



www.NPRI.org February 26, 2010

Tax board schedules dubious 'quick-fix' for property-tax system

Experts suggest scheme is illegal, ineffective

John Dougherty

CARSON CITY — Nevada tax authorities are poised to address the state's long-unlawful property-tax-assessment system Monday by adopting a quick-fix regulation that won't work, says a leading property-tax-appraisal expert.

"There is not much bang for the buck" in the State Board of Equalization's proposed regulation, said Richard Almy, the former executive director of the International Association of Assessing Officers and a foremost expert on the methodology Nevada tax regulators are proposing to adopt.

Almy is widely considered to be among the world's authorities on property-tax assessment and is senior technical director of the IAAO's textbook, Property Appraisal and Assessment Administration. Almy made his comments after reviewing the state Board's proposed regulations.

The five-member state Board has scheduled for passage March 1 a regulation adopting a statistical tool called "ratio studies" as the basis for determining whether the state's 17 elected county assessors are valuing similar property equally across the state as required by the Nevada Constitution.

State law has long required that regulations ensuring statewide equalization be written, but neither the State Board of Equalization nor the Nevada Tax Commission ever actually produced such rules. Now the Board — after holding only a single two-hour workshop in early February that discussed adopting the IAAO standards for

ratio studies — appears to be rushing to put a regulation in place.

Individual taxpayers, county assessors and the Nevada Taxpayers Association criticized the proposed regulations, urging that more time be taken before adoption. The state Board's agenda for its upcoming meeting, however, shows the regulations scheduled for adoption.

Almy's criticism comes at the same time as the head of the state Department of Taxation is also expressing doubt about the effectiveness of using ratio studies to determine statewide equalization.

"The ratio study isn't the end all and be all for equalization," said Dino DiCianno, executive director of the state tax department.

DiCianno said ratio studies, while far from full proof, could still assist the state Board in making a "judgment call" on whether property taxes are equalized.

"Does it ensure [equalization] completely? Maybe, maybe not," he said.

Rather than relying on ratio studies, Les Barta, a property-tax expert and Incline Village property owner who has been a leader in an eight-year property-tax revolt, said the state Board should be following two recent Supreme Court rulings requiring county assessors to only use appraisal methodologies adopted by the Nevada Tax Commission.

"There is minimum mention of the state Board's predominant duty to determine whether uniform appraisal methodologies have been used by county

assessors," Barta said during a Feb. 11 tax department workshop on the proposed regulation.

The Nevada Supreme Court ruled in 2006 and 2008 that county assessors must only use appraisal methodologies that have been expressly approved by the state Tax Commission.

The commission, however, has been slow to implement detailed, uniform appraisal methodologies, and what regulations have been passed are under challenge in state court as being too vague.

The Tax Commission is also in violation of state statute for failing to provide assessors a tax manual prescribing appraisal methodologies. The commission hasn't published the tax manual since 1999.

State Board Chairman Anthony Wren, a Reno appraiser, did not return a phone call Thursday seeking comment in response to Almy's criticism. Wren is pushing for quick adoption of the regulations.

"This is something that has not been rushed through," Wren said at the Feb. 11 workshop.

Almy said ratio studies are very useful in a market-based property-tax system to measure equalization of property assessments. Nevada, however, abandoned a market-based property-tax system in 1981, adopting a unique model called "taxable value."

No other state in the country uses a taxable-value system where land is valued at market price and improvements at replacement cost new, less 1.5 percent depreciation per year based on the age of the structure.

In market-based property-tax systems, ratio studies are used to compare the assessed values determined by tax authorities to market sales. A consistent ratio would indicate that property taxes are being assessed equally across political jurisdictions.

In Nevada, however, the proposed state Board regulation merely calls for ratio studies to compare the tax department's determination of taxable value of a sample of properties with a county assessor's determination of assessed values of the same properties.

By law, county assessors first determine the taxable value of a property, and multiply it by 35 percent to determine assessed value. In ratio studies conducted in the past for the Nevada Tax Commission, the tax department routinely used county assessors' appraisals rather than doing their own.

Under such a scenario, said Almy, the tax department's application of the ratio studies accomplishes little more than checking the math of the county assessors.

Almy said that only if the tax department conducts independent appraisals of property could the ratio studies

provide some degree of state oversight of county assessors.

Even then, he said, the ratio studies proposed by the Board will fall short of being a useful tool for determining whether equalization is occurring. That's because neither the county nor the state measures the valuations against market values.

"Market value," he said, "is the only objective yard stick to measure against."

Asked whether there is any statistical method that Nevada regulators can adopt to effectively measure whether statewide equalization is occurring in the state's taxable-value system, Almy said: "I don't know."

Almy also said adoption of the proposed regulation is not cost-effective.

"The taxpayers in the state of Nevada are not getting much for the money they will spend on it," he said.

County assessors, individual taxpayers and the Nevada Taxpayers Association have also leveled criticism of the state Board's proposed regulation.

Carole Vilardo, president of the Nevada Taxpayers Association, questioned whether the Board had the authority to adopt the regulations, some of which appear to fall under the purview of the Tax Commission.

Vilardo suggested that the state Board and the Tax Commission hold a joint meeting before adopting any regulation. Currently, the Board and the Commission are scheduled to hold separate meetings Monday.

The Clark County Assessors Office questioned how much authority the state Board has over elected county assessors, including whether the state Board could order a county to conduct a reappraisal.

"There is a certain amount of authority that the state Board has over the process of equalization, but I'm not sure that extends to authority in all cases to tell [assessors] what to do," said Clark County Deputy Assessor Jeff Payson.

"The assessor is a statutory officer and elected official and I think that needs to be considered when the state Board asks them to submit and perform certain things," he added.

Brent Howard, a Las Vegas accountant, criticized the regulations for failing to make them easily understandable to taxpayers and providing vague guidelines on how assessors conduct appraisals.

"The regulation does not give us a uniform and equal application of the law and assessment of property values," Howard said. "I think the state Board should be involved in making this an easy process for the taxpayer to understand."

Suellen Fulstone, a Reno attorney representing North Lake Tahoe property owners who have been challenging state and county property-tax authority, cited numerous shortcomings with the proposed regulation.

"Ratio studies were developed for use in market-value appraisal jurisdictions where actual sales provide an objective standard," she said, echoing Almy's criticism.

She also questioned whether the state Board has the legal authority to adopt ratio studies as its standard to measure statewide equalization and whether it can delegate authority to the tax department to do the studies.

"There is no statutory authority for the [state Board] to discharge its duty of statewide equalization by performing one or more ratio studies," she stated in comments submitted to the state Board.

"The [state Board] itself cannot perform ratio studies and there is no authority for it to delegate its duty of statewide equalization by directing the [tax] department to perform ratio studies," Fulstone stated.

Maryanne Ingemanson, president of the Village League to Save Incline Assets, a nonprofit taxpayers group leading the North Shore Lake Tahoe tax revolt, said more litigation will likely result if the state Board adopts the proposed regulation.

"If in fact they pass this mess, which is against state statute, then it will just have to be used against them in court," she said.

Barta, who is also a member of the Village League, cautioned the state Board at the conclusion of the Feb. 11 workshop about passing the regulations without more scrutiny.

"It's never a good idea to ram through regulations as fast as these are being done," he said. "There needs to be more vetting."

John Dougherty is the principal of InvestigativeMedia.com and has long been one of America's leading investigative reporters. He has been retained by the Nevada Policy Research Institute to report on critical issues of Nevada governance.

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