

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 625

Session of
1987

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STEIGHNER, RUDY AND BROUJOS, MARCH 4, 1987

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 4, 1987

AN ACT

1 Authorizing certain taxing districts to adopt optional tax
2 plans; and providing for the establishment, approval,
3 implementation and operation of approved optional tax plans.

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

14 CHAPTER 1

15 GENERAL PROVISIONS

16 Section 101. Short title.

17 This act shall be known and may be cited as the Optional Tax
18 Act for Local Taxing Districts.

19 Section 102. Legislative findings.

20 (a) Results of study.--The General Assembly declares that
21 its exhaustive study of local taxation results in a finding that
22 concludes there is not one simplistic schedule of impositions
23 that will best serve all the school districts and local
24 governments of this Commonwealth.

25 (b) Property tax reliance.--The General Assembly does find
26 that there is generally too great a reliance on some impositions
27 such as the property tax. The General Assembly also finds that
28 school districts and local governments possess firsthand
29 knowledge of the ability of their taxpayers to sustain
30 governmental responsibilities and services. The General Assembly

1 recognizes that these entities and their citizenry need
2 flexibility to develop tax reform which will best serve their
3 individual circumstances.

4 (c) Equitable system of taxation.--The General Assembly
5 declares that tax reform should not be a process limited to the
6 increase of impositions; but, rather, tax reform at the school
7 district and local government level should be a process that
8 results in a more equitable system of taxation.

9 (d) Intent.--It is the intent of the General Assembly to
10 grant to school districts and municipalities and their
11 respective residents the power to alter existing tax structures
12 in the manner of and consistent with the provisions of this act.
13 It is also the intent of the General Assembly to provide an
14 opportunity for optional tax plans to be studied and voted upon
15 by the registered electors of a local taxing district in
16 conformance with the Constitution of Pennsylvania as herein
17 stated.

18 Section 103. Definitions.

19 The following words and phrases when used in this act shall
20 have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Commission" or "tax study commission." The body composed of
23 electors of the taxing district elected under the provisions of
24 this act.

25 "Election officials." The county boards of elections.

26 "Electors." The registered voters of any taxing district
27 involved in proceedings relating to the adoption and repeal of
28 an optional tax plan.

29 "Governing body." The county commissioners, city councils,
30 borough or incorporated town councils, commissioners of

1 townships of the first class, supervisors of townships of the
2 second class, and the board of school directors of any school
3 district or their successor forms of government.

4 "Initiative." The filing with the applicable election
5 officials at least 90 days prior to the next primary or general
6 election of a petition containing a proposal for referendum
7 signed by electors comprising 5% of the number of electors
8 voting for the office of Governor in the last gubernatorial
9 general election in each taxing district affected. Initiative on
10 a similar question shall not be submitted more often than once
11 in two years.

12 "Municipality." A county, city, borough, incorporated town,
13 township or home rule municipality. The term shall not include
14 any county of the first class, any city of the first class or
15 any school district of the first class.

16 "Nonresident." Any person or entity not a resident within
17 the meaning of this act.

18 "Optional tax plan." A written document defining the powers,
19 rights, duties and limitations of the taxing district,
20 specifying the permissible subjects of taxation and the
21 suggested minimum and/or maximum rates of taxation for the
22 imposition of various tax levies on any or all permissible
23 subjects of taxation. The term shall not include any county of
24 the first class, any city of the first class or any school
25 district of the first class.

26 "Referendum." A question placed on the ballot, by initiative
27 or otherwise, for approval or disapproval by the electors.

28 "Resident." Any person, or any corporation, partnership,
29 association, joint-stock association or other entity:

30 (1) living in or maintaining a permanent or fixed place

1 of abode in a taxing district; or

2 (2) conducting or engaging in a business for profit
3 within a taxing district.

4 "Subject of taxation." Any person, business, corporation,
5 partnership, entity, real property, tangible or intangible
6 personal property, property interest, transaction, occurrence,
7 privilege, transfer, occupation or any other levy which is
8 determined to be taxable by the General Assembly. The term shall
9 not be construed to mean the tax levy which may be imposed on a
10 permissible subject of taxation.

11 "Tax levy." The amount of tax fixed by a taxing district on
12 a permissible subject of taxation.

13 "Taxing district." A municipality or school district.

14 Section 104. Applicability.

15 The provisions of this act shall apply to all municipalities
16 and school districts other than counties of the first class,
17 cities of the first class and school districts of the first
18 class.

19 CHAPTER 3

20 OPTIONAL TAX PLAN

21 Section 301. Legislative authorization.

22 The General Assembly authorizes any taxing district to
23 provide for the establishment, approval, implementation and
24 operation of an optional tax plan. Any taxing district which
25 adopts the optional tax plan may impose tax levies consistent
26 with the types of local taxes which are permitted by enactments
27 of the General Assembly at such levels and in such combination
28 on permissible subjects of taxation as do not exceed the
29 limitations in the approved optional tax plan.

30 Section 302. Legislative intent and purpose.

1 (a) Conferral of limited powers.--The grant of power
2 contained in this act is intended to confer the limited power of
3 self-government in the areas of tax levies on permissible
4 subjects of taxation consistent with the Constitution of
5 Pennsylvania, the provisions and limitations prescribed by this
6 act and any adopted optional tax plan. Any specific enumeration
7 of powers contained in this act or in any other laws shall not
8 be construed in any way to limit the description of power
9 contained in this act. Any specifically enumerated powers shall
10 be construed as in addition and supplementary to the powers
11 conferred in this act.

12 (b) Liberal construction.--All grants of power to taxing
13 districts governed by an optional tax plan under this act,
14 whether in the form of specific enumeration or general terms,
15 shall be liberally construed in favor of the taxing district
16 insofar as such actions are consistent with the types of local
17 taxes permitted by enactments of the General Assembly.

18 Section 303. Alternate tax levies.

19 A taxing district which has adopted an optional tax plan may
20 exercise any power relating to the establishment of tax levies
21 on permissible subjects of taxation and perform any function not
22 denied by the Constitution of Pennsylvania, by the General
23 Assembly or by the adopted optional tax plan at any time insofar
24 as such actions are consistent with the types of local taxes
25 permitted by enactments of the General Assembly. It is the
26 intent of the General Assembly that this section apply only to
27 taxing powers and matters related to taxation.

28 Section 304. Limitations.

29 (a) General restrictions.--With respect to the following
30 subjects, the optional tax plan adopted in accordance with the

1 provisions of this act shall not give any power or authority to
2 the taxing district contrary to, or in limitation or enlargement
3 of, powers granted by statutes which are applicable to a class
4 or classes of municipalities or school districts:

5 (1) The filing and collection of tax claims or liens and
6 the sale of real or personal property in satisfaction
7 thereof.

8 (2) The fixing of subjects of taxation.

9 (3) The fixing of the amounts of nonproperty or personal
10 taxes levied upon nonresidents.

11 (4) The assessment of real or personal property and
12 persons for taxation purposes.

13 (b) Taxation power.--Consistent with the Constitution of
14 Pennsylvania, the provisions of any other statute, the
15 provisions of this act or the approved optional tax plan, a
16 taxing district which has adopted an optional tax plan shall
17 have the power and authority to enact and enforce local tax
18 ordinances or resolutions upon any subject of taxation granted
19 by the General Assembly to the class of taxing district of which
20 it would be a member but for the adoption of an optional tax
21 plan. The tax levies shall be determined by the governing body
22 of the taxing district as long as those tax levies do not exceed
23 the limitations of the adopted optional tax plan and insofar as
24 the types of local taxes are consistent with and permitted by
25 enactments of the General Assembly.

26 (c) Nonresidents.--No taxing district shall establish or
27 levy a tax upon nonresidents which is greater than the amount of
28 tax which such taxing district would have been authorized to
29 levy on nonresidents but for the adoption of an optional tax
30 plan.

1 (d) Contrary duties.--No taxing district which adopts an
2 optional tax plan shall, at any time thereunder, determine
3 duties, responsibilities or requirements placed upon businesses,
4 occupations and employers, including the duty to withhold, remit
5 or report taxes or penalties levied or imposed upon them or upon
6 persons in their employment, except as expressly provided by
7 statutes which are applicable in every part of this Commonwealth
8 or which are applicable to all municipalities or to a class or
9 classes of municipalities. This subsection shall not be
10 construed as a limitation on the fixing of tax levies on
11 permissible subjects of taxation by a taxing district.

12 (e) Power unaffected.--Nothing contained in this act shall
13 limit or take away any right of a taxing district which adopts
14 an optional tax plan from levying any tax which it had the power
15 to levy consistent with the approved optional tax plan.

16 (f) Levies not restricted.--No provision of this or any
17 other statute shall limit a taxing district which adopts an
18 optional tax plan from establishing its own tax levies, subject
19 to the limitations of the plan, upon all authorized subjects of
20 taxation except those specified in subsection (a)(3), provided
21 that such levies are consistent with the types of local taxes
22 which are permitted by enactments of the General Assembly.

23 CHAPTER 5

24 TAX STUDY COMMISSION

25 Section 501. Establishment of commission.

26 (a) Submission of question.--Whenever authorized by
27 ordinance or resolution of the governing body of a taxing
28 district, or upon petition of the registered voters of any
29 taxing district to the county board of elections of the county
30 wherein the taxing district is located, an election shall be

1 held in the taxing district upon the following question:

2 Shall a tax study commission of (7, 9 or 11) members be
3 elected to study the existing policies of taxation of the
4 taxing district; to consider the advisability of the
5 adoption of an optional tax plan; to recommend the
6 adoption of an optional tax plan; or to draft and
7 recommend an optional tax plan?

8 (b) Filing of ordinance or resolution.--Within five days
9 after the final enactment of an ordinance or resolution
10 authorizing such election, the municipal clerk or secretary of
11 the taxing district shall file a certified copy of the ordinance
12 or resolution with the county board of elections, together with
13 a copy of the question to be submitted to the electors. At the
14 next municipal or general or primary election occurring not less
15 than the 13th Tuesday after the filing of the ordinance or
16 resolution or the petition with the county board of elections,
17 it shall cause the appropriate question to be submitted to the
18 electors of the taxing district as other questions are submitted
19 under the provisions of the act of June 3, 1937 (P.L.1333,
20 No.320), known as the Pennsylvania Election Code.

21 (c) Form of petition.--The petition calling for such
22 election shall be in the form required by subsection (d) and
23 shall be signed by electors of the taxing district comprising 5%
24 of the number of electors voting for the office of Governor in
25 the last gubernatorial general election within the taxing
26 district.

27 (d) Filing of petition.--A referendum petition under this
28 section shall be filed not later than the 13th Tuesday prior to
29 the election, and the petition and the proceedings therein shall
30 be in the manner and subject to the provisions of the

1 Pennsylvania Election Code which relate to the signing, filing
2 and adjudication of nomination petitions insofar as such
3 provisions are applicable. No referendum petition shall be
4 signed or circulated prior to the 20th Tuesday before the
5 election nor later than the 13th Tuesday before the election. No
6 candidate's nomination petition shall be signed or circulated
7 prior to the 13th Tuesday before the election nor later than the
8 10th Tuesday before the election and shall be filed on or before
9 the 10th Tuesday before the election.

10 Section 502. Election of commission.

11 A tax study commission of 7, 9 or 11 members, as designated
12 in the question, shall be elected by the qualified voters at the
13 same election the question is submitted to the electors. Each
14 candidate for the office of tax study commissioner shall be
15 nominated and placed upon the ballot containing the question in
16 the manner provided by and subject to the provisions of the act
17 of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania
18 Election Code, which relate to the nomination of a candidate
19 nominated by nomination papers filed for other offices elective
20 by the voters of a taxing district. Each candidate shall be
21 nominated and listed without any political designation or
22 slogan. No nomination paper shall be signed or circulated prior
23 to the 13th Tuesday before the election nor later than the 10th
24 Tuesday before the election. No signature shall be counted
25 unless it bears a date within this period. Each voter shall be
26 instructed to vote on the question and, regardless of the manner
27 of his vote on the question, to vote for the designated number
28 of members of a tax study commission who shall serve if the
29 question is or has been determined in the affirmative. If an
30 insufficient number of nominating papers is filed to fill all of

1 the designated positions on the tax study commission, the
2 question of establishing a commission shall be placed on the
3 ballot; however, unless a sufficient number of tax study
4 commission members are elected by receiving at least as many
5 votes as signatures are required to file a nominating petition,
6 then the question of creating a tax study commission shall be
7 deemed to have been rejected.

8 Section 503. Nomination qualifications.

9 (a) Registered voters.--Candidates for the tax study
10 commission shall be registered voters of the taxing district.
11 Each candidate shall be nominated by nomination papers signed by
12 a number of qualified electors of the taxing district equal to
13 at least 2% of the number of electors voting for the office of
14 Governor in the last gubernatorial general election within the
15 taxing district or 200 registered voters, whichever is less, and
16 filed with the county board of elections not later than the 10th
17 Tuesday prior to the date of the election.

18 (b) Nomination papers.--Each nominating paper shall set
19 forth the name, place of residence and post office address of
20 the candidate thereby nominated, that the nomination is for the
21 office of tax study commissioner, and that the signers are
22 legally qualified to vote for such candidate. Each elector may
23 sign nomination papers for only as many candidates for tax study
24 commissioner as he could vote for at the election. Every voter
25 signing a nominating paper shall add to his signature his place
26 of residence, post office address and street number, if any.

27 (c) Notice of acceptance.--Each nominating paper shall,
28 before it may be filed with the county board of elections,
29 contain, under oath or affirmation of the candidate, an
30 acceptance of such nomination, in writing, signed by the

1 candidate therein nominated, upon or annexed to such paper, or
2 if the same person be named in more than one paper, upon or
3 annexed to one of such papers. Such acceptance shall certify
4 that the candidate is a registered voter of the taxing district,
5 that the nominee consents to stand as a candidate at the
6 election, and that, if elected, he agrees to take office and
7 serve.

8 (d) Verification.--Each nominating paper shall be verified
9 by an oath or affirmation of one or more of the signers thereof,
10 taken and subscribed before a person qualified under the laws of
11 this Commonwealth to administer an oath, to the effect that the
12 paper was signed by each of the signers thereof in his proper
13 handwriting, that the signers are, to the best knowledge and
14 belief of the affiant, registered voters of the taxing district,
15 and that the nomination paper is prepared and filed in good
16 faith for the sole purpose of endorsing the person named therein
17 for election, as stated in the paper.

18 Section 504. Election results.

19 (a) Returns.--The result of the votes cast for and against
20 the question as to the election of a tax study commission shall
21 be returned by the election officers, and a canvass of such
22 election had, as is provided by law in the case of other public
23 questions put to the voters of a municipality.

24 (b) Tabulation.--The votes cast for members of the
25 commission shall be counted, and the result thereof returned by
26 the election officers, and a canvass of such election had, as is
27 provided by law in the case of election of members of municipal
28 council or board. The designated number of candidates receiving
29 the greatest number of votes shall be elected and shall
30 constitute the commission.

1 (c) Defeat of question.--If a majority of those voting on
2 the question vote against the election of a commission, none of
3 the candidates shall be elected.

4 (d) Tie votes for members.--If two or more candidates for
5 the last seat are equal in number of votes, they shall draw lots
6 to determine which one shall be elected.

7 Section 505. Commission oath.

8 As soon as possible, and no later than ten days after its
9 certification of election, the elected members of a tax study
10 commission shall, before a judge of a court of common pleas,
11 make oath or affirmation to support the Constitution of the
12 United States and the Constitution of Pennsylvania, and to
13 perform the duties of the office with fidelity.

14 Section 506. Organization.

15 As soon as possible and no later than 15 days after its
16 certification of election, the tax study commission shall
17 organize and hold its first meeting, elect one of its members as
18 chairman and another member as vice chairman, fix its hours and
19 place of meeting, and adopt such rules for the conduct of its
20 business as it may deem necessary and advisable. A majority of
21 the members of the commission shall constitute a quorum for the
22 transaction of business, but no recommendation of the commission
23 shall have any legal effect unless adopted by a majority of the
24 whole number of the members of the commission.

25 Section 507. Vacancies.

26 In case of any vacancy in the tax study commission, the
27 remaining members of the commission shall fill the vacancy by
28 appointing some other properly qualified elector.

29 Section 508. Powers and duties.

30 It shall be the function and duty of the tax study commission

1 to study the policies of taxation of the taxing district,
2 compare it with other policies of taxation under the laws of
3 this Commonwealth and determine whether or not, in its judgment,
4 the tax policies of the taxing district could be strengthened or
5 made more equitable to the people, or whether its operation
6 could become more economical or efficient under a changed form
7 of taxation. The commission's review shall include, but not be
8 limited to, consideration of all of the following:

9 (1) Historic rate and revenue trends by type tax and
10 subject of taxation.

11 (2) Percentage of total revenues provided by type tax
12 and subject of taxation.

13 (3) Age, income and employment characteristics of
14 existing tax base.

15 (4) Projected revenues by type tax and subject of
16 taxation.

17 (5) The combined effect of the proposed optional tax
18 plan as it relates to taxes levied by other taxing districts
19 to which the taxpayers would be subject.

20 The tax study commission shall be limited in its consideration
21 to the types of taxes to be allowed within its taxing district
22 consistent with the Constitution of Pennsylvania and permitted
23 by enactments of the General Assembly and to the maximum and
24 minimum limits of each type of tax. Rates of taxation shall be
25 set by the governing body of the taxing district within the
26 confines of the approved optional tax plan so as to provide
27 fiscal flexibility and the opportunity for equitable taxation
28 each fiscal year.

29 Section 509. Expenses.

30 (a) Compensation.--Members of the tax study commission shall

1 serve without compensation, but may be reimbursed by the taxing
2 district for the necessary expenses incurred in the performance
3 of their duties. The governing body of the taxing district may
4 appropriate moneys necessary for such purpose.

5 (b) Other expenses.--Within the limits of such
6 appropriations and other public and privately contributed funds
7 and services as shall be made available to it, the commission
8 may appoint one or more consultants and clerical and other
9 assistants to serve at the pleasure of the commission and may
10 fix a reasonable compensation to be paid such consultants,
11 clerical and other assistants.

12 Section 510. Meetings.

13 The tax study commission shall hold one or more public
14 hearings, may sponsor public forums and generally shall provide
15 for the widest possible public information and discussion
16 respecting the purposes and progress of its work.

17 Section 511. Report and findings.

18 (a) Deadline.--The tax study commission shall report its
19 findings and recommendations to the citizens of the taxing
20 district within nine calendar months from the date of its
21 election. It shall publish or cause to be published sufficient
22 copies of its final report for public study and information, and
23 shall deliver to the municipal clerk or secretary of the taxing
24 district sufficient copies of the report to supply it to any
25 interested citizen upon request. If the commission recommends
26 the adoption of an optional tax plan as authorized in this act,
27 the report shall contain the complete plan as recommended.

28 (b) Itemization of expenses.--There shall be attached to
29 each copy of the report of the commission a statement sworn to
30 by the members of the commission listing in detail the funds,

1 goods, materials and services, both public and private, used by
2 the commission in the performance of its work and the
3 preparation and filing of the report. In addition, the list
4 shall identify specifically the supplier of each item thereon.

5 (c) Filing with Commonwealth.--A copy of the final report of
6 the commission, with its findings and recommendations, shall be
7 filed with the Department of Community Affairs.

8 (d) Materials.--All the records, reports, tapes, minutes of
9 meetings and written discussions of the tax study commission
10 shall, upon its discharge, be turned over to the municipal clerk
11 or secretary of the taxing district for permanent safekeeping
12 and made available for public inspection at any time during
13 regular business hours.

14 Section 512. Discharge.

15 (a) General rule.--The tax study commission shall be
16 discharged upon the filing of its report. If the commission's
17 recommendations require further procedure in the form of a
18 referendum on the part of the people of the taxing district, the
19 commission shall not be discharged until such procedure has been
20 finally concluded. At any time prior to 60 days before the date
21 of such referendum, the commission may modify or change any
22 recommendation set forth in the final report by publishing an
23 amended report.

24 (b) Effect of amendment.--Whenever a commission issues an
25 amended report under subsection (a), such amended report shall
26 supersede the final report and such final report shall cease to
27 have any legal effect under this act.

28 (c) Procedures.--The procedure to be taken under the amended
29 report shall be governed by all provisions of this chapter
30 applicable to the final report of a commission submitted

1 pursuant to section 511.

2 Section 513. Recommendations.

3 The tax study commission shall be limited in its
4 consideration to the types of taxes to be allowed within its
5 taxing district consistent with the Constitution of Pennsylvania
6 and permitted by enactments of the General Assembly and to the
7 maximum and minimum limits of each type of tax. Rates of
8 taxation shall be set by the governing body of the taxing
9 district within the confines of the approved optional tax plan
10 so as to provide fiscal flexibility and the opportunity for
11 equitable taxation each fiscal year. The tax study commission
12 shall report and recommend, in accordance with the question
13 presented to the electorate as provided in section 501:

14 (1) that a referendum shall be held to submit to the
15 qualified voters of the taxing district the question of
16 adopting an optional tax plan as prepared by the commission
17 and as authorized by this act;

18 (2) that the form of taxation of the taxing district
19 shall remain unchanged; or

20 (3) such other action as it may deem advisable
21 consistent with its functions as set forth in this act.

22 Section 514. Format of question.

23 The question to be submitted to the voters for the adoption
24 of an optional tax plan authorized by this act shall be
25 submitted in the following form or such part thereof as shall be
26 applicable:

27 Shall the Optional Tax Plan in the
28 report, dated _____
29 of the Tax Study Commission, prepared in
30 accordance with this act, be adopted by the

1 _____?

2 (insert type and name of taxing district)

3 or

4 Shall the (Optional Tax Plan) of the

5 _____

6 (insert type and name of taxing district)

7 be repealed, and the form of taxation

8 recommended in the report of the Tax

9 Study Commission, dated _____,

10 be adopted as authorized by this act?

11 or

12 Shall an Optional Tax Plan for the

13 _____

14 (insert type and name of taxing district)

15 be amended as specified in the report of

16 the Tax Study Commission filed with the

17 election officials of the County of

18 _____, on _____

19 (insert name of county) (insert date)

20 as authorized by this act?

21 Section 515. Transmission of report.

22 If the tax study commission recommends that the question of
23 adopting an optional tax plan authorized by this act be
24 submitted to the voters of the taxing district, it shall be the
25 duty of the municipal clerk or secretary of the taxing district,
26 within five days thereafter, to certify a copy of the
27 commission's report to the county board of elections, which
28 shall cause the question of adoption or rejection to be placed
29 upon the ballot or voting machines at such time as the
30 commission shall, in its report, specify.

1 Section 516. Limitations.

2 (a) General rule.--An ordinance or resolution may not be
3 passed and a petition may not be filed for the election of a tax
4 study commission pursuant to section 501 while proceedings are
5 pending under any other petition or ordinance or resolution
6 filed or passed under the authority of this act, nor on the same
7 question if it has been defeated within two years after an
8 election has been held pursuant to any such ordinance or
9 resolution or petition passed or filed.

10 (b) Limited definition.--For the purpose of this section,
11 proceedings shall be considered as having started:

12 (1) in the case of an ordinance or resolution, upon the
13 final vote of the governing body in favor of the ordinance or
14 resolution, notwithstanding the fact that the ordinance or
15 resolution cannot take effect until a certain number of days
16 thereafter; or

17 (2) in the case of a petition, as soon as it is properly
18 signed by one-third of the number of registered voters
19 required for such petition and written notice thereof filed
20 in the office of the county board of elections and in the
21 office of the municipal clerk or secretary of the taxing
22 district, who shall cause the same to be immediately posted
23 and open to public inspection in a conspicuous place in the
24 office.

25 CHAPTER 7

26 REFERENDUM AND AMENDMENT

27 Section 701. Referendum question.

28 The commission may cause the question to be submitted to the
29 electors at the next primary, municipal or general election
30 occurring not less than 60 days following the filing of a copy

1 of the commission's report with the county board of elections,
2 at such time as the commission's report shall direct. At such
3 election, the question of adopting that form of taxation
4 recommended by the commission shall be submitted to the voters
5 of the taxing district by the county board of elections in the
6 same manner as other questions are submitted to the voters of a
7 taxing district under the provisions of the act of June 3, 1937
8 (P.L.1333, No.320), known as the Pennsylvania Election Code. The
9 commission shall frame the question to be placed upon the ballot
10 in clear laymen's language and in a nonlegal descriptive form
11 and, if it deems appropriate, an interpretative statement shall
12 accompany the question.

13 Section 702. Adoption of plan.

14 Whenever the legally qualified voters of any taxing district,
15 by a majority of those voting on the question, vote in favor of
16 adopting a change in their form of taxation pursuant to this
17 act, the proposed form shall take effect according to its terms
18 and the provisions of this act.

19 Section 703. Duration of plan.

20 The voters of any taxing district which has adopted an
21 optional tax plan pursuant to this act may not vote on the
22 question of repealing the optional tax plan until five years
23 have expired.

24 Section 704. Amendments.

25 The procedure for amending an optional tax plan shall be
26 through the initiative procedure or ordinance or resolution of
27 the governing body of the taxing district and subject to
28 approval in a referendum as provided in this act. Amendments to
29 the optional tax plan shall be limited to the types of tax
30 levies and the maximum and minimum limits of the permitted tax

1 levies. Rates of taxation for the type of allowable taxes shall
2 be set by the governing body of the taxing district within the
3 limits established by the approved optional tax plan.

4 Section 705. Initiation of amendment.

5 A referendum on the question of amendment of an optional tax
6 plan may be initiated by electors of the taxing district or by
7 an ordinance or resolution of the governing body of the taxing
8 district.

9 Section 706. Amendment procedure.

10 (a) Filing.--A petition containing a proposal for referendum
11 on the question of amending an optional tax plan, signed by
12 electors comprising 10% of the number of electors voting for the
13 office of Governor in the last gubernatorial general election in
14 the taxing district, or an ordinance or resolution of the
15 governing body of the taxing district proposing amendment of an
16 optional tax plan, shall be filed with the election officials
17 not later than the 13th Tuesday prior to the next primary,
18 municipal or general election. The petition and the proceedings
19 therein shall be in the manner and subject to the provisions of
20 the election laws which relate to the signing, filing and
21 adjudication of nomination petitions insofar as such provisions
22 are applicable, except that no referendum petition shall be
23 signed or circulated prior to the 20th Tuesday before the
24 election nor later than the 13th Tuesday before the election.
25 The name and address of the person filing the petition shall be
26 clearly stated on the petition.

27 (b) Review.--The election officials shall review the
28 initiative petition as the number and qualifications of signers.
29 If the petition appears to be defective, the election officials
30 shall immediately notify the persons filing the petition of the

1 defect. When the election officials find that the petition as
2 submitted is in proper order, they shall send copies of the
3 initiative petition without signatures thereon to the governing
4 body of the taxing district and to the Secretary of Community
5 Affairs. The initiative petition as submitted to the election
6 officials, along with a list of signatories, shall be open to
7 inspection in the office of the election officials.

8 Section 707. Referendum on amendment.

9 (a) Date.--A referendum on the question of the amendment of
10 an optional tax plan shall be held when the election officials
11 find that the initiative petition or ordinance or resolution of
12 the governing body of the taxing district is in proper order,
13 and the referendum shall be governed by the provisions of the
14 act of June 3, 1937 (P.L.1333, No.320), known as the
15 Pennsylvania Election Code.

16 (b) Submission.--The election officials shall cause the
17 question to be submitted to the electors of the taxing district
18 at the next primary, general or municipal election occurring not
19 less than the 13th Tuesday following the filing of the
20 initiative petition or ordinance or resolution with the county
21 board of elections. At such election, the question shall be
22 submitted to the voters in the same manner as other questions
23 are submitted under the provisions of the Pennsylvania Election
24 Code. The county board of elections shall frame the question to
25 be placed upon the ballot.

26 Section 708. Conduct of elections.

27 All elections provided for in this act shall be conducted by
28 the election officials for such taxing district in accordance
29 with the act of June 3, 1937 (P.L.1333, No.320), known as the
30 Pennsylvania Election Code. The election officials shall count

1 the votes cast and make returns to the county board of
2 elections. The result of any such election shall be computed by
3 the county board of elections in the same manner as provided by
4 law for the computation of similar returns. Certificates of the
5 results of any such election shall be filed by the county board
6 of elections with the governing body of the taxing district,
7 with the Secretary of the Commonwealth and with the Secretary of
8 Community Affairs.

9 Section 709. Notices of elections.

10 At least 30 days' notice of each election herein provided for
11 shall be given by the municipal clerk or secretary of the taxing
12 district. A copy of this notice shall be posted at each polling
13 place of the taxing district on the day of the election and
14 shall be published in at least one newspaper of general
15 circulation in the taxing district once a week for three
16 consecutive weeks during the period of 30 days prior to the
17 election.

18 Section 710. Repeal of plan.

19 The procedure for repeal of an optional tax plan shall be the
20 same as for adoption of an optional tax plan. Whenever the
21 electors of any taxing district, by a majority vote of those
22 voting on the question, vote in favor of repeal of an optional
23 tax plan and the establishment of a particular form of taxation,
24 such taxing district shall be governed under the form of
25 taxation selected by the electors, from the first day of the
26 fiscal year of the taxing district following the election which
27 occurred at least 90 days before the beginning of the fiscal
28 year at which election the form of taxation was selected. The
29 tax study commission shall provide in its report for the new
30 form of taxation to be established.

1 CHAPTER 9

2 OPERATION UNDER PLAN

3 Section 901. Recording of approved plan.

4 The municipal clerk or secretary of the taxing district shall
5 forthwith cause the optional tax plan, as approved by the
6 qualified electors, to be recorded in the ordinance or
7 resolution books of the taxing district. He shall also file a
8 certified copy with the Secretary of the Commonwealth, with the
9 Secretary of Community Affairs and with the county board of
10 elections.

11 Section 902. Effective date of plan.

12 Whenever the electors of a taxing district adopt the optional
13 tax plan provided by this act at any election for that purpose,
14 such taxing district shall be governed under the provisions of
15 such plan, the provisions of general law applicable to that
16 class of taxing district and this act from the first day of the
17 fiscal year of the taxing district following approval at an
18 election which occurred at least 90 days prior to the beginning
19 of the fiscal year of such taxing district.

20 Section 903. Establishment of tax levies.

21 Except as prohibited by this act and subject to the overall
22 limitations imposed by the approved optional tax plan and
23 consistent with the types of local taxes permitted by enactments
24 of the General Assembly, the governing body of a taxing district
25 may set any tax levy on any permissible subject of taxation. No
26 governing body shall have the power to impose any tax levy in
27 excess of the limits of the approved optional tax plan until
28 either an amended optional tax plan or a new optional tax plan
29 is adopted. No governing body shall be required to impose any
30 tax levy at the maximum limit allowed by the approved optional

1 tax plan. The governing body of a taxing district can reduce or
2 increase any imposition allowed by the approved optional tax
3 plan without seeking amendment to the plan insofar as maximum
4 and minimum limits contained in the approved optional tax plan
5 are not exceeded.

6 Section 904. Revenue increase limitation.

7 Whenever a taxing district begins implementing an approved
8 optional tax plan, the total tax revenues in the year of
9 implementation shall not exceed by 2% the amount of the total
10 tax revenues received in the immediately preceding year. The
11 General Assembly declares that tax reform should not be a
12 process limited to the increase of impositions; but, rather, tax
13 reform at the school district and local government level should
14 be a process that results in a more equitable system of
15 taxation.

16 Section 905. Revenue sharing.

17 No taxing district which adopts an optional tax plan shall be
18 required to share any tax revenues with any other taxing
19 district. If any two political subdivisions impose a tax on the
20 same person, subject, business, transaction or privilege during
21 the same year, and one political subdivision has adopted an
22 optional tax plan, the other political subdivision shall have
23 its tax rates limited to one-half of the maximum rate allowable
24 in any act that permits the levy of taxes and also requires a
25 sharing of such taxes.

26 CHAPTER 11

27 MISCELLANEOUS PROVISIONS

28 Section 1101. Effect of nonadoption of plan.

29 Each taxing district which does not adopt an optional tax
30 plan under the provisions of this act shall retain its existing

1 schedule and limits of taxation as provided in the code under
2 which it operates, or under general law, or under the
3 Constitution of Pennsylvania.

4 Section 1102. Affect on home rule municipality.

5 Nothing in this act shall affect the taxing powers of any
6 municipality which has adopted a home rule charter under the act
7 of April 13, 1972 (P.L.184, No.62), known as the Home Rule
8 Charter and Optional Plans Law.

9 Section 1103. Severability.

10 The provisions of this act are severable. If any provision of
11 this act or its application to any person or circumstance is
12 held invalid, the invalidity shall not affect other provisions
13 or applications of this act which can be given effect without
14 the invalid provision or application.

15 Section 1104. Repeals.

16 All acts and parts of acts are repealed insofar as they are
17 inconsistent with this act.

18 Section 1105. Effective date.

19 This act shall take effect immediately.