

March 13, 2009

RE: Senate Bill 484 Undermines Local Control and Government Transparency

To the members of the Senate Finance Committee:

On March 6, 2009, Senate Bill 484 was introduced and referred to this Committee. The West Virginia Center on Budget and Policy has reviewed this bill and by this letter would like to inform the Committee of its findings. This bill is designed to weaken local county government and county control over revenue. It creates two different types of taxpayers, rich ones and poor ones, and two different legal systems for each.

Specifically, this bill seeks to amend WV Code §11-3-24, which applies to county Boards of Equalization and Review (BOER). The bill would strip these county boards of all jurisdiction to review and equalize tax assessments of \$50,000 or more for natural resource or industrial property. Instead, any review of these assessments would be heard by the state Office of Tax Appeals. All other property owners would remain under the jurisdiction of the county BOER.

This bill also removes local control over classification and taxability determinations. Right now, these determinations are made by county assessors and can be appealed to local circuit courts under §11-3-24a. This bill would place exclusive appellate jurisdiction of these decisions with the Office of Tax Appeals.

Finally, this bill reduces government transparency. Hearings before county boards of equalization and review are open and public. Decisions of the Office of Tax Appeals are published in the state register but are redacted to maintain confidentiality of the taxpayer. W.Va. Code §11-10A-16.

There can be only one reason for this bill. Natural resource and industrial property owners believe they do not receive fair or competent treatment by county boards. There is no evidence to support this proposition. The State Tax Department appraises mineral properties. Property owners can already appeal appraised values informally to the Tax Commissioner. Thereafter, county assessors assess tax value at 60% of appraised fair market value. Any property owner then has the ability to appeal the resulting assessment to the county commission sitting as the Board of Equalization and Review under §11-3-24, and then to circuit court if necessary. This procedure has been used for decades and is in place in counties across the country.



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There is every reason to believe that county officials can do a better job of assessing property than a state bureaucracy sitting in Charleston. By way of example, last year the Taylor County assessor noticed that ICG coal company's 2008 appraised coal reserves were about \$2.5 million as generated by its tax return. The assessor knew this could not be right because the 2007 appraised value was about \$6.2 million. She asked the State Tax Department to audit the return and a new value was ultimately reached before the Board of Equalization and Review in the amount of approximately \$11.4 million. The result was an increase in tax revenue to the county in the approximate amount of \$154,000. Taylor County would have not been able to properly assess ICG if the proposed bill was law.

This bill is about local control. There is no reason to believe the Office of Tax Appeals can do a better job making these decisions than county boards of equalization and review. This bill would disrupt a well-established and accepted procedure for appraising and assessing property values and would create two different administrative procedures for property owners. The WV Center on Budget and Policy urges strong caution in going any further with this bill.

Very truly yours,

Ted Boettner
Executive Director

