

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1785 Session of
2007

INTRODUCED BY CLYMER, CREIGHTON, FLECK, FRANKEL, HARHAI,
HARHART, KORTZ, KULA, MANN, MELIO, MENSCH, MOUL, MURT, MYERS,
NAILOR, O'NEILL, PHILLIPS, RAPP, SOLOBAY, STAIRS, STEIL,
J. TAYLOR, WATSON AND YOUNGBLOOD, AUGUST 1, 2007

REFERRED TO COMMITTEE ON FINANCE, AUGUST 1, 2007

AN ACT

1 Amending the act of June 27, 2006 (1st Sp.Sess., P.L.1873,
2 No.1), entitled "An act providing for taxation by school
3 districts, for the State funds formula, for tax relief in
4 first class cities, for school district choice and voter
5 participation, for other school district options and for a
6 task force on school cost reduction; making an appropriation;
7 prohibiting prior authorized taxation; providing for
8 installment payment of taxes; restricting the power of
9 certain school districts to levy, assess and collect taxes;
10 and making related repeals," further providing for public
11 referendum requirements for increasing certain taxes.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

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

17 Section 333. Public referendum requirements for increasing
18 certain taxes.

19 * * *

20 (f) Referendum exceptions.--A school district may, without
21 seeking voter approval under subsection (c), increase the rate

1 of a tax levied for the support of the public schools by more
2 than the index if all of the following apply:

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

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

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

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16 long as the tax increase is rescinded following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

18 (iii) Costs associated with the following:

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

1 this clause shall be rescinded following the final
2 payment of interest and principal.

3 (A.1) For a board of school directors that did
4 not elect to participate in the former act of July 5,
5 2004 (P.L.654, No.72), known as the Homeowner Tax
6 Relief Act, to pay interest and principal on any
7 indebtedness incurred under 53 Pa.C.S. Pt. VII Subpt.
8 B prior to the effective date of this act. In no case
9 may the school district incur additional debt under
10 this clause except for the refinancing of existing
11 debt, including the payment of costs and expenses
12 related to such refinancing and the establishment of
13 funding of appropriate debt service reserves. An
14 increase under this clause shall be rescinded
15 following the final payment of interest and
16 principal.

17 (B) To pay interest and principal on any
18 electoral debt incurred under 53 Pa.C.S. Pt. VII
19 Subpt. B. An increase under this clause shall be
20 rescinded following the final payment of interest and
21 principal.

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

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

29 (II) For a board of school directors that
30 elected to participate in the former Homeowner

1 Tax Relief Act, the indebtedness to fund
2 appropriate debt service reserves for the project
3 is incurred after September 3, 2004.

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

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

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

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

26 (VI) For school districts of the second,
27 third and fourth class, the project has been
28 approved by the department under section 731 of
29 the act of March 10, 1949 (P.L.30, No.14), known
30 as the Public School Code of 1949. For

1 nonreimbursable projects in school districts of
2 the first class A, the plans and specifications
3 have been approved by the board of school
4 directors. For reimbursable projects in school
5 districts of the first class A, the plans and
6 specifications have been approved by the
7 department pursuant to 22 Pa. Code Ch. 21.

8 (D) To pay interest and principal on
9 indebtedness for up to \$250,000 of the construction
10 cost of a nonacademic school construction project, as
11 adjusted annually by the percentage increase in the
12 average of the Statewide average weekly wage and the
13 employment cost index. An increase under this clause
14 shall be rescinded following the final payment of
15 interest and principal.

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

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

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

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

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

3 (II) funding of appropriate debt service
4 reserves.

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

10 (v) Costs incurred in providing special education
11 programs and services to students with disabilities if
12 the increase in expenditures on special education
13 programs and services was greater than the index. The
14 dollar amount of this exception shall be equal to the
15 portion of the increase that exceeds the index.

16 (vi) Costs which:

17 (A) were incurred in the implementation of a
18 school improvement plan required under section
19 1116(b) of the Elementary and Secondary Education Act
20 of 1965 (Public Law 89-10, 20 U.S.C. § 6316(b)); and

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

22 (vii) Costs necessary to maintain:

23 (A) per-student local tax revenue, adjusted by
24 the index, if the percentage growth in average daily
25 membership between the school year determined under
26 subsection (j)(4) and the third school year preceding
27 the school year determined under subsection (j)(4)
28 exceeds 7.5%; or

29 (B) actual instruction expense per average daily
30 membership, adjusted by the index, if the increase in

1 actual instruction expense per average daily
2 membership between the school year determined under
3 subsection (j)(4) and the school year preceding the
4 school year determined under subsection (j)(4) is
5 less than the index.

6 (viii) The maintenance of revenues derived from real
7 property taxes, earned income and net profits taxes,
8 personal income taxes, basic education funding
9 allocations and special education funding allocations,
10 adjusted by the index, for a school district where the
11 percentage increase in revenues derived from real
12 property taxes, earned income and net profits taxes,
13 personal income taxes, basic education funding
14 allocations and special education funding allocations
15 between the school year determined under subsection
16 (j)(4) and the school year preceding the school year
17 determined under subsection (j)(4) is less than the
18 index.

19 (ix) Costs incurred for providing health care-
20 related benefits which are directly attributable to a
21 collective bargaining agreement in effect on January 1,
22 2006, between the school district and its employees'
23 organization if the anticipated increase in the cost of
24 health care-related benefits between the current year and
25 the upcoming year is greater than the index. The dollar
26 amount of this exception shall be equal to the portion of
27 the increase which exceeds the index. This subparagraph
28 shall not apply to a collective bargaining agreement
29 renewed, extended or entered into after January 1, 2006.

30 (x) Cost incurred by a school district for providing

1 vocational education to students if the increase in cost
2 incurred by the school district for vocational education
3 is greater than the index. The dollar amount of this
4 exception shall be equal to the portion of the increase
5 that exceeds the index. The cost incurred by the school
6 district shall not include any payments to the school
7 district as determined by section 2502.8 of the act of
8 March 10, 1949 (P.L.30, No.14), known as the Public
9 School Code of 1949.

10 * * *

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