

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1326 Session of 2011

INTRODUCED BY GROVE, METCALFE, AUMENT, BENNINGHOFF, BLOOM, BOBACK, BOYD, CALTAGIRONE, CHRISTIANA, COX, CREIGHTON, CUTLER, DUNBAR, EVERETT, GALLOWAY, GILLESPIE, GINGRICH, HARRIS, HEFFLEY, HELM, HESS, HICKERNELL, KAUFFMAN, F. KELLER, M. K. KELLER, KRIEGER, LAWRENCE, MASSER, METZGAR, MILLARD, MILLER, MOUL, OBERLANDER, PERRY, PYLE, QUIGLEY, RAPP, ROAE, ROCK, SACCONI, SAYLOR, SCHRODER, SIMMONS, SONNEY, STEPHENS, SWANGER, TALLMAN, TURZAI AND WATSON, APRIL 8, 2011

REFERRED TO COMMITTEE ON FINANCE, APRIL 8, 2011

AN ACT

1 Amending the act of June 27, 2006 (1st Sp.Sess., P.L.1873,
 2 No.1), entitled "An act providing for taxation by school
 3 districts, for the State funds formula, for tax relief in
 4 first class cities, for school district choice and voter
 5 participation, for other school district options and for a
 6 task force on school cost reduction; making an appropriation;
 7 prohibiting prior authorized taxation; providing for
 8 installment payment of taxes; restricting the power of
 9 certain school districts to levy, assess and collect taxes;
 10 and making related repeals," further providing for adoption
 11 of preliminary budget proposals and for public referendum
 12 requirements for increasing certain taxes; providing for
 13 public referendum requirements for increasing certain taxes;
 14 and further providing for tax relief.

15 The General Assembly of the Commonwealth of Pennsylvania
 16 hereby enacts as follows:

17 Section 1. Section 311(d) (3) and (4) of the act of June 27,
 18 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer
 19 Relief Act, are amended to read:

20 Section 311. Adoption of preliminary budget proposals.

21 * * *

1 (d) Resolution.--

2 * * *

3 [(3) A board of school directors that adopts a
4 resolution under this section shall not be eligible to seek
5 referendum exceptions under section 333(f), and section
6 333(e) shall not apply.]

7 (4) Upon receipt of the information required under
8 paragraph (2)(ii), the department shall compare the proposed
9 percentage increase in the rate of the tax with the index.
10 Within ten days of the receipt of the information required
11 under this subsection, the department shall inform the school
12 district whether the proposed tax rate increase is less than
13 or equal to the index. If the department determines that the
14 proposed percentage increase in the rate of the tax exceeds
15 the index, the school district shall be subject to
16 subsections (a) and (c), and [paragraphs (2)(i) and (3)]
17 paragraph (2)(i) shall not apply. The department's
18 determination under this paragraph shall not constitute an
19 adjudication.

20 Section 2. Section 333 of the act is repealed:

21 [Section 333. Public referendum requirements for increasing
22 certain taxes.

23 (a) Applicability.--The following provisions shall apply to
24 this section:

25 (1) For the 2006-2007 fiscal year, the tax increase
26 proposed by any board of school directors shall not exceed
27 the index unless an exception under subsection (f) or (n) is
28 approved pursuant to subsection (i) or (j), provided that a
29 board of school directors that did not elect to participate
30 in the former act of July 5, 2004 (P.L.654, No.72), known as

1 the Homeowner Tax Relief Act, shall have the authority to
2 petition the court of common pleas for an additional tax rate
3 increase if the tax rate increase allowed by the index and
4 any exception approved pursuant to subsection (i) or (j) is
5 insufficient to balance the proposed budget. No later than
6 July 15, 2006, the court shall grant the school district's
7 request for the tax rate increase upon good cause shown if
8 the school district proves by clear and convincing evidence
9 that the tax rate increase authorized under this paragraph is
10 insufficient to balance the proposed budget. For a board of
11 school directors subject to this paragraph, the dates by
12 which the board of school directors, the department and the
13 court of common pleas shall be required to comply with
14 section 311 and subsections (e), (i) and (j) shall be 92 days
15 after the dates set forth in those provisions, except that
16 the date by which the board of school directors shall be
17 required to comply with all of the provisions of section
18 311(c) shall be ten days prior to the date by which the board
19 of school directors is required to adopt a preliminary
20 budget. Any exceptions granted to a board of school directors
21 under section 333 of the former Homeowner Tax Relief Act
22 shall remain in full force and effect. Notwithstanding the
23 provisions of this paragraph, a board of school directors
24 that sought and was granted approval for one or more
25 exceptions under section 333 of the former Homeowner Tax
26 Relief Act may apply for any exception under subsections (f)
27 (v) and (ix) and (n), where the dollar amount of an exception
28 approved by the department under the former Homeowner Tax
29 Relief Act is less than the dollar amount of the exception
30 for which the school district is eligible under this act.

1 (2) This section shall apply to each board of school
2 directors beginning with any proposed tax increase that takes
3 effect in the 2007-2008 fiscal year and each fiscal year
4 thereafter.

5 (b) Prohibitions.--Except as set forth in subsection (i) and
6 (j), unless there is compliance with subsection (c), a board of
7 school directors may not do any of the following:

8 (1) Increase the rate of a tax levied for the support of
9 the public schools by more than the index. For purposes of
10 compliance with this paragraph, a school district which is
11 situated in more than one county and which levies real estate
12 taxes under section 672.1 of the act of March 10, 1949
13 (P.L.30, No.14), known as the Public School Code of 1949,
14 shall apply the index to each separate rate of real estate
15 taxes levied.

16 (2) Levy a tax for the support of the public schools
17 which was not levied in the 2005-2006 fiscal year.

18 (3) Raise the rate of the earned income and net profits
19 tax if already imposed under the authority of the Local Tax
20 Enabling Act except as otherwise provided for under section
21 331.2 or 332.

22 (4) Notwithstanding any other provision of this chapter
23 to the contrary, the adoption of a referendum under section
24 331.2 or 332 confers on the board of school directors the
25 authority to raise income taxes only to the extent contained
26 in the language of the referendum, and any future increase of
27 an income tax to be used for the purpose of property tax
28 reduction shall be submitted to the electors of the school
29 district at a subsequent municipal election pursuant to the
30 provisions of section 332.

1 (c) Referendum.--

2 (1) In order to take an action prohibited under
3 subsection (b)(1), at the election immediately preceding the
4 start of the school district fiscal year in which the
5 proposed tax increase would take effect, a referendum stating
6 the specific rate or rates of the tax increase must be
7 submitted to the electors of the school district, and a
8 majority of the electors voting on the question must approve
9 the increase.

10 (2) In order to take an action under subsection (b)(2),
11 at the election immediately preceding the start of the school
12 district fiscal year in which the proposed tax would take
13 effect, a referendum stating the proposed tax and the rate at
14 which it will be levied must be submitted to the electors of
15 the school district, and a majority of the electors voting on
16 the question must approve the tax.

17 (3) Except as set forth in subsections (i) and (j), a
18 school district acting pursuant to this subsection shall
19 submit the referendum question required under this section to
20 the election officials of each county in which it is situate
21 no later than 60 days prior to the election immediately
22 preceding the fiscal year in which the tax increase would
23 take effect.

24 (4) The election officials of each county shall, in
25 consultation with the board of school directors, draft a
26 nonlegal interpretative statement which shall accompany the
27 referendum question in accordance with section 201.1 of the
28 act of June 3, 1937 (P.L.1333, No.320), known as the
29 Pennsylvania Election Code. The nonlegal interpretative
30 statement shall include information that references the items

1 of expenditure for which the tax increase is sought and the
2 consequence of the referendum being disapproved by the
3 electorate.

4 (d) Failure to approve referendum.--

5 (1) If a referendum question submitted under subsection
6 (c)(1) is not approved, the board of school directors may
7 approve an increase in the tax rate of not more than the
8 index.

9 (2) If a referendum question submitted under subsection
10 (c)(2) is not approved, the board of school directors may not
11 levy the tax.

12 (e) Tax rate submissions.--A school district that has
13 adopted a preliminary budget proposal under section 311 that
14 includes an increase in the rate of any tax levied for the
15 support of public schools shall submit information on the
16 increase to the department on a uniform form prepared by the
17 department. The school district shall submit such information no
18 later than 85 days prior to the date of the election immediately
19 preceding the beginning of the school district's fiscal year.
20 The department shall compare the proposed percentage increase in
21 the rate of any tax with the index. Within ten days of the
22 receipt of the information required under this subsection but no
23 later than 75 days prior to the date of the election immediately
24 preceding the beginning of the school district's fiscal year,
25 the department shall inform the school district whether the
26 proposed tax rate increase is less than or equal to the index.
27 If the department determines that the proposed percentage
28 increase in the rate of the tax exceeds the index, the
29 department shall notify the school district that:

30 (1) the proposed tax increase must be reduced to an

1 amount less than or equal to the index;

2 (2) the proposed tax increase must be approved by the
3 electorate under subsection (c)(1); or

4 (3) an exception must be sought under subsections (i)
5 and (j).

6 (f) Referendum exceptions.--A school district may, without
7 seeking voter approval under subsection (c), increase the rate
8 of a tax levied for the support of the public schools by more
9 than the index if all of the following apply:

10 (1) The revenue raised by the allowable increase under
11 the index is insufficient to balance the proposed budget due
12 to one or more of the expenditures listed in paragraph (2).

13 (2) The revenue generated by increasing the rate of a
14 tax by more than the index will be used to pay for any of the
15 following:

16 (i) Costs incurred in responding to or recovering
17 from an emergency or disaster declared pursuant to 35
18 Pa.C.S. § 7301 (relating to general authority of
19 Governor) or 75 Pa.C.S. § 6108 (relating to power of
20 Governor during emergency).

21 (ii) Costs to implement a court order or an
22 administrative order from a Federal or State agency as
23 long as the tax increase is rescinded following
24 fulfillment of the court order or administrative order.

25 (iii) Costs associated with the following:

26 (A) For a board of school directors that elected
27 to participate in the former act of July 5, 2004
28 (P.L.654, No.72), known as the Homeowner Tax Relief
29 Act, to pay interest and principal on any
30 indebtedness incurred under 53 Pa.C.S. Pt. VII Subpt.

1 B (relating to indebtedness and borrowing) prior to
2 September 4, 2004. In no case may the school district
3 incur additional debt under this clause except for
4 the refinancing of existing debt, including the
5 payment of costs and expenses related to such
6 refinancing and the establishment of funding of
7 appropriate debt service reserves. An increase under
8 this clause shall be rescinded following the final
9 payment of interest and principal.

10 (A.1) For a board of school directors that did
11 not elect to participate in the former act of July 5,
12 2004 (P.L.654, No.72), known as the Homeowner Tax
13 Relief Act, to pay interest and principal on any
14 indebtedness incurred under 53 Pa.C.S. Pt. VII Subpt.
15 B prior to the effective date of this act. In no case
16 may the school district incur additional debt under
17 this clause except for the refinancing of existing
18 debt, including the payment of costs and expenses
19 related to such refinancing and the establishment of
20 funding of appropriate debt service reserves. An
21 increase under this clause shall be rescinded
22 following the final payment of interest and
23 principal.

24 (B) To pay interest and principal on any
25 electoral debt incurred under 53 Pa.C.S. Pt. VII
26 Subpt. B. An increase under this clause shall be
27 rescinded following the final payment of interest and
28 principal.

29 (C) To pay interest and principal on
30 indebtedness for up to 60% of the construction cost

1 average on a square-foot basis if all of the
2 following apply:

3 (I) The indebtedness is for a school
4 construction project under 22 Pa. Code Ch. 21
5 (relating to school buildings).

6 (II) For a board of school directors that
7 elected to participate in the former Homeowner
8 Tax Relief Act, the indebtedness to fund
9 appropriate debt service reserves for the project
10 is incurred after September 3, 2004.

11 (II.1) For a board of school directors that
12 did not elect to participate in the former
13 Homeowner Tax Relief Act, the indebtedness to
14 fund appropriate debt service reserves for the
15 project is incurred on or after the effective
16 date of this act.

17 (III) The increase sought under this clause
18 is rescinded following final payment of interest
19 and principal.

20 (IV) The indebtedness is incurred only after
21 existing fund balances for school construction
22 and any undesignated fund balances have been
23 fully committed to fund the project.

24 (V) The indebtedness is for an academic
25 elementary or academic secondary school building.
26 For purposes of this subclause, the following
27 shall not be considered to be an academic
28 elementary or academic secondary school building:
29 natatorium, stadium bleachers, athletic field,
30 athletic field lighting equipment and apparatus

1 used to promote and conduct interscholastic
2 athletics.

3 (VI) For school districts of the second,
4 third and fourth class, the project has been
5 approved by the department under section 731 of
6 the act of March 10, 1949 (P.L.30, No.14), known
7 as the Public School Code of 1949. For
8 nonreimbursable projects in school districts of
9 the first class A, the plans and specifications
10 have been approved by the board of school
11 directors. For reimbursable projects in school
12 districts of the first class A, the plans and
13 specifications have been approved by the
14 department pursuant to 22 Pa. Code Ch. 21.

15 (D) To pay interest and principal on
16 indebtedness for up to \$250,000 of the construction
17 cost of a nonacademic school construction project, as
18 adjusted annually by the percentage increase in the
19 average of the Statewide average weekly wage and the
20 employment cost index. An increase under this clause
21 shall be rescinded following the final payment of
22 interest and principal.

23 (E) For purposes of this subparagraph, electoral
24 debt includes the refunding or refinancing of
25 electoral debt for which an exception is permitted
26 under clause (B) as long as the refunding or
27 refinancing incurs no additional debt other than for:

28 (I) costs and expenses related to the
29 refunding or refinancing; and

30 (II) funding of appropriate debt service

1 reserves.

2 (F) For purposes of this subparagraph,
3 indebtedness includes the refunding or refinancing of
4 indebtedness for which an exception is permitted
5 under clauses (A), (A.1), (C) and (D) as long as the
6 refunding or refinancing incurs no additional debt
7 other than for:

8 (I) costs and expenses related to the
9 refunding or refinancing; and

10 (II) funding of appropriate debt service
11 reserves.

12 (iv) Costs to respond to conditions which pose an
13 immediate threat of serious physical harm or injury to
14 the students, staff or residents of the school district
15 but only until the conditions causing the threat have
16 been fully resolved.

17 (v) Costs incurred in providing special education
18 programs and services to students with disabilities if
19 the increase in expenditures on special education
20 programs and services was greater than the index. The
21 dollar amount of this exception shall be equal to the
22 portion of the increase that exceeds the index.

23 (vi) Costs which:

24 (A) were incurred in the implementation of a
25 school improvement plan required under section
26 1116(b) of the Elementary and Secondary Education Act
27 of 1965 (Public Law 89-10, 20 U.S.C. § 6316(b)); and

28 (B) were not offset by a State allocation.

29 (vii) Costs necessary to maintain:

30 (A) per-student local tax revenue, adjusted by

1 the index, if the percentage growth in average daily
2 membership between the school year determined under
3 subsection (j) (4) and the third school year preceding
4 the school year determined under subsection (j) (4)
5 exceeds 7.5%; or

6 (B) actual instruction expense per average daily
7 membership, adjusted by the index, if the increase in
8 actual instruction expense per average daily
9 membership between the school year determined under
10 subsection (j) (4) and the school year preceding the
11 school year determined under subsection (j) (4) is
12 less than the index.

13 (viii) The maintenance of revenues derived from real
14 property taxes, earned income and net profits taxes,
15 personal income taxes, basic education funding
16 allocations and special education funding allocations,
17 adjusted by the index, for a school district where the
18 percentage increase in revenues derived from real
19 property taxes, earned income and net profits taxes,
20 personal income taxes, basic education funding
21 allocations and special education funding allocations
22 between the school year determined under subsection (j)
23 (4) and the school year preceding the school year
24 determined under subsection (j) (4) is less than the
25 index.

26 (ix) Costs incurred for providing health care-
27 related benefits which are directly attributable to a
28 collective bargaining agreement in effect on January 1,
29 2006, between the school district and its employees'
30 organization if the anticipated increase in the cost of

1 health care-related benefits between the current year and
2 the upcoming year is greater than the index. The dollar
3 amount of this exception shall be equal to the portion of
4 the increase which exceeds the index. This subparagraph
5 shall not apply to a collective bargaining agreement
6 renewed, extended or entered into after January 1, 2006.

7 (g) Revenue derived from increase.--Any revenue derived from
8 an increase in the rate of any tax allowed pursuant to
9 subsection (f) (2) (iii) shall not exceed the anticipated dollar
10 amount of the expenditure.

11 (h) Limitation on tax rate.--The increase in the rate of any
12 tax allowed pursuant to an exception under subsection (f) (2) (i),
13 (ii), (iv), (v), (vi), (vii), (viii) or (ix) or (n) shall not
14 exceed the rate increase required as determined by a court of
15 common pleas or the department pursuant to subsection (i) or
16 (j).

17 (i) Court action.--

18 (1) Prior to the imposition of a tax increase under
19 subsection (f) (2) (i), (ii) and (iv) and no later than 75 days
20 prior to the election immediately preceding the beginning of
21 the school district's fiscal year, approval by the court of
22 common pleas in the judicial district in which the
23 administrative office of the school district is located must
24 be sought. The board of school directors shall publish in a
25 newspaper of general circulation and on the district's
26 publicly accessible Internet site, if one is maintained,
27 notice of its intent to file a petition under this subsection
28 at least one week prior to the filing of the petition. The
29 board of school directors shall also publish in a newspaper
30 of general circulation and on the district's publicly

1 accessible Internet site, if one is maintained, notice, as
2 soon as possible following notification from the court that a
3 hearing has been scheduled, stating the date, time and place
4 of the hearing on the petition. The following shall apply to
5 any proceedings instituted under this subsection:

6 (i) The school district must prove by clear and
7 convincing evidence that it qualifies for each exception
8 sought.

9 (ii) The school district must prove by clear and
10 convincing evidence the anticipated dollar amount of the
11 expenditure for each exception sought.

12 (2) The court shall rule on the school district's
13 petition and inform the school district of its decision no
14 later than 55 days prior to the date of the election
15 immediately preceding the beginning of the school district's
16 fiscal year. If the court approves the petition, the court
17 shall also determine the dollar amount of the expenditure for
18 which an exception is granted, the tax rate increase required
19 to fund the exception and the appropriate duration of the
20 increase. If the court denies the petition, the school
21 district may submit a referendum question under subsection
22 (c)(1). The question must be submitted to the election
23 officials no later than 50 days prior to the date of the
24 election immediately preceding the beginning of the school
25 district's fiscal year.

26 (j) Department approval.--

27 (1) A school district that seeks to increase the rate of
28 tax due to an expenditure under subsection (f)(2)(iii), (v),
29 (vi), (vii), (viii) or (ix) or (n) shall obtain the approval
30 of the department before imposing the tax increase. The

1 department shall establish procedures for administering the
2 provisions of this subsection, which may include an
3 administrative hearing on the school district's submission.

4 (2) A school district proceeding under the provisions of
5 this subsection shall publish in a newspaper of general
6 circulation and on the district's publicly accessible
7 Internet site, if one is maintained, notice of its intent to
8 seek department approval at least one week prior to
9 submitting its request for approval to the department. If the
10 department schedules a hearing on the school district's
11 request, the school district shall publish notice of the
12 hearing in a newspaper of general circulation and on the
13 district's publicly accessible Internet site, if one is
14 maintained, immediately upon receiving the information from
15 the department. The notice shall include the date, time and
16 place of the hearing.

17 (3) The department shall approve a school district's
18 request under this subsection if a review of the data under
19 paragraph (4) demonstrates that:

20 (i) the school district qualifies for one or more
21 exceptions under subsection (f) (2) (iii), (v), (vi),
22 (vii), (viii) or (ix) or (n); and

23 (ii) the sum of the dollar amounts of the exceptions
24 for which the school district qualifies makes the school
25 district eligible under subsection (f) (1).

26 (4) For the purpose of determining the eligibility of a
27 school district for an exception under subsection (f) (2) (v),
28 (vi), (vii) or (viii), the department shall utilize data from
29 the most recent school years for which annual financial
30 report data required under section 2553 of the Public School

1 Code of 1949 has been received. The department shall inform
2 school districts of the school years determined under this
3 subsection no later than 30 days prior to the date on which
4 public inspection of proposed school budgets is required
5 under section 311(c).

6 (5) (i) The department shall rule on the school
7 district's request and shall inform the school district of
8 its decision no later than 55 days prior to the date of the
9 election immediately preceding the beginning of the school
10 district's fiscal year.

11 (ii) If the department approves the request, the
12 department shall determine the dollar amount of the
13 expenditure for which the exception is sought and the tax
14 rate increase required to fund the exception.

15 (iii) If the department denies the request, the
16 school district may submit a referendum question under
17 subsection (c) (1). The question must be submitted to the
18 election officials no later than 50 days prior to the
19 date of the election immediately preceding the beginning
20 of the school district's fiscal year.

21 (6) Within 30 days of the deadline under paragraph (5)
22 (i), the department shall submit a report to the President
23 pro tempore of the Senate, the Minority Leader of the Senate,
24 the Speaker of the House of Representatives and the Minority
25 Leader of the House of Representatives enumerating the school
26 districts which sought an exception under this subsection.
27 The department shall also publish the report on its publicly
28 accessible Internet site. The report shall include:

29 (i) The name of each school district making a
30 request under this subsection.

1 (ii) The specific exceptions requested by each
2 school district and the dollar amount of the expenditure
3 for each exception.

4 (iii) The department's ruling on the request for the
5 exception.

6 (iv) If the exception was approved, the dollar
7 amount of the expenditure for which the exception was
8 sought and the tax rate increase required to fund the
9 exception.

10 (v) A statistical summary of the information in
11 subparagraphs (ii), (iii) and (iv).

12 (k) Objections.--Any person who resides within or pays real
13 property taxes to the school district filing a petition under
14 subsection (i) may file with the court written objections to any
15 petition filed under this section.

16 (l) Index calculation.--No later than August 15, 2005, and
17 each August 15 thereafter, the department shall calculate the
18 index. The department shall publish the index by September 1,
19 2005, and each September 1 thereafter in the Pennsylvania
20 Bulletin.

21 (m) Election interference prohibited.--

22 (1) No public funds may be used to urge any elector to
23 vote for or against a referendum or be appropriated for
24 political or campaign purposes.

25 (2) This subsection shall not be construed to prohibit
26 the use of public funds for dissemination of factual
27 information relative to a referendum appearing on an election
28 ballot.

29 (3) As used in this subsection, the term "public funds"
30 means any funds appropriated by the General Assembly or by a

1 political subdivision.

2 (n) Treatment of certain required payments.--The provisions
3 of subsections (f) and (j) shall apply to a school district's
4 share of payments to the Public School Employees' Retirement
5 System as required under 24 Pa.C.S. § 8327 (relating to payments
6 by employers) if the increase in the actual dollar amount of
7 estimated payments between the current year and the upcoming
8 year is greater than the index. The dollar amount to which
9 subsection (f) applies shall equal that portion of the increase
10 which exceeds the product of the index and the actual dollar
11 value of payments for the current year.]

12 Section 3. Section 333.1 of the act is amended to read:

13 Section 333.1. [(Reserved).] Public referendum requirements for
14 increasing certain taxes.

15 (a) Applicability.--The following provisions shall apply to
16 this section:

17 (1) For the 2006-2007 fiscal year, the tax increase
18 proposed by a board of school directors shall not exceed the
19 index, unless an exception under subsection (f) or (n) of
20 former section 333 is approved under subsection (i) or (j) of
21 former section 333. A board of school directors that did not
22 elect to participate in the former act of July 5, 2004
23 (P.L.654, No.72), known as the Homeowner Tax Relief Act,
24 shall have the authority to petition the court of common
25 pleas for an additional tax rate increase if the tax rate
26 increase allowed by the index and any exception approved
27 under subsection (i) or (j) of former section 333 is
28 insufficient to balance the proposed budget. No later than
29 July 15, 2006, the court shall grant the school district's
30 request for the tax rate increase upon good cause shown if

1 the school district proves by clear and convincing evidence
2 that the tax rate increase authorized under this paragraph is
3 insufficient to balance the proposed budget. For a board of
4 school directors subject to this paragraph, the dates by
5 which the board of school directors, the department and the
6 court of common pleas shall be required to comply with
7 section 311 and subsections (e), (i) and (j) of former
8 section 333 shall be 92 days after the dates set forth in
9 those subsections, except that the date by which the board of
10 school directors shall be required to comply with section
11 311(c) shall be ten days prior to the date by which the board
12 of school directors is required to adopt a preliminary
13 budget. Any exceptions granted to a board of school directors
14 under section 333 of the former Homeowner Tax Relief Act
15 shall remain in full force and effect. Notwithstanding this
16 paragraph, a board of school directors that sought and was
17 granted approval for one or more exceptions under section 333
18 of the former Homeowner Tax Relief Act may apply for any
19 exception under subsections (f) (2) (v) and (ix) and (n) of
20 former section 333, if the dollar amount of an exception
21 approved by the department under the former Homeowner Tax
22 Relief Act is less than the dollar amount of the exception
23 for which the school district is eligible under this act.

24 (2) This section shall apply to each board of school
25 directors beginning with any proposed tax increase that takes
26 effect in the 2007-2008 fiscal year and each fiscal year
27 thereafter.

28 (b) Prohibitions.--Unless there is compliance with
29 subsection (c), a board of school directors may not do any of
30 the following:

1 (1) Increase the rate of a tax levied for the support of
2 the public schools by more than the index. For purposes of
3 compliance with this paragraph, a school district which is
4 situated in more than one county and which levies real estate
5 taxes under section 672.1 of the act of March 10, 1949
6 (P.L.30, No.14), known as the Public School Code of 1949,
7 shall apply the index to each separate rate of real estate
8 taxes levied.

9 (2) Levy a tax for the support of the public schools
10 which was not levied in the 2005-2006 fiscal year.

11 (3) Raise the rate of the earned income and net profits
12 tax if already imposed under the authority of the act of
13 December 31, 1965 (P.L.1257, No.511), known as the Local Tax
14 Enabling Act, except as otherwise provided for under section
15 331.2 or 332.

16 (4) Notwithstanding any other provision of this chapter,
17 the adoption of a referendum under section 331.2 or 332
18 confers on the board of school directors the authority to
19 raise income taxes only to the extent contained in the
20 language of the referendum, and any future increase of an
21 income tax to be used for the purpose of property tax
22 reduction shall be submitted to the electors of the school
23 district at a subsequent municipal election under section
24 332.

25 (c) Referendum.--

26 (1) In order to take an action prohibited under
27 subsection (b)(1), at the election immediately preceding the
28 start of the school district fiscal year in which the
29 proposed tax increase would take effect, a referendum stating
30 the specific rate or rates of the tax increase must be

1 submitted to the electors of the school district and a
2 majority of the electors voting on the question must approve
3 the increase.

4 (2) In order to take an action under subsection (b) (2),
5 at the election immediately preceding the start of the school
6 district fiscal year in which the proposed tax would take
7 effect, a referendum stating the proposed tax and the rate at
8 which it will be levied must be submitted to the electors of
9 the school district and a majority of the electors voting on
10 the question must approve the tax.

11 (3) A school district acting under this subsection shall
12 submit the referendum question required under this section to
13 the election officials of each county in which it is situate
14 no later than 60 days prior to the election immediately
15 preceding the fiscal year in which the tax increase would
16 take effect.

17 (4) The election officials of each county shall, in
18 consultation with the board of school directors, draft a
19 nonlegal interpretative statement which shall accompany the
20 referendum question in accordance with section 201.1 of the
21 act of June 3, 1937 (P.L.1333, No.320), known as the
22 Pennsylvania Election Code. The nonlegal interpretative
23 statement shall include information that references the items
24 of expenditure for which the tax increase is sought and the
25 consequence of the referendum being disapproved by the
26 electorate.

27 (d) Failure to approve referendum.--

28 (1) If a referendum question submitted under subsection
29 (c) (1) is not approved, the board of school directors may
30 approve an increase in the tax rate of not more than the

1 index.

2 (2) If a referendum question submitted under subsection
3 (c) (2) is not approved, the board of school directors may not
4 levy the tax.

5 (e) Tax rate submissions.--A school district that has
6 adopted a preliminary budget proposal under section 311 that
7 includes an increase in the rate of any tax levied for the
8 support of public schools shall submit information on the
9 increase to the department on a uniform form prepared by the
10 department. The school district shall submit the information no
11 later than 85 days prior to the date of the election immediately
12 preceding the beginning of the school district's fiscal year.
13 The department shall compare the proposed percentage increase in
14 the rate of any tax with the index. Within ten days of the
15 receipt of the information required under this subsection but no
16 later than 75 days prior to the date of the election immediately
17 preceding the beginning of the school district's fiscal year,
18 the department shall inform the school district whether the
19 proposed tax rate increase is less than or equal to the index.
20 If the department determines that the proposed percentage
21 increase in the rate of the tax exceeds the index, the
22 department shall notify the school district that:

23 (1) the proposed tax increase must be reduced to an
24 amount less than or equal to the index; or

25 (2) the proposed tax increase must be approved by the
26 electorate under subsection (c) (1).

27 (f) Rescission.--

28 (1) Any increase in a rate of a tax levied for support
29 of the public schools imposed prior to or during the
30 2011-2012 school year under a referendum exception granted

1 under former section 333 or section 333 of the former
2 Homeowner Tax Relief Act shall be rescinded:

3 (i) immediately following fulfillment of the court
4 order or administrative order that was the basis for the
5 referendum exception;

6 (ii) immediately following the payment of costs to
7 resolve a condition which posed an immediate threat of
8 serious physical harm or injury to the students, staff or
9 residents of the school district that was the basis for
10 the referendum exception; or

11 (iii) following the final payment of interest and
12 principal related to the indebtedness.

13 (2) For the purposes of this subsection, the term "final
14 payment of interest and principal" shall not include a school
15 district's payment of debt as a result of refunding or
16 refinancing the debt unless the original debt has been fully
17 paid.

18 (g) Index calculation.--No later than August 15, 2005, and
19 each August 15 thereafter, the department shall calculate the
20 index. The department shall publish the index by September 1,
21 2005, and each September 1 thereafter in the Pennsylvania
22 Bulletin.

23 (h) Election interference prohibited.--

24 (1) No public funds may be used to urge any elector to
25 vote for or against a referendum or be appropriated for
26 political or campaign purposes.

27 (2) This subsection shall not be construed to prohibit
28 the use of public funds for dissemination of factual
29 information relative to a referendum appearing on an election
30 ballot.

1 (3) As used in this subsection, the term "public funds"
2 shall mean any funds appropriated by the General Assembly or
3 by a political subdivision.

4 Section 4. Section 703(c)(3)(i) of the act is amended to
5 read:

6 Section 703. Tax relief.

7 * * *

8 (c) Exceptions.--The wage and net profits tax rates may only
9 be raised above the rates specified in subsection (b)(2) if all
10 of the following apply:

11 * * *

12 (3) The increase is necessary to respond to any of the
13 following:

14 [(i) A fiscal threat or condition, as certified by
15 the city's director of finance, that occurs to the city
16 as set forth in section 333(f) or an equivalent fiscal
17 threat that affects the citizens of the city. It shall be
18 the responsibility of the city's director of finance with
19 the approval of the Pennsylvania Intergovernmental
20 Cooperation Authority to ensure that any additional tax
21 revenue raised is equal to the amount expended to respond
22 to the fiscal threat or condition. If the amount of
23 revenue raised through rate adjustment exceeds the amount
24 necessary to respond, over the course of the city's
25 approved financial plan to the fiscal threat, the excess
26 amount shall be used for wage tax and net profits tax
27 reduction in the immediately succeeding approved
28 financial plan but only if the tax rate reduction,
29 expressed as the difference between the two tax rates,
30 would exceed .0002.]

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* * *

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Section 5. This act shall take effect in 60 days.