Circuit Court for Worcester County
Case No. C-23-CV-18-000021

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2751

September Term, 2018

MAYOR AND CITY COUNCIL OF OCEAN CITY, et al.,

v.

COMMISSIONERS OF WORCESTER COUNTY, MARYLAND, et al.

Friedman,
Beachley,
Gould,

JJ.

Opinion by Friedman, J.

Filed: October 13, 2020

This case concerns the constitutionality of the tax setoff laws contained in Sections 6-305 and 6-306 of the Tax-Property ("TP") Article of the Maryland Code. These tax setoff laws divide Maryland's counties into two main categories: in the first category are 8 counties in which the county must provide municipal residents with a tax setoff; and in the second category are 14 counties in which the county may, at its discretion, provide municipal residents with a tax setoff.[1] Ocean City is located in Worcester County—one of the counties in the second category that may, but is not required to, give municipal residents a tax setoff. For at least the last several years, Worcester County has, however, refused to give Ocean City a tax setoff. To avoid this outcome, Ocean City challenges the constitutionality of these tax setoff laws pursuant to Article XI-E of the Maryland Constitution, which broadly compels the General Assembly to treat municipalities uniformly. For the reasons that follow, we hold that because the tax setoff laws do not relate exclusively to local affairs, they do not violate the uniformity requirement of Article XI-E, §1.

FACTS

Ocean City is the largest municipality in Worcester County, Maryland. Taxpayers in Ocean City pay property taxes to both Ocean City and to Worcester County, but receive governmental services mostly from Ocean City. To compensate its taxpayers for this tax differential, Ocean City sought a tax setoff from Worcester County. Worcester County

[1] Frederick County operates under a slightly different tax setoff system that is not relevant to the disposition of this case. MD. CODE, TAX PROPERTY ("TP"), § 6-305.1. *See*, *infra*, n.7.

declined. Ocean City then filed suit seeking a declaration that the tax setoff laws are unconstitutional because they treat different municipalities differently. Worcester County moved to dismiss the complaint or, in the alternative, for summary judgment. Ocean City cross-moved for summary judgment. The circuit court found that the tax setoff laws are not "special or local in [their] terms or in [their] effect" relating to the government or affairs of municipal corporations under Article XI-E, § 1 of the Maryland Constitution and are therefore constitutional. Ocean City noted a timely appeal.[2]

DISCUSSION

I. TAX SETOFF LAWS

The problem of tax differentials is not a new problem. Almost 50 years ago, in *Griffin v. Anne Arundel County*, Judge John P. Moore[3] of this Court described what was by then already a longstanding problem. 25 Md. App. 115, 120 (1975). In 1959, the General Assembly created a commission to "study problems of City-County fiscal relationships," including:

> a study of possible tax differentials between the city and town residents whereby town residents might get lower county tax rates in consideration of the fact that many of their

[2] The State of Maryland was not a party to this litigation. Pursuant to Article V, § 6 of the Maryland Constitution, the Clerk of the Court of Special Appeals notified the Attorney General of Maryland that the State of Maryland has or may have an interest in this case and invited the Attorney General to submit his views. The Attorney General submitted his views in the form of an amicus curiae brief. We thank the Attorney General and the Office of the Attorney General for their helpful participation.

[3] Judge Moore, who served on the Circuit Court for Montgomery County from 1966 until 1973 and on this Court from 1973 until his untimely death in 1982, had previously served as a member of the Maryland House of Delegates from 1962 to 1966.

> governmental services are provided by the town and not by the county. There is currently no consistenc[y] among the several counties in Maryland as to the bases for county tax differentials for residents of incorporated municipalities and/or rebates by the various counties to the incorporated municipalities therein.

J. RES. 26, 1959 LEG., 351ST SESS. (Md. 1959). After a four-year study, the Commission concluded that the problem of tax differentials "was not amenable to any 'single solution and that any possible solutions would have to be developed on a County-by-County basis.'" *Griffin*, 25 Md. App. at 121 (quoting REPORT OF THE COMMISSION ON CITY-COUNCIL FISCAL RELATIONSHIPS 12 (Dec. 1963)). Judge Moore also discussed a 1970 Report by the Committee on Taxation and Fiscal Affairs of the Legislative Affairs of the Legislative Council of Maryland. *Griffin*, 25 Md. App. at 121-25. That Committee Report declined to recommend a statewide tax differential system, instead finding that "because of the variation in the types of governmental services provided by the local governments that determination of the countywide nature of a service can only be made at the county level and not at the state level." *Griffin*, 25 Md. App. at 124 (quoting the 1970 Committee Report).[4] Following those recommendations, the General Assembly in 1975 adopted the predecessor to the current tax setoff laws, requiring tax setoffs in some counties, but exempting others, including Worcester County. Acts of 1975, Ch. 715. In 1978, the General Assembly adopted a reporting system, which requires the Department of Legislative

[4] The *Griffin* Court then determined that Anne Arundel County's refusal to provide a tax setoff for the residents of Annapolis did not constitute an unconstitutional double taxation under either Article 15 or what is now Article 24 of the Maryland Declaration of Rights or the 14th Amendment to the U.S. Constitution. *Griffin,* 25 Md. App. at 126-38.

Services "to conduct an annual review on the progress[5] of counties in establishing tax differentials and to report [its] findings at the close of each fiscal year."[6] *See* Acts of 1977, J. Res. No. 31. Since the late 1970s, while the number of counties in each category has changed and the process by which municipalities apply for and receive tax setoffs has become more complicated, the general framework has remained consistent.

Today, as noted above, Maryland's counties are generally divided into two categories: 8 counties in which the county *must* provide municipalities a tax setoff, and 14 counties in which the county *may*, in its discretion, provide municipalities a tax setoff.[7] In Allegany, Anne Arundel, Baltimore County, Garrett, Harford, Howard, Montgomery, and Prince George's—if a municipality "demonstrates that it performs services or programs instead of similar county services or programs," then the county "shall" grant a tax setoff to the municipal corporation, which is to say, the existence (but not the magnitude) of the tax setoff is mandatory. TP § 6-305(b), (c).[8] If, on the other hand, the county is not listed

[5] By use of the word "progress," we infer that the General Assembly in 1978 intended that, over time, fewer and fewer counties would refuse to provide tax setoffs to the municipalities within them.

[6] At the time of trial, the latest annual report by the Department of Legislative Services was GAIL RENBORG & MICHAEL SANELLI, PROPERTY TAX SET-OFFS: THE USE OF LOCAL PROPERTY TAX DIFFERENTIALS AND TAX REBATES IN MARYLAND FISCAL 2017, DEP'T LEG. SERV. 1 (Jan. 2018), discussed further below.

[7] As previously noted above in n.1, Frederick County operates under a slightly different system. There, if a municipality demonstrates that it performs the same or similar services to those that the county provides, the county must grant a tax setoff based on a formula agreed to by both the county and municipality, but which must be phased in over a 3 to 5 year period. TP § 6-305.1(b)(1)-(3).

[8] In Maryland, the word "shall" in statutory materials constitutes a requirement or a duty. *Danaher v. Dep't of Labor, Licensing, & Regulation*, 148 Md. App. 139, 166 (2002)

in TP § 6-305(b), but the municipality "demonstrates that it performs services or programs instead of similar county services or programs," then the county "may" grant a tax setoff to the municipal corporation, which is to say, the tax setoff and its magnitude is optional. TP § 6-306(c).[9] By our calculations, for 8 counties—which include 66 municipalities—the tax setoff is mandatory; and for 14 counties—accounting for 91 municipalities—the tax setoff is optional. Worcester County and Ocean City are in the group for which the tax setoff is optional.

Except for the mandatory or optional nature of the tax setoffs, the procedures set forth in TP §§ 6-305 and 6-306 are the same and include detailed instructions for the submission of tax setoff requests by municipalities and the procedures that the county must follow in considering those requests. Specifically, municipalities are required to submit a detailed proposal for the desired level of property tax setoff. TP §§ 6-305(f); 6-306(f). Then, a meeting is held to discuss the "nature of the tax setoff request, relevant financial information of the county and municipal corporation, and the scope and nature of services provided by both entities." TP §§ 6-305(g); 6-306(g). Once the county budget has been set,

("When the word "shall" appears in a statute, it generally has a mandatory meaning."); DEPARTMENT OF LEGISLATIVE SERVICES, MARYLAND STYLE MANUAL FOR STATUTORY LAW 57-58 (2008).

[9] The word "may" in statute confers a right, power, or privilege. DEPARTMENT OF LEGISLATIVE SERVICES, MARYLAND STYLE MANUAL FOR STATUTORY LAW 57-58 (2008); *see also Walzer v. Osborne*, 395 Md. 563, 580 (2006) (describing the "unambiguous" nature of "shall" or "must" which means "for the thing to be done in the manner directed," compared to the use of "may" or "should") (quoting *Thanos v. State*, 332 Md. 511, 522 (1993) (quoting *Tucker v. State*, 89 Md. App. 295, 298 (1991))).

each municipal corporation that has requested a tax setoff receives a "statement of intent" from the county, which includes an explanation of the level of the proposed tax setoff, a description of the process used to determine this level, and an affirmation that the municipal corporation is entitled to appear before the county governing body to discuss or contest the level of the proposed tax setoff. TP §§ 6-305(h); 6-306(h). As we understand it, the tax setoffs are most frequently structured as either a tax rebate to the municipal taxpayers or as a subsidy to municipal government.

II. OVERVIEW OF ARTICLE XI-E OF THE MARYLAND CONSTITUTION

Since before the Revolution, the Maryland General Assembly was responsible for drafting municipal charters and passing local laws concerning municipalities in Maryland. By the early Twentieth Century, however, that responsibility had become overwhelming. Governor Theodore R. McKeldin convened a "Commission on the Administrative Organization of the State" in 1952 and charged it with reducing the amount of local legislation the General Assembly was required to consider. Acts of 1951, S.J.R. 11. The Sobeloff Commission, as it came to be known after its Chair, future Chief Judge of the Court of Appeals of Maryland, Simon Sobeloff, proposed adding a new article to the Maryland Constitution granting home rule to municipalities and requiring the General Assembly to adopt legislation for municipalities by laws of general applicability, rather than on a one by one basis. LOCAL LEGISLATION IN MARYLAND: SECOND REPORT OF THE COMMISSION ON ADMINISTRATIVE ORGANIZATION OF THE STATE 25 (June 1952) ("SOBELOFF REPORT"). The result was Article XI-E.

Article XI-E of the Maryland Constitution, adopted in 1954, creates municipal home rule. This Article "grant[s] municipalities the power to legislate on matters of local concern and government" and "restrict[s] the power of the General Assembly to treat municipalities differently and to enact binding non-uniform laws affecting incorporated cities and towns." MARYLAND MUNICIPAL LEAGUE, MARYLAND'S 157: THE INCORPORATED CITIES AND TOWNS 6-7. *See also Maryland-Nat'l Capital Park & Planning Comm'n v. Town of Washington Grove*, 408 Md. 37, 57-58 (2009) ("[T]he general purpose of Article XI-E … was to permit municipalities to govern themselves in local matters") (quoting *Inlet Assocs. v. Assateague House Condo. Ass'n*, 313 Md. 413, 425 (1988)); M. Peter Moser, *County Home Rule – Sharing the State's Legislative Power with Maryland Counties*, 28 MD. L. REV. 327, 335 (1968) ("The principal purpose of [Article XI-E] was to provide broader autonomy to incorporated cities, towns and villages in Maryland and thereby to reduce the large volume of municipal legislation regularly enacted each year by the General Assembly."); *see generally,* DAN FRIEDMAN, THE MARYLAND STATE CONSTITUTION: A REFERENCE GUIDE 331 (2011).

Article XI-E consists of six sections. Section 1, which we will discuss in greater depth momentarily, acts as a prohibition on the General Assembly passing laws effecting municipalities, one municipality at a time. Instead, Section 1 requires that laws effecting municipalities must be framed as general laws, aimed at all municipalities (or at least all municipalities within a class). Section 2 says that the General Assembly may create up to

four classes of municipalities, divided by population.[10] Section 3 grants each municipality the power of local home rule, meaning each municipality is granted the power to adopt and amend charters and pass local laws. Section 4 discusses the process for adopting new municipal charters and amending existing municipal charters. Section 5 provides the two exceptions to Section 1, allowing the General Assembly to individually cap each municipality's property tax rate and debt limit. And, Section 6 allows all municipal charters and all local laws in effect before Article XI-E's adoption in 1954 to remain in effect until changed.

III. ARTICLE XI-E, § 1

> …[11] [T]he General Assembly shall not pass any law relating to the incorporation, organization, government, or affairs of those municipal corporations …[12] which will be special or local in its terms or in its effect, but the General Assembly shall act in relation to the incorporation, organization, government, or affairs of any such municipal corporation only by general laws which shall in their terms and in their effect apply alike to all municipal corporations in one or more of the classes provided for in Section 2 of this Article.[13]

[10] As we will discuss below, however, the Maryland General Assembly has never created separate classes of municipalities and, since 1954, has legislated for a single class of municipalities.

[11] The introductory phrase, which we have deleted here, says "[e]xcept as provided elsewhere in this Article," and allows for the exceptions listed in Article XI-E, §5.

[12] The deleted text here concerns only the City of Baltimore, which is the only municipality allowed to adopt a charter form of government under Article XI-A. MD. CONST., ART. XI-A, §1.

[13] The last deletion is a sentence authorizing the General Assembly to legislate the manner by which new municipal charters are adopted. It is not relevant to the resolution of this case.

MD. CONST., Art. XI-E, §1.

Section 1 of Article XI-E is framed as both a prohibition and a grant of power. By its terms, the General Assembly is prohibited from legislating: (1) on a topic "relating to the incorporation, organization, government, or affairs of … municipal corporations" that is (2) "special or local in terms or in its effect." But, the General Assembly is granted the power to legislate (1) on a topic "relating to the incorporation, organization, government, or affairs of … municipal corporations;" (2) "by general laws" that apply alike in terms and effect to (3) all municipal corporations in one or more classes.[14] The phrase "relating to the incorporation, organization, government, or affairs of … municipal corporation," which is repeated five times in Article XI-E, is left undefined. We generally understand the phrase to be drafted broadly, to mean all topics having to do with municipalities.

The framers of Article XI-E were explicit that they did not intend a fixed definition of the phrase "relating to the incorporation, organization, government, or affairs of … municipal corporations." The Sobeloff Commission, which drafted the Constitutional Amendment, also wrote a Report explaining the purpose and intended interpretation of the Amendment. In that document, the Sobeloff Commission wrote:

[14] We note that the General Assembly of Maryland has plenary power to legislate on all topics not prohibited by the United States Constitution, federal law, or treaties or by the Maryland Constitution. *See Schisler v. State*, 394 Md. 519, 591 n.51 (2006) (citing *Brawner v. Supervisor*, 141 Md. 586, 119 A. 250, 255 (1922)); *Kenneweg v. Allegany Cty. Comm'rs*, 102 Md. 119, 122 (1905). As a result, the General Assembly, prior to the adoption of Article XI-E, §1, already had the power to legislate on topics related to municipalities by general laws. This grant of power, therefore, is merely illustrative of a pre-existing legislative power and not an actual grant of power or a limitation on the pre-existing power.

> The proposed constitutional amendment would not define matters of municipal [incorporation,] organization, government and affairs concerning which the General Assembly could pass no local laws. [Because] local affairs are not spelled out in the present Constitution, final determination as to what they are would continue to remain in the courts. Some states, in their home rule amendments, do attempt to list local powers, but such listings still must be made in general terms unless many pages are to be added to a state constitution. Also, the necessity for court interpretations of the listed powers probably could not be avoided. Furthermore, matters considered solely as local in nature must be reviewed as circumstances change. While regulation of traffic speeds was undeniably a local matter in 1800, today it is clearly of State concern to an ever-increasing extent. A reasonable listing of local powers today may seem very illogical twenty years from now. To ensure flexibility it seems preferable not to include a list of local powers in the Constitution. On matters of State concern, not affecting the government of municipalities as, for example, fish and game laws, the General Assembly would continue to enact local laws.

SOBELOFF REPORT at 37-38. This statement represents the view of the Sobeloff Commission that there was not to be a hard-and-fast definition of what was included in the phrase "relating to the incorporation, organization, government, or affairs of … municipal corporations," but that it was meant to include all "local affairs," as they were or would be defined, and that courts were to decide what were local affairs. *Id*.

In the intervening period, the Court of Appeals has developed a standard that it applies to determine whether a matter is of local or of State concern, and how to deal with statutes that are of a mixed nature and concern both local and State matters:

> If the effect of local rules or municipal control is not great upon people outside the home-rule city, the matter is apt to be deemed local …. Contrariwise, if the effect of the regulation or the administration of a particular matter is likely to be felt by a considerable number of people outside the city and in a rather

> strong degree, courts are probably going to conclude that the concern is for the [S]tate.

Birge v. Town of Easton, 274 Md. 635, 644 (1975) (citing 1 C. ANTINEAU, MUNICIPAL CORPORATION LAW § 3.36). We take from this, two rules. *First*, the phrase "relating to the incorporation, organization, government, or affairs of … municipal corporations," is read broadly, to encompass any local affair or local matter. And *second*, this broad interpretation of what is considered a local affair or local matter is, however, tempered by the limitation that if the effects of a local rule extend to a significant number of people outside of the municipality, it is no longer considered a purely local affair or local matter.[15]

ANALYSIS

As previously described, Ocean City's view is that the tax setoff laws, TP §§ 6-305 and 6-306, are unconstitutional because they treat different municipalities differently on the basis of the county in which they are located. Worcester County, supported by the Attorney General, argues that the tax setoff laws are constitutional. As we will discuss, under the constitutional test that we are compelled to apply, the tax setoff laws are constitutional.

The Court of Appeals in *Birge v. Town of Easton* set forth the test for deciding if a rule or statute "relat[es] to the incorporation, organization, government, or affairs of … municipal corporations." 274 Md. at 644. *Birge* concerned the Town of Easton's efforts to

[15] Ocean City argues, in effect, that the *Birge* test is wrong and that nothing in the Constitution or its history requires that for a law to be subject to Article XI-E, §1, it must be "purely," "exclusively," or "solely" local in its terms or effect. We are not free, however, to disregard the Court of Appeals' teaching in *Birge*.

build its own electrical power system. The Town amended its charter to authorize the purchase of real property outside the incorporated town limits for use in connection with the electrical power system. *Id.* Birge, a Talbot County property owner, argued that Easton's charter amendment violated Article XI-E, § 3 because it was not "relat[ed] to the incorporation, organization, government, or affairs of [the] municipal corporation." *Birge*, 274 Md. at 644. The Court of Appeals adopted a test to distinguish purely local affairs from matters that effected the broader populace:

> If the effect of local rules or municipal control is not great upon people outside the home-rule city, the matter is apt to be deemed local …. Contrariwise, if the effect of the regulation or the administration of a particular matter is likely to be felt by a considerable number of people outside the city and in a rather strong degree, courts are probably going to conclude that the concern is for the [S]tate.

Birge, 274 Md. at 644 (citing 1 C. ANTINEAU, MUNICIPAL CORPORATION LAW §§3.36). The Court of Appeals found that the effects of Easton's purchase of real property outside the town limits had little or no effect on those living outside the Town:

> Considering the nature and needs of the Town's electric utility, its limited service area … and the negligible effect upon nonresidents of the Town, we think the power granted by the charter amendment with respect to the Town's electric system is in the sense contemplated by Article XI-E a local matter involving the "incorporation, organization, government, or affairs" of the municipality.

Birge, 274 Md. at 645 (emphasis added). The *Birge* Court, therefore, held that the charter amendment was constitutional.[16]

[16] *Birge* was interpreting the phrase "relating to the incorporation, organization, government, or affairs of [a] municipal corporation" as it appears in Article XI-E, §3, not,

When we apply the *Birge* test to the tax setoff laws, TP §§6-305 and 6-306, we find that those statutes must necessarily be constitutional. Ocean City's goal in this litigation is not simply to have the tax setoff laws declared unconstitutional, but rather to make tax setoffs mandatory. *See* Complaint, ¶44 (seeking to sever TP §6-305(b) so as to "make tax differentials mandatory for every municipality in the State"). Or, stated otherwise, simply to require Worcester County to grant Ocean City a tax setoff. As a matter of simple math, however, that outcome compels the conclusion that this cannot be a purely local matter. If Worcester County is required to grant tax setoffs to Ocean City—either as a tax rebate to the Ocean City taxpayers or as a subsidy to Ocean City's government—property owners in Worcester County outside of Ocean City would necessarily have to pay more. Victor Tervala, *Two Approaches for Computing Property Tax Differentials for Property in Ocean City, Maryland*, INST. GOVERNMENTAL SERV. 1, 11-12 (May 1999) (If Worcester County grants Ocean City a tax set off, Worcester County "must raise taxes high enough to pay for it.").[17] This result is borne out in each of Ocean City's applications for tax setoffs that are

as we are considering, Article XI-E, § 1. *Birge*, 274 Md. at 644-45. Nevertheless, given the care the framers went to exactly repeat the phrase, we think it is clear beyond cavil that the phrase is intended to have precisely the same meaning whenever it appears in Article XI-E. Moreover, the structure of Article XI-E as a whole supports this interpretation. Section 1 withdraws the power from the General Assembly to legislate on municipal issues. Section 3 gives the municipalities the power to legislate on those same municipal issues. The idea was not to create a gap or an overlap in the permissible topics of legislation, but simply to transfer the power to legislate on those same topics to a different legislative body.

[17] Of course, Worcester County could choose instead to reduce county services to pay for the tax setoff to Ocean City, but the effect would still be felt by the nonmunicipal residents of Worcester County. For constitutional purposes, the effect is the same.

made part of the record. TOWN OF OCEAN CITY, TAX DIFFERENTIAL STUDY (Feb, 2013) (The tax differential requires a "$0.269 adjustment[, which] would cause the Ocean City tax rate to decrease $0.083 to $0.687 and require the remainder of Worcester County's tax rate to increase $0.186 to $0.956"); TOWN OF OCEAN CITY, TAX DIFFERENTIAL STUDY (Nov. 28, 2007) ("To adjust the current tax rate of 70 cents to be fair and equitable for Ocean City and Worcester County residents, it should be corrected to 64 cents (a decrease of 6 cents) for Ocean City residents and 86 cents (an increase of 16 cents) for Non-Ocean City residents"); *Letter to President Jeanne Lynch and the Worcester County Commissioners from James M. Mathias, Mayor, Ocean City* (Nov. 30, 1998) ("The methodology … produc[es] a tax differential of $.25, whereby the county tax rate for Ocean City property owners should be reduced by $.10 and the county tax rate for non-Ocean City property owners be increased by $.15"). And when citizens of Worcester County outside of Ocean City are required to pay more (or receive less governmental services, *see* n. 17), that "is likely to be felt by a considerable number of people outside [Ocean City] and in a rather strong degree," and therefore, it is a "concern … for the [S]tate." *Birge*, 274 Md. at 644.[18]

[18] Although this analysis alone is sufficient to sustain our holding, we note that there are four additional points that support the same conclusion:

- *First*, there is a presumption of the constitutionality of statutes. *Beauchamp v. Somerset County*, 256 Md. 541, 547 (1970); *Harvey v. Sines*, 228 Md. App. 283, 292 (2016). As such, Ocean City bears a heavy burden to overcome the presumption. *Beattie v. State*, 216 Md. App. 667, 678 (2016). This presumption of constitutionality is based, at least in part on the notion that the members of the General Assembly, who originally adopted the tax setoff laws in 1975 and those that have repeatedly amended those laws, thought that

We therefore hold that the question of whether counties must or may offer tax setoffs is not a purely local affair and need not comply with the restrictions on State legislation concerning local affairs found in Article XI-E, §1. We affirm the judgment of the circuit court.[19]

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those statutes were constitutional. This presumption is further reinforced by the relative longevity of the tax setoff laws and by the fact that the whole scheme of tax differentials has previously survived broad-based constitutional challenges, as described, *supra*, at n.4. *See Griffin,* 25 Md. App. at 126 (discussing various state and federal constitutional challenges).

- *Second*, we note that TP §§6-305 and 6-306 are framed as directed to counties and only indirectly to the municipalities within those counties. Although we are hesitant to make too much of this factor, as clever drafting can deceive, we think that the tax setoff laws are organized county-by-county, not municipality-by-municipality, suggests that they do not concern purely local affairs.

- *Third*, we note that the principal concern of the framers of Article XI-E was to stop the crush of local legislation in the General Assembly. *See, e.g*., SOBELOFF REPORT, at 5-6. While Article XI-E has been largely, though not completely, successful in this task, the tax setoff laws, have not contributed much to the work of the General Assembly. Thus, their continued existence is not inconsistent with the intent of the constitutional framers.

- And, *fourth*, should there remain any doubt, we note that the framers of Article XI-E intended for the judiciary to have the final say on whether a law was constitutional or not. SOBELOFF REPORT, at 32. (Because "local affairs are not spelled out in the present Constitution, final determination as to what they are would continue to remain in the courts."). In our considered judgment, while the tax setoff laws clearly relate to local, municipal affairs, they also relate to matters of State and county affairs. As such, we believe that the General Assembly is entitled to legislate on those topics without the restrictions of Article XI-E, §1.

[19] Holding that the tax setoff laws are constitutional under the uniformity requirements of Article XI-E, §1, of course, doesn't mean we think the present system is right or fair. It means that those concerns must be addressed to another body.

JUDGMENT OF THE CIRCUIT COURT FOR WORCESTER COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.