

AMENDMENTS TO SENATE BILL NO. 330

Sponsor: REPRESENTATIVE GROVE

Printer's No. 980

1 Amend Bill, page 1, line 10, by inserting after "for"

2 public referendum requirements and for

3 Amend Bill, page 1, lines 14 through 17, by striking out all
4 of said lines and inserting

5 Section 1. Section 333 of the act of June 27, 2006 (1st
6 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, is
7 amended to read:

8 Section 333. Public referendum requirements for increasing
9 certain taxes.

10 (a) Applicability.--The following provisions shall apply to
11 this section:

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

1 budget. Any exceptions granted to a board of school directors
2 under section 333 of the former Homeowner Tax Relief Act
3 shall remain in full force and effect. Notwithstanding the
4 provisions of this paragraph, a board of school directors
5 that sought and was granted approval for one or more
6 exceptions under section 333 of the former Homeowner Tax
7 Relief Act may apply for any exception under subsections (f)
8 (v) [and (ix)] and (n), where the dollar amount of an
9 exception approved by the department under the former
10 Homeowner Tax Relief Act is less than the dollar amount of
11 the exception for which the school district is eligible under
12 this act.

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

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

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

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

30 (3) Raise the rate of the earned income and net profits
31 tax if already imposed under the authority of the Local Tax
32 Enabling Act except as otherwise provided for under section
33 331.2 or 332.

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

43 (c) Referendum.--

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

1 (2) In order to take an action under subsection (b)(2),
2 at the election immediately preceding the start of the school
3 district fiscal year in which the proposed tax would take
4 effect, a referendum stating the proposed tax and the rate at
5 which it will be levied must be submitted to the electors of
6 the school district, and a majority of the electors voting on
7 the question must approve the tax.

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

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

25 (d) Failure to approve referendum.--

26 (1) If a referendum question submitted under subsection
27 (c)(1) is not approved, the board of school directors may
28 approve an increase in the tax rate of not more than the
29 index.

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

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

51 (1) the proposed tax increase must be reduced to an

1 amount less than or equal to the index;

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

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

6 (f) Referendum exceptions.--A school district may, without
7 seeking voter approval under subsection (c), increase the rate
8 of a tax levied for the support of the public schools by more
9 than the index if all of the following apply:

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

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

16 [(i) Costs incurred in responding to or recovering
17 from an emergency or disaster declared pursuant to 35
18 Pa.C.S. § 7301 (relating to general authority of
19 Governor) or 75 Pa.C.S. § 6108 (relating to power of
20 Governor during emergency).

21 (ii) Costs to implement a court order or an
22 administrative order from a Federal or State agency as
23 long as the tax increase is rescinded following
24 fulfillment of the court order or administrative order.]

25 (iii) Costs associated with the following:

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

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

1 following the final payment of interest and
2 principal.

3 (B) To pay interest and principal on any
4 electoral debt incurred under 53 Pa.C.S. Pt. VII
5 Subpt. B. An increase under this clause shall be
6 rescinded following the final payment of interest and
7 principal.

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

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

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

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

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

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

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

42 (VI) For school districts of the second,
43 third and fourth class, the project has been
44 approved by the department under section 731 of
45 the act of March 10, 1949 (P.L.30, No.14), known
46 as the Public School Code of 1949. For
47 nonreimbursable projects in school districts of
48 the first class A, the plans and specifications
49 have been approved by the board of school
50 directors. For reimbursable projects in school
51 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
average of the Statewide average weekly wage and the
employment cost index. An increase under this clause
shall be rescinded following the final payment of
interest and principal.]

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

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

(II) funding of appropriate debt service
reserves.

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

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

(II) funding of appropriate debt service
reserves.

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

(v) Costs incurred in providing special education
programs and services to students with disabilities if
the increase in expenditures on special education
programs and services, net of State special education
payments, was greater than the index. The dollar amount
of this exception shall be equal to the portion of the
increase that exceeds the index.

[(vi) Costs which:

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

(B) were not offset by a State allocation.

(vii) Costs necessary to maintain:

(A) per-student local tax revenue, adjusted by
the index, if the percentage growth in average daily
membership between the school year determined under

subsection (j)(4) and the third school year preceding the school year determined under subsection (j)(4) exceeds 7.5%; or

(B) actual instruction expense per average daily membership, adjusted by the index, if the increase in actual instruction expense per average daily 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)] (f)(2)(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

1 be sought. The board of school directors shall publish in a
2 newspaper of general circulation and on the district's
3 publicly accessible Internet site, if one is maintained,
4 notice of its intent to file a petition under this subsection
5 at least one week prior to the filing of the petition. The
6 board of school directors shall also publish in a newspaper
7 of general circulation and on the district's publicly
8 accessible Internet site, if one is maintained, notice, as
9 soon as possible following notification from the court that a
10 hearing has been scheduled, stating the date, time and place
11 of the hearing on the petition. The following shall apply to
12 any proceedings instituted under this subsection:

13 (i) The school district must prove by clear and
14 convincing evidence that it qualifies for each exception
15 sought.

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

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

33 (j) Department approval.--

34 (1) A school district that seeks to increase the rate of
35 tax due to an expenditure under subsection (f)(2)(iii)[,] or
36 (v)[, (vi), (vii), (viii) or (ix)] or (n) shall obtain the
37 approval of the department before imposing the tax increase.
38 The department shall establish procedures for administering
39 the provisions of this subsection, which may include an
40 administrative hearing on the school district's submission.

41 (2) A school district proceeding under the provisions of
42 this subsection shall publish in a newspaper of general
43 circulation and on the district's publicly accessible
44 Internet site, if one is maintained, notice of its intent to
45 seek department approval at least one week prior to
46 submitting its request for approval to the department. If the
47 department schedules a hearing on the school district's
48 request, the school district shall publish notice of the
49 hearing in a newspaper of general circulation and on the
50 district's publicly accessible Internet site, if one is
51 maintained, immediately upon receiving the information from

1 the department. The notice shall include the date, time and
2 place of the hearing.

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

6 (i) the school district qualifies for one or more
7 exceptions under subsection (f)(2)(iii)[,] or (v)[, (vi),
8 (vii), (viii) or (ix)] or (n); and

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

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

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

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

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

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

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

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

50 (iii) The department's ruling on the request for the
51 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 property taxes to the school district filing a petition under subsection (i) may file with the court written objections to any petition filed under this section.]

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

(m) Election interference prohibited.--

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

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

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

(n) Treatment of certain required payments.--

(1) The provisions of subsections (f) and (j) shall apply to a school district's share of payments to the Public School Employees' Retirement System as required under 24 Pa.C.S. § 8327 (relating to payments by employers) if the increase in [the actual dollar amount of] estimated payments between the current year and the upcoming year, as determined by the department under this section, is greater than the index. [The dollar amount to which subsection (f) applies shall equal that portion of the increase which exceeds the product of the index and the actual dollar value of payments for the current year.]

(2) For purposes of this subsection, the following apply:

(i) The school district's share of payments as required by 24 Pa.C.S. § 8327 for the current year shall be determined by the department using:

(A) The lesser of the school district's total compensation for the current year or the school district's total compensation for the 2011-2012 school year.

(B) The employer contribution rate under 24 Pa.C.S. § 8328 (relating to actuarial cost method) for the current year.

(C) A State retirement subsidy calculation based

1 on the school district's total compensation under
2 clause (A) and the employer contribution rate under
3 clause (B).
4 (ii) The school district's share of payments as
5 required by 24 Pa.C.S. § 8327 for the upcoming year shall
6 be determined by the department using all of the
7 following:
8 (A) The lesser of the school district's:
9 (I) estimated total compensation for the
10 upcoming year; or
11 (II) total compensation for the 2011-2012
12 school year.
13 (B) The employer contribution rate under 24
14 Pa.C.S. § 8328 for the upcoming year.
15 (C) A State retirement subsidy calculation based
16 on the school district's total compensation under
17 clause (A) and the employer contribution rate under
18 clause (B).
19 (3) The dollar amount to which subsection (f) applies
20 shall be determined as follows:
21 (i) Multiply:
22 (A) the index; by
23 (B) the school district's share of payments for
24 the current year, as determined by the department
25 under this subsection.
26 (ii) Subtract:
27 (A) the product under subparagraph (i); from
28 (B) the amount of increase, as determined by the
29 department under this subsection, in the school
30 district's share of payments between:
31 (I) the current year; and
32 (II) the upcoming year.
33 (4) As used in this subsection, the term "compensation"
34 has the meaning ascribed in 24 Pa.C.S. § 8102 (relating to
35 definitions).
36 (o) Rescission.--
37 (1) Any increase in a rate of a tax levied for support
38 of the public schools imposed prior to or during the
39 2011-2012 school year under a referendum exception granted,
40 prior to the effective date of this subsection, under
41 subsection (f)(2)(i), (ii) or (iii)(C) and (D) shall be
42 rescinded:
43 (i) immediately following fulfillment of the court
44 order or administrative order that was the basis for the
45 referendum exception;
46 (ii) immediately following the payment of costs to
47 resolve a condition which posed an immediate threat of
48 serious physical harm or injury to the students, staff or
49 residents of the school district that was the basis for
50 the referendum exception; or
51 (iii) following the final payment of interest and

1 principal related to the indebtedness.
2 (2) For the purposes of this subsection, the term "final
3 payment of interest and principal" does not include a school
4 district's payment of debt as a result of refunding or
5 refinancing the debt.

6 Section 2. Section 1502(d) of the act is amended and the
7 section is amended by adding subsections to read:

8 Amend Bill, page 2, line 25, by striking out all of said line
9 and inserting

10 Section 3. The amendment of section 333 of the act shall
11 apply to fiscal years of school districts which begin after
12 January 1, 2012.

13 Section 4. This act shall take effect as follows:

14 (1) The following provisions shall take effect
15 immediately:

16 (i) The amendment of section 333 of the act.

17 (ii) Section 3 of this act.

18 (iii) This section.

19 (2) The remainder of this act shall take effect in 60
20 days.