimates based on telephone conversations with tax department personnel in California and Massachusetts.

Tax Freeze

The Commission heard much testimony suggesting a tax freeze as a viable approach. Many expressed the view that elderly persons had anticipated the tax they would have to pay upon retirement or at age 65. Their emphasis was on the constant tax increases after their incomes had decreased.

The approach is to have the State fund each locality's loss of dollars resulting from frozen tax bills. The total cost for 1979 if such a freeze were implemented would be approximately $2 million. The calculations assume a freeze at present tax levels and not a retroactive freeze that would lower persons presently above 65 to tax amounts paid in the year that they had turned 65. Thus the freeze is an accumulative situation; each year brings a higher total subsidy until the total effect of the freeze is reached. Since the average lifespan of the elderly after reaching 65 is 80 years, it will be the fifteenth year before the total effect is reached. The cost for the fifteenth year would be approximately $17 million.

Circuit Breaker

A State funded circuit breaker is a widely accepted approach to providing relief to elderly and other designated groups. The Office on Aging and the Center on Aging find it the most acceptable way of providing such assistance. The circuit breaker, so-called because of its similarity to an electrical circuit breaker, matches relief to income and wealth on a graduated scale. As income and wealth increase, the tax exemption allowed decreases.

Costs for a statewide circuit breaker are approximately $18 million for 1979. The cost calculations for the circuit breaker are based on the present state income limits of $12,000. No wealth considerations are included because of the lack of data regarding wealth. By indexing the income brackets of the 1970 census to 1978 income brackets, it is possible to structure the owner-occupied households over 65 into the following four income brackets:

(1) Less than $3,439

(2) $3,440 to $5,149

(3) $5,150 to $8,599

(4) $8,600 to $12,000

The graduation used in an actual program would likely be in smaller increments but data constraints restricted use to the four above income brackets. With this proposal, brackets one and two would receive 100% subsidy of their property tax. Home owners in bracket three would receive 50% and those in bracket four would get a 25% subsidy of their property tax. Various combinations of percentages could be used resulting in differing subsidy amounts.

State Fund: Local Option

State funding of the present local option program on a percentage basis allows the present system to continue uninterrupted. The State would simply reimburse the localities for a percentage of what was spent in tax relief for the elderly. Naturally, participation in the program will increase over time since localities would be bearing less of the cost.

Projected costs for this approach are more difficult to derive since the program would remain local option. However, in 1977, counties and cities spent $4,315,957 for real property tax relief. This figure is roughly one-fourth of the cost of the enclosed proposed circuit breaker. Of this, $2,992,551 was spent in localities that had limits the same as the State (or slightly lower). These localities would be unable to appreciably expand their programs, assuming State limits remain the same. If the State were to reimburse localities on a 50% basis, the cost would be $2,157,978 to the State for existing programs.

Handicapped

Although costs have not been included, it is assumed that eligible handicapped persons would be treated as the elderly are in the above proposed State funded programs. Presently handicapped recipients constitute 1.5% of the participants in the existing program and the anticipated cost of an adopted program should be increased by the same percentage to account for the handicapped.

Recommendations

After hearing public testimony, staff research, and professionals in the field of aging, the Commission agreed that relief for the elderly in real property taxation is imperative due to the excessive burden it imposes. Futhermore, it was concluded that any proposal should be a designated State funded program, in order to give equitable relief to all elderly throughout the State. Another consideration was that, while the relief is advocated by the Commission, the upcoming General Assembly session, due to economic uncertainties, would not be receptive to a high cost, mandated program. Since, philosophically, Commission members support the deferral approach, it was the consensus that a State mandated deferral program be implemented. Although, in a deferral system, deferred taxes are paid when the estate is liquidated, Commission members felt that some localities would not absorb even short-run losses. Therefore, they further recommended the initiation of a State revolving fund to reimburse localities for their temporary losses under this approach.

Age

An additional matter that came to the Commission's attention dealt with the confusion that exists in the Code as to whether one elderly person in the household is sufficient for tax relief. For example, it has been questioned if a man were over sixty-five but his wife were not, whether the household would qualify for tax relief. The Commission, therefore, recommended that the Code be clarified on this matter in order to provide property tax relief to those elderly persons in such a situation.

Separate Classes of Assessments for Differential Taxation

Both pros and cons were presented in public hearings on the concept of differential taxation which is presently before the General Assembly in the form of Senate Bill 51 (carried over from the 1978 session). The pressure for separate classes between owner-occupied single family and commercial properties has arisen because of the widening gap between the market values of the two groups of property. The widening gap is a national trend resulting from inflation and the federal tax treatment of home owner's debt. The trend is made worse in Northern Virginia by local demand conditions and attempts to slow growth in the area. The causes are small consolation to home owners who see their property values, and worse, their property taxes rising faster than those of their commercial neighbors.

If a small differential is allowed, it will help home owners only slightly while allowing a large differential could aversely and severely affect businesses. Nonetheless, there remains a situation where home owners are dissatisfied and the mainstay of the property tax, the home owner, is asking for a break.

The Commission is extremely sympathetic to the plight of the home owner concerning increasing real property taxes. It is felt that this method of attacking the problem would not get at the real dilemma, i.e., that the property tax is a wealth tax. In addition, differential taxation would lead to further inequities. It would shift taxes from lower income renters to higher income property owners, a situation converse to the concept of progressive taxation. The probability of a long run deterioration in the business climate is also likely. Because of the high probability that differential taxation will not provide the sought after relief and that differential taxation would have offsetting deterimental effects, the Commission does not endorse the concept of separate classes of property.

Land-Use

The goal of the General Assembly in enacting land-use assessment is clear from the declaration of policy (Section 58-769.4, Code): preservation of agricultural, horticultural, forest and open space land.

Land-use assessment was adopted as the measure to accomplish this preservation because it was assumed that on the developing fringe, high property taxes relative to the productivity of the land for farming forced unwilling farm owners to sell their property. Thus, the real property tax was used as a means of accomplishing a social goal.

From 1973 to 1977, land-use assessment has been adopted in forty-seven jurisdictions, providing enough data to test the above proposition. Data and studies are also available for other states which allow land-use assessment. Studies of the effectiveness of land-use assessment reveal that it does little if anything to stop urban expansion. A study published by the Council of Environmental Quality reports that the land experiencing severe metropolitan pressure stays in the qualifying extensive use approximately a year and a half longer than it would had such taxation not been available.

The above interpretation is one that is ascribed to by many, among whom are Dr. Paxton Marshall of Virginia Polytechnic Institute and State University, who has been closely involved in the study of land-use assessment in Virginia and Dr. John Knapp of Tayloe Murphy Institute and a member of the Commission.[3] It is also the conclusion of the Center for Analysis of Public Issues of New Jersey regarding land-use assessment in that state.[4]

Thus land-use assessment has not been successful as a social policy factor in conserving agricultural land and its only remaining virtue would be as a tax relief policy for farmers. Tax policies providing relief to agriculture, however, are not permitted as the Constitution now stands. It is permissible to have land-use assessment to preserve land, but not to give tax relief to agriculture. Thus there is legislation that is in existence to preserve agricultural land, which is constitutional but

[3]Knapp, John L. "Land-Use Assessment in Virginia," Land: Issues and Problems, Cooperative Extension Service, VPI and SU, March, 1976.

[4]Kolesar, John and Jaye Scholl, Misplaced Hopes, Misspent Millions. Princeton: The Center for Analysis of Public Issues, 1972.

is not working, while it does provide tax relief to agriculture which, by itself is not constitutional. It should be noted that much of the testimony in favor of land-use assessment used, as a basis of support, arguments for favored tax treatment and not preservation of agricultural land. The issues involved in land-use assessment are discussed in more detail in Chapter IV, <u>The Taxation of Real and Personal Property in Virginia,</u> Revenue Resources and Economic Commission Staff Report, 1978.

The Commission is disturbed by the evidence that land-use assessment is not achieving the goals for which it was enacted. The Commission is reluctant, however, to suggest changes in land-use assessment without appropriate substitutes for preservation of agricultural land, e.g., purchase of development rights, et cetera. The Commission is hopeful that those persons involved in the development and planning of land-use policies will be able to develop more effective approaches to preserving agricultural land.

ADDITIONAL STATEMENT

BY

SENATOR DUDLEY J. EMICK, JR.

I believe that the most effective way to give real property tax relief to Virginia citizens is to limit state expenditures to no more than a seven per cent increase over the preceding year's expenditures. The difference between state revenues received, which could be a 20 per cent increase, and the seven per cent spending increase allowed would be returned to the localities (prorated by population) for real property tax relief.

If the state set this example, then perhaps the localities would control spending voluntarily, thus reducing even more the pressure on citizens facing increasing real property taxes.

The continuing erosion of the real property tax base by giving preferred tax relief to certain special interest groups is shifting the burden too heavily to the single-dwelling property owner and is not in the best interest for Virginia.

If spending continues at the current level and the erosion of real property tax base continues (for short-term political favor) Virginia will face the same predicament as California in 1978.