



## Legislation Details (With Text)

<b>File #:</b>	2002-0142	<b>Version:</b>	3
<b>Type:</b>	Resolution	<b>Status:</b>	Passed Finally
<b>File created:</b>	2/12/2002	<b>In control:</b>	Committee on Finance & Budget
<b>On agenda:</b>		<b>Final action:</b>	2/28/2002
<b>Enactment date:</b>	2/19/2002	<b>Enactment #:</b>	114
<b>Effective date:</b>			
<b>Title:</b>	Resolution making certain findings with regard to Allegheny County's non-compliance with of the laws of Pennsylvania in its performance of property assessments and, authorizing the City Solicitor or, in the alternative, appointment of Special Counsel by City Council, to file the appropriate legal action in the Court of Common Pleas challenging the validity of Allegheny County's 2002 Property Assessments.		
<b>Sponsors:</b>	Bob O'Connor, William Peduto, Jim Ferlo, Alan Hertzberg, Barbara Burns		
<b>Indexes:</b>	PROPERTY TAX ASSESSMENT		
<b>Code sections:</b>			
<b>Attachments:</b>			

Date	Ver.	Action By	Action	Result
2/28/2002	3	Mayor	Returned Unsigned	
2/19/2002	2	City Council	AMENDED	Pass
2/19/2002	3	City Council	Passed Finally, As Amended	
2/13/2002	1	Committee on Finance & Budget		Pass
2/13/2002	2	Committee on Finance & Budget	Affirmatively Recommended as Amended	Pass

Presented by Mr. Udin

### AS AMENDED

Resolution making certain findings with regard to Allegheny County's non-compliance with of the laws of Pennsylvania in its performance of property assessments and, authorizing the City Solicitor or, in the alternative, appointment of Special Counsel by City Council, to file the appropriate legal action in the Court of Common Pleas challenging the validity of Allegheny County's 2002 Property Assessments.

WHEREAS, the Commonwealth of Pennsylvania has enacted the General County Assessment Law (72 P.S. § 5020 et. seq.) which is applicable to all classes of counties. Should there be a conflict between the General County Assessment Law, the specific class of County Assessment Law shall apply, and;

WHEREAS, in Allegheny County is a county of the second class and the applicable Commonwealth's County Assessment Law is found at 72 P.S. § 5452.1 et. seq.; and,

WHEREAS, the County of Allegheny's Administrative Code at § 209.10 states: Unless otherwise modified by this Administrative Code, all provisions relating or governing tax assessments set forth in the Second Class County Assessment Law, 72 P.S. § 5452.1 et seq., and the General County Assessment law, 72 P.S. § 5020 -101 et seq., and all other applicable Law shall remain in full force and effect; and,

WHEREAS, it is the considered opinion of the Council of the City of Pittsburgh that the County, in arriving at its 2002 Property Assessment, did so in violation of the Commonwealth's governing statutes.

Be it resolved that the Council of the City of Pittsburgh hereby enacts as follows:

#### Section 1.

#### INTENT

It is the intent of Council to legally challenge the County of Allegheny's imposition of year 2002 property assessments in the Court of the Common Pleas of Allegheny County.

#### FINDINGS of COUNCIL

Judge Wettick, in his Opinion and Order of February 8, 2002, ruled on the narrow question as to whether or not the Allegheny County Council had the power to change property assessments established in accordance with existing law. The Court ruled that "under state law the [County Council] may not establish or change assessments." (Wettick Opinion & Order of 2/8/02, p.20)

Judge Wettick was neither asked to nor did he provide any ruling as to whether or not the County's year 2002 property assessments were actually made in accordance with the law.

Judge Wettick, states: "It is the position of the County that rulings made in the appeals process in the year 2001 should apply in the year 2002 because there has been a 'breakdown' in the assessment machinery'." (Wettick Opinion & Order of 2/8/02, p. 18)

Allegheny County's admission to the Court that there is a "breakdown of the assessment machinery" calls into question the accuracy and fairness of the values generated by the County's Computer Assisted Mass Appraisal System (CASA). It also raises the question as to whether or not the County violated the Commonwealth's statutory requirement (see below) that independent assessors ultimately determine property values in a County of the Second Class.

#### 72 P.S. § 5452 ASSESSORS; CANVASS; LIST; PENALTY

The proper assessors shall make the assessment and valuations of all subjects of taxation within their respective districts as provided by existing law, and in so doing shall view all taxable property in their district. The assessors shall make a personal house to house canvass of their district in order that such lists of persons may be accurate and correct in so far as it is possible to so make them. A list of all persons shall not be required to be made yearly but triennially in the year immediately preceding the regular triennial assessment. Any assessors who shall fail to make such assessments and valuations and lists in the manner herein provided or who shall knowingly and willfully make any false assessment, shall be guilty of a misdemeanor, exceeding one thousand dollars (\$1,000), and in default of the payment of such fine and costs, to undergo an imprisonment not exceeding six (6) months. 1939, June 21 P.L. 626 8. Amended 1982, Dec. 13, P.L. 1186, No. 272, 3.

It is a fact that Allegheny County's assessors in the 2002 county-wide reassessment did not make assessments and valuations; did not view all taxable property; and did not make a personal house to house canvass. The state law is clear on this point. It is also clear that Allegheny County could not possibly abide by the law because they do not have assessors in sufficient numbers to comply with the law. Instead, the County admittedly relied upon "assessment machinery" that is "broken."

Judge Wettick also noted in his opinion that "State law requires individuals who make valuations of real property for valuations of real property for taxation... to have special expertise." (Bd. Of Property Appeals v. Allegheny County, Pa Commonwealth Court 773 A2d 816, 820, Wettick Opinion & Order of 2/8/02, p.20)

For the year 2002 county-wide reassessment, it remains unclear as to what individuals made valuations; what their level of expertise was; and, to what extent did they rely upon a "broken" computer system that did not have an accurate base of data to draw from.

Judge Wettick also stated that "The County is a taxing body. It should not be permitted to take advantage of the breakdown in the assessment process where this will result in higher assessments." (Wettick Opinion & Order of 2/8/02, p.19).

The Council of the City of Pittsburgh could not agree more with Judge Wettick on this point. The County's reliance upon a "broken" assessment system to arrive at 2002 values compels the City Council to pursue legal action in the Court to challenge the use of those numbers. Moreover, this Council has a moral obligation to challenge the 2002 Assessment to insure that the city property owner's are taxed in a fair and lawful manner.

#### LEGAL ACTION BY CITY SOLICITOR OR SPECIAL COUNSEL

Now that the Court has established the 2002 County-wide assessment as the official assessment, the Council of the City of Pittsburgh now desires to have legal determinations made in a Court of Law as to the validity of the County's year 2002 assessment.

Therefore, the City Solicitor is instructed by the Council to prepare and aggressively pursue a lawsuit challenging the validity of the year 2002 property values established by the County of Allegheny County.

In the event that the City Solicitor believes the Solicitor's office cannot prepare such a case due to any potential or actual conflicts of interest with the city's administration, the City Solicitor shall meet with Council in executive session in order to fully apprise the Council as to why the solicitors office cannot take up such legal action against the County.

In the event the City Solicitor cannot follow this directive of Council, the Council is authorized to retain its own Special Counsel in order to move forward on this matter.

The City Clerk ~~Solicitor~~ is authorized to expend Ten Thousand dollars (\$10,000) in order to retain

outside legal counsel in order to review the above mentioned matters and other potential violations of the law that would render the County's 2002 property tax assessments void.

**NOTE: I do hereby certify that the foregoing Ordinance duly engrossed and certified, was delivered by me to the Mayor for his approval of disapproval and that the Mayor failed to approve or disapprove the same, whereupon it became law without his approval, under the provisions of the Act of the Assembly in such case made and provided.**

**Linda M. Johnson-Wasler  
Clerk of Council**