

ASSEMBLY BILL NO. 862
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am herewith returning Assembly Bill No. 862 (First Reprint) with my recommendations for reconsideration.

Assembly Bill No. 862 (First Reprint) revises the law governing successful appeals of municipal property tax assessments. Under current law, a municipality must refund to a property taxpayer who successfully appeals their tax assessment the amount owed, plus interest, within 60 days of the final judgment in the case of a residential property taxpayer and a commercial property taxpayer owing up to \$100,000. For all other commercial property taxpayers, a municipality must provide a full refund in substantially equal installments within three years of the final judgment. This bill would permit a municipality to refund the amount owed, plus interest, in the form of a property tax credit against new property taxes that become due following the final judgment within three years of the final judgement for residential property taxpayers in all cases and for nonresidential property taxpayers when the amount owed exceeds the total amount of any outstanding delinquency. Any balance that is not refunded as a credit after three years would be refunded to the taxpayer at that point.

I commend the bill's sponsors for aiming to provide municipalities with more flexibility in how they distribute property tax refunds following a taxpayer's successful appeal of an assessment. The refunding mechanism created in the bill can serve as a useful tool to assist local governments in managing their annual budgets.

I am concerned, however, that allowing municipalities to repay residential property tax refunds as credits spread out over three years could harm residents who are expecting - and perhaps counting on - money to be returned quickly, after having endured a potentially lengthy appeal process. Put simply, residents who have incorrectly been assessed too much in property taxes deserve to have the overcharge refunded to them promptly, rather than having to wait up to three years to receive the money that is rightfully theirs. Even in the case of multifamily residential properties, the owner may pass the costs of not receiving an immediate refund on to rent-paying residents.

For these reasons, I am recommending revisions to Assembly Bill No. 862 (First Reprint) to give municipalities the option of providing tax credits in lieu of a refund, with immediate repayment of any remaining balance after three years, only to nonresidential property taxpayers. Reflecting the fact that tax refunds for nonresidential properties may often be substantially larger than tax refunds for residential properties, current law already provides municipalities with more flexibility for paying tax refunds owed to nonresidential property owners than to residential property owners. Allowing municipalities to provide tax refunds over three years for nonresidential properties as property tax credits, is thus a natural extension of current law that will accomplish the sponsors' principal goal of affording financial flexibility to municipalities, while avoiding the more significant disruption that could result from revising the current process for residential property taxpayers.

Therefore, I herewith return Assembly Bill No. 862 (First Reprint) and recommend that it be amended as follows:

Page 2, Section 1, Line 20:

After "(C.54:4-134)" delete "," and insert ". In the case of nonresidential real property, a municipality may refund the amount owed to the taxpayer"

Page 2, Section 1, Line 22:

After "judgment" insert ". A municipality may also,"

Page 2, Section 1, Lines 22-23:

Delete "; provided, however, that if" and insert ", refund the amount owed to the taxpayer as a credit, including any interest that accumulates until the excess is fully returned, against the balance of property taxes that become due and payable on the parcel of nonresidential real property immediately following the county board of taxation's decision or the Tax Court judgment, as appropriate, but if the excess has not been fully refunded to the taxpayer in connection with the nonresidential real property after three years, then the remaining excess shall be immediately refunded. If"

Page 2, Section 1, Line 23:

After "refund" insert "due on nonresidential real property, however,"

Page 2, Section 1, Line 26:

Delete "; except that a" and insert "."

Page 2, Section 1, Lines 27-34:

Delete in their entirety

Page 3, Section 2, Line 36:

After "that" insert ", in the case of nonresidential real property,"

Page 3, Section 2, Line 40:

After "of" insert "nonresidential

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor