

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2458 Session of  
1994

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SCHULER, SEMMEL, TOMLINSON AND LAUB, JANUARY 26, 1994

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JANUARY 26, 1994

AN ACT

1 Allowing school districts of the second class, third class or  
2 fourth class to appoint a local tax study commission and  
3 submit recommendations for changes in local tax structure;  
4 requiring reductions; imposing limitations; and providing for  
5 a referendum relating to the appointment of a commission.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Local Option  
10 School District Tax Reform Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall  
13 have the meanings given to them in this section unless the  
14 context clearly indicates otherwise:

15 "Personal income." The classes of income enumerated in  
16 section 303 of the act of March 4, 1971 (P.L.6, No.2), known as  
17 the Tax Reform Code of 1971, and upon which is imposed a  
18 personal income tax by the Commonwealth. For purposes of this  
19 act, the term "personal income" shall not include profits from

1 the sale of a principal residence or trade or business. In the  
2 event a district levies, assesses or collects, or provides for  
3 the levy, assessment or collection of any tax after having  
4 accepted some or all of the recommendations of a local tax study  
5 commission as hereinafter provided, the district shall exclude  
6 from any personal income tax imposed as defined by the above  
7 provisions and exclusions any person whose income is equal to or  
8 less than the maximum income requirement necessary to qualify  
9 for a property tax rebate or rent rebate in lieu of property  
10 taxes or rent due under the act of March 11, 1971 (P.L.104,  
11 No.3), known as the Senior Citizens Rebate and Assistance Act.

12 "School district." Includes school districts of the second,  
13 third and fourth classes.

14 Section 3. Local tax study commission.

15 (a) First-year implementation.--Before any school district  
16 of the second, third or fourth class levies, assesses or  
17 collects, or provides for the levy, assessment or collection of  
18 any tax, under the authority of this act, the board of school  
19 directors may appoint a local tax study commission in accordance  
20 with the following provisions:

21 (1) Membership.--The local tax study commission shall  
22 consist of five, seven or nine members appointed by the  
23 board. One member of the local tax study commission may be a  
24 member of the school board, as deemed appropriate by the  
25 board. No member of the local tax study commission shall be a  
26 relative, by blood or marriage, of an official or employee of  
27 the school district. All members shall be residents of the  
28 district. Representatives on a local tax study commission  
29 must reasonably reflect the socioeconomic, age and  
30 occupational diversity of the school district.

1           (2) Staff and expenses.--The board shall provide  
2 necessary and reasonable staff to support the local tax study  
3 commission and shall reimburse the members of the local tax  
4 study commission for necessary and reasonable expenses in the  
5 discharge of their duties.

6           (3) Public hearings.--The local tax study commission  
7 shall hold at least one public fact-finding hearing, the  
8 first to be held within two weeks of the creation of the  
9 local tax study commission to gather background information  
10 and solicit suggestions from residents, or any other persons  
11 or parties interested in or affected by levy, assessment or  
12 collection of taxes by the district. Within budgetary limits  
13 approved by the school board, the local tax study commission  
14 may sponsor public forums, shall provide for the broadest  
15 possible distribution of public information and shall  
16 encourage public discussion respecting the subject of its  
17 work.

18           (4) Contents of study.--The local tax study commission  
19 shall study the existing taxes levied, assessed and collected  
20 by the district and determine if and how the tax policies of  
21 the district could be strengthened or made more equitable by  
22 adopting for levy, assessment and collection one or a  
23 combination of any of the following taxes: personal income  
24 tax, real estate tax, realty transfer tax or amusement tax at  
25 such levels and in such combinations on permissible subjects  
26 of taxation as do not exceed the limitations in this act.  
27 This study shall include, but not be limited to,  
28 consideration of all of the following:

29               (i) Historic rate and revenue provided by taxes  
30               currently levied, assessed and collected by the district.

(ii) The percentage of total revenues provided by taxes currently levied, assessed and collected.

(iii) The age, income, employment and property use characteristics of existing tax base.

(iv) The projected revenues of any taxes currently levied, assessed and collected.

(v) The projected revenues of any taxes referred to above not currently levied, assessed and collected by the district.

(5) Recommendation.--Within 60 days of its appointment, the local tax study commission shall make a nonbinding recommendation to the board of the appropriate tax or combination of taxes, identified in paragraph (4), to be levied, assessed and collected commencing the next fiscal year. Upon appointment of the commission, and except as provided for in paragraph (6), no tax may be levied, assessed or collected for the next fiscal year until receipt of the recommendation of the local tax study commission. Within two weeks of receiving the recommendation, the board shall hold a public hearing to permit public comment on the recommendation. Within 60 days of the public hearing, but not later than 30 days prior to the commencement of the next fiscal year, the board shall accept or reject the recommendation of the local tax study commission or adopt any other appropriate tax or combination of taxes for the district commencing the next fiscal year as provided by law.

(6) Failure to issue recommendation.--If the local tax study commission fails to make a nonbinding recommendation within 60 days of its appointment, the board shall discharge the appointed local tax study commission, appoint itself as

1 the local tax study commission and proceed to hold a public  
2 hearing to permit public comment on the appropriate tax or  
3 combination of taxes for the district commencing the next  
4 fiscal year. Within 60 days of the public hearing, but not  
5 later than 30 days prior to the commencement of the next  
6 fiscal year, the board shall adopt the appropriate tax or  
7 combination of taxes for the district commencing the next  
8 fiscal year as provided by law.

9 (7) Public distribution of report.--The local tax study  
10 commission shall publish or cause to be published, within 30  
11 days of making its recommendation, a final report of its  
12 activities and recommendations and shall deliver the final  
13 report to the secretary of the board who shall supply copies  
14 to any interested persons upon request.

15 (8) Receipts.--Receipts are required for all  
16 reimbursable expenses.

17 (9) Materials.--All the records, receipts, tapes,  
18 minutes of meetings and written discussions of the local tax  
19 study commission shall, upon its discharge, be turned over to  
20 the secretary of the district for the permanent safekeeping.  
21 The secretary shall make such materials available for public  
22 inspection at any time during regular business hours.

23 (10) Discharge.--The local tax study commission shall be  
24 discharged upon the filing of its final report.

25 (b) Three-year review.--Any school district that levies,  
26 assesses and collects, or provides for the levy, assessment or  
27 collection of any tax, after having received the recommendations  
28 of a local tax study commission and acted, shall continue to  
29 levy, assess and collect the same tax or combination of taxes  
30 for the next three fiscal years. However, nothing herein shall

1 preclude the board to change or alter the rates of any such tax  
2 or combination of taxes if it deems necessary. Before the third  
3 fiscal year following the district's action on the  
4 recommendations of a local tax study commission, and every third  
5 fiscal year thereafter, the board may appoint a local tax study  
6 commission in the manner provided in subsection (a). The local  
7 tax study commission appointed under this subsection shall be  
8 charged with all of the same powers and duties provided for the  
9 local tax study commission under subsection (a). In the event  
10 the district does not appoint a local tax study commission under  
11 this subsection after having previously acted on the  
12 recommendations of a local tax study commission, the district  
13 shall continue to levy, assess and collect the same tax or  
14 combination of taxes for the next three fiscal years.

15 Section 4. Tax levying authority clause.

16 Following the recommendation of the tax study commission, the  
17 school board will have the authority through this act to  
18 implement a new tax structure for its district. This tax  
19 structure may include, but not be limited to, the following: a  
20 personal income tax, real estate tax, realty transfer tax and an  
21 amusement tax.

22 Section 5. Revenue estimate clause.

23 Prior to changing the tax structure, a school district shall  
24 estimate, using its existing tax structure, the total revenue  
25 which must be raised in the next fiscal year in order to balance  
26 its budget. The district shall then plan for the imposition of  
27 the new tax structure by a dollar amount equal to the estimated  
28 revenue needed for the following fiscal year. The revenue  
29 estimate must be completed prior to the initial imposition of  
30 the new tax structure.

1 Section 6. Antiwindfall clause.

2 A school district shall not receive a tax windfall by the  
3 changing of its tax structure. If a school district levies a tax  
4 which is not presently used and the total projected revenue of  
5 the district exceeds the amount of revenue lost through  
6 abolition or reduction of existing taxes, then the district must  
7 reduce the rate of taxes so the revenue raised does not exceed  
8 revenue lost through abolition or reduction of existing taxes.

9 Section 7. Limitations.

10 (a) Revenue limits.--Taxes levied by a school district are  
11 limited as follows:

12 (1) For the first fiscal year of imposition of a tax  
13 under the authority of this act, tax revenues are limited to  
14 an increase in the aggregate tax revenues over the aggregate  
15 tax revenues for the fiscal year beginning during the  
16 preceding calendar year which does not exceed the greater of  
17 the following:

18 (i) The average percentage of the annual increase in  
19 aggregate tax revenues collected over the immediately  
20 preceding five fiscal years plus 2%.

21 (ii) The average annual percentage increase in the  
22 Consumer Price Index for All Urban Consumers, United  
23 States City Average, All Items, for the 24-month period  
24 immediately preceding the start of that fiscal year, for  
25 which statistics are available, as determined and  
26 published by the Department of Community Affairs.

27 (2) For the second and third fiscal years beginning  
28 after the imposition of a tax under the authority of this  
29 act, tax revenues are limited to an increase in the aggregate  
30 tax revenues over the aggregate tax revenues for the fiscal

1 year beginning during the preceding calendar year which does  
2 not exceed the greater of the following:

3 (i) The average percentage of the annual increase in  
4 aggregate tax revenues collected over the immediately  
5 preceding five fiscal years.

6 (ii) The average annual percentage increase in the  
7 Consumer Price Index for All Urban Consumers, United  
8 States City Average, All Items, for the 24-month period  
9 immediately preceding the start of that fiscal year, for  
10 which statistics are available, as determined and  
11 published by the Department of Community Affairs.

12 (b) Application.--The limitations contained in this section,  
13 unless expressly repealed, apply to every tax levied.

14 (c) Exclusions.--The limitations contained in subsection (a)  
15 do not apply to taxes levied to cover:

16 (1) Interest and principal on any indebtedness incurred  
17 pursuant to the act of July 12, 1972 (P.L.781, No.185), known  
18 as the Local Government Unit Debt Act, or any prior or  
19 subsequent act governing the incurrence of indebtedness by a  
20 school district.

21 (2) An increase in costs of personnel, resources or  
22 facilities directly attributable to an increase in enrollment  
23 or existing contractual obligations.

24 (3) Increases in pension fund requirements which are in  
25 excess of the annual average increase over the immediately  
26 preceding five fiscal years.

27 (4) Federal and/or State reimbursement which was less  
28 than the previous year.

29 (5) Unfunded or underfunded mandates.

30 (d) Court order.--The limitations contained in this section



1 may be exceeded by order of the court of common pleas upon  
2 petition of the district. A petition under this subsection must  
3 be made by resolution by majority action of the board of  
4 directors.

5 Section 8. Referendum.

6 (a) When held.--If the board of school directors does not  
7 elect to create a local tax study commission, then upon  
8 submission to the county board of elections of a petition  
9 containing the signatures of electors resident in a school  
10 district, the number of said signatures equal to or exceeding 3%  
11 of the total number of registered voters in the school district  
12 as of the last general election, the county board of elections  
13 shall, at the next primary, municipal or general election  
14 conduct a referendum within that school district.

15 (b) Ballot question.--The ballot question for this  
16 referendum shall be as follows:

17 Do you favor the appointment of a local tax study  
18 commission for the school district of (name of district)?

19 (c) Conduct of election.--The referendum shall be conducted  
20 in accordance with the act of June 3, 1937 (P.L.1333, No.320),  
21 known as the Pennsylvania Election Code.

22 (d) Appointment of commission.--If a majority of the  
23 electors voting thereon vote in the affirmative, the board of  
24 school directors within 30 days shall appoint a local tax study  
25 commission in accordance with this act.

26 Section 9. Repeals.

27 All acts and parts of acts are repealed insofar as they are  
28 inconsistent with this act.

29 Section 10. Effective date.

30 This act shall take effect in 60 days.