

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 615 Session of 2017

INTRODUCED BY WHITE, EICHELBERGER, STEFANO, FOLMER, BARTOLOTTA, DISANTO, MARTIN, AUMENT, RAFFERTY, WARD, WAGNER, SCARNATI AND RESCHENTHALER, APRIL 13, 2017

REFERRED TO FINANCE, APRIL 13, 2017

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," in taxation by school districts,
11 repealing definitions and further providing for adoption of
12 preliminary budget proposals, for information to school
13 districts, for property tax limits on reassessment and for
14 public referendum requirements for increasing certain taxes.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. The definitions of "employment cost index,"
18 "index" and "statewide average weekly wage" in section 302 of
19 the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known
20 as the Taxpayer Relief Act, are repealed:

21 Section 302. Definitions.

22 The following words and phrases when used in this chapter
23 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 * * *

3 ["Employment cost index." The most recent official figures,
4 for the previous 12-month period beginning July 1 and ending
5 June 30 for the Employment Cost Index Series for Elementary and
6 Secondary Schools, reported by the Bureau of Labor Statistics of
7 the Federal Department of Labor.]

8 * * *

9 ["Index." As follows:

10 (1) Except as set forth in paragraph (2), the average of
11 the percentage increase in the Statewide average weekly wage
12 and the employment cost index.

13 (2) For a school district with a market value/income aid
14 ratio greater than 0.400 for the school year prior to the
15 school year for which the index is calculated, the value
16 under paragraph (1) multiplied by the sum of:

17 (i) 0.75; and

18 (ii) the school district's market value/income aid
19 ratio for the school year prior to the school year for
20 which the index is calculated.]

21 * * *

22 ["Statewide average weekly wage." That amount determined by
23 the Department of Labor and Industry in the same manner that it
24 determines the average weekly wage under section 404(e)(2) of
25 the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1),
26 known as the Unemployment Compensation Law, except that it shall
27 be calculated for the preceding calendar year.]

28 * * *

29 Section 2. Sections 311(d) and 313 of the act are amended to
30 read:

1 Section 311. Adoption of preliminary budget proposals.

2 * * *

3 (d) Resolution.--

4 (1) A board of school directors may elect to adopt a
5 resolution indicating that it will not raise the rate of any
6 tax for the support of the public schools for the following
7 fiscal year [by more than the index]. The resolution must be
8 adopted no later than 110 days prior to the date of the
9 election immediately preceding the upcoming fiscal year. The
10 resolution must make the following unconditional
11 certifications:

12 (i) That the board of school directors will not
13 increase any tax [at a rate that exceeds the index as
14 calculated by the department].

15 (ii) That the board of school directors will comply
16 with the procedures set forth in section 687 of the
17 Public School Code for the adoption of its proposed and
18 final budgets.

19 (iii) That the board of school directors certifies
20 that [increasing any tax at a rate less than or equal to
21 the index will be sufficient] no tax increase is
22 necessary to balance its final budget.

23 (2) A board of school directors that adopts a resolution
24 under this section shall do all of the following:

25 (i) Comply with the procedures in section 687 of the
26 Public School Code for the adoption of its proposed and
27 final budgets and shall not be subject to subsections (a)
28 and (c).

29 [(ii) Submit information on a proposed increase in
30 the rate of a tax levied for the support of the public

1 schools to the department on a uniform form prepared by
2 the department no later than five days after the adoption
3 of the resolution.]

4 (iii) Send a copy of the resolution adopted pursuant
5 to this section to the department no later than five days
6 after the adoption of the resolution.

7 [(3) A board of school directors that adopts a
8 resolution under this section shall not be eligible to seek
9 referendum exceptions under section 333(f), and section
10 333(e) shall not apply.

11 (4) Upon receipt of the information required under
12 paragraph (2)(ii), the department shall compare the proposed
13 percentage increase in the rate of the tax with the index.
14 Within ten days of the receipt of the information required
15 under this subsection, the department shall inform the school
16 district whether the proposed tax rate increase is less than
17 or equal to the index. If the department determines that the
18 proposed percentage increase in the rate of the tax exceeds
19 the index, the school district shall be subject to
20 subsections (a) and (c), and paragraphs (2)(i) and (3) shall
21 not apply. The department's determination under this
22 paragraph shall not constitute an adjudication.]

23 Section 313. Information to school districts.

24 (1) No later than September 30, 2006, and September 30
25 of each year thereafter, the department shall provide each
26 school district with the [following information:

27 (i) The] dates by which actions required under this
28 chapter shall take place.

29 [(ii) The index for the applicable fiscal year.]

30 (2) For the 2006-2007 school year, the department shall

1 provide each school district with the information required
2 under this section no later than ten days after the effective
3 date of this act.

4 Section 3. Section 327 of the act is repealed:

5 [Section 327. Property tax limits on reassessment.

6 Notwithstanding any other provision of law, including this
7 act, after any county makes a countywide revision of assessment
8 of real property at values based upon an established
9 predetermined ratio as required by law or after any county
10 changes its established predetermined ratio, a board of school
11 directors in a school district located within that county which,
12 after July 1, 2006, for the first time levies its real estate
13 taxes on that revised assessment or valuation shall for the
14 first year reduce its tax rate, if necessary, for the purpose of
15 having the percentage increase in taxes levied for that year
16 against the real properties contained in the duplicate for the
17 preceding year be less than or equal to the index for the
18 preceding year notwithstanding the increased valuations of such
19 properties under the revised assessment. For the purpose of
20 determining the total amount of taxes to be levied for the first
21 year, the amount to be levied on newly constructed buildings or
22 structures or on increased valuations based on new improvements
23 made to existing houses need not be considered. The tax rate
24 shall be fixed for that year at a figure which will accomplish
25 this purpose. The provisions of section 333 shall apply to
26 increases in the tax rate above the limits provided in this
27 section.]

28 Section 4. Section 333(b), (c)(3), (e), (f), (g), (h), (j),
29 (l) and (n) of the act are amended to read:

30 Section 333. Public referendum requirements for increasing

1 certain taxes.

2 * * *

3 (b) Prohibitions.--[Except as set forth in subsection (j),
4 unless] Unless there is compliance with subsection (c), a board
5 of school directors may not do any of the following:

6 (1) Increase the rate of a tax levied for the support of
7 the public schools [by more than the index. For purposes of
8 compliance with this paragraph, a school district which is
9 situated in more than one county and which levies real estate
10 taxes under section 672.1 of the act of March 10, 1949
11 (P.L.30, No.14), known as the Public School Code of 1949,
12 shall apply the index to each separate rate of real estate
13 taxes levied].

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

16 (3) Raise the rate of the earned income and net profits
17 tax if already imposed under the authority of the Local Tax
18 Enabling Act except as otherwise provided for under section
19 331.2 or 332.

20 (4) Notwithstanding any other provision of this chapter
21 to the contrary, the adoption of a referendum under section
22 331.2 or 332 confers on the board of school directors the
23 authority to raise income taxes only to the extent contained
24 in the language of the referendum, and any future increase of
25 an income tax to be used for the purpose of property tax
26 reduction shall be submitted to the electors of the school
27 district at a subsequent municipal election pursuant to the
28 provisions of section 332.

29 (c) Referendum.--

30 * * *

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

8 * * *

9 (e) Tax rate submissions.--A school district that has
10 adopted a preliminary budget proposal under section 311 that
11 includes an increase in the rate of any tax levied for the
12 support of public schools shall submit information on the
13 increase to the department on a uniform form prepared by the
14 department. The school district shall submit such information no
15 later than 85 days prior to the date of the election immediately
16 preceding the beginning of the school district's fiscal year.
17 [The department shall compare the proposed percentage increase
18 in the rate of any tax with the index. Within ten days of the
19 receipt of the information required under this subsection but no
20 later than 75 days prior to the date of the election immediately
21 preceding the beginning of the school district's fiscal year,
22 the department shall inform the school district whether the
23 proposed tax rate increase is less than or equal to the index.
24 If the department determines that the proposed percentage
25 increase in the rate of the tax exceeds the index, the
26 department shall notify the school district that:

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

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

1 (3) an exception must be sought under subsection (j).

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

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

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

12 (iii) Costs associated with the following:

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

27 (A.1) For a board of school directors that did
28 not elect to participate in the former act of July 5,
29 2004 (P.L.654, No.72), known as the Homeowner Tax
30 Relief Act, to pay interest and principal on any

1 indebtedness incurred under 53 Pa.C.S. Pt. VII Subpt.
2 B prior to the effective date of this act. In no case
3 may the school district incur additional debt under
4 this clause except for the refinancing of existing
5 debt, including the payment of costs and expenses
6 related to such refinancing and the establishment of
7 funding of appropriate debt service reserves. An
8 increase under this clause shall be rescinded
9 following the final payment of interest and
10 principal.

11 (B) To pay interest and principal on any
12 electoral debt incurred under 53 Pa.C.S. Pt. VII
13 Subpt. B. An increase under this clause shall be
14 rescinded following the final payment of interest and
15 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) and (A.1) as long as the refunding
29 or refinancing incurs no additional debt other than
30 for:

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

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

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

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

16 (h) Limitation on tax rate.--The increase in the rate of any
17 tax allowed pursuant to an exception under subsection (f)(2)(v)
18 or (n) shall not exceed the rate increase required as determined
19 by the department pursuant to subsection (j).

20 (j) Department approval.--

21 (1) A school district that seeks to increase the rate of
22 tax due to an expenditure under subsection (f)(2)(iii) or (v)
23 or (n) shall obtain the approval of the department before
24 imposing the tax increase. The department shall establish
25 procedures for administering the provisions of this
26 subsection, which may include an administrative hearing on
27 the school district's submission.

28 (2) A school district proceeding under the provisions of
29 this subsection shall publish in a newspaper of general
30 circulation and on the district's publicly accessible

1 Internet site, if one is maintained, notice of its intent to
2 seek department approval at least one week prior to
3 submitting its request for approval to the department. If the
4 department schedules a hearing on the school district's
5 request, the school district shall publish notice of the
6 hearing in a newspaper of general circulation and on the
7 district's publicly accessible Internet site, if one is
8 maintained, immediately upon receiving the information from
9 the department. The notice shall include the date, time and
10 place of the hearing.

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

14 (i) the school district qualifies for one or more
15 exceptions under subsection (f)(2)(iii) or (v) or (n);
16 and

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

20 (4) For the purpose of determining the eligibility of a
21 school district for an exception under subsection (f)(2)(v),
22 the department shall utilize data from the most recent school
23 years for which annual financial report data required under
24 section 2553 of the Public School Code of 1949 has been
25 received. The department shall inform school districts of the
26 school years determined under this subsection no later than
27 30 days prior to the date on which public inspection of
28 proposed school budgets is required under section 311(c).

29 (5) (i) The department shall rule on the school
30 district's request and shall inform the school district of

1 its decision no later than 55 days prior to the date of the
2 election immediately preceding the beginning of the school
3 district's fiscal year.

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

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

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

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

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

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

29 (iv) If the exception was approved, the dollar
30 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).

(1) 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.]

* * *

[(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 estimated payments between the current year and the upcoming year, as determined by the department under this section, is greater than the index.

(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.

1 (C) A State retirement subsidy calculation based
2 on the school district's total compensation under
3 clause (A) and the employer contribution rate under
4 clause (B).

5 (ii) The school district's share of payments as
6 required by 24 Pa.C.S. § 8327 for the upcoming year shall
7 be determined by the department using all of the
8 following:

9 (A) The lesser of the school district's:

10 (I) estimated total compensation for the
11 upcoming year; or

12 (II) total compensation for the 2011-2012
13 school year.

14 (B) The employer contribution rate under 24
15 Pa.C.S. § 8328 for the upcoming year.

16 (C) A State retirement subsidy calculation based
17 on the school district's total compensation under
18 clause (A) and the employer contribution rate under
19 clause (B).

20 (3) The dollar amount to which subsection (f) applies
21 shall be determined as follows:

22 (i) Multiply:

23 (A) the index; by

24 (B) the school district's share of payments for
25 the current year, as determined by the department
26 under this subsection.

27 (ii) Subtract:

28 (A) the product under subparagraph (i); from

29 (B) the amount of increase, as determined by the
30 department under this subsection, in the school

1 district's share of payments between:

2 (I) the current year; and

3 (II) the upcoming year.

4 (4) As used in this subsection, the term "compensation"
5 has the meaning ascribed in 24 Pa.C.S. § 8102 (relating to
6 definitions).]

7 * * *

8 Section 5. The amendment of section 333 of the act shall
9 apply to any proposed tax increase that takes effect in a fiscal
10 year beginning after December 31, 2018.

11 Section 6. This act shall take effect July 1, 2018, or
12 immediately, whichever is later.