

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 823

Session of
1985

INTRODUCED BY GALLAGHER, WASS, HALUSKA, DOMBROWSKI, F. TAYLOR,
SWEET, STUBAN, KUKOVICH, STABACK, NAHILL, ARTY, POTT,
KOSINSKI, SEMMEL, CIVERA, JOHNSON, AFFLERBACH, SHOWERS, COY,
TIGUE, PRATT, COWELL, WOGAN, COLAFELLA, FREIND, FOX, PETRONE,
PRESSMANN, HERMAN, DALEY, NOYE, FISCHER, HERSHEY, RICHARDSON,
LESCOVITZ, CIMINI AND YANDRISEVITS, APRIL 9, 1985

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 19, 1986

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," FURTHER PROVIDING FOR THE IMPOSITION <—
6 OF TAXES ON EARNED INCOME BY SCHOOL DISTRICTS WHICH ELIMINATE
7 CERTAIN OTHER TAXES; FURTHER PROVIDING FOR THE SALE OF UNUSED
8 AND UNNECESSARY LANDS AND BUILDINGS; increasing reimbursement
9 for school building construction; PROVIDING FOR SPECIAL AID <—
10 TO SCHOOL DISTRICTS SUFFERING LOSS OF TAX REVENUE DUE TO
11 REORGANIZATION OR BANKRUPTCY OF BUSINESSES IN THE DISTRICT;
12 and making editorial changes.

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

15 SECTION 1. THE ACT OF MARCH 10, 1949 (P.L.30, NO.14), KNOWN <—
16 AS THE PUBLIC SCHOOL CODE OF 1949, IS AMENDED BY ADDING A
17 SECTION TO READ:

18 SECTION 680.1. SCHOOL DISTRICT OPTION.--(A) WHENEVER ANY
19 SCHOOL DISTRICT SUBJECT TO THE PROVISIONS OF THE ACT OF DECEMBER
20 31, 1965 (P.L.1257, NO.511), KNOWN AS "THE LOCAL TAX ENABLING

1 ACT," HAS LEVIED ANY OCCUPATION TAX USING A MILLAGE OR
2 PERCENTAGE AS A BASE OR INTENDS TO LEVY SUCH A TAX, SUCH SCHOOL
3 DISTRICT, AFTER THE WILL OF THE ELECTORS OF THE SCHOOL DISTRICT
4 IS DETERMINED IN THE AFFIRMATIVE BY REFERENDUM, SHALL REPEAL ANY
5 SUCH OCCUPATION TAX AND MAY IN LIEU THEREOF LEVY, ASSESS AND
6 COLLECT AN ADDITIONAL TAX ON WAGES, SALARIES, COMMISSIONS AND
7 OTHER EARNED INCOME OF INDIVIDUALS AT A RATE NOT TO EXCEED ONE
8 AND ONE-HALF PER CENTUM. SUCH TAX ON EARNED INCOME SHALL BE IN
9 ADDITION TO ANY OTHER TAX ON EARNED INCOME AUTHORIZED BY ANY
10 OTHER ACT. THE LEVY, ASSESSMENT AND COLLECTION OF SUCH
11 ADDITIONAL TAX ON EARNED INCOME SHALL BE DONE IN ACCORDANCE WITH
12 THE PROVISIONS OF "THE LOCAL TAX ENABLING ACT" WHICH ARE
13 INCORPORATED HEREIN BY REFERENCE. ANY SCHOOL DISTRICT WHICH
14 LEVIES SUCH ADDITIONAL TAX ON EARNED INCOME SHALL PERMANENTLY
15 LOSE THE AUTHORITY TO LEVY AND COLLECT ANY OCCUPATION TAX USING
16 A MILLAGE OR PERCENTAGE AS A BASE. REVENUES DERIVED FROM THE TAX
17 AUTHORIZED BY THIS SECTION SHALL BE FOR THE SOLE USE OF THE
18 SCHOOL DISTRICT.

19 (B) WHENEVER ELECTORS EQUAL TO AT LEAST FIVE PER CENTUM OF
20 THE HIGHEST VOTE CAST FOR ANY SCHOOL DIRECTOR AT THE LAST
21 PRECEDING MUNICIPAL ELECTION IN ANY SCHOOL DISTRICT DESCRIBED IN
22 SUBSECTION (A), OR THE SCHOOL BOARD OF ANY SUCH DISTRICT, FILES
23 A PETITION WITH THE COUNTY BOARD OF ELECTIONS OF THE COUNTY FOR
24 A REFERENDUM ON THE QUESTION OF THE WILL OF THE ELECTORS WITH
25 RESPECT TO THE LEVY, ASSESSMENT AND COLLECTION FOR THE SOLE USE
26 OF THE SCHOOL DISTRICT, OF AN ADDITIONAL TAX UPON EARNED INCOME
27 AT A RATE NOT TO EXCEED ONE AND ONE-HALF PER CENTUM, IN LIEU OF
28 AN OCCUPATION TAX USING A MILLAGE OR PERCENTAGE AS A BASE, BUT
29 NOT OFTENER THAN ONCE EVERY FIVE YEARS, THE COUNTY BOARD OF
30 ELECTIONS SHALL CAUSE THE QUESTION TO BE PLACED ON THE BALLOT

1 AND SUBMITTED AT THE NEXT MUNICIPAL PRIMARY ELECTION MORE THAN
2 SIXTY (60) DAYS AFTER THE PETITION IS FILED. THESE PROCEEDINGS
3 SHALL BE IN THE SAME MANNER AND SUBJECT TO THE PROVISIONS OF THE
4 ELECTION LAWS INsofar AS SUCH PROVISIONS ARE APPLICABLE.

5 (C) THE QUESTION SHALL BE IN THE FOLLOWING FORM:

6 DO YOU FAVOR THE IMPOSITION OF AN ADDITIONAL SCHOOL TAX
7 UPON EARNED INCOME, NOT TO EXCEED ONE AND ONE-HALF PER
8 CENTUM, IN LIEU OF AN OCCUPATION TAX USING A MILLAGE OR
9 PERCENTAGE AS A BASE?

10 (D) IF A MAJORITY OF THE VOTING ELECTORS VOTE "YES," THEN
11 THE SCHOOL DISTRICT MAY LEVY THE TAX AUTHORIZED BY SUBSECTION
12 (A).

13 (E) THE AGGREGATE AMOUNT OF ALL TAXES IMPOSED BY A SCHOOL
14 DISTRICT THAT LEVIES THE TAX AUTHORIZED BY THIS SECTION SHALL
15 NOT IN THE FIRST YEAR THE TAX IS LEVIED EXCEED ONE HUNDRED FIVE
16 PER CENTUM OF THE TOTAL TAXES LEVIED IN THE PREVIOUS YEAR.

17 SECTION 2. SECTION 707(8) OF THE ACT, AMENDED JULY 31, 1968
18 (P.L.796, NO.242), IS AMENDED TO READ:

19 SECTION 707. SALE OF UNUSED AND UNNECESSARY LANDS AND
20 BUILDINGS.--THE BOARD OF SCHOOL DIRECTORS OF ANY DISTRICT IS
21 HEREBY VESTED WITH THE NECESSARY POWER AND AUTHORITY TO SELL
22 UNUSED AND UNNECESSARY LANDS AND BUILDINGS, BY ANY OF THE
23 FOLLOWING METHODS AND SUBJECT TO THE FOLLOWING PROVISIONS:

24 * * *

25 (8) NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS
26 SECTION, ANY SCHOOL DISTRICT OF THE SECOND, THIRD OR FOURTH
27 CLASS, UPON APPROVAL OF TWO-THIRDS (2/3) OF THE MEMBERS OF THE
28 BOARD OF SCHOOL DIRECTORS OF SUCH DISTRICT, MAY CONVEY ANY
29 UNUSED AND UNNECESSARY LANDS AND BUILDINGS OF THE DISTRICT TO
30 THE CITY, BOROUGH, TOWN OR TOWNSHIP, THE BOUNDARIES OF WHICH ARE

COTERMINOUS WITH OR WITHIN THOSE OF THE DISTRICT OR A VOLUNTEER
FIRE COMPANY, VOLUNTEER AMBULANCE SERVICE OR VOLUNTEER RESCUE
SQUAD LOCATED WITHIN THE DISTRICT, WITHOUT CONSIDERATION, OR FOR
SUCH CONSIDERATION AND ON SUCH TERMS OF EXCHANGE OR OTHERWISE AS
MAY BE AGREED UPON, WITHOUT FIRST COMPLYING WITH THE
REQUIREMENTS OF THE FOREGOING PROVISIONS OF THIS SECTION.

ALL SUCH CONVEYANCES TO A CITY, BOROUGH, TOWN OR TOWNSHIP
SHALL CONTAIN A CLAUSE WHEREBY THE LANDS AND BUILDINGS WILL
REVERT TO THE SCHOOL DISTRICT IF THEY ARE NO LONGER BEING USED
FOR MUNICIPAL OR AUTHORITY PURPOSES. ALL SUCH CONVEYANCES TO A
VOLUNTEER FIRE COMPANY, VOLUNTEER AMBULANCE SERVICE OR VOLUNTEER
RESCUE SQUAD SHALL CONTAIN A CLAUSE WHEREBY THE LANDS AND
BUILDINGS WILL REVERT TO THE SCHOOL DISTRICT IF THEY ARE NO
LONGER BEING USED FOR FIRE, AMBULANCE OR RESCUE SERVICES.

* * *

SECTION 3. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

SECTION 2502.16. SPECIAL AID TO SCHOOL DISTRICTS SUFFERING
LOSS OF TAX REVENUE DUE TO REORGANIZATION OR BANKRUPTCY OF
BUSINESSES IN DISTRICT.--(A) FOR THE SCHOOL YEAR 1985-1986 AND
EACH SCHOOL YEAR THEREAFTER, A SCHOOL DISTRICT EXPERIENCING A
TEN PERCENT (10%) LOSS IN REVENUE FROM REAL ESTATE TAXES FOR THE
SUPPORT OF THE PUBLIC SCHOOLS IN ANY ONE (1) YEAR OR REASONABLY
PROJECTING A LOSS OF SUCH PERCENT OF REVENUE FOLLOWING THE
NONPAYMENT OF SUCH TAXES WHEN DUE, BY REASON OF THE COMMENCEMENT
OF REORGANIZATION OR OTHER BANKRUPTCY PROCEEDINGS BY ONE OR MORE
BUSINESSES OWNING REAL ESTATE WITHIN THE BOUNDARIES OF THE
PUBLIC SCHOOL DISTRICT, SHALL QUALIFY FOR SPECIAL AID UNDER THIS
SECTION.

(B) SUCH SPECIAL AID SHALL BE PAID FROM UNDISTRIBUTED BASIC
INSTRUCTION SUBSIDY FUNDS TO THE EXTENT THAT SUCH FUNDS ARE

1 AVAILABLE, AND OTHERWISE, SHALL BE PAID FROM ANY LAPSED FUNDS
2 WHICH ARE THEN PAYABLE OR SUBSEQUENTLY DO BECOME PAYABLE INTO
3 THE GENERAL FUND BY ANY DEPARTMENT OR AGENCY FROM APPROPRIATIONS
4 ALLOTTED TO SUCH DEPARTMENT FOR THE SAME OR PRIOR FISCAL YEARS.
5 A SUFFICIENT AMOUNT OF SUCH LAPSED FUNDS SHALL BE MADE PAYABLE
6 FROM THE GENERAL FUND TO THE DEPARTMENT OF EDUCATION TO
7 FACILITATE THE PROMPT AND ORDERLY PAYMENT OF ALL SPECIAL AID TO
8 WHICH ANY AND ALL SCHOOL DISTRICTS MAY BE ENTITLED UNDER THIS
9 SECTION.

10 (C) SUCH SPECIAL AID SHALL BE PAYABLE UNTIL SUCH TIME AS THE
11 BUSINESS REORGANIZATION OR OTHER BANKRUPTCY PROCEEDINGS ARE
12 COMPLETED: PROVIDED, HOWEVER, THAT A SCHOOL DISTRICT WHICH
13 QUALIFIED FOR SUCH SPECIAL AID PRIOR TO THE EFFECTIVE DATE OF
14 THIS SECTION SHALL RECEIVE ITS FIRST PAYMENT IN THE YEAR THIS
15 SECTION TAKES EFFECT.

16 (D) ANY SUBSEQUENT PAYMENTS MADE ON ACCOUNT OF SUCH CEASED
17 OR SUSPENDED REAL ESTATE TAXES BY SUCH BUSINESS OR BUSINESSES OR
18 BANKRUPTCY OFFICIALS, EITHER DURING THE COURSE OF SUCH
19 BANKRUPTCY PROCEEDINGS OR FOLLOWING THEIR COMPLETION, SHALL BE
20 REIMBURSED TO THE DEPARTMENT OF EDUCATION BY THE SCHOOL DISTRICT
21 TO THE EXTENT THAT SUCH PREVIOUSLY UNPAID TAXES HAVE BEEN
22 SUPPLANTED BY SPECIAL AID ALREADY PROVIDED UNDER THIS SECTION.
23 ANY INTEREST OR PENALTIES ACCOMPANYING SUCH BELATEDLY PAID TAXES
24 SHALL BE RETAINED BY THE SCHOOL DISTRICT TO THE EXTENT THAT THE
25 SPECIAL AID PREVIOUSLY PAID TO THE SCHOOL DISTRICT DID NOT
26 INCLUDE SUCH INTEREST AND PENALTIES.

27 (E) THE SPECIAL AID OWING HEREUNDER SHALL BE DUE WHENEVER
28 THE REAL ESTATE TAXES OF SUCH BUSINESS OR BUSINESSES IN
29 BANKRUPTCY ARE UNPAID AS OF THEIR DUE DATE AND THE BUSINESS OR
30 BUSINESSES IN QUESTION WILL NOT CERTIFY, IN WRITING, THAT SUCH

1 UNPAID TAXES WILL DEFINITELY BE PAID WITHIN SIXTY (60) DAYS
2 AFTER THEIR DUE DATE, AND THERE IS IN FACT UNCERTAINTY AS TO THE
3 PAYMENT OF SUCH TAXES, WHETHER SUCH UNCERTAINTY IS DUE TO
4 BANKRUPTCY PROCEEDING RESTRICTIONS, LACK OF FUNDS OR OTHER
5 REASONS.

6 Section ± 4. Section 2574~~(b), (c) and~~ (e) of the act, of <—
7 ~~March 10, 1949 (P.L.30, No.14), known as the Public School Code~~
8 ~~of 1949,~~ amended June 12, 1968 (P.L.192, No.96), are IS amended <—
9 and the section is SUBSECTIONS (B) AND (C) ARE amended by adding <—
10 clauses to read:

11 Section 2574. Approved Reimbursable Rental for Leases
12 Hereafter Approved and Approved Reimbursable Sinking Fund
13 Charges on Indebtedness.--* * *

14 (b) For new school buildings the approved building
15 construction cost shall be the lesser of

16 * * *

17 (3.1) For school buildings for which the general
18 construction contract is awarded subsequent to July 1, 1984, and
19 for approved school building projects for which the general
20 construction contract was awarded but for which a lease OR <—
21 GENERAL OBLIGATION BOND RESOLUTION was not approved by the
22 Department of Education prior to July 1, 1984, the product of
23 the rated pupil capacity as determined by the Department of
24 Education at the time the project is approved and (i) five <—
25 thousand five hundred dollars (\$5,500) THREE THOUSAND NINE <—
26 HUNDRED DOLLARS (\$3,900) in the case of elementary schools, (ii)
27 seven thousand two hundred dollars (\$7,200) FIVE THOUSAND ONE <—
28 HUNDRED DOLLARS (\$5,100) in the case of secondary schools, (iii)
29 an amount in the case of combined elementary-secondary schools
30 obtained by multiplying the rated elementary pupil capacity by

1 ~~five thousand five hundred dollars (\$5,500)~~ THREE THOUSAND NINE <—
2 HUNDRED DOLLARS (\$3,900) and the rated secondary pupil capacity
3 ~~by seven thousand two hundred dollars (\$7,200)~~ FIVE THOUSAND ONE <—
4 HUNDRED DOLLARS (\$5,100) and dividing the sum by the total rated
5 pupil capacity.

6 (c) For additions or alterations to existing buildings
7 approved building construction cost shall be the lesser of

8 * * *

9 (3.1) For school buildings for which the general
10 construction contract is awarded subsequent to July 1, 1984, and
11 for approved school building projects for which the general
12 construction contract was awarded but for which a lease OR <—
13 GENERAL OBLIGATION BOND RESOLUTION was not approved by the
14 Department of Education prior to July 1, 1984, the difference
15 obtained by subtracting the appraisal value of the existing
16 building from the product of the rated pupil capacity of the
17 altered or expanded building as determined by the Department of
18 Education at the time the project is approved and (i) ~~five~~ <—
19 ~~thousand five hundred dollars (\$5,500)~~ THREE THOUSAND NINE <—
20 HUNDRED DOLLARS (\$3,900) in the case of elementary schools, (ii)
21 ~~seven thousand two hundred dollars (\$7,200)~~ FIVE THOUSAND ONE <—
22 HUNDRED DOLLARS (\$5,100) in the case of secondary schools, (iii)
23 an amount in the case of combined elementary-secondary schools
24 obtained by multiplying the rated elementary pupil capacity by
25 ~~five thousand five hundred dollars (\$5,500)~~ THREE THOUSAND NINE <—
26 HUNDRED DOLLARS (\$3,900) and the rated secondary pupil capacity
27 ~~by seven thousand two hundred dollars (\$7,200)~~ FIVE THOUSAND ONE <—
28 HUNDRED DOLLARS (\$5,100) and dividing the sum by the total rated
29 pupil capacity of the altered or expanded building.

30 * * *

1 (e) For area vocational-technical school and technical
2 institute projects leased subsequent to July 1, 1964, by or for
3 lease to a board of school directors authorized to operate such
4 a school, the Department of [Public Instruction] Education shall
5 calculate an approved reimbursable rental charge.

6 For area vocational-technical school and technical institute
7 projects constructed or purchased subsequent to July 1, 1964, by
8 a board of school directors authorized to operate such a school,
9 the Department of [Public Instruction] Education may calculate
10 an approved reimbursable sinking fund charge.

11 Approved reimbursable rental or sinking fund charge shall
12 consist of that part of the annual rental or sinking fund
13 attributable to:

14 (1) Cost of acquiring land and preparing it for use to the
15 extent that such costs are deemed reasonable by the Department
16 of [Public Instruction] Education and the interest on such cost
17 of acquisition, cost of preparation and the cost of sewage
18 treatment and the interest on such costs.

19 (2) Machinery, apparatus, furniture and equipment and all
20 other necessary expenses and interest charges, but excluding
21 architects' fees in excess of six percent of the construction
22 cost.

23 The approved building construction cost and the interest on
24 such construction cost shall not exceed the product of the rated
25 full-time pupil capacity, as determined by the Department of
26 [Public Instruction] Education at the time the project is
27 approved and two thousand two hundred dollars (\$2,200).

28 The provisions of the foregoing paragraph shall apply to all
29 school building projects for which the general construction
30 contract is awarded prior to July 1, 1966, and for approved

1 school building projects for which a lease was approved by the
2 Department of [Public Instruction] Education prior to July 1,
3 1966. For school buildings for which the general construction
4 contract is awarded subsequent to July 1, 1966, and for approved
5 school building projects for which the general construction
6 contract was awarded but for which a lease was not approved by
7 the Department of [Public Instruction] Education prior to July
8 1, 1966, the approved building construction cost and the
9 interest on such construction cost shall not exceed the product
10 of the rated full-time pupil capacity, as determined by the
11 Department of [Public Instruction] Education at the time the
12 project is approved, and three thousand seven hundred dollars
13 (\$3700).

14 For school buildings for which the general construction
15 contract is awarded subsequent to July 1, 1984, and for approved
16 school building projects for which the general construction
17 contract was awarded but for which a lease OR GENERAL OBLIGATION <—
18 BOND RESOLUTION was not approved by the Department of Education
19 prior to July 1, 1984, the approved building construction cost
20 and the interest on such construction cost shall not exceed the
21 product of the rated full-time pupil capacity, as determined by
22 the Department of Education at the time the project is approved,
23 and eight thousand nine hundred dollars (\$8,900) SIX THOUSAND <—
24 THREE HUNDRED DOLLARS (\$6,300).

25 The Department of [Public Instruction] Education shall not
26 approve the expenditure of any funds borrowed or obtained by the
27 sale of bonds by any authority, nonprofit corporation, profit
28 corporation, company or individual for construction of area
29 vocational-technical schools or technical institutes for
30 bleachers, athletic field, lighting equipment or apparatus used

1 to promote and conduct interscholastic athletics.

2 * * *

3 ~~Section 2. This act shall take effect immediately.~~ <—

4 SECTION 5. (A) SECTION 4 OF THIS ACT SHALL TAKE EFFECT JULY <—

5 1, 1987.

6 (B) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IMMEDIATELY.