

Opinion: Convene a Constitutional Convention to Tackle Property-Tax Crisis

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It is less risky to support a system consistently identified as having a crushing property-tax burden than to strike out in a new direction



Carl Golden

When the current New Jersey Constitution was enacted, less than two years had elapsed since the end of World War II. Harry Truman was president. Jackie Robinson became the first African American to play major league baseball, and there were 48 states in the Union.

There have been numerous amendments adopted since the 1947 governing document was approved — a unified court system, establishment of a state lottery, legalized casino gambling, creating the office of lieutenant governor, among the more prominent — but scant attention has been paid over the years to utilizing the constitution to create a modern state-tax structure, particularly as it relates to property taxes.

Given New Jersey's long run as the national leader in average property taxes — \$8,797 at last count and rising every year — the time has arrived for the administration and the Legislature to revisit the idea of convening a constitutional convention to examine the state and local tax systems and seek alternatives, refinements and structural changes.

The template already exists for the Legislature to follow, including calling the convention, setting its terms and responsibilities and establishing the method for selecting delegates.

Suggestions for such a convention have arisen from time to time, (the last in 2004) but never attracted broad support largely out of concern that neither the administration nor the Legislature could exert influence over its deliberations and conclusions.

Delegates or loose cannons?

The convention delegates, free from political considerations and private-interest pressures, could, it was feared, recommend a broad restructuring of the tax code that could be politically risky or meet with stiff opposition from entrenched interest groups concerned over the possibility of closing loopholes and eliminating provisions favorable to them.

Supporters of a convention urged that it be limited to taxation issues rather than open-ended to avoid the potential for other, more controversial, matters to be introduced and debated. By confining the convention to tax matters, the delegates could concentrate their time and energy on a single subject, free from distractions or side issues.

New Jersey's near exclusive reliance on property-tax revenue to support everything from crayons for kindergarteners to sidearms for police officers is well documented.

Some 1,200 government entities — school districts, municipalities and counties — derive operating expenses from local taxation and, as expenses increase each year, the tax rate rises to keep pace. The lion's share of property-tax revenue — upward of 60% — is devoted to school districts.

Property taxes consistently rank first as the state's most troubling problem, identified as the principal reason for outmigration and as a deterrent to efforts to attract business investment.

It is routinely referred to as a crisis but rarely treated as one.

Gov. Phil Murphy's recent promise to include "enormous" direct property-tax relief in his fiscal 2020-2021 budget in all likelihood means a substantial cash infusion in state aid to local school districts, fueling speculation that he will renew his call for an increase in the tax on incomes in excess of \$1 million and direct the proceeds to funding the aid formula, which already consumes nearly one-third of the entire state budget.

His claim that "a dollar in state aid is a dollar school districts do not have to ask in taxes" is rather disingenuous, since local districts are free to allocate any additional aid in any way they see fit. The state cannot order local boards of education to use the funds to offset or reduce property taxes, leaving them free to spend it on new or expanded programs, salary increases, or any other function.

Murphy following familiar path

Murphy's pledge is the path administrations and legislatures have followed for years, but with limited success. Property taxes have continued to increase, albeit at a slower rate due to the imposition of a 2% cap on tax increases.

But increase they do, and even the average property tax of nearly \$9,000 is a somewhat misleading figure in light of the growing number of municipalities that long ago broke the \$10,000 mark while many others are approaching \$20,000.

It is, though, indicative of the difficulty in leaning on state government to exert greater control over property taxes.

The state does not establish the local rate, nor does it levy or collect the revenue, and it has no voice in determining how the funds are allocated.

The amount of aid is subject to the pressures and vagaries of the annual state-budget process, leaving municipalities and school districts hanging from year to year unable to plan longer range and often forced into last-minute scrambling to offset aid losses.

In times of economic slowdown and a drop-off in revenue flowing into the state treasury, a reduction in school aid is a ready option. Flat funding or modest increases have become routine.

The aid system survives because no viable alternative exists and many legislators concede there is no political will to change it. It is less risky to support a system consistently identified as the most troubling to taxpayers — the crushing property-tax burden — than it is to strike out in a new direction.

Consequently, the state lurches from year to year, aware of its statutory obligation to provide school aid but never quite certain whether it will be able to meet it.

There is nothing to lose and potentially a great deal to be gained by convening a constitutional convention to bring together delegates with expertise in government finance, education, economics and tax policy to unpack the current tax structure and rebuild it to reflect 21st century needs.

It is an ambitious undertaking, to be sure, but if the word "crisis" is to be taken seriously, it is an idea whose time has arrived.

It's been nearly three-quarters of a century since adoption of the current constitution. In that time, society, government and politics have experienced dramatic changes and advancements in virtually every field of endeavor.

It's time to recognize that.



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