
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 418 Session of
2001

INTRODUCED BY METCALFE, COLEMAN, SOLOBAY, FEESE, HERSHEY,
BASTIAN, BUNT, DAILEY, EGOLF, GEORGE, HABAY, HASAY, HORSEY,
KIRKLAND, LAUGHLIN, LEH, LEWIS, ROHRER, SHANER, WILT AND
WOJNAROSKI, FEBRUARY 5, 2001

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 5, 2001

AN ACT

1 Imposing an additional sales and use tax and personal income
2 tax; prohibiting the imposition of real property tax by
3 school districts, municipalities and counties; creating the
4 School Property Tax Elimination Fund; and providing for
5 duties of the Department of Revenue.

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 Real Property
10 Tax Elimination 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 "Base year." The first fiscal year of a school district,
16 municipality or county beginning after June 30, 2001.

17 "Department." The Department of Revenue of the Commonwealth.

18 "Fund." The School Property Tax Elimination Fund created

1 under section 5.

2 "Personal income." Income enumerated in section 303 of the
3 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
4 of 1971, as returned to and ascertained by the Department of
5 Revenue, subject, however, to any correction thereof for fraud,
6 evasion or error as finally ascertained by the Commonwealth.

7 "Real property tax increase." An increase in real property
8 taxes resulting from a millage increase, modification in the
9 predetermined ratio or county-wide reassessment.

10 Section 3. Real property tax freeze.

11 No school district, municipality or county shall authorize a
12 real property tax increase in any fiscal year beginning after
13 June 30, 2002.

14 Section 4. Real property tax reduction.

15 (a) School districts.--A school district shall be subject to
16 the following with respect to the levying, assessment and
17 collection of real property tax:

18 (1) For the first fiscal year beginning after June 30,
19 2002, a school district shall reduce in a uniform manner by
20 one-third the base-year amount of its real property taxes.

21 (2) For the first fiscal year beginning after June 30,
22 2003, a school district shall reduce in a uniform manner by
23 two-thirds the base-year amount of its real property taxes.

24 (3) For the first fiscal year beginning after June 30,
25 2004, and each fiscal year thereafter, no school district
26 shall have any power or authority to levy, assess or collect
27 real property taxes. This paragraph shall not apply to the
28 collection of delinquent taxes.

29 (b) Municipalities and counties.--Municipalities and
30 counties shall be subject to the following with respect to the

levying, assessment and collection of real property tax:

(1) For the first fiscal year beginning after December 31, 2005, each municipality and each county shall reduce in a uniform manner by one-third the base-year amount of its real property tax.

(2) For the first fiscal year beginning after December 31, 2006, each municipality and each county shall reduce in a uniform manner by two-thirds the base-year amount of its real property tax.

(3) For the first fiscal year beginning after December 31, 2007, and each fiscal year thereafter, no municipality or county shall have any power or authority to levy, assess or collect real property taxes. This paragraph shall not apply to the collection of delinquent taxes.

Section 5. School Property Tax Elimination Fund.

(a) Fund created.--

(1) There is hereby created the School Property Tax Elimination Fund. The State Treasurer shall be custodian of the fund, which shall be subject to the provisions of law applicable to funds listed in section 302 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(2) Taxes imposed under sections 6 and 8 shall be collected by the department and paid to the State Treasurer and, along with interest and penalties, shall be credited to the fund not less frequently than every two weeks. During any period prior to the credit of moneys to the fund, interest earned on moneys received by the department and paid to the State Treasurer under this act shall be deposited into the fund.

(3) All moneys in the fund, including, but not limited

1 to, moneys credited to the fund under this section, prior
2 year encumbrances and the interest earned thereon, shall not
3 lapse or be transferred to any other fund, but shall remain
4 in the fund and shall be used exclusively as provided in this
5 section.

6 (4) Pending their disbursement, moneys received on
7 behalf of or deposited into the fund shall be invested or
8 reinvested as are other moneys in the custody of the State
9 Treasurer in the manner provided by law. All earnings
10 received from the investment or reinvestment of the moneys
11 shall be credited to the fund.

12 (b) Disbursements.--On or before the tenth day of every
13 month, the State Treasurer shall make disbursements to school
14 districts out of the moneys which are contained in the fund on
15 the last day of the previous month. Distributions to school
16 districts shall be based on the amount of real property tax
17 collected by each school district during the base year as
18 follows:

19 (1) During the first fiscal year beginning after June
20 30, 2002, an amount equivalent to one-third of the real
21 property tax revenues collected by the school district during
22 the base year shall be distributed to the school district.

23 (2) During the first fiscal year beginning after June
24 30, 2003, an amount equivalent to two-thirds of the real
25 property tax revenues collected by the school district during
26 the base year shall be distributed to the school district.

27 (3) During the first fiscal year beginning after June
28 30, 2004, and each fiscal year thereafter, an amount
29 equivalent to the total real property tax revenues collected
30 by the school district during the base year shall be

distributed to the school district.

(c) Transfer of portion of surplus.--In any fiscal year in which the Secretary of the Budget certifies that there is a surplus of operating funds in the General Fund, 85% of such surplus shall be deposited by the end of the next succeeding quarter into the fund.

Section 6. Imposition of sales and use tax.

(a) Sales tax.--There is hereby imposed upon each separate sale at retail of tangible personal property or services, as defined in Article II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, a tax on the purchase price. The tax shall be collected by the vendor from the purchaser and shall be paid over to the Commonwealth as provided in Article II of the Tax Reform Code of 1971.

(b) Use tax.--There is hereby imposed upon the use of tangible personal property purchased at retail and on services purchased at retail as defined in Article II of the Tax Reform Code of 1971 a tax on the purchase price. The tax shall be paid over to the Commonwealth by the person who makes the use. The use tax imposed under this subsection shall not be paid over to the Commonwealth by any person who has paid the tax imposed by subsection (a) or has paid the tax imposed by this subsection to the vendor with respect to the use.

(c) Rate.--The tax authorized by subsections (a) and (b) shall be imposed at the following rates:

(1) For the period July 1, 2002, to June 30, 2003, 1%.

(2) For the period July 1, 2003, to June 30, 2004, 2%.

(3) After June 30, 2004, 3%.

(d) Construction.--The sales and use tax imposed by this act shall be in addition to any tax imposed under Article II of the

1 Tax Reform Code of 1971. The provisions of Article II of the Tax
2 Reform Code of 1971 shall apply to the tax.

3 Section 7. Computation of sales and use tax.

4 (a) One percent rate.--The amount of tax imposed by section
5 6 shall be computed in the manner set forth in section 503(e)(2)
6 of the act of June 5, 1991 (P.L.9, No.6), known as the
7 Pennsylvania Intergovernmental Cooperation Authority Act for
8 Cities of the First Class, for a 1% tax rate.

9 (b) Two percent rate.--The amount of tax imposed by section
10 6 shall be computed as follows for a 2% tax rate:

11 (1) If the purchase price is 30¢ less or, no additional
12 tax shall be collected.

13 (2) If the purchase price is 31¢ or more but less than
14 51¢, 1¢ shall be collected.

15 (3) If the purchase price is 51¢ or more but less than
16 \$1.01, 2¢ shall be collected.

17 (4) If the purchase price is more than \$1, 2% of each
18 dollar of purchase price plus the above bracket charges upon
19 any fractional part of a dollar in excess of even dollars
20 shall be collected.

21 (c) Three percent rate.--The amount of tax imposed by
22 section 6 shall be computed as follows for a 3% tax rate:

23 (1) If the purchase price is 33¢ or less, no additional
24 tax shall be collected.

25 (2) If the purchase price is 34¢ or more but less than
26 56¢, 1¢ shall be collected.

27 (3) If the purchase price is 56¢ or more but less than
28 78¢, 2¢ shall be collected.

29 (4) If the purchase price is 78¢ or more but less than
30 \$1.01, 3¢ shall be collected.

(5) If the purchase price is more than \$1, 3% of each dollar of purchase price plus the above bracket charges upon any fractional part of a dollar in excess of even dollars shall be collected.

Section 8. Imposition of personal income tax.

(a) Residents.--Every resident individual, estate or trust shall be subject to, and shall pay for the privilege of receiving each of the classes of income enumerated in section 303 of the act of March 2, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, a tax upon each dollar of income received by that resident during that resident's taxable year at the following rates:

(1) 0.5% for the second half of the taxable year commencing with or within calendar year 2002 through the first half of the taxable year commencing with or within calendar year 2003;

(2) 1% for the second half of the taxable year commencing with or within calendar year 2003 through the first half of the taxable year commencing with or within calendar year 2004;

(3) 1.5% for the second half of the taxable year commencing with or within calendar year 2004 through the first half of the taxable year commencing with or within calendar year 2005; and

(4) for the second half of the taxable year commencing with or within calendar year 2004 and each taxable year thereafter, the rate established by the department under subsection (c), not to exceed 1.5%.

(b) Nonresidents.--Every nonresident individual, estate or trust shall be subject to, and shall pay for the privilege of

1 receiving each of the classes of income hereinafter enumerated
2 in section 303 of the Tax Reform Code of 1971 from sources
3 within this Commonwealth, a tax upon each dollar of income
4 received by that nonresident during that nonresident's taxable
5 year at the following rates:

6 (1) 0.5% for the second half of the taxable year
7 commencing with or within calendar year 2002 through the
8 first half of the taxable year commencing with or within
9 calendar year 2003;

10 (2) 1% for the second half of the taxable year
11 commencing with or within calendar year 2003 through the
12 first half of the taxable year commencing with or within
13 calendar year 2004;

14 (3) 1.5% for the second half of the taxable year
15 commencing with or within calendar year 2004 through the
16 first half of the taxable year commencing with or within
17 calendar year 2005; and

18 (4) for the second half of the taxable year commencing
19 with or within calendar year 2005 and each taxable year
20 thereafter, the rate established by the department under
21 subsection (c), not to exceed 1.5%.

22 (c) Rates fixed annually by department.--Beginning with the
23 second half of the taxable year commencing with or within the
24 calendar year 2005, and each taxable year thereafter, the
25 department shall annually establish the rate of tax under this
26 section, uniform for residents and nonresidents, such that the
27 amounts due to be disbursed to school districts in accordance
28 with section 5(b) are available for payment. The department
29 shall publish in the Pennsylvania Bulletin no later than June 1
30 of each year the rate of tax which shall take effect July 1 of

1 each year.

2 (d) Construction.--The personal income tax imposed by this
3 act shall be in addition to any tax imposed by the Commonwealth
4 under Article III of the Tax Reform Code. The provisions of
5 Article III of the Tax Reform Code shall apply to the tax.

6 Section 9. School district tax options.

7 (a) General rule.--A school district may generate additional
8 revenue to offset revenue lost as a result of the implementation
9 of this act by increasing the rate of its tax on earned income
10 beyond maximum rates provided by law.

11 (b) Resolution required.--Taxes levied by a school district
12 shall be by resolution passed by the board of school directors
13 of the school district under the authority of this act.

14 (c) Increases subject to referendum.--Except as provided in
15 subsection (e), no school district may implement or increase a
16 tax under subsection (a) without first obtaining the approval of
17 the electorate of the affected school district in a referendum
18 at the primary election immediately preceding the fiscal year of
19 the proposed tax or tax increase.

20 (d) Disapproval.--Whenever the electorate fails to approve
21 the proposed referendum question to implement a tax or increase
22 the rate of a tax under subsection (a), the school district
23 shall be limited to the taxes and rates in effect prior to the
24 referendum.

25 (e) Referendum exception.--

26 (1) No referendum shall be required under subsection (c)
27 if:

28 (i) there is an immediate threat of serious physical
29 harm or injury to the students, staff or residents of the
30 school district; and

(ii) the court of common pleas in the judicial district in which the school district is located approves the referendum exception.

(2) The court shall determine the appropriate duration of the tax 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 imposed under this section.

(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 earned income taxes to the taxing jurisdiction of the school district instituting the action.

Section 10. Municipal and county tax options.

(a) General rule.--A municipality or county may offset revenues lost as a direct result of the phase out of its authority to impose a tax on real property by using the following:

(1) A municipality may increase the rate of its tax on earned income beyond maximum rates provided by law.

(2) A county may impose an earned income tax under the provisions of section 13 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

(b) Ordinance required.--Taxes levied by a municipality or county shall be by ordinance passed under the authority of this act.

(c) Increases subject to referendum.--Except as provided in subsection (e), no municipality or county may levy or increase a tax to raise revenue beyond that required as an offset under subsection (a) without first obtaining the approval of the electorate of the affected municipality or county in a

1 referendum at the primary election immediately preceding the
2 fiscal year of the proposed tax increase.

3 (d) Disapproval.--Whenever the electorate fails to approve
4 the proposed referendum question to increase the tax or rate of
5 a tax under subsection (a), the municipality or county shall be
6 limited to the taxes and rates in effect prior to the
7 referendum.

8 (e) Referendum exception.--

9 (1) No referendum shall be required under subsection (c)
10 if:

11 (i) there is an immediate threat of serious physical
12 harm or injury to the residents of the municipality or
13 county; and

14 (ii) the court of common pleas in the judicial
15 district in which the municipality or county is located
16 approves the referendum exception.

17 (2) The court shall determine the appropriate duration
18 of the tax increase and may retain continuing jurisdiction.
19 The court may, on its own motion or on petition of an
20 interested party, revoke approval for or order rescission of
21 a tax increase imposed under this section.

22 (f) Standing.--A person shall have standing as a party to a
23 proceeding under this section as long as the person resides
24 within or pays earned income taxes to the taxing jurisdiction of
25 the municipality or county instituting the action.

26 Section 11. Effective date.

27 This act shall take effect immediately.