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HB 1169 (Printer's No. 1449) Analysis

Date: May 5, 2021

**Amending the Consolidated County Assessment Law to further provide
for the definition of “normal regular repairs” and
reporting building and demolition permit information**

Prime Sponsor: Representative Moul

A. Synopsis of Bill

The proposed legislation would amend the Consolidated County Assessment Law (CCAL) to more precisely define changes to real property that could occur without authorizing the assessment office to adjust an assessment, and to increase the value of other improvements that may occur before the assessment office is required to be notified. The bill also requires forwarding of demolition permit information to the county assessment office, provides greater accountability for existing requirements that permit information be submitted to the assessment office, and authorizes counties to enact reporting ordinances. The legislation is an outcome of the 2017-2018 [Local Government Commission Assessment Reform Task Force](#).

B. Summary and Analysis of Bill

The House Local Government Committee added a technical amendment to HB 1169 to restructure the definition of “normal regular repairs”. The Committee’s changes are in bold.

The bill amends Chapter 88 (CCAL) of Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, the codification of assessment law applicable predominantly to counties of the second class A through eighth class, in the following manner.

- Section 8802 is amended to add the definition “normal regular repairs” to include **(1)** the repair or replacement of materials or components of property features for the purpose of maintenance, and **(2)** the replacement of property features with new versions reasonably similar in function, quality, material and dimension. **As amended, the definition of “property features” is added. The term includes “roofing, siding, flooring, heating and air conditioning systems and windows.”**

- Section 8817 *currently* authorizes the assessment office to change an assessment of property for “normal regular repairs” exceeding a value of \$2,500. The bill *repeals* this monetary threshold and consequently removes all “normal regular repairs,” as newly defined, from grounds for an assessment adjustment.
- Section 8861 is renamed and amended to require municipalities, third-party agency code officials (TPAs) and the Department of Labor and Industry to forward a copy of demolition permit information, as well as the currently required building permit information, to the county assessment office. It further clarifies that the submission of such information is not subject to the procedures of the Right-to-Know Law and cannot result in any criminal or civil liability.
- Authorizes the county assessment to provide for the electronic submission of permits.
- Section 8861 is also amended to provide remedies to the county assessment office in the event that it is not receiving the aforementioned submissions. If a failure to submit permit information is intentional, the assessment office may pursue an action in mandamus against the municipality or the TPA in order to ensure compliance.
- The threshold of “substantial improvements” requiring reporting to the assessment office in Section 8861(b) is increased from \$2,500 with \$4,000 in value and positioned to increase by the Consumer Price Index for each ensuing year.
- The bill authorizes counties to enact ordinances to require the reporting of “substantial improvement” information to the assessment office on a specified form, regardless of whether the municipality requires a building permit.
- The bill also converts the current penalty applicable to owners for failure or fraudulence relating to information reporting requirements from a summary criminal offense to a civil penalty. The penalties are limited to \$100 per violation (an increase from the \$50 under current law) and provide an opportunity for the owner to contest the penalty.
- Finally, the bill “grandfathers” any existing county requirements for the submission of improvement information.

C. Relevant Current Law

Under current law the assessment office is authorized to change the assessed valuation of real property based upon the occurrence of specified events. The “painting of a building or the normal regular repairs to a building aggregating \$2,500 or less in value annually” are events expressly excluded from just cause for such a change. The phrase “normal regular repairs” is not defined in current law.

Every municipality or TPA, or the Department, responsible for the issuance of building permits is required to forward a copy of each building permit to the county assessment office on or before the first day of every month.

In situations where a building permit is not required, an owner who makes “substantial improvements” to any real property, other than painting of or normal regular repairs to a building, aggregating more than \$2,500 in value, is required to submit to the assessment office the name and address of the owner, a description of the improvements made or to be made to the property and the dollar value of the improvements. Intentional failure or fraud is a summary offense punishable by a fine of not more than \$50.

D. Background of Bill

The Assessment Appeals Work Group within the Assessment Reform Task Force noted that inconsistent submission of building permit information, or the lack of improvement information in municipalities without building permits, was leading to improvements sometimes dramatically affecting property values evading assessment. This further distorts the appropriate apportionment of tax burden between and among taxpayers. The Work Group agreed on the following findings.

- Some municipalities were requiring the assessment office to submit Right-to-Know requests in order to obtain the information required by Section 8861.
- No codified remedy exists for those situations where a county is not receiving building permit information as required by current law.
- No codified options exist for counties to require improvement information where building permits were not required. It was noted that some counties had taken steps to promulgate regulations to address this issue in the absence of express statutory language.
- The current summary criminal penalty provisions of Section 8861 were less preferable to a civil enforcement mechanism.

After initial drafts of the bill (HB 1991) were vetted in the 2017-2018 Session, stakeholders viewed the bill as an opportunity to provide more certainty to taxpayers as to what types of maintenance, repairs, and improvements required reporting or could otherwise trigger an assessment adjustment. In doing so, it was determined that commonly undertaken property feature replacements and repairs incident to good property management should be protected from certain assessment adjustment procedures.

E. Effect of Bill

The bill, if enacted, may well result in reductions of assessment adjustments occurring under Section 8817, due to the increased reporting dollar value, clarification and exemption of “normal regular repairs,” and the required submission of demolition permit information.

With regard to building permit information, it should be emphasized that in a majority of municipalities, building permit information is being submitted as required. Also, when the process is not working, communication and clarification of responsibility often cures any issue. *This bill is intended to provide options to the assessment office for rare persistent problems and is only intended to be punitive when the failure to submit permit or improvement information is intentional.*

The legislation also provides the county with options when a municipality has no building permit requirement, authorizing the county to require improvement information under conditions that may be described by ordinance.

F. Issues, Policy Questions and Stakeholder Feedback

Through the work of the Building Permit Work Group of the Task Force, the County Commissioners Association of Pennsylvania, the Pennsylvania State Association of Township Supervisors, and the Pennsylvania State Association of Boroughs have participated in the development of this legislation. No official position has been taken on the bill by those entities.

Because of the remedies that would be applicable to TPAs, feedback from the Department was solicited and incorporated in the initial drafts of the legislation. After passing the House In the 2019-2020 session, the

Department indicated its support of the bill if additional changes were incorporated. The Senate Local Government Committee amended House Bill 1034 to satisfy the concerns of the Department.

G. Bill History

In the 2019-2020 Session, this legislation was introduced in the House as House Bill 1034, which was passed the House on June 18, 2019 (196-4). The bill was given second consideration by the Senate and was subsequently re-reported as committed from the Senate Appropriations Committee on September 21, 2020. The bill was laid on the table on November 20, 2020 where it remained upon sine die adjournment. The legislation was also introduced in the Senate during the 2019-2020 Session as Senate Bill 493. Senate Bill 493 was given first consideration by the Senate and was subsequently laid on the table where it remained upon sine die adjournment. In the 2017-2018 Session, this legislation was introduced as House Bill 1991, which was given first consideration by the House on March 14, 2018, and was subsequently laid on the table where it remained upon sine die adjournment. The legislation was also introduced in the Senate during the 2017-2018 Session as Senate Bill 1006, which was passed by the Senate on October 15, 2018 (49-0). The bill was referred to the House Local Government Committee on October 17, 2018, where it remained upon sine die adjournment.