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## HOUSE JOINT RESOLUTION NO. 782

Offered January 19, 2001

*Establishing a joint subcommittee to study the fairness of property tax appeals in the Commonwealth.*

Patrons—Reid, Albo, Bloxom, Diamonstein, Hull, Katzen, May, McClure, Moran, Purkey and Scott

Referred to Committee on Rules

WHEREAS, assessment of property taxes, uniformly and at fair market value is one of the most fundamental provisions of the Virginia Constitution, reflecting not only the government's power to tax, but its duty to do so fairly, treating taxpayers equally; and

WHEREAS, property taxes are the most important source of revenue for local governments, and localities need to be able to collect fairly assessed taxes promptly and efficiently so as not to interfere with their ability to provide necessary services to their inhabitants and to otherwise meet citizens' needs; and

WHEREAS, assessments of local property taxes are properly presumed to be correct, placing the burden of proof in property tax challenges upon the taxpayer; and

WHEREAS, in most cases in Virginia, property tax assessments are made in a manner and amount that is fair to the individual taxpayer, to taxpayers as a group, and to the local governing body, and in most cases, the assessors who manage local government assessment processes are fair, reasonable, and open to discussing the problems taxpayers may have with assessments and making changes where warranted; and

WHEREAS, the property tax assessment process, including consideration of administrative and judicial challenges by taxpayers, is a complex process which varies administratively from jurisdiction to jurisdiction and is costly to taxpayers undertaking challenges; and

WHEREAS, assessors of real property in Virginia are not required by law to achieve any professional designation, nor is adherence to professional appraisal standards by assessors required; and

WHEREAS, the absence of such standards increases the efficiency of the assessment process for the assessor but makes challenges more difficult for taxpayers who disagree with the methodology and result of the assessment process; and

WHEREAS, Virginia's judicial process in property tax appeals requires a challenging taxpayer to prove that the challenged assessment is the result of manifest error or total disregard of controlling evidence by the assessor in order to overcome the presumption that the assessment is correct, and the taxpayer must then prove that the assessment is incorrect according to one of the harshest standards in the United States; and

WHEREAS, the standards and burdens imposed upon taxpayers who appeal assessments make it unlikely that taxpayers will be able to obtain adjustments to unfair and excessive assessments because assessment is a complex and highly judgmental process, and demonstrating factual error or disregard of controlling evidence may not be possible; and

WHEREAS, despite reforms that have been made in many states and at the federal level over the past two decades making tax appeal processes more fair for taxpayers, Virginia's standard has not changed; and

WHEREAS, it has been suggested that because the presumptions and burdens facing taxpayers who may wish to challenge their assessments are so difficult to overcome, a small but significant strain of unfairness has become embedded in Virginia's property tax assessment system; and

WHEREAS, taxpayers, including those advised by counsel, who believe their assessments are unfair are frequently dissuaded from challenging these assessments by the cost, difficulty, and small likelihood of success, and therefore come to believe that not only are the assessments unfair, but the process of challenging the assessments is unfair and irregular as well; and

WHEREAS, some local government assessors have argued that lowering the proof required to overcome the presumption of correctness of the assessment while continuing to place the burden of proof on the taxpayers would increase tax litigation, drain the resources of assessment offices, and place local government revenue streams at risk, although proponents of change have argued that lowering the proof required will improve the fairness of the process and the perceptions of taxpayers, and could decrease tax litigation; and

WHEREAS, if problems of unfairness and irregularity in the tax assessment are shown to exist, they should be remedied and a fair and efficient system implemented in such a way as to minimize the fiscal problems faced by localities; and

WHEREAS, it has thus far proven impossible to develop solutions to these problems that are

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59 acceptable both to the local governments, including assessors, and to taxpayer groups who believe the  
60 process is unfair, and consequently, to resolve the question of tax fairness; now, therefore, be it

61 RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be  
62 established to study the fairness of property tax appeals in the Commonwealth. The joint subcommittee  
63 shall consist of eight members, which shall include five members of the House of Delegates to be  
64 appointed by the Speaker of the House in accordance with the principles of proportional representation  
65 contained in the Rules of the House of Delegates, and three members of the Senate to be appointed by  
66 the Senate Committee on Privileges and Elections.

67 In conducting its study, the joint subcommittee shall examine (i) the extent to which the tax appeal  
68 process is unfair or is perceived reasonably to be unfair; (ii) the potential financial effect upon localities  
69 of changes to the tax appeal system; (iii) the burdens that may be placed upon assessors as a result of  
70 changes recommended to the tax appeal process; and (iv) the benefits of changing the tax appeal system.  
71 The joint subcommittee shall recommend any changes to the tax appeal system, including standards and  
72 burdens of proof, that it believes will result in a more fair and balanced tax assessment system,  
73 including recommendations for minimizing any adverse financial effect upon localities.

74 The direct costs of this study shall not exceed \$6,000.

75 The Division of Legislative Services shall provide staff support for the study. Technical assistance  
76 shall be provided by the Department of Taxation. All agencies of the Commonwealth shall provide  
77 assistance to the joint subcommittee, upon request.

78 The joint subcommittee shall complete its work in time to submit its written findings and  
79 recommendations to the Governor and the 2002 Session of the General Assembly as provided in the  
80 procedures of the Division of Legislative Automated Systems for the processing of legislative  
81 documents.

82 Implementation of this resolution is subject to subsequent approval and certification by the Joint  
83 Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the  
84 study.