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Pennsylvania School Boards Association

**Testimony of Robert Max Junker, Esquire  
Presented to the  
Pennsylvania House Local Government Committee  
March 10, 2010  
Harrisburg, Pennsylvania**

Thank you for the opportunity to testify. I am Robert Max Junker, a school solicitor from Allegheny County and an associate in the Law Offices of Ira Weiss. My firm represents thirteen (13) school entities including the School District of Pittsburgh in various matters including property tax assessment appeals. My Office has been involved in assessment appeal cases for over 29 years. Additionally, Ira and I were the lead attorneys in the Clifton court case involving the constitutionality of Allegheny County's property assessment system and where the Pennsylvania Supreme Court held that the base year method of property valuation as applied in Allegheny County without any sort of periodic reassessment violates the Uniformity Clause of the Pennsylvania Constitution.

The basis for the uniformity requirement in our Constitution is something called the proportionality principle. This principle requires that taxpayers pay no more or less than their proportional share of the cost of government. In the real estate context, this proportional share is measured by the value of the property. Inherent in any system of uniform property taxes is a taxpayer's right to an assessment appeal to correct individual disparities. Therefore, when properties are over-assessed relative to their actual value, the owners can and should appeal.

Also inherent in that system is the taxing jurisdiction's right to challenge an assessment to ensure that a property owner pays his fair share of the tax imposed by the taxing body and his fair share in relation to other taxpayers in the taxing district. Taxing bodies, in most cases school districts, undertake that responsibility to ensure that the tax burden is not tilted toward those folks who already pay fairly or above their fair share.

The legislation before you seeks to restrict school districts' rights to challenge assessed property. At first glance, House Bills 2020, 2022, and 2023 that require a majority of the school

directors of a school board attend all tax appeal hearings would appear to favor taxpayers. It is our opinion that not only does this impose a hardship on elected volunteers who are trying to do their best to manage the educational and financial challenges of their school district, but also the net result of these three bills will likely be to the contrary. It is our view that House Bills 2020, 2022 and 2023 will not ensure fairness and uniformity. Rather, they create greater hurdles only for school districts (and no other local corporate authorities) to correct existing inequities and likely will result in an increased discrepancy among taxable property, the complete opposite of the constitutionally mandated and required uniformity set forth by the Supreme Court in Clifton. For it is a simple fact that when a mall, office complex or other property is under-assessed, and is not subject to its full share of the property tax burden, the remaining burden falls upon the rest of the property owners in the jurisdiction by making higher millage necessary to generate required revenues.

Similarly, House Bill 2021 which requires a separate vote, advertising and notice to the property owner prior to the vote to initiate any action of an appeal adds unnecessary administrative hurdles. The due process afforded taxpayers in an assessment appeal is extensive. Each owner receives actual notice of the appeal. Each owner receives notice of the date of the hearing with instruction on the rules of the Appeal Board. Owners may appeal any decision to a non-jury trial in Common Pleas Court. Moreover, the party filing the appeal has the burden of demonstrating the assessment is incorrect and should be changed.

We need a better system of regular property assessment and reassessment in the Commonwealth because, as illustrated in the attached chart, there are numerous counties where that process is not occurring. Property assessment appeals by taxing bodies are not the problem. Rather, they are merely a symptom of Pennsylvania's broken assessment laws which give rise to unconstitutional inequities that inevitably result from the prolonged use of old and outdated assessment values in areas where property values have changed at divergent rates. If the General Assembly wants to limit assessment appeals by taxing bodies, then the proper approach is to fix the

current system that makes these appeals necessary in the first place. Pennsylvania's assessment laws have improperly shifted the burden of attaining uniformity from the assessing body, the County, and foisted it upon the local taxing jurisdictions. The Clifton decision clearly states that balancing the uniformity demands of our constitution cannot be left to local governments or individual taxpayers by way of assessment appeals. The Pennsylvania Supreme Court stated:

"The County cannot satisfy the proportionality requirement by shifting the burden of achieving uniformity to the taxpayer or aggrieved taxing entity (most often the local public school district), whom the County would task with correcting its own constitutional deficiency. Relying upon taxpayers to "force" application of the CLR through individual assessment appeals is no substitute for a constitutionally uniform property assessment in the first instance. The County's expressed concern for "the reality of property appreciation and depreciation" counsels in favor of periodic countywide accuracy, not saddling taxpayers with the burden of curing the County's constitutionally deficient method of taxation in piecemeal fashion."

We also recognize that court-ordered reassessments of property can be very unpopular and that updating assessed values after years of neglect is expensive. PSBA urges you to not advance House Bills 2020 through 2023, but rather to consider the report being prepared in accordance with House Resolution 334 that was overwhelmingly adopted in June 2009 by the Pennsylvania House. In that resolution, Pennsylvania's Legislative Budget and Finance Committee in coordination with the Local Government Commission and the State Tax Equalization Board was charged to analyze the existing reassessment system, evaluate Maryland and California's reassessment system and other similarly situated states, and study the impact that property tax reassessment has had on fixed-income senior citizens. Its report and recommendations are due June 30, 2010. A system of periodic reassessments based upon sound professional practices free of local pressures is the answer, not this legislation.

Thank you for your time. I will take any questions that you may have for me.

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**School District Solicitorships**

Montour School District	1994 to present
West Jefferson Hills School District	1999 to present
Carlynton School District	2002 to present
Sto-Rox School District	2002 to present
Belle Vernon Area School District	2004 to present
Bentworth School District	2004 to present
South Side Area School District	2004 to present
Highlands School District	2006 to present
Ambridge Area School District	2006 to present
School District of Pittsburgh	2007 to present

**Tax Assessment Clients**

Montour School District	Sto-Rox School District
West Jefferson Hills School District	Carlynton School District
Highlands School District	School District of Pittsburgh
Keystone Oaks School District	Moon Area School District