

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 337 Session of
2001

INTRODUCED BY MOWERY, BODACK, LEMMOND, SCHWARTZ AND MADIGAN,
FEBRUARY 6, 2001

REFERRED TO FINANCE, FEBRUARY 6, 2001

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, further providing for tax
3 authorization and referendum requirements.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Sections 8701(a), 8703(b), 8704 and 8706 of Title
7 53 of the Pennsylvania Consolidated Statutes are amended to
8 read:

9 § 8701. General tax authorization.

10 (a) General rule.--Subject to [sections] section 8703
11 (relating to adoption of referendum) [and 8704 (relating to
12 public referendum requirements for increasing property taxes
13 previously reduced)] and except as provided in subsection (b),
14 each school district shall have the power and may by resolution
15 levy, assess and collect or provide for the levying, assessment
16 and collection of the earned income and net profits tax under
17 this chapter.

18 * * *

1 § 8703. Adoption of referendum.

2 * * *

3 (b) Public referendum requirements.--Subject to the notice
4 and public hearing requirements of section 8716 (relating to
5 procedure and administration), a governing body may levy the
6 earned income and net profits tax under this chapter only by
7 obtaining the approval of the electorate of the affected school
8 district in a public referendum at only the municipal election
9 preceding the fiscal year when the earned income and net profits
10 tax will be initially imposed. The referendum question must
11 state the initial rate of the proposed earned income and net
12 profits tax, the reason for the tax and the amount of proposed
13 budgeted revenue growth, if any, in the first fiscal year
14 following adoption of the referendum, expressed as a percent
15 increase over the prior year's budgeted revenue. Any increase in
16 budgeted revenue between the first fiscal year following
17 adoption of the referendum and the prior year's budgeted revenue
18 shall not exceed the annual percent change in the Statewide
19 average weekly wage. The question shall be in clear language
20 that is readily understandable by a layperson. For the purpose
21 of illustration, a referendum question may be framed as follows:

22 Do you favor the imposition of an earned income and net
23 profits tax of X% to be used to replace (names of local
24 taxes to be repealed), reduce real property taxes by X%
25 by means of a homestead exclusion and provide for a one-
26 time revenue increase of X% over the preceding fiscal
27 year?

28 A nonlegal interpretative statement must accompany the question
29 in accordance with section 201.1 of the act of June 3, 1937
30 (P.L.1333, No.320), known as the Pennsylvania Election Code,

1 that includes the following: the initial rate of the earned
2 income and net profits tax and the maximum allowable rate of the
3 earned income and net profits tax imposed under this chapter;
4 the estimated revenues to be derived from the initial rate of
5 the earned income and net profits tax imposed under this
6 chapter; the amount of proposed revenue growth, if any, in the
7 first fiscal year following adoption of the referendum; the
8 estimated reduction in real property taxes and the elimination
9 of certain existing taxes under this chapter; the identification
10 of the existing taxes to be eliminated under this chapter; the
11 method to be used to reduce real property taxes; the class or
12 classes of real property for which real property taxes would be
13 reduced; and the estimated amount of real property tax reduction
14 by class, expressed as an average percent reduction by class.

15 [Any governing body which uses the procedures under this section
16 shall not be subject to the provisions of section 8704 (relating
17 to public referendum requirements for increasing property taxes
18 previously reduced) for any future increases in the earned
19 income and net profits tax rates authorized under this chapter.
20 Any future real property tax rate increases are subject to the
21 provisions of section 8704. If the ballot question fails to
22 receive a majority vote pursuant to this section, approval of
23 the electorate under section 8704 shall not be required to
24 increase the rate of any tax which the governing body of the
25 affected school district is authorized to levy and increase
26 pursuant to any other act.]

27 * * *

28 [§ 8704. Public referendum requirements for increasing property
29 taxes previously reduced.

30 (a) General rule.--Except as provided in subsections (c) and

1 (d), a governing body that elects to levy an earned income and
2 net profits tax under this chapter pursuant to section 8703(a)
3 (relating to adoption of referendum) shall not increase the rate
4 of its tax on real property without first obtaining the approval
5 of the electorate of the affected school district in a
6 referendum at the primary election immediately preceding the
7 fiscal year of the proposed tax increase.

8 (b) Disapproval.--Whenever the electorate fails to approve
9 the proposed referendum question to increase the rate of tax on
10 real property under subsection (a), the governing body shall be
11 limited to the rate of tax in effect prior to the referendum.

12 (c) Exception to general rule.--The provisions of subsection
13 (a) shall not apply to an increase in the rate of the real
14 property tax that does not cause local tax revenue, excluding
15 real property taxes to be levied on newly constructed buildings
16 or structures or on increased valuations based on new
17 improvements made to existing houses, to increase by more than
18 the percentage increase in the Statewide average weekly wage in
19 the preceding year. Prior to any increase under this subsection,
20 the governing body must certify to the court of common pleas in
21 the judicial district in which the governing body is located the
22 estimates of total local tax revenues used in the calculation
23 under this subsection. The court may, on its own motion or on
24 petition of a person having standing under subsection (f),
25 revise the estimates certified by the governing body and reduce
26 the allowable increase in the rate of the real property tax
27 under this subsection.

28 (d) Referendum exceptions.--The provisions of subsection (a)
29 shall not apply to increases in the rate of tax on real property
30 in this subsection only if the exception to the general rule

under subsection (c) has been utilized, if applicable, to the maximum amount allowed:

(1) To respond to or recover from an emergency or disaster declared pursuant to 35 Pa.C.S. § 7301 (relating to general authority of Governor) or 75 Pa.C.S. § 6108 (relating to power of Governor during emergency), only for the duration of the emergency or disaster and for the costs of the recovery from the emergency or disaster.

(2) To implement a court order or an administrative order from a Federal or State agency that requires the expenditure of funds that exceed current available revenues. The rate increase shall be rescinded following fulfillment of the court order or administrative order.

(3) To pay interest and principal on any indebtedness incurred under Subpart B (relating to indebtedness and borrowing). However, in no case may a school district incur additional debt under this paragraph, except for the refinancing of existing debt, including the payment of costs and expenses related to such refinancing and the establishment or funding of appropriate debt service reserves. The increase shall be rescinded following the final payment of interest and principal. The exception provided under this paragraph shall not be used to avoid referendum requirements to pay for costs which could not be financed by the issuance of debt under Subpart B.

(4) To respond to conditions that pose an immediate threat of serious physical harm or injury to the students, staff or residents of the school district until the circumstances causing the threat have been fully resolved.

(5) Special purpose tax levies approved by the

1 electorate.

2 (6) To maintain per-student local tax revenue in the
3 school district at an amount not exceeding the amount of per-
4 student local tax revenue at the level of the preceding year,
5 adjusted for the percentage increase in the Statewide average
6 weekly wage. This paragraph shall apply only if the
7 percentage growth in student enrollment in the school
8 district between the current fiscal year and the third fiscal
9 year immediately preceding the current fiscal year exceeds
10 10%. For the purposes of this paragraph, student enrollment
11 shall be measured by average daily membership as defined by
12 the act of March 10, 1949 (P.L.30, No.14), known as the
13 Public School Code of 1949. For the purposes of this
14 paragraph, per-student local tax revenue shall be determined
15 by dividing local tax revenue by average daily membership.

16 (e) Court action.--Prior to the imposition of the tax
17 increase under subsection (d)(1), (2), (4) or (6), approval is
18 required by the court of common pleas in the judicial district
19 in which the governing body is located. The governing body shall
20 publish in a newspaper of general circulation a notice of its
21 intent to file an action under this subsection at least one week
22 prior to the filing of the petition. The governing body shall
23 also publish in a newspaper of general circulation notice, as
24 soon as possible following notification from the court that a
25 hearing has been scheduled, stating the date, time and place of
26 the hearing on the petition. The following shall apply to any
27 proceedings instituted under this subsection:

28 (1) The governing body must prove by clear and
29 convincing evidence the necessity for the tax increase.

30 (2) The governing body must prove by clear and

convincing evidence that there are no assets or other feasible alternatives available to the school district.

(3) The court shall determine the appropriate duration of the increase and may retain continuing jurisdiction. The court may, on its own motion or on petition of an interested party, revoke approval for or order rescission of a tax increase.

(f) Standing.--A person shall have standing as a party to a proceeding under this section as long as the person resides within or pays real property taxes to the taxing jurisdiction of the governing body instituting the action.]

§ 8706. Property tax limits on reassessment.

After any county makes a countywide revision of assessment of real property at values based upon an established predetermined ratio as required by law or after any county changes its established predetermined ratio, each school district that has made an election under section 8703 (relating to adoption of referendum), which hereafter for the first time levies its real estate taxes on that revised assessment or valuation, shall for the first year reduce its tax rate, if necessary, for the purpose of having the percentage increase in taxes levied for that year against the real properties contained in the duplicate for the preceding year be less than or equal to the percentage increase in the Statewide average weekly wage for the preceding year notwithstanding the increased valuations of such properties under the revised assessment. For the purpose of determining the total amount of taxes to be levied for the first year, the amount to be levied on newly constructed buildings or structures or on increased valuations based on new improvements made to existing houses need not be considered. The tax rate shall be

1 fixed for that year at a figure which will accomplish this
2 purpose. [The provisions of section 8704 (relating to public
3 referendum requirements for increasing property taxes previously
4 reduced) shall apply to increases in the tax rate above the
5 limits provided in this section.]

6 Section 2. This act shall take effect in 60 days.