

FINAL REPORT

**TASK FORCE ON
AD VALOREM TAX
ASSESSMENT PRACTICES**

**REPRESENTATIVE CLAY POPE, CHAIR
SID SPERRY, VICE CHAIR**

JULY 2002

TASK FORCE ON AD VALOREM TAX ASSESSMENT PRACTICES

Members

Representative Clay Pope, Chair

Sid Sperry, Vice Chair

Representative Forrest Claunch

Representative Russ Roach

Senator James Dunlap

Senator Dave Herbert

Linda Gragg

John Hayes

Mike Means

Judy Rousey

Wade Rousselot

Task Force Staff

Alicia Ramming Emerson, House Research Division

Mark Harter, House Legal Division

Mark Tygret, House Fiscal Division

Darren Williams, House Legal Division

Caroline Dennis, Senate Committee Staff

BACKGROUND

The Task Force on Ad Valorem Tax Assessment was created in House Bill 1169 which was passed by the Oklahoma Legislature in 2001 (see Appendix A). The purpose of the Task Force was:

1. To study and review the assessment practices used by the county assessors in this state to determine the fair cash value of locally assessed property;
2. To review the various constitutional and statutory provisions governing the assessment of locally assessed property in Oklahoma;
3. To compare the assessment practices in Oklahoma with the practices used in other states; and
4. To determine what constitutional and statutory changes are necessary to implement the recommendations of the Task Force.

A report to the Governor and Legislature is required to be issued by July 1, 2002.

The Task Force held four meetings. The organizational meeting was held October 30, 2001. Task Force members reviewed their mission as contained in House Bill 1169 to determine how the Task Force should proceed. Much of the discussion focused on the applicability of the constitutional valuation cap. This provision specifies that the fair cash value of any parcel of locally assessed real property could not increase by more than five percent in any taxable year.

The second meeting of the Task Force was held December 11, 2001. A wide variety of topics were discussed at this meeting. A representative from the Attorney General's office made a presentation regarding Attorney General Opinion 01-3 which relates to the implementation of the valuation cap. The Ad Valorem Division of the Oklahoma Tax Commission reviewed the annual assessment process for locally assessed real property. The assessors from Pittsburg, Stephens and Tulsa counties gave an urban and rural perspective on ad valorem tax assessment practices. Representatives from the realtor's and home builder's industries presented their perspectives relating to ad valorem taxation.

The final presentations of the day were made by agricultural and education organizations.

The third meeting of the Task Force was held on March 15, 2002. The Ad Valorem Division gave an update on the financial status of the Ad Valorem Reimbursement Fund. Several citizens appeared before the Task Force to provide input on various aspects of the ad valorem tax system. The Task Force held a general discussion on ad valorem tax practices.

The final meeting of the Task Force was held on June 25, 2002, to finalize the work of the Task Force by reviewing and approving the recommendations to be contained in the final report. A minority report submitted by Task Force Member Mike Means is included in this report as Appendix B.

CONCLUSIONS AND RECOMMENDATIONS

The Task Force recognizes the importance of the ad valorem tax system as it relates to funding public education, county government and other local governmental functions. The Task Force also recognizes the burden placed on many property owners in providing this funding. The ad valorem tax is a difficult tax to administer primarily because of the subjective nature of determining value. The ad valorem tax reform efforts by the Legislature in the late 1980's have resulted in the modernization of the ad valorem tax assessment system and has brought more equity to the system. However, the strong residential real estate market in several areas of the state has led to property values for ad valorem tax purposes to significantly increase for many property owners.

After State Question 669 was defeated by the voters in March 1996, the Oklahoma Legislature offered to the voters the five percent valuation cap as an alternative to place some limits on valuation increases. Since adoption of this constitutional amendment in the 1996 General Election, there has been increasing concerns particularly in the urban counties as to the impact of this cap on taxpayers.

There is a school of thought that values are being automatically increased five percent a year.

After several years of experience with the five percent rule in effect, the Task Force feels the time has come for this provision to be revisited and rewritten.

The Task Force proposes that Section 8B of Article X of the Oklahoma Constitution be amended to replace the 5% valuation cap with a cap that limits the increase on locally assessed classes of real property to a maximum of 3% a year.

The Task Force acknowledges that there may be differing opinions regarding the appropriate treatment of commercial/industrial property for purposes of reducing the limitation on valuation increases from 5% to 3%. *See*, the Minority Report addressing this issue which is attached as Appendix B.

The Task Force proposes that the Legislature consider enacting statutory changes to the Ad Valorem Tax Code so that county assessors would be prohibited from using sales information for the valuation of residential real property if the sale

took place within three (3) years of the relevant January 1 assessment date. The Task Force recommends consideration of language such as that in new subsection "E." of Section 2829 of Title 68 of the Oklahoma Statutes contained in a draft amendment (see Appendix C).

The Task Force proposes that the Legislature enact statutory language identical to that contained as new subsection "F." to Section 2829 of Title 68 of the Oklahoma Statutes as contained in a draft amendment (see Appendix C). This amendment relates to the requirement that the fair cash value for sales data used in a computer assisted mass appraisal methodology should comprise at least three percent (3%) of the total amount of fair cash value of residential real property in a county for which the sales sample is being used to establish market values.

The Task Force recommends that the Legislature develop a method for establishing market values consistent with the limits on valuation increases based upon the concept of a three-year average of market value for residential real property.

In addition to the proposals which relate specifically to the amount of a valuation increase cap such as that contained in Article X, Section 8B of the Oklahoma Constitution and the proposals for changing the way in which fair market values are established, the Task Force makes several other recommendations relating to ad valorem taxation.

The Task Force recommends that the Legislature examine a method to make adjustments in the State Aid Formula so that a school district in which property qualifying for the 5-year manufacturing exemption is located is not penalized in the event that the Ad Valorem Reimbursement Fund does not contain adequate revenue to fully reimburse the district for the loss of ad valorem revenue attributable to the facility.

The Task Force recommends that the Legislature investigate and study methods for common school districts to reduce reliance on locally generated ad valorem tax revenue, including, but not limited to, the use of alternate local and other funding sources to replace and/or supplement local ad valorem tax revenue.

The Task Force recommends that, with appropriate caution because of the implications for local government funding, the Legislature consider:

1. an increase in the “basic” homestead exemption amount above its current level of One Thousand Dollars (\$1,000.00);
2. modifications to the provisions of Article X, Section 8C of the Oklahoma Constitution to adjust the qualifying income limits for the “senior valuation freeze” provisions to account for the effect of inflation;
3. modification of the qualifying income limits for the “double” or additional homestead exemption so that the income amounts are adjusted to account for the effect of inflation; and
4. modification of the qualifying income limits for the “circuit breaker” property tax relief provisions (property tax refund) so that the income amounts are adjusted to account for the effect of inflation.

Finally, the Task Force recommends that the Legislature consider a modification to Article X, Section 8B of the Oklahoma Constitution to modify the exception under current law based upon transfers of title (sales) or improvements to real property so that these transactions are treated more equitably due to the sometimes significant increase in fair market values (and property tax liabilities) which result from application of this exception.

The Task Force feels these proposals would address concerns over the fairness in this system and these recommendations would take a positive step towards evening out the peaks and valleys in the valuation process.

The Task Force feels the proposals offer taxpayers some meaningful relief while still maintaining the integrity of the ad valorem system as a funding source for education, county government and the other ad valorem tax recipients.

APPENDIX A

An Act

ENROLLED HOUSE
BILL NO. 1169

By: Claunch, Liotta, Reese,
Nance, Bengé, Calvey, Case,
Dank, Piatt, Winchester and
Worthen of the House

and

Dunlap, Herbert, Campbell,
Cain and Williams of the
Senate

An Act relating to revenue and taxation; creating the Task Force on Ad Valorem Tax Assessment Practices; setting forth membership; requiring appointments to be made by certain date; providing for meetings; authorizing reimbursement for travel expenses; providing for staffing requirements; setting forth duties of the Task Force; requiring certain report of findings and recommendations; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2950 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. There is created the Task Force on Ad Valorem Tax Assessment Practices.

B. The Task Force shall consist of eleven (11) members to be appointed as follows:

1. The Speaker of the House of Representatives shall appoint the following individuals:

- a. two members of the House of Representatives,
- b. one county assessor from a county with a population of fifty thousand (50,000) or less, and
- c. one person residing and owning real property in a county with a population of more than fifty thousand (50,000);

2. The President Pro Tempore of the Senate shall appoint the following individuals:

- a. two members of the Senate,

- b. one county assessor from a county with a population of more than fifty thousand (50,000), and
- c. one person residing and owning real property in a county with a population of fifty thousand (50,000) or less; and

3. The Governor shall appoint the following individuals:

- a. one member of the State Board of Education,
- b. one person who is a Certified Public Accountant, and
- c. one person owning real property in the state.

All appointments pursuant to this subsection shall be made no later than July 1, 2001.

C. The Task Force shall elect from its members a chairperson. The Task Force shall meet at such times and places as it deems necessary to perform its duties as specified in this section. Meetings shall be held at the call of the chair.

D. Legislative members of the Task Force shall be reimbursed by their appointing authorities for necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes. All other members of the Task Force shall be reimbursed by their appointing authorities for necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

E. The Oklahoma Tax Commission and the Senate and the House of Representatives staff shall provide such staff support as is required by the Task Force.

F. The duties of the Task Force shall be as follows:

- 1. To study and review the assessment practices used by the county assessors in this state to determine the fair cash value of locally assessed property;
- 2. To review the various constitutional and statutory provisions governing the assessment of locally assessed property in Oklahoma;
- 3. To compare the assessment practices in Oklahoma with the practices used in the other states; and
- 4. To determine what constitutional and statutory changes are necessary to implement the recommendations of the Task Force.

G. The Task Force shall set forth its findings or recommendations in a report to the Governor and the Legislature no later than July 1, 2002. The Task Force shall be terminated as of July 1, 2002.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 22nd day of May, 2001.

Jari Askins
Presiding Officer of the House of
Representatives

Passed the Senate the 23rd day of May, 2001.

Henry H. Coffey
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 24th
day of May, 20 01,
at 3:00, o'clock P.-M.

By: Ammond Miller

Approved by the Governor of the State of Oklahoma the 1st day of
June 20 01, at 3:45, o'clock P.-M.

J. D. Miller
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 1st
day of June, 20 01,
at 4:15, o'clock P.-M.

By: Dawn Amundson

APPENDIX B

Minority Report

**TASK FORCE ON
AD VALOREM TAX
ASSESSMENT PRACTICES**

Oklahoma County Assessor Mike Means, Member

The Task Force met June 25, 2002, to discuss and finalize its final report to the Governor and Legislature. After much discussion and debate, many conclusions and recommendations were made. The final report recognizes the majority opinion of the Task Force members.

Although I support the overall direction of the final report and its recommendations, I do have some strong opinions on a couple of items and wish to have them included in the final report. I will detail those in the following paragraphs.

This is the third task force I have been privileged to be a member that has addressed some issue dealing with ad valorem taxation. The first task force was the one that recommended the three state questions that were ultimately approved by the voters in 1996. One of those state questions put in place the five percent limitation on assessment increases. In all of the debate during that task force, it was determined that Oklahoma has one of the lowest ad valorem tax burdens of any state in the nation.

This year saw much debate over sales and income taxes. The reason there was little debate over ad valorem taxes is due to the fact that it is still one of the lowest in the nation. This latest task force was requested to study the implementation of the five percent limitation across the state and compare assessment practices in Oklahoma with other jurisdictions.

It is apparent that the five percent limitation is achieving the goals it was designed for in its implementation. It is also apparent that homeowners still have some concern regarding their assessments increasing and thus the appearance on an annual five percent increase.

I enthusiastically endorse the idea of lowering the limitation to three percent for homeowners. Home ownership is a goal that is desired of people and

families and strongly encouraged by government policy. To most, it is their largest investment. The vast majority of protests during the assessment process come from homeowners. I was very pleased that the Task Force recommended the legislature examine closely those issues that impact our senior citizens. If there is one segment of society that needs additional relief, it is our senior citizens.

In order to maintain the integrity of the ad valorem system and its fundamental placement in the funding of local schools, local law enforcement, local government and other local functions, I believe we must prudently examine the impact this report could ultimately have.

While I believe every county assessor in Oklahoma is friendly to business, Oklahoma County has proven its support of free enterprise and its exercise. However, it is my belief the five percent limitation is acceptable to businesses and should remain in place. Oklahoma is one of the few states that even has a limitation on assessment increases for commercial property.

Therefore, I believe Oklahoma should decrease the limitation on assessment increases for homeowners, and let the current limitation stand for commercial property. We should let the voters decide as quickly as possible.

APPENDIX C

1 "SECTION 1. AMENDATORY 68 O.S. 2001, Section 2829, is
2 amended to read as follows:

3 Section 2829. A. Each county assessor, in order to comply with
4 the provisions of Section ~~17~~ 2817 of this ~~act~~ title requiring the
5 annual valuation of all taxable real and personal property within
6 the county, shall establish the fair cash value of such taxable
7 property using an accepted mass appraisal methodology.

8 B. For purposes of this section "accepted mass appraisal
9 methodology" shall mean the process for making estimates of fair
10 cash value for a property about which no direct or timely
11 information is available concerning economic value by using known
12 information about the property characteristics, location, use, size,
13 sales price and other information of similar properties. Such mass
14 appraisal methodology may include multiple regression analysis or
15 other statistical techniques for mass appraisal. If information of
16 similar properties is not available in the taxing jurisdiction, the
17 county assessor may use other applicable regional or national
18 information to annually determine the fair cash value of a property
19 estimated at the price it would bring at a fair voluntary sale as
20 provided in Section ~~17~~ 2817 of this ~~act~~ title.

21 C. Each county assessor shall utilize the information gathered
22 from the visual inspection of real property conducted during each
23 year of the four-year cycle for such inspections and shall conduct
24 such statistical calculations using the data so acquired together
25 with sales price or other information available as may be required
26 to make accurate estimates of fair cash values for all taxable real
27 or personal property within the county each year. The results of
28 such calculations shall be recorded on the assessment roll of the
29 county on an annual basis in order to reflect any increase or
30 decrease in the fair cash value of any property in any year.

31 D. The statistical analysis required by this section shall be
32 performed within each county using such computer facilities as may

1 be available, but shall be conducted in accordance with procedures
2 established for the uniform mass appraisal program established by
3 the Oklahoma Tax Commission.

4 E. Unless there are no verifiable and qualified sales from
5 which to make accurate determinations regarding the fair cash value
6 of residential real property within the period of time prescribed by
7 this subsection, the county assessor shall not use a sale
8 transaction to establish the fair cash values of similar properties
9 within the county if the sale took place within three (3) years
10 prior to the January 1 assessment date for which the assessor is
11 attempting to determine the fair cash value. The county assessor
12 may use sales occurring prior to such date, but may only use such
13 sales to the extent required to establish fair cash values according
14 to the requirements of law.

15 F. In order for a county assessor to use the sales of
16 residential real property within the county each year as provided by
17 this section for computer-assisted mass appraisal, the sales shall
18 represent a minimum of three percent (3%) of the fair cash value of
19 all parcels of residential real property within the relevant
20 geographic area the fair cash value of which is to be established or
21 modified using such sales information."

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