

# **Indiana Advisory Commission on Intergovernmental Relations**

**Wednesday, November 29, 2000 Meeting, 1:30 P.M.**

*Indiana State Teachers Association Building*

*Conference Center*

*150 W. Market, Ste. 200*

*Indianapolis, Indiana*

## **MINUTES**

### **CALL TO ORDER**

Chair Sheila Klinker announced that there was a quorum present (Attachment A) and called the meeting to order at approximately 1:40 P.M.

### **MEETING AGENDA**

|  |                                   |
|--|-----------------------------------|
| - Call to Order                        | Chair Sheila J. Klinker           |
| - Approval of Minutes of 10/19/00      | Chair Sheila J. Klinker           |
| - Property Tax Presentations           | Tim Brooks<br>Dr. Lawrence DeBoer |
| - Update on Telecommunications Project | John L. Krauss<br>Jamie L. Palmer |
| - Set Next Meeting Date                | Chair Sheila J. Klinker           |
| - Adjournment                          | Chair Sheila J. Klinker           |

### **APPROVAL OF MINUTES**

Representative Klinker requested approval of the October 19, 2000 minutes. Will Smith moved to approve the minutes. Joyce Poling seconded the motion and the minutes were approved by unanimous consent.

### **PROPERTY TAX PRESENTATIONS**

Representative Klinker introduced Tim Brooks, Chairman of the State Board of Tax Commissioners (SBTC), and Dr. Larry DeBoer, faculty member at Purdue University. She indicated that the upcoming changes in the assessment rule were of great interest to the groups represented on the IACIR. This issue would lead to future discussions about local fiscal flexibility.

### **BROOKS PRESENTATION**

Mr. Brooks began by introducing Mark Web, Director of Communication at the SBTC, who also was available to answer questions.

Mr. Brooks explained that the SBTC had been working to develop options to address the rulings by the Indiana Supreme Court and the tax court on the need to reform the current methods of assessment in the state. He indicated that three proposals would be released the next day. Two of the proposals were similar to the current assessment manual in format and complexity (300 pages). A third proposal was much shorter and simpler (15 pages). It was designed to provide more flexibility to local assessors in implementing the new system. He expected that the three proposals would be available on the Web in a matter of weeks. Mr. Brooks provided a summary of the three proposals and differences among them (Attachment B).

All proposals address the requirement established by the courts that assessment be based on verifiable data. They reflect differing administrative models/considerations. Fiscal impacts are expected to be the same under all proposals.

Two of the three proposals are similar. The first proposal adds market elements to the 1995 regulations. This proposal was favored most because it represents the fewest administrative changes. The second proposal is similar but incorporates national cost information. The third proposal establishes general parameters and allows counties the flexibility to choose any valid market-value method.

He explained that the SBTC was considering establishment of a shelter allowance. A basic housing allowance would be deducted from the assessed value of each primary residence. The allowance would be based on subsistence rents established by U.S. Department of Housing and Urban Development (HUD) for each county.

Mr. Brooks indicated that the SBTC was planning adoption of one of the proposals on March 1, 2001. The date might slip slightly depending upon discussion and input. The SBTC was concerned about adopting the rule in a timely manner to allow time for education and implementation. One consideration is that computer standards must be certified for use by assessors.

Mr. Brooks further indicated that a new personal property rule would be forthcoming.

Representative Klinker inquired about the source of market value information.

Mr. Brooks indicated that this information would come from sales disclosure forms. He added that there have been concerns about the quality of that information.

John Krauss asked about how the SBTC would ensure that sales disclosure forms were truthful.

Mr. Brooks answered that it may require an additional penalty that is not imposed currently.

Representative Sue Scholer asked about how other states have addressed this issue.

Mr. Brooks responded that some states have assessors verify the information. This activity, of course, requires additional resources.

Representative Gloria Goeglein asked about what assessors would use if there were no recent sales in a neighborhood or area or if properties were unique and thus had no comparable properties.

Mr. Brooks responded that the assessor would have to find comparable properties, preferably within the county.

Representative Scholer asked whether the shelter allowance would be found constitutional.

Mr. Brooks indicated that the SBTC was confident that it would be.

Representative Scholer indicated that assessors want to be involved in the process.

Mr. Brooks said that the SBTC has been doing a set of informational presentations around the state and had worked with an assessor advisory committee in developing the proposals and future educational programming.

Representative Scholer asked about how many assessors were on the advisory group and where they were from.

Mr. Brooks indicated that there are four seats filled currently and one vacant seat. Two county assessors and 2 township assessors fill the four current seats. The two county seats are held by the assessors from Bartholomew and St. Joseph counties.

Will Smith suggested that an assessor from Lake County might be a good choice to fill the vacant seat and that a special educational session might be warranted in the county. The effects of the new system were likely to be the most severe there.

Senator Joseph Zakas asked about the effect of the new rules on Lake County.

Mr. Brooks indicated that many properties in Lake County have assessed values of under \$100 but that low assessments were only part of the problem in that county.

Linda Williams commented that rigid rules like those proposed in the first two options were easier to explain to the public. She indicated that under the new personal property rules, depreciation will be more complicated.

Mr. Krauss inquired about the resources necessary to deal with the inevitable flood of appeals under the new system.

Mr. Brooks indicated that the appeals process would be easier.

Representative Goglein suggested that most of the cases awaiting appeal are from corporations, they are likely to affect local governments significantly.

Mr. Brooks indicated that the SBTC was working to augment staffing. They would provide expert appraisers and general support for local governments.

Senator Zakas indicated that the Indiana Manufacturers Association and the Indiana Chamber of Commerce were concerned about the personal property assessment rules.

Representative Klinker asked about the effect on mobile homes. The General Assembly recently passed changes to the method of taxing mobile homes.

Mr. Brooks indicated that the SBTC was working on these issues.

Senator Zakas suggested that it was appropriate for mobile homes to be assessed taxes or fees for the basic services they consume.

Ms. Williams indicated that trailers often house children. Many people oppose reducing the tax burden on these dwellings. She also indicated that the commercial vehicle law was passed after budgets were done. This has caused problems.

Mr. Brooks indicated that the assessment of mobile homes is clearly an issue of tax policy. It may be affected by the constitutional provision that the state must tax property wealth.

Representative Goeglein suggested that the assessment of personal property be returned to the township assessors.

Sue Paris suggested that the mobile home law created an issue with tax billing because it required retroactive tax relief.

Senator Beverly Gard asked about who would help make the decision among the three proposals. She indicated the importance of implementing a system that was sustainable and expressed some concern about the third proposal.

Mr. Brooks indicated that the SBTC would make the decision and that it likely would make some people unhappy.

Representative Goeglein asked about the number of outstanding appeals before the SBTC.

Mr. Brooks indicated that all appeals from the 1989 reassessment had been closed or litigated. There were about 2,000 appeals outstanding from the 1995 reassessment. He was unsure about how long it would take to address those. One-third to one-half of appeals involve litigation before the tax court.

Representative Goeglein inquired about the effect of the new rules on utilities.

Mr. Brooks indicated that they would be treated as depreciable property.

#### ***DEBOER PRESENTATION***

Dr. DeBoer summarized briefly the events that led to the three proposals being developed by the SBTC (see Attachment C). The court ruling indicated that the current system of assessment reflected cost schedules lacking sufficient relationship to objectively verifiable data and lacking meaningful reference to property wealth. He explained that the tax court has ruled that a market value system for assessing property is constitutional. The court did not establish that market value was the only possible constitutional system but gave no guidance about which other systems might be constitutional.

He further indicated that the court had not defined specifically property wealth and thus the SBTC proposals that included a shelter allowance may require further litigation. The shelter allowance is based on objectively verifiable data. It comes from a subsistence housing threshold established by HUD. Because the tax court did not say specifically that market value was the only acceptable system, it is not clear what decision would be reached. Courts in other states have been more definitive in specifying market value as the only constitutional system.

He summarized briefly the likely shifts in the property tax burden implied by implementation of a market-based system. He indicated that there would be a general shift of the tax burden toward older, suburban homes. Under a market value system, the average homeowner would pay approximately 33 percent more in property taxes (tax bill). Businesses would experience an 18 percent decline under the same regulations. The exact effect in each community would differ depending on the types and mix of properties. The changes expected with implementations of the Tax Board's 1999 assessment rules, including market value assessment of real property, a residential shelter allowance, and revised personal property rules would lessen the effect on homeowners considerably (7 percent increase).

He suggested that the shift in property tax burden based solely on the market value only model would be politically unacceptable. The question was "what do we do about the 33 percent shift?" One option is to adopt an assessment system that includes non-market value elements that prevents the shift from happening. A second option is to let the new market value system go forward and choose other forms of revenue (tax restructuring) to address the shift. It is not a political option to accept the 33 percent shift and do nothing about it. Some combination of options one and two is likely.

Dr. DeBoer addressed assessment uniformity briefly. He expressed being interested in the third option being considered by the SBTC because it contained economic elements. It creates a "market" for assessors. Under this proposal, the SBTC would set standards under which local assessors will predict the selling prices of properties. It gives the assessors flexibility in how they establish selling prices and the SBTC monitors the results. He suggested that likely the Indiana assessment culture is not yet ready for this flexibility but it may be the best way to achieve the goals established by the court.

Assessment uniformity dictates that assessments be a uniform proportion of market value. Experts suggest that the best system is to set assessed value at 100 percent of market value. It provides a standard against which the oversight agency responsible for tax policy can monitor the results. In Indiana that is the SBTC. A 100 percent standard allows the tax board to do its sales ratio and equalization studies. It allows the agency to collect information from the sales disclosure forms without the hassle of conversion. It gives homeowners a better tool to evaluate whether their assessment is reasonable and allows corrections of errors at the local level. He suggested that under any of the SBTC proposals it would be useful to provide tax bills that indicate the predicted selling price, the shelter allowance, and the assessed value.

Senator Zakas suggested that the tax court may still allow different classes of property to be treated differently as long as properties within classes were treated similarly. He asked Dr. DeBoer to clarify that the minimum and maximum tax bill shifts in his handout referred to average change in those counties.

Dr. DeBoer indicated that it did.

Senator Zakas asked about the land use mixes that might be associated with higher or lower tax shifts.

Dr. DeBoer confirmed that the homogeneity of a communities land uses and the variation among types of housing would affect the relative shift. In a suburban community in which most of the housing is relatively new and there is little commercial and industrial property, the shift is likely to be small. In a community with a lot of industry and older homes, the shift toward the older homes is likely to be significant.

He reminded the group that there were some counties that would benefit from the shelter allowance. If a county had a high proportion of homes that were valued close to the shelter allowance, many would get a break on taxes.

Representative Goeglein asked if after assessed values were established in an area without recent sales, the sale of homes below that level would spur a rash of appeals.

Dr. DeBoer suggested that the system would have to rely on available sales data. In some cases, this information could be augmented by appraisal data. The basic rules would have to be established for a period of time with a period after which they would be updated.

Representative Goeglein expressed concern about the assessment of utilities.

Mr. Brooks explained that the assessment on utilities was largely a function of personal property rules. They have little real property and generally not very much inventory. He indicated that the utility assessment rules would be considered with the new rules on personal property.

Dr. DeBoer also pointed out that under the pure market value proposal utilities tax burden would be significantly less. However, when considering the new personal property assessment rules, they would actually experience a slight rise in their relative burden.

Mayor Sonja Margerum asked about how rental property would fare under the new system.

Dr. DeBoer indicated that apartments are considered commercial and would be lumped into business.

Representative Klinker asked about the options to shift the tax burden away from residential property owners. She asked specifically about the results of a series of forums held during the summer.

Dr. DeBoer indicated participants were given options regarding restructuring. Sales tax was probably the most popular solution. However, the group decided not to do a report because the structure of the forums did not allow an assessment of a representative sample of citizens across the state.

Representative Klinker asked Dr. DeBoer for his recommendation regarding restructuring.

He indicated that if the shelter allowance was constitutional, then removing one of the significant local expenditures like welfare from the property tax could lessen the effects within the state's current budget parameters.

Senator Gard suggested that removing welfare from property taxes would not affect all counties equally.

Dr. DeBoer agreed that it would benefit more urban counties disproportionately. He suggested that another option might be to freeze the property tax replacement credit.

He suggested that under the pure market value system (without a shelter allowance), restructuring would probably require raising income, sales, or corporate taxes.

Representative Klinker indicated that a projected depressed revenue forecast for the state would make the debate more difficult. She also suggested that many citizens perceive the sales tax as voluntary despite its regressive nature.

Representative Goeglein suggested that it may be appropriate to remove certain expenses from local property taxes, including welfare, criminal justice, and police and fire pensions. The nature of these expenditures makes them appropriate for direct state funding.

Mayor Margerum indicated feeling some apprehension when legislators start talking about reducing property taxes. They are the principal source local governments have to provide a number of essential services. The legislature places significant restraints on local revenues currently. Local governments must be part of the discussion on restructuring.

She further suggested that the funding of schools should be part of the discussion.

Dr. DeBoer indicated that when the method of determining assessed value was changed, it would require that the school funding formula be revised.

Ms. Williams asked if the summer forums had addressed citizens' feelings about funding schools. Many taxpayers are stunned that about half of all property taxes goes to fund schools.

Dr. DeBoer indicated that the exercise used at the forum required participants to leave services constant and make choices that were revenue neutral overall. Some participants suggested that replacement of property taxes could be made up by reducing the state budget. A large state expenditure is education.

Representative Klinker thanked Mr. Brooks and Dr. DeBoer for speaking. She was appreciative of the candid discussion.

### **TELECOMMUNICATIONS**

Mr. Krauss indicated that the IACIR had adopted telecommunications readiness as its focus area for the remainder of FY 2000 at a previous meeting. The project is being led by a technical advisory committee made up of stakeholders and chaired by Mayor John Fernandez. John Ryan and Dave Bohmer also serve on this group.

Joyce Poling, Will Smith, and Linda Williams volunteered to join the technical advisory committee. Staff drafted a proposal based on a series of preliminary discussions (see Attachment D) and was now making contacts with various stakeholders about funding. A number of organizations had committed funds or were considering doing so.

Representative Klinker reiterated the IACIR's desire to host a set of forums to gauge public opinion on this important issue in the near future. She suggested a number of possible locations and that small communities should be included in the process.

Mr. Smith suggested that the National Association of Counties would be a good source of information for the process.

**NEXT MEETING**

No date was set for the next meeting. It is expected to occur following the 2001 legislative session.

**ADJOURNMENT**

The meeting was adjourned at approximately 3:30 p.m.

**APPROVED**

These minutes were approved by consent of the commission on August 29, 2001