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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 891

Session of  
1993

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INTRODUCED BY GERLACH, BUNT, TIGUE, BUSH, HERSHEY, JADLOWIEC,  
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DeLUCA, JAROLIN, McCALL, ULIANA AND SAYLOR, MARCH 24, 1993

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REFERRED TO COMMITTEE ON EDUCATION, MARCH 24, 1993

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AN ACT

1 Allowing school districts of the second class, third class or  
2 fourth class to appoint a local tax study commission and  
3 submit recommendations for changes in local tax structure;  
4 requiring reductions; imposing limitations; providing for a  
5 referendum relating to the appointment of a commission; and  
6 making repeals.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Local Option  
11 School District Tax Reform Act.

12 Section 2. Definitions.

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

16 "Personal income." The classes of income enumerated in  
17 section 303 of the act of March 4, 1971 (P.L.6, No.2), known as  
18 the Tax Reform Code of 1971, and upon which is imposed a  
19 personal income tax by the Commonwealth. For purposes of this

1 act, the term "personal income" shall not include:

2 (1) Interest income.

3 (2) Profits from the sale of a principal residence or  
4 trade or business, once in a lifetime, and use for retirement  
5 purposes.

6 In the event a district levies, assesses or collects, or  
7 provides for the levy, assessment or collection of any tax after  
8 having accepted some or all of the recommendations of a local  
9 tax study commission as hereinafter provided, the district shall  
10 exclude from any personal income tax imposed as defined by the  
11 above provisions and exclusions, any person whose income is  
12 equal to or less than the maximum income requirement necessary  
13 to qualify for a property tax rebate or rent rebate in lieu of  
14 property taxes or a property tax rebate or rent rebate in lieu  
15 of property taxes or rent due pursuant to the act of March 11,  
16 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and  
17 Assistance Act.

18 "School district." Includes school districts of the second,  
19 third and fourth classes.

20 Section 3. Local Tax Study Commission.

21 (a) First year implementation.--Before any school district  
22 of the second, third or fourth class levies, assesses or  
23 collects, or provides for the levy, assessment or collection of  
24 any tax, under the authority of this act, the board of school  
25 directors may appoint a local tax study commission in accordance  
26 with the following provisions:

27 (1) Membership.--The local tax study commission shall  
28 consist of five, seven or nine members appointed by the  
29 board. No member of the local tax study commission shall be  
30 an elected or appointed official or employee, or a relative,

1 by blood or marriage, of an official or employee of the  
2 school district. All members shall be residents of the  
3 district. Representatives on a local tax study commission  
4 must reasonably reflect the socioeconomic, age and  
5 occupational diversity of the school district.

6 (2) Staff and expenses.--The board shall provide  
7 necessary staff to support the local tax study commission and  
8 shall reimburse the members of the local tax study commission  
9 for necessary expenses in the discharge of their duties.

10 (3) Public hearings.--The local tax study commission  
11 shall hold at least one public hearing during its  
12 deliberations. At least one fact-finding hearing shall be  
13 held within two weeks of the creation of the local tax study  
14 commission to gather background information and solicit  
15 suggestions from residents, or any other persons or parties  
16 interested in or affected by levy, assessment or collection  
17 of taxes by the district. The local tax study commission may  
18 sponsor public forums, shall provide for the broadest  
19 possible distribution of public information and shall  
20 encourage public discussion respecting the subject of its  
21 work.

22 (4) Contents of study.--The local tax study commission  
23 shall study the existing taxes levied, assessed and collected  
24 by the district and determine if and how the tax policies of  
25 the district could be strengthened or made more equitable by  
26 adopting for levy, assessment and collection of one or a  
27 combination of any of the following taxes: personal income  
28 tax, real estate tax, realty transfer tax, per capita tax; at  
29 such levels and in such combinations on permissible subjects  
30 of taxation as do not exceed the limitations in this act.

1 This study shall include, but not be limited to,  
2 consideration of all of the following:

3 (i) Historic rate and revenue provided by taxes  
4 currently levied, assessed and collected by the district.

5 (ii) The percentage of total revenues provided by  
6 taxes currently levied, assessed and collected.

7 (iii) The age, income, employment and property use  
8 characteristics of existing tax base.

9 (iv) The projected revenues of any taxes currently  
10 levied, assessed and collected.

11 (v) The projected revenues of any taxes referred to  
12 above not currently levied, assessed and collected by the  
13 district.

14 (vi) The combined effect of any taxes referred to  
15 above not currently levied, assessed and collected by the  
16 district as it or they relate to taxes levied by other  
17 taxing districts to which a taxpayer would be subject.

18 (5) Recommendation.--Within 60 days of its appointment,  
19 the local tax study commission shall make a nonbinding  
20 recommendation to the board of the appropriate tax or  
21 combination of taxes, identified in paragraph (4), to be  
22 levied, assessed and collected commencing the next fiscal  
23 year. Upon appointment of the commission, and except as  
24 provided for in paragraph (6), no tax may be levied, assessed  
25 or collected for the next fiscal year until receipt of the  
26 recommendation of the local tax study commission. Within two  
27 weeks of receiving the recommendation, the board shall hold a  
28 public hearing to permit public comment on the  
29 recommendation. Within 30 days of the public hearing, but not  
30 later than 30 days prior to the commencement of the next

1 fiscal year, the board shall accept or reject the  
2 recommendation of the local tax study commission or adopt any  
3 other appropriate tax or combination of taxes for the  
4 district commencing the next fiscal year as provided by law.

5 (6) Failure to issue recommendation.--If the local tax  
6 study commission fails to make a nonbinding recommendation  
7 within 60 days of its appointment, the board shall discharge  
8 the appointed local tax study commission, appoint itself as  
9 the local tax study commission, and proceed to hold a public  
10 hearing to permit public comment on the appropriate tax or  
11 combination of taxes for the district commencing the next  
12 fiscal year. Within 30 days of the public hearing, but not  
13 later than 30 days prior to the commencement of the next  
14 fiscal year, the board shall adopt the appropriate tax or  
15 combination of taxes for the district commencing the next  
16 fiscal year as provided by law.

17 (7) Public distribution of report.--The local tax study  
18 commission shall publish or cause to be published, within 30  
19 days of making its recommendation, sufficient copies of a  
20 final report of its activities and recommendation for public  
21 study information and shall deliver to the secretary of the  
22 board sufficient copies of the report to supply copies to any  
23 interested person upon request.

24 (8) Itemization of expenses.--There shall be attached to  
25 each copy of the report of the local tax study commission a  
26 statement, sworn to by the members of the local tax study  
27 commission in the performance of its work and the preparation  
28 and filing of the report. In addition, the list shall  
29 identify specifically the supplier of each item.

30 (9) Materials.--All the records, receipts, tapes,

minutes of meetings and written discussions of the local tax study commission shall, upon its discharge, be turned over to the secretary of the district for the permanent safekeeping. The secretary shall make such materials available for public inspection at any time during regular business hours.

(10) Discharge.--The local tax study commission shall be discharged upon the filing of its final report.

(b) Three-year review.--For any school district that levies, assesses and collects, or provides for the levy, assessment or collection of any tax, after having accepted some or all of the recommendations of a local tax study commission, the district shall continue to levy, assess and collect the same tax or combination of taxes for the next three fiscal years. However, nothing herein shall preclude the board to change or alter the rates of any such tax or combination of taxes if it deems necessary. Before the third fiscal year following the district's acceptance of some or all of the recommendations of a local tax study commission, and every third fiscal year thereafter, the board may appoint a local tax study commission in the manner provided in subsection (a). The local tax study commission appointed under this subsection shall be charged with all of the same powers and duties provided for the local tax study commission under subsection (a). In the event the district does not appoint a local tax study commission pursuant to this subsection after having previously accepted some or all of the recommendations of a local tax study commission, the district shall continue to levy, assess and collect the same tax or combination of taxes for the next three fiscal years.

#### Section 4. Mandatory reductions.

When, pursuant to this act, a school district imposes a tax

1 on personal income from which revenue generated will exceed the  
2 revenue generated by any previously assessed earned income tax,  
3 the revenue generated by the personal income tax not required to  
4 support the annual budget adopted pursuant to the provisions of  
5 section 687(b) of the act of March 10, 1949 (P.L.30, No.14),  
6 known as the Public School Code of 1949, which is in excess of  
7 revenue generated by the earned income tax shall be used to  
8 provide a dollar-for-dollar reduction of the aggregate real  
9 property tax of the school district, or other tax, as determined  
10 by the school board.

11 Section 5. Limitations.

12 (a) Revenue limits.--Taxes levied by a school district are  
13 limited as follows:

14 (1) For the first fiscal year of imposition of a tax  
15 under the authority of this act, tax revenues are limited to  
16 an increase in the aggregate tax revenues over the aggregate  
17 tax revenues for the fiscal year beginning during the  
18 preceding calendar year which does not exceed the greater of  
19 the following:

20 (i) The average percentage of the annual increase in  
21 aggregate tax revenues collected over the immediately  
22 preceding five fiscal years plus 2%.

23 (ii) The average annual percentage increase in the  
24 Consumer Price Index for All Urban Consumers, United  
25 States City Average, All Items, for the 24-month period  
26 immediately preceding the start of that fiscal year, for  
27 which statistics are available, as determined and  
28 published by the Department of Community Affairs.

29 (2) For the second and third fiscal years beginning  
30 after the imposition of a tax under the authority of this

1 act, tax revenues are limited to an increase in the aggregate  
2 tax revenues over the aggregate tax revenues for the fiscal  
3 year beginning during the preceding calendar year which does  
4 not exceed the greater of the following:

5 (i) The average percentage of the annual increase in  
6 aggregate tax revenues collected over the immediately  
7 preceding five fiscal years.

8 (ii) The average annual percentage increase in the  
9 Consumer Price Index for All Urban Consumers, United  
10 States City Average, All Items, for the 24-month period  
11 immediately preceding the start of that fiscal year, for  
12 which statistics are available, as determined and  
13 published by the Department of Community Affairs.

14 (b) Application.--The limitations contained in this section,  
15 unless expressly repealed, apply to every tax levied.

16 (c) Exclusions.--The limitations contained in subsection (a)  
17 do not apply to taxes levied to cover:

18 (1) Interest and principal on any indebtedness incurred  
19 pursuant to the act of July 12, 1972 (P.L.781, No.185), known  
20 as the Local Government Unit Debt Act, or any prior or  
21 subsequent act governing the incurrence of indebtedness by a  
22 school district.

23 (2) An increase in costs of personnel, resources or  
24 facilities directly attributable to an increase in  
25 enrollment.

26 (3) Increases in pension fund requirements which are in  
27 excess of the annual average increase over the immediately  
28 preceding five fiscal years.

29 (d) Court order.--The limitations contained in this section  
30 may be exceeded by order of the court of common pleas upon

1 petition of the district. A petition under this subsection must  
2 be made by resolution by majority action of the board of  
3 directors.

#### 4 Section 6. Referendum.

5 (a) When held.--If the board of school directors does not  
6 elect to create a local tax study commission, then upon  
7 submission to the county board of elections of a petition  
8 containing the signatures of electors resident in a school  
9 district, the number of said signatures equal to or exceeding 3%  
10 of the total number of votes cast at the last general election  
11 in that school district, the county board of elections shall, at  
12 the next primary, municipal or general election conduct a  
13 referendum within that school district.

14 (b) Ballot question.--The ballot question for this  
15 referendum shall be as follows:

16 Do you favor the appointment of a local tax study  
17 commission for the school district of (name of district)?

18 (c) Conduct of election.--The referendum shall be conducted  
19 in accordance with the act of June 3, 1937 (P.L.1333, No.320),  
20 known as the Pennsylvania Election Code.

21 (d) Appointment of commission.--If a majority of the  
22 electors voting thereon vote in the affirmative, the board of  
23 school directors within 30 days shall appoint a local tax study  
24 commission in accordance with this act.

#### 25 Section 7. Repeals.

26 All acts and parts of acts are repealed insofar as they are  
27 inconsistent with this act.

#### 28 Section 8. Effective date.

29 This act shall take effect in 60 days.