

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

**HOUSE BILL**  
**No. 2828** Session of  
1978

---

INTRODUCED BY VROON, ZELLER, BURNS AND WILSON,  
SEPTEMBER 26, 1978

---

REFERRED TO COMMITTEE ON FINANCE, SEPTEMBER 26, 1978

---

AN ACT

1 Relating to the taxation of real estate.

2 TABLE OF CONTENTS

3 Section 1. Short title.

4 Section 2. Declaration of policy.

5 Section 3. Definitions.

6 Section 4. Real estate replacement tax.

7 Section 5. Partial real estate replacement tax.

8 Section 6. Real estate tax freeze.

9 Section 7. School income tax.

10 Section 8. School business use and occupancy tax.

11 Section 9. Referendum.

12 Section 10. Rate of tax.

13 Section 11. Municipal wage taxes.

14 Section 12. Tenant rent reduction.

15 Section 13. Duration of alternate program or freeze.

16 Section 14. Effective date.

17 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Short title.

3 This act shall be known and may be cited as the "School  
4 Districts' Real Estate Replacement Tax Act."

5 Section 2. Declaration of policy.

6 In recognition of the burdensome and sometimes punitive  
7 affect of real estate taxation for school purposes, the General  
8 Assembly of the Commonwealth of Pennsylvania hereby declares it  
9 to be its policy to provide for alternatives to such taxation  
10 which may be implemented only upon voter approval.

11 Section 3. Definitions.

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

15 "Alternate tax program." The real estate replacement tax and  
16 the partial real estate replacement tax authorized pursuant to  
17 sections 4 and 5 respectively.

18 "Board." The board of directors of a school district of the  
19 second, third or fourth class.

20 "Business." Any business, trade, occupation, profession,  
21 vocation or any other agricultural, commercial or industrial  
22 activity, including the leasing of property for any purpose,  
23 except residential purposes.

24 "Department." The Department of Revenue.

25 "School district." Any school district of the second, third  
26 or fourth class.

27 "Use." For the purpose of rental properties shall include  
28 all premises available for lease, except those premises  
29 available for residential purpose, even though unoccupied.

30 "Miscellaneous school taxes." Any wage tax, occupation tax,

1 occupational privilege tax, or any other per capita or head type  
2 tax levied pursuant to the act of December 31, 1965 (P.L.1257,  
3 No.511), known as the "Local Tax Enabling Act," or the act of  
4 March 10, 1949 (P.L.30, No.14), known as the "Public School Code  
5 of 1949."

6 "Landlord." The owner of any real estate leased for  
7 residential purposes located within a school district adopting  
8 an alternate tax program.

9 "Tenant." The lessee, for residential purposes, of a  
10 landlord owning real estate within a school district adopting an  
11 alternate tax program.

12 Section 4. Real estate replacement tax.

13 (a) The board may provide by resolution, subject to approval  
14 by referendum, for the elimination of the school real property  
15 tax and, together therewith, the abolition of miscellaneous  
16 school taxes levied by the board, effective for the duration of  
17 the real estate replacement tax, and in substitution therefor,  
18 the board shall provide for the levying of a school income tax  
19 and a school business use and occupancy tax which taxes shall be  
20 prorated in accordance with section 10.

21 (b) The school real property taxes of any school district  
22 adopting the real estate replacement tax are hereby abolished  
23 effective July 1, next following the approval by referendum of  
24 the real estate replacement tax. Subsequent to the real estate  
25 replacement tax being approved by referendum, each miscellaneous  
26 school tax is hereby abolished effective at the close of the  
27 calendar or fiscal year for which it is assessed.

28 (c) Any school district adopting the real estate replacement  
29 tax may provide for a phase out of the taxes being abolished in  
30 equal portions over a two-year period. In such case, the total

1 rates of the school income tax and the school business use and  
2 occupancy tax determined pursuant to section 10 shall be levied  
3 at a rate of 50% of the total rate in the first year and at a  
4 rate of 100% of the total rate in the second year and  
5 thereafter.

6 Section 5. Partial real estate replacement tax.

7 (a) The board may provide by resolution, subject to approval  
8 by referendum, for a reduction in the millage of the school real  
9 property tax of not less than 50% and, together therewith, for  
10 the elimination of miscellaneous school taxes levied by the  
11 board, effective for the duration of the partial real estate  
12 replacement tax, and, simultaneously therewith, the board shall  
13 provide for the levying of a school income tax and a school  
14 business use and occupancy tax which taxes shall be prorated in  
15 accordance with section 10. The millage reduction herein  
16 authorized shall be based on the millage in effect at the time  
17 the board adopts the resolution herein provided for. No increase  
18 in the real estate assessment ratio adopted by the county shall  
19 be applicable to any school district having adopted a partial  
20 real estate replacement tax for the duration thereof. Nothing  
21 herein shall be deemed to prohibit the county from altering the  
22 assessment ratio with respect to real property not being taxed  
23 pursuant to this act.

24 (b) The millage of any school district adopting the partial  
25 real estate replacement tax is hereby reduced in accordance with  
26 subsection (a), effective July 1, next following the approval by  
27 referendum of the partial real estate replacement tax.

28 Subsequent to the partial real estate replacement tax being  
29 approved by referendum, each miscellaneous school tax is hereby  
30 abolished effective at the close of the calendar or fiscal tax

1 year for which it is assessed.

2 Section 6. Real estate tax freeze.

3 (a) The board may provide by resolution, that no increase in  
4 the millage of the school district real estate tax may be levied  
5 and shall provide, together therewith, for the abolition of all  
6 miscellaneous school taxes levied by the board, effective for  
7 the duration of the real estate tax freeze. Simultaneously  
8 therewith the board shall provide for the levying of a school  
9 income tax and a school business use and occupancy tax which  
10 taxes shall be prorated in accordance with section 10. No  
11 increase in the real estate assessment ratio adopted by the  
12 county shall be applicable to any school district having adopted  
13 a real estate tax freeze for the duration thereof. Nothing  
14 herein shall be deemed to prohibit the county from altering the  
15 assessment ratio with respect to real property not being taxed  
16 pursuant to this act.

17 (b) The millage of the school district real estate tax may  
18 not be increased effective with the adoption of the resolution  
19 authorized pursuant to subsection (a). Subsequent to the real  
20 estate tax freeze being approved, each miscellaneous school tax  
21 is hereby abolished effective at the close of the calendar or  
22 fiscal tax year for which it is assessed.

23 Section 7. School income tax.

24 (a) In the event that a school district adopts an alternate  
25 tax program, the board shall levy upon the residents of the  
26 school district a school income tax, the basis of which shall be  
27 taxable income as reported to the Commonwealth of Pennsylvania  
28 pursuant to Article III of the act of March 4, 1971 (P.L.6,  
29 No.2), known as the "Tax Reform Code of 1971."

30 (b) The school income tax shall be effective January 1, next

1 following the approval by referendum of the alternate tax  
2 program or of the passage by the board of the real estate tax  
3 freeze resolution.

4 (1) The school income tax shall be payable in quarterly  
5 installments based on an estimate of annual income and shall  
6 be finally due and payable April 15, following the taxable  
7 year.

8 (2) The first quarterly payment for the calendar year  
9 shall be due on July 15 of that year. The second quarterly  
10 payment shall be due October 15, during the taxable calendar  
11 year. The third quarterly payment shall be due January 15,  
12 succeeding the taxable calendar year, and the fourth  
13 quarterly payment, plus or minus any addition or reduction in  
14 the tax due for the calendar taxable year shall be due and  
15 payable April 15, following the taxable calendar year.

16 (c) The school district income tax assessed for the taxable  
17 calendar year shall be deemed to be revenue for the school  
18 district fiscal year beginning in the taxable calendar year for  
19 which the tax is payable.

20 Section 8. School business use and occupancy tax.

21 (a) In the event that a school district adopts an alternate  
22 tax program, or a real estate tax freeze, the board shall levy  
23 upon users and occupiers of real property used for carrying on  
24 any business within the district a school business use and  
25 occupancy tax, measured by the assessed value of the real  
26 estate, the square footage of usage or occupancy and the number  
27 of days of use or occupancy according to the following formula:

28	Square feet			Days of actual
29	occupied or used	Assessed	Rate of	use or occupancy
30		X	X	X

1 value taxation

2 Total square feet  
3 available for use  
4 or occupancy on  
5 the real estate

6 Such tax shall be collected directly by the school district and  
7 shall be effective on July 1, following the adoption of the  
8 alternate tax program or the real estate tax freeze.

9 (b) Such tax shall be based upon use or occupancy for the  
10 fiscal year beginning July 1 and ending June 30 and shall be  
11 prepaid for the fiscal year on August 15 of such year. The  
12 prepayment shall be for the entire year and shall be an  
13 annualization of the use or occupancy for July of such year. On  
14 August 15 following any year for which prepayment was made, the  
15 owner of such real estate, and, in the event the property has  
16 changed ownership at any time during that year, the prior owner  
17 or owners, shall file a final return in order that any change in  
18 use or occupancy during such year may be resolved. Such final  
19 return shall be accompanied by payment of any tax due or a claim  
20 for refund of any overpayment. Refunds shall be made, on valid  
21 claims, by the school district within 15 days of the receipt of  
22 the claim.

23 (c) The authorization to levy and collect a business use and  
24 occupancy tax shall not include the power to levy such tax upon:

(1) Any real property to the extent that such property is used or occupied as the principal place of residence of the user or occupier. In the event an apportionment must be made between business and personal use, such shall be made by the local tax assessor.

30           (2) Any real property exempted from ordinary real estate

1 by any other act.

2 (d) Assessed value for purposes of this act shall be  
3 determined by the county assessment ratio in effect on the  
4 effective date of this act.

5 Section 9. Referendum.

6 Whenever the board adopts a resolution proposing an alternate  
7 tax program, a referendum shall be held on the date of the next  
8 primary election immediately preceding the next municipal  
9 election to determine the will of the qualified electorate with  
10 respect to the adoption thereof. Whenever the board shall file a  
11 petition with the county board of elections of the county for a  
12 referendum on the question of adopting any alternative tax  
13 program, the said county board of elections shall cause a  
14 question to be placed on the ballot or on the voting machine  
15 board and submitted at the primary immediately preceding the  
16 municipal election.

17 The question shall be in the following form setting forth in  
18 detail the proposed alternate tax program and shall include a  
19 specification of the maximum initial rate of each tax:

20 Do you favor .....?

21 In case of a tie vote, the status quo shall obtain. If a  
22 majority of the voting electors on any question vote "Yes" then  
23 the alternative tax plan shall replace, be deemed adopted, as  
24 provided in this act; but, if a majority of the electors voting  
25 on any such question vote "No," the plan shall not be  
26 implemented.

27 Section 10. Rate of tax.

28 (a) When the board by resolution proposes the adoption of a  
29 school income tax and a school business use and occupancy tax,  
30 the board shall give public notice of the proposed rates to be



1 initially implemented by:

2 (1) publishing the notice once in a "newspaper of  
3 general circulation," as defined in 45 Pa.C.S. § 101, which  
4 is published and circulated in the school district, or such  
5 newspaper of general circulation which has a bona fide paid  
6 circulation equal to or greater than any newspaper published  
7 in the school district; and

8 (2) posting a copy of the notice prominently in each  
9 public school located within the district. Such notice shall  
10 be published and posted at least 30 but not more than 60 days  
11 prior to the date of the referendum.

12 (b) The initial rates of the school income tax and the  
13 school business use and occupancy tax shall be determined so  
14 that the proportion of the total proposed revenues to be  
15 collected by each tax is substantially the same proportion that  
16 the prior year's real property taxes collected on residential  
17 properties plus collections from the miscellaneous school taxes  
18 being abolished, bears to the real property taxes collected for  
19 the prior year on properties made subject to the school business  
20 use and occupancy tax. For the purposes of this subsection,  
21 substantially the same means within a deviation of plus or minus  
22 2% of collections.

23 (c) (1) For the second year that the alternate tax program  
24 or real estate tax freeze is in effect and for each year  
25 thereafter, the rates of each new tax shall be reviewed so  
26 that collections in the proper proportion between them shall  
27 be maintained.

28 (2) The proper proportion between the school income tax  
29 and the business use and occupancy tax shall be determined by  
30 taking the percentage of the total tax collections realized

1 from the business use and occupancy tax for the initial year  
2 and increasing or decreasing it by the increase or decrease  
3 in the percentage that the total assessed value of all  
4 business real property bears to the total assessed value of  
5 all real property in the school district.

6 (d) In the event any alternative tax program or real estate  
7 tax freeze is adopted by any school district pursuant to this  
8 act, the rates established for the new taxes in their initial  
9 year of enactment shall be set so that the total estimated  
10 revenues from all taxes shall not exceed 110% of the total  
11 revenue collections from school real property taxes and  
12 miscellaneous school taxes in the last year of their collection.

13 Section 11. Municipal wage taxes.

14 In the event a school district adopts an alternate tax  
15 program or real estate tax freeze and thereby is forced to  
16 abolish its wage tax enacted pursuant to the act of December 31,  
17 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act,"  
18 any municipality or municipalities coterminous with the school  
19 district which also levy a wage tax pursuant to "The Local Tax  
20 Enabling Act" shall have the rate at which they collect such tax  
21 frozen at the effective rate of collection, pursuant to the rate  
22 sharing provisions of section 8 of "The Local Tax Enabling Act"  
23 on the day immediately preceding the day its school district  
24 abolishes its wage tax.

25 Section 12. Tenant rent reduction.

26 (a) Each landlord shall reduce rental payments required of  
27 each tenant in an amount equal to any reduction or elimination  
28 of the school real property tax resulting from the adoption of  
29 an alternate tax program which is applicable to real estate  
30 leased by said tenant as a residential rental unit. The rental

1 reduction shall be calculated by dividing the total real  
2 property tax reduction or elimination applicable to said real  
3 property during the course of the initial tax year into the  
4 number of rental payments required of the tenant during said tax  
5 year. In cases where more than one rental unit is situated upon  
6 any tract of real estate affected by said tax reduction or  
7 elimination, the landlord shall reduce the rent of each tenant  
8 in a proportion equal to the total amount of rental space that  
9 the rental unit leased by the tenant bears to the total rental  
10 space of all rental units situated upon said trace of real  
11 estate.

12 (b) The landlord shall reduce the rental payments required  
13 of each tenant commencing with the first date on which the  
14 tenant is required to pay rent subsequent to the effective date  
15 of the reduction or elimination of the school real property tax.

16 (c) The department shall promulgate uniform regulations  
17 applicable to each school district adopting an alternate tax  
18 program for the purpose of ensuring that landlords and tenants  
19 leasing real estate therefrom receive adequate notice of the  
20 rights and obligations provided for in this section.

21 (d) Each landlord, within 60 days following the first rent  
22 payment date subject to a rent reduction required by this  
23 section, shall notify the board on a form prepared by the  
24 department to be made available upon request by the board of an  
25 itemized schedule of the required rent reductions applicable to  
26 each tenant entitled thereto together with such proof as the  
27 board may require that each tenant has received the proper  
28 reduction in periodic rental payments.

29 (e) In the event that a landlord shall fail to reduce rental  
30 payments in the manner required by this section within 30 days

1 of receipt of a written notification from a tenant requesting  
2 same, said landlord shall be liable to the tenant for damages in  
3 an amount equal to three times the rent reduction to which the  
4 tenant would be entitled had the landlord complied with this  
5 section, provided the tenant brings an action within 60 days of  
6 said written request. No tenant shall have a lease terminated or  
7 nonrenewed because for exercising a right conferred by this  
8 section. Any termination or nonrenewal of a lease occurring  
9 within one year of any written notification made by a tenant  
10 pursuant to this subsection, shall establish a rebuttable  
11 presumption that said termination or nonrenewal was in  
12 retaliation for the exercise of a right conferred by this  
13 section if the landlord had been in noncompliance prior to the  
14 receipt of said notification.

15 Section 13. Duration of alternate program or freeze.

16 (a) Any alternate tax program or real estate tax freeze  
17 adopted by any school district shall remain in force and effect  
18 for not less than ten years unless the school district  
19 substitutes therefore, an alternate tax program providing for  
20 less reliance upon the school real property tax as a means of  
21 taxation. Nothing in this section shall be deemed to impair the  
22 authority of the school board to alter the rate of the school  
23 income tax or the school business use and occupancy tax in the  
24 manner authorized by this act, at any time.

25 (b) The department shall cooperate fully with any school  
26 district requesting aid in providing for any alternative tax  
27 program authorized by this act.

28 Section 14. Effective date.

29 This act shall take effect on January 1, 1980.