

## AMENDMENTS TO SENATE BILL NO. 330 (As amended by A04630)

Sponsor: REPRESENTATIVE MUNDY

Printer's No. 980

1 Amend Bill, page 1, lines 8 through 36; pages 2 through 11,  
2 lines 1 through 51; page 12, lines 1 through 20 (A04630), by  
3 striking out all of said lines on said pages and inserting

4 Section 333. Public referendum requirements for increasing  
5 certain taxes.

6 (a) Applicability.--The following provisions shall apply to  
7 this section:

8 (1) For the 2006-2007 fiscal year, the tax increase  
9 proposed by any board of school directors shall not exceed  
10 the index unless an exception under subsection (f) or (n) is  
11 approved pursuant to subsection (i) or (j), provided that a  
12 board of school directors that did not elect to participate  
13 in the former act of July 5, 2004 (P.L.654, No.72), known as  
14 the Homeowner Tax Relief Act, shall have the authority to  
15 petition the court of common pleas for an additional tax rate  
16 increase if the tax rate increase allowed by the index and  
17 any exception approved pursuant to subsection (i) or (j) is  
18 insufficient to balance the proposed budget. No later than  
19 July 15, 2006, the court shall grant the school district's  
20 request for the tax rate increase upon good cause shown if  
21 the school district proves by clear and convincing evidence  
22 that the tax rate increase authorized under this paragraph is  
23 insufficient to balance the proposed budget. For a board of  
24 school directors subject to this paragraph, the dates by  
25 which the board of school directors, the department and the  
26 court of common pleas shall be required to comply with  
27 section 311 and subsections (e), (i) and (j) shall be 92 days  
28 after the dates set forth in those provisions, except that  
29 the date by which the board of school directors shall be  
30 required to comply with all of the provisions of section  
31 311(c) shall be ten days prior to the date by which the board  
32 of school directors is required to adopt a preliminary  
33 budget. Any exceptions granted to a board of school directors  
34 under section 333 of the former Homeowner Tax Relief Act  
35 shall remain in full force and effect. Notwithstanding the  
36 provisions of this paragraph, a board of school directors  
37 that sought and was granted approval for one or more

1 exceptions under section 333 of the former Homeowner Tax  
2 Relief Act may apply for any exception under subsections (f)  
3 (v) and (ix) and (n), where the dollar amount of an exception  
4 approved by the department under the former Homeowner Tax  
5 Relief Act is less than the dollar amount of the exception  
6 for which the school district is eligible under this act.

7 (2) This section shall apply to each board of school  
8 directors beginning with any proposed tax increase that takes  
9 effect in the 2007-2008 fiscal year and each fiscal year  
10 thereafter.

11 (b) Prohibitions.--Except as set forth in subsection [(i)  
12 and] (j), unless there is compliance with subsection (c), a  
13 board of school directors may not do any of the following:

14 (1) Increase the rate of a tax levied for the support of  
15 the public schools by more than the index. For purposes of  
16 compliance with this paragraph, a school district which is  
17 situated in more than one county and which levies real estate  
18 taxes under section 672.1 of the act of March 10, 1949  
19 (P.L.30, No.14), known as the Public School Code of 1949,  
20 shall apply the index to each separate rate of real estate  
21 taxes levied.

22 (2) Levy a tax for the support of the public schools  
23 which was not levied in the 2005-2006 fiscal year.

24 (3) Raise the rate of the earned income and net profits  
25 tax if already imposed under the authority of the Local Tax  
26 Enabling Act except as otherwise provided for under section  
27 331.2 or 332.

28 (4) Notwithstanding any other provision of this chapter  
29 to the contrary, the adoption of a referendum under section  
30 331.2 or 332 confers on the board of school directors the  
31 authority to raise income taxes only to the extent contained  
32 in the language of the referendum, and any future increase of  
33 an income tax to be used for the purpose of property tax  
34 reduction shall be submitted to the electors of the school  
35 district at a subsequent municipal election pursuant to the  
36 provisions of section 332.

37 (c) Referendum.--

38 (1) In order to take an action prohibited under  
39 subsection (b)(1), at the election immediately preceding the  
40 start of the school district fiscal year in which the  
41 proposed tax increase would take effect, a referendum stating  
42 the specific rate or rates of the tax increase must be  
43 submitted to the electors of the school district, and a  
44 majority of the electors voting on the question must approve  
45 the increase.

46 (2) In order to take an action under subsection (b)(2),  
47 at the election immediately preceding the start of the school  
48 district fiscal year in which the proposed tax would take  
49 effect, a referendum stating the proposed tax and the rate at  
50 which it will be levied must be submitted to the electors of  
51 the school district, and a majority of the electors voting on

1 the question must approve the tax.

2 (3) Except as set forth in [subsections (i) and]  
3 subsection (j), a school district acting pursuant to this  
4 subsection shall submit the referendum question required  
5 under this section to the election officials of each county  
6 in which it is situate no later than 60 days prior to the  
7 election immediately preceding the fiscal year in which the  
8 tax increase would take effect.

9 (4) The election officials of each county shall, in  
10 consultation with the board of school directors, draft a  
11 nonlegal interpretative statement which shall accompany the  
12 referendum question in accordance with section 201.1 of the  
13 act of June 3, 1937 (P.L.1333, No.320), known as the  
14 Pennsylvania Election Code. The nonlegal interpretative  
15 statement shall include information that references the items  
16 of expenditure for which the tax increase is sought and the  
17 consequence of the referendum being disapproved by the  
18 electorate.

19 (d) Failure to approve referendum.--

20 (1) If a referendum question submitted under subsection  
21 (c)(1) is not approved, the board of school directors may  
22 approve an increase in the tax rate of not more than the  
23 index.

24 (2) If a referendum question submitted under subsection  
25 (c)(2) is not approved, the board of school directors may not  
26 levy the tax.

27 (e) Tax rate submissions.--A school district that has  
28 adopted a preliminary budget proposal under section 311 that  
29 includes an increase in the rate of any tax levied for the  
30 support of public schools shall submit information on the  
31 increase to the department on a uniform form prepared by the  
32 department. The school district shall submit such information no  
33 later than 85 days prior to the date of the election immediately  
34 preceding the beginning of the school district's fiscal year.  
35 The department shall compare the proposed percentage increase in  
36 the rate of any tax with the index. Within ten days of the  
37 receipt of the information required under this subsection but no  
38 later than 75 days prior to the date of the election immediately  
39 preceding the beginning of the school district's fiscal year,  
40 the department shall inform the school district whether the  
41 proposed tax rate increase is less than or equal to the index.  
42 If the department determines that the proposed percentage  
43 increase in the rate of the tax exceeds the index, the  
44 department shall notify the school district that:

45 (1) the proposed tax increase must be reduced to an  
46 amount less than or equal to the index;

47 (2) the proposed tax increase must be approved by the  
48 electorate under subsection (c)(1); or

49 (3) an exception must be sought under [subsections (i)  
50 and] subsection (j).

51 (f) Referendum exceptions.--A school district may, without

1 seeking voter approval under subsection (c), increase the rate  
2 of a tax levied for the support of the public schools by more  
3 than the index if all of the following apply:

4 (1) The revenue raised by the allowable increase under  
5 the index is insufficient to balance the proposed budget due  
6 to one or more of the expenditures listed in paragraph (2).

7 (2) The revenue generated by increasing the rate of a  
8 tax by more than the index will be used to pay for any of the  
9 following:

10 [(i) Costs incurred in responding to or recovering  
11 from an emergency or disaster declared pursuant to 35  
12 Pa.C.S. § 7301 (relating to general authority of  
13 Governor) or 75 Pa.C.S. § 6108 (relating to power of  
14 Governor during emergency).

15 (ii) Costs to implement a court order or an  
16 administrative order from a Federal or State agency as  
17 long as the tax increase is rescinded following  
18 fulfillment of the court order or administrative order.]

19 (iii) Costs associated with the following:

20 (A) For a board of school directors that elected  
21 to participate in the former act of July 5, 2004  
22 (P.L.654, No.72), known as the Homeowner Tax Relief  
23 Act, to pay interest and principal on any  
24 indebtedness incurred under 53 Pa.C.S. Pt. VII Subpt.  
25 B (relating to indebtedness and borrowing) prior to  
26 September 4, 2004. In no case may the school district  
27 incur additional debt under this clause except for  
28 the refinancing of existing debt, including the  
29 payment of costs and expenses related to such  
30 refinancing and the establishment of funding of  
31 appropriate debt service reserves. An increase under  
32 this clause shall be rescinded following the final  
33 payment of interest and principal.

34 (A.1) For a board of school directors that did  
35 not elect to participate in the former act of July 5,  
36 2004 (P.L.654, No.72), known as the Homeowner Tax  
37 Relief Act, to pay interest and principal on any  
38 indebtedness incurred under 53 Pa.C.S. Pt. VII Subpt.  
39 B prior to the effective date of this act. In no case  
40 may the school district incur additional debt under  
41 this clause except for the refinancing of existing  
42 debt, including the payment of costs and expenses  
43 related to such refinancing and the establishment of  
44 funding of appropriate debt service reserves. An  
45 increase under this clause shall be rescinded  
46 following the final payment of interest and  
47 principal.

48 (B) To pay interest and principal on any  
49 electoral debt incurred under 53 Pa.C.S. Pt. VII  
50 Subpt. B. An increase under this clause shall be  
51 rescinded following the final payment of interest and

principal.

(C) To pay interest and principal on indebtedness for up to 60% of the construction cost average on a square-foot basis if all of the following apply:

(I) The indebtedness is for a school construction project under 22 Pa. Code Ch. 21 (relating to school buildings).

(II) For a board of school directors that elected to participate in the former Homeowner Tax Relief Act, the indebtedness to fund appropriate debt service reserves for the project is incurred after September 3, 2004.

(II.1) For a board of school directors that did not elect to participate in the former Homeowner Tax Relief Act, the indebtedness to fund appropriate debt service reserves for the project is incurred on or after the effective date of this act.

(III) The increase sought under this clause is rescinded following final payment of interest and principal.

(IV) The indebtedness is incurred only after existing fund balances for school construction and any undesignated fund balances have been fully committed to fund the project.

(V) The indebtedness is for an academic elementary or academic secondary school building. For purposes of this subclause, the following shall not be considered to be an academic elementary or academic secondary school building: natatorium, stadium bleachers, athletic field, athletic field lighting equipment and apparatus used to promote and conduct interscholastic athletics.

(VI) For school districts of the second, third and fourth class, the project has been approved by the department under section 731 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949. For nonreimbursable projects in school districts of the first class A, the plans and specifications have been approved by the board of school directors. For reimbursable projects in school districts of the first class A, the plans and specifications have been approved by the department pursuant to 22 Pa. Code Ch. 21.

(D) To pay interest and principal on indebtedness for up to \$250,000 of the construction cost of a nonacademic school construction project, as adjusted annually by the percentage increase in the

1 average of the Statewide average weekly wage and the  
2 employment cost index. An increase under this clause  
3 shall be rescinded following the final payment of  
4 interest and principal.

5 (E) For purposes of this subparagraph, electoral  
6 debt includes the refunding or refinancing of  
7 electoral debt for which an exception is permitted  
8 under clause (B) as long as the refunding or  
9 refinancing incurs no additional debt other than for:

10 (I) costs and expenses related to the  
11 refunding or refinancing; and

12 (II) funding of appropriate debt service  
13 reserves.

14 (F) For purposes of this subparagraph,  
15 indebtedness includes the refunding or refinancing of  
16 indebtedness for which an exception is permitted  
17 under clauses (A), (A.1), (C) and (D) as long as the  
18 refunding or refinancing incurs no additional debt  
19 other than for:

20 (I) costs and expenses related to the  
21 refunding or refinancing; and

22 (II) funding of appropriate debt service  
23 reserves.

24 [(iv) Costs to respond to conditions which pose an  
25 immediate threat of serious physical harm or injury to  
26 the students, staff or residents of the school district  
27 but only until the conditions causing the threat have  
28 been fully resolved.]

29 (v) Costs incurred in providing special education  
30 programs and services to students with disabilities if  
31 the increase in expenditures on special education  
32 programs and services was greater than the index. The  
33 dollar amount of this exception shall be equal to the  
34 portion of the increase that exceeds the index.

35 [(vi) Costs which:

36 (A) were incurred in the implementation of a  
37 school improvement plan required under section  
38 1116(b) of the Elementary and Secondary Education Act  
39 of 1965 (Public Law 89-10, 20 U.S.C. § 6316(b)); and

40 (B) were not offset by a State allocation.

41 (vii) Costs necessary to maintain:

42 (A) per-student local tax revenue, adjusted by  
43 the index, if the percentage growth in average daily  
44 membership between the school year determined under  
45 subsection (j)(4) and the third school year preceding  
46 the school year determined under subsection (j)(4)  
47 exceeds 7.5%; or

48 (B) actual instruction expense per average daily  
49 membership, adjusted by the index, if the increase in  
50 actual instruction expense per average daily  
51 membership between the school year determined under

subsection (j)(4) and the school year preceding the school year determined under subsection (j)(4) is less than the index.

(viii) The maintenance of revenues derived from real property taxes, earned income and net profits taxes, personal income taxes, basic education funding allocations and special education funding allocations, adjusted by the index, for a school district where the percentage increase in revenues derived from real property taxes, earned income and net profits taxes, personal income taxes, basic education funding allocations and special education funding allocations between the school year determined under subsection (j)(4) and the school year preceding the school year determined under subsection (j)(4) is less than the index.

(ix) Costs incurred for providing health care-related benefits which are directly attributable to a collective bargaining agreement in effect on January 1, 2006, between the school district and its employees' organization if the anticipated increase in the cost of health care-related benefits between the current year and the upcoming year is greater than the index. The dollar amount of this exception shall be equal to the portion of the increase which exceeds the index. This subparagraph shall not apply to a collective bargaining agreement renewed, extended or entered into after January 1, 2006.]

(g) Revenue derived from increase.--Any revenue derived from an increase in the rate of any tax allowed pursuant to subsection (f)(2)(iii) shall not exceed the anticipated dollar amount of the expenditure.

(h) Limitation on tax rate.--The increase in the rate of any tax allowed pursuant to an exception under subsection (f)(2) [(i), (ii), (iv), (v), (vi), (vii), (viii) or (ix)] (v) or (n) shall not exceed the rate increase required as determined by [a court of common pleas or] the department pursuant to subsection [(i) or] (j).

[(i) Court action.--

(1) Prior to the imposition of a tax increase under subsection (f)(2)(i), (ii) and (iv) and no later than 75 days prior to the election immediately preceding the beginning of the school district's fiscal year, approval by the court of common pleas in the judicial district in which the administrative office of the school district is located must be sought. The board of school directors shall publish in a newspaper of general circulation and on the district's publicly accessible Internet site, if one is maintained, notice of its intent to file a petition under this subsection at least one week prior to the filing of the petition. The board of school directors shall also publish in a newspaper of general circulation and on the district's publicly

1 accessible Internet site, if one is maintained, notice, as  
2 soon as possible following notification from the court that a  
3 hearing has been scheduled, stating the date, time and place  
4 of the hearing on the petition. The following shall apply to  
5 any proceedings instituted under this subsection:

6 (i) The school district must prove by clear and  
7 convincing evidence that it qualifies for each exception  
8 sought.

9 (ii) The school district must prove by clear and  
10 convincing evidence the anticipated dollar amount of the  
11 expenditure for each exception sought.

12 (2) The court shall rule on the school district's  
13 petition and inform the school district of its decision no  
14 later than 55 days prior to the date of the election  
15 immediately preceding the beginning of the school district's  
16 fiscal year. If the court approves the petition, the court  
17 shall also determine the dollar amount of the expenditure for  
18 which an exception is granted, the tax rate increase required  
19 to fund the exception and the appropriate duration of the  
20 increase. If the court denies the petition, the school  
21 district may submit a referendum question under subsection  
22 (c)(1). The question must be submitted to the election  
23 officials no later than 50 days prior to the date of the  
24 election immediately preceding the beginning of the school  
25 district's fiscal year.]

26 (j) Department approval.--

27 (1) A school district that seeks to increase the rate of  
28 tax due to an expenditure under subsection (f)(2)(iii), (v)[,  
29 (vi), (vii), (viii) or (ix)] or (n) shall obtain the approval  
30 of the department before imposing the tax increase. The  
31 department shall establish procedures for administering the  
32 provisions of this subsection, which may include an  
33 administrative hearing on the school district's submission.

34 (2) A school district proceeding under the provisions of  
35 this subsection shall publish in a newspaper of general  
36 circulation and on the district's publicly accessible  
37 Internet site, if one is maintained, notice of its intent to  
38 seek department approval at least one week prior to  
39 submitting its request for approval to the department. If the  
40 department schedules a hearing on the school district's  
41 request, the school district shall publish notice of the  
42 hearing in a newspaper of general circulation and on the  
43 district's publicly accessible Internet site, if one is  
44 maintained, immediately upon receiving the information from  
45 the department. The notice shall include the date, time and  
46 place of the hearing.

47 (3) The department shall approve a school district's  
48 request under this subsection if a review of the data under  
49 paragraph (4) demonstrates that:

50 (i) the school district qualifies for one or more  
51 exceptions under subsection (f)(2)(iii) (v)[, (vi), (vii),



(viii) or (ix)] or (n); and

(ii) the sum of the dollar amounts of the exceptions for which the school district qualifies makes the school district eligible under subsection (f)(1).

(4) For the purpose of determining the eligibility of a school district for an exception under subsection (f)(2)(v)[, (vi), (vii) or (viii)], the department shall utilize data from the most recent school years for which annual financial report data required under section 2553 of the Public School Code of 1949 has been received. The department shall inform school districts of the school years determined under this subsection no later than 30 days prior to the date on which public inspection of proposed school budgets is required under section 311(c).

(5) (i) The department shall rule on the school district's request and shall inform the school district of its decision no later than 55 days prior to the date of the election immediately preceding the beginning of the school district's fiscal year.

(ii) If the department approves the request, the department shall determine the dollar amount of the expenditure for which the exception is sought and the tax rate increase required to fund the exception.

(iii) If the department denies the request, the school district may submit a referendum question under subsection (c)(1). The question must be submitted to the election officials no later than 50 days prior to the date of the election immediately preceding the beginning of the school district's fiscal year.

(6) Within 30 days of the deadline under paragraph (5) (i), the department shall submit a report to the President pro tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives and the Minority Leader of the House of Representatives enumerating the school districts which sought an exception under this subsection. The department shall also publish the report on its publicly accessible Internet site. The report shall include:

(i) The name of each school district making a request under this subsection.

(ii) The specific exceptions requested by each school district and the dollar amount of the expenditure for each exception.

(iii) The department's ruling on the request for the exception.

(iv) If the exception was approved, the dollar amount of the expenditure for which the exception was sought and the tax rate increase required to fund the exception.

(v) A statistical summary of the information in subparagraphs (ii), (iii) and (iv).

[(k) Objections.--Any person who resides within or pays real

1 property taxes to the school district filing a petition under  
2 subsection (i) may file with the court written objections to any  
3 petition filed under this section.]

4 (l) Index calculation.--No later than August 15, 2005, and  
5 each August 15 thereafter, the department shall calculate the  
6 index. The department shall publish the index by September 1,  
7 2005, and each September 1 thereafter in the Pennsylvania  
8 Bulletin.

9 (m) Election interference prohibited.--

10 (1) No public funds may be used to urge any elector to  
11 vote for or against a referendum or be appropriated for  
12 political or campaign purposes.

13 (2) This subsection shall not be construed to prohibit  
14 the use of public funds for dissemination of factual  
15 information relative to a referendum appearing on an election  
16 ballot.

17 (3) As used in this subsection, the term "public funds"  
18 means any funds appropriated by the General Assembly or by a  
19 political subdivision.

20 (n) Treatment of certain required payments.--The provisions  
21 of subsections (f) and (j) shall apply to a school district's  
22 share of payments to the Public School Employees' Retirement  
23 System as required under 24 Pa.C.S. § 8327 (relating to payments  
24 by employers) if the increase in the actual dollar amount of  
25 estimated payments between the current year and the upcoming  
26 year is greater than the index. The dollar amount to which  
27 subsection (f) applies shall equal that portion of the increase  
28 which exceeds the product of the index and the actual dollar  
29 value of payments for the current year.

30 Section 1.1. Section 1502(d) of the act is amended and the  
31 section is amended by adding subsections to read: