

LEGISLATIVE REFERENCE BUREAU

2013D04041MSP:JSL

L.R.B. Form No. 4 (Rev. 3/25/10)

No. \_\_\_\_\_

AN ACT

LEGISLATIVE REFERENCE BUREAU

Amending the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, providing for optional property tax elimination.

INTRODUCED \_\_\_\_\_ 20 \_\_\_\_\_

By \_\_\_\_\_ District NO. \_\_\_\_\_

By \_\_\_\_\_ District NO. \_\_\_\_\_

By \_\_\_\_\_ District NO. \_\_\_\_\_

By \_\_\_\_\_ District NO. \_\_\_\_\_

See next page for additional co-sponsors.

Referred to Committee on

Date \_\_\_\_\_ 20 \_\_\_\_\_

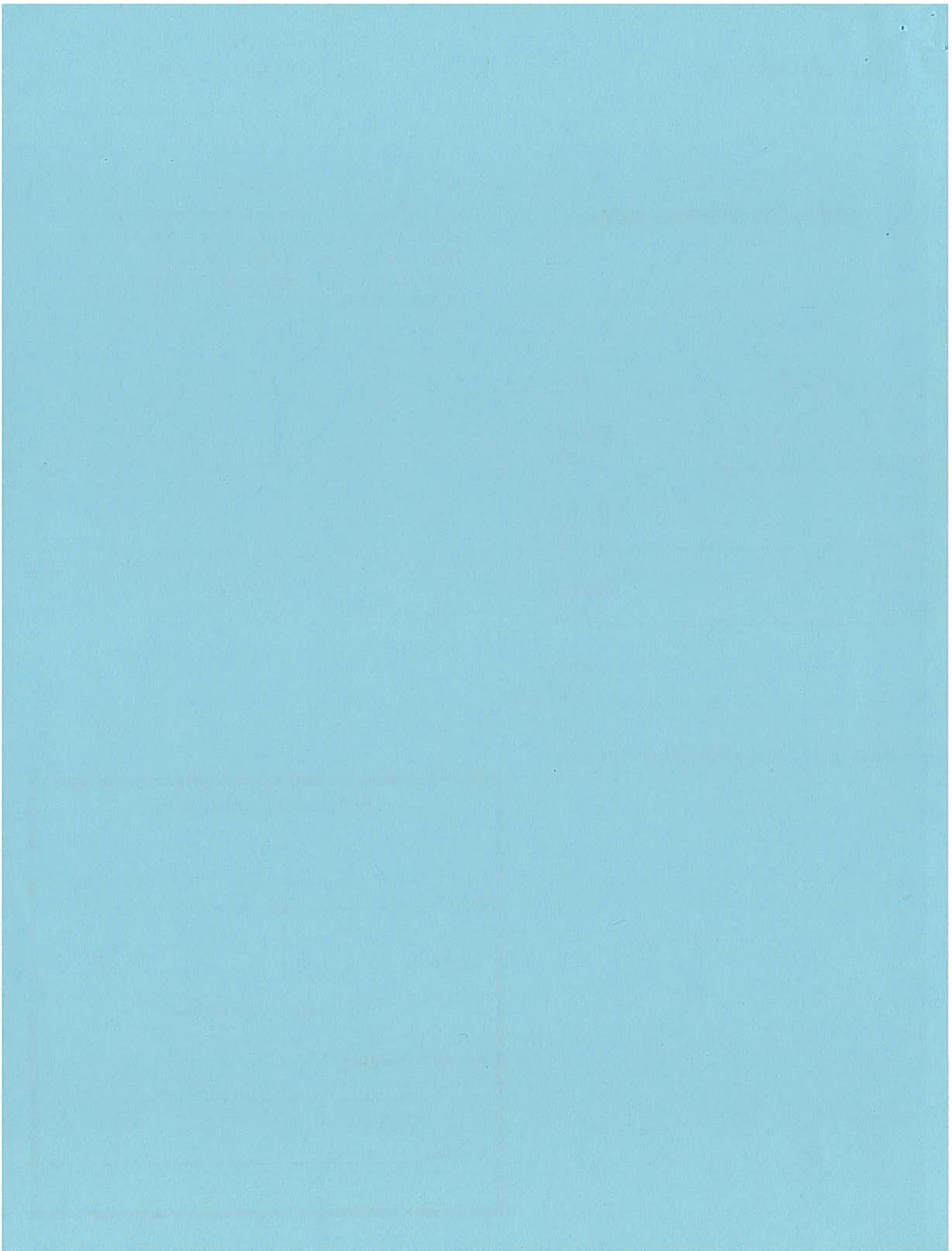
Reported \_\_\_\_\_ 20 \_\_\_\_\_

As Committed-Amended

Recommendation

\_\_\_\_\_

By Hon. \_\_\_\_\_



## AN ACT

1 Amending the act of December 31, 1965 (P.L.1257, No.511),  
2 entitled "An act empowering cities of the second class,  
3 cities of the second class A, cities of the third class,  
4 boroughs, towns, townships of the first class, townships of  
5 the second class, school districts of the second class,  
6 school districts of the third class and school districts of  
7 the fourth class including independent school districts, to  
8 levy, assess, collect or to provide for the levying,  
9 assessment and collection of certain taxes subject to maximum  
10 limitations for general revenue purposes; authorizing the  
11 establishment of bureaus and the appointment and compensation  
12 of officers, agencies and employes to assess and collect such  
13 taxes; providing for joint collection of certain taxes,  
14 prescribing certain definitions and other provisions for  
15 taxes levied and assessed upon earned income, providing for  
16 annual audits and for collection of delinquent taxes, and  
17 permitting and requiring penalties to be imposed and  
18 enforced, including penalties for disclosure of confidential  
19 information, providing an appeal from the ordinance or  
20 resolution levying such taxes to the court of quarter  
21 sessions and to the Supreme Court and Superior Court,"  
22 providing for optional property tax elimination.

23 The General Assembly of the Commonwealth of Pennsylvania  
24 hereby enacts as follows:

25 Section 1. The act of December 31, 1965 (P.L.1257, No.511),  
26 known as The Local Tax Enabling Act, is amended by adding a  
27 chapter to read:

28 CHAPTER 6

1                   OPTIONAL PROPERTY TAX ELIMINATION

2 Section 601. Scope of chapter.

3       This chapter shall authorize a school district to levy,  
4 assess and collect an elimination tax as a means of reducing or  
5 eliminating property taxation.

6 Section 602. Definitions.

7       The following words and phrases when used in this chapter  
8 shall have the meanings given to them in this section unless the  
9 context clearly indicates otherwise:

10       "Board of school directors." A board of school directors of  
11 a school district of the first class A, second class, third  
12 class or fourth class.

13       "Domicile." The term as defined in section 501.

14       "Earned income." The term as defined in section 501.

15       "Elimination tax." Any of the following:

16           (1) The tax levied by a school district on earned income  
17 and net profits under this chapter.

18           (2) A mercantile tax imposed under section 613.

19           (3) A business privilege tax imposed under section 613.

20       "Index." The term as defined in section 302 of the Taxpayer  
21 Relief Act.

22       "Net profits." The term as defined in section 501.

23       "Resident." The term as defined in section 501.

24       "School district." A school district of the first class A,  
25 second class, third class or fourth class.

26       "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),  
27 known as the Tax Reform Code of 1971.

28       "Taxpayer Relief Act." The act of June 27, 2006 (1st  
29 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.

30 Section 603. Preemption.

1 No act of the General Assembly may vacate or preempt any  
2 resolution passed or adopted under the authority of this  
3 chapter, or any other act, providing authority for the  
4 imposition of an elimination tax by a school district, unless  
5 the act of the General Assembly expressly vacates or preempts  
6 the authority to pass or adopt resolutions.

7 Section 604. Real property tax replacement.

8 A school district that levies a tax on real property may  
9 reduce or eliminate the revenues provided by the real property  
10 tax by imposing the elimination tax as provided under this  
11 chapter.

12 Section 605. Resolution required.

13 The board of school directors may impose or increase the  
14 maximum limits of the elimination tax by adopting a resolution.  
15 Prior to approving the resolution, the board of school directors  
16 shall:

17 (1) Give public notice of its intent to adopt the  
18 resolution in the manner provided under section 306.

19 (2) Conduct at least one public hearing regarding  
20 reducing or eliminating the tax on real property and imposing  
21 or increasing the maximum rate of the elimination tax.

22 Section 606. Use of funds.

23 All funds generated from an elimination tax shall be used to  
24 directly reduce or eliminate school district real property tax  
25 millage rates.

26 Section 607. Elimination tax rate limits.

27 (a) Limit.--If a school district has reduced property tax  
28 millage rates to zero, a board of school directors may not  
29 increase the elimination tax for the support of public schools  
30 by more than the index unless there is compliance with section

1 333 of the Taxpayer Relief Act.

2 (b) Maximum rate.--The maximum rate of the elimination tax  
3 calculated under this chapter shall not be subject to the limits  
4 on the earned income tax specified under section 311(3).

5 Section 608. Exemption.

6 A school district that imposes an elimination tax may exempt  
7 from the payment of that tax any person whose total income from  
8 all sources is less than \$12,000.

9 Section 609. Collections.

10 (a) Earned income and net profits.--An elimination tax on  
11 earned income and net profits shall be subject to Chapters 5 and  
12 7.

13 (b) Mercantile tax or a business privilege tax.--A  
14 mercantile tax or a business privilege tax imposed under this  
15 chapter shall be subject to section 613.

16 Section 610. Credits.

17 (a) Credit.--Except as provided under subsection (b), the  
18 provisions of section 317 shall be applied by a board of school  
19 directors to determine any credits applicable to an elimination  
20 tax.

21 (b) Limitation.--Payment of a tax on earned income and net  
22 profits to any state other than Pennsylvania or to any political  
23 subdivision located outside the boundaries of this Commonwealth  
24 by a resident of a school district located in this Commonwealth  
25 shall not be credited to and allowed as a deduction from the  
26 liability of the person for an elimination tax imposed by the  
27 school district of residence.

28 Section 611. Real property tax prohibited.

29 (a) Prohibition.--For the first fiscal year beginning after  
30 the adoption of a resolution that eliminates real property tax

1 millage rates and each fiscal year thereafter, a school district  
2 shall be prohibited from levying, assessing or collecting a real  
3 property tax.

4 (b) Applicability.--This section shall not apply to the  
5 collection of delinquent real property taxes.

6 Section 612. Applicability of personal income tax.

7 Nothing under this chapter shall be construed to authorize a  
8 school district to levy, assess or collect a personal income  
9 tax.

10 Section 613. Mercantile or business privilege tax.

11 (a) Wholesale dealers.--Each school district shall have the  
12 power and may levy, assess and collect a tax on each dollar of  
13 the whole volume of business transacted by wholesale dealers in  
14 goods, wares and merchandise.

15 (b) Retail sales.--Each school district shall have the power  
16 and may levy, assess and collect a tax on each dollar of sales  
17 by:

18 (1) Retail dealers in goods, wares and merchandise,  
19 including proprietors of restaurants or other places where  
20 food, drink and refreshments are served.

21 (2) Providers of services.

22 (c) Transactions partially free of tax.--No tax shall be  
23 levied on the dollar volume of business transacted by wholesale  
24 and retail dealers derived from the resale of goods, wares and  
25 merchandise, taken by any dealer as a trade-in or as part  
26 payment for other goods, wares and merchandise, except to the  
27 extent that the resale price exceeds the trade-in allowance.

28 Section 614. Exclusions from tax.

29 A tax under section 613 may not be levied, assessed or  
30 collected on:

1           (1) The gross receipts from utility service of any  
2 person or company whose rates and services are fixed and  
3 regulated by the Pennsylvania Public Utility Commission, on  
4 any public utility services rendered by the person or  
5 company, on any privilege or transaction involving the  
6 rendering of the public utility service or on any Federal  
7 Energy Regulation Commission-approved qualifying facility.

8           (2) Any of the following:

9           (i) Goods and articles manufactured in the school  
10 district.

11           (ii) The by-products of manufacture.

12           (iii) Minerals, timber, natural resources and farm  
13 products produced in the school district.

14           (iv) The preparation or processing of items under  
15 subparagraph (iii) for use or market.

16           (v) Any privilege, act or transaction related to the  
17 business of manufacturing, the production, preparation or  
18 processing of minerals, timber and natural resources or  
19 farm products, by manufacturers, by producers and by  
20 farmers with respect to the goods, articles and products  
21 of their own manufacture, production or growth.

22           (vi) Any privilege, act or transaction relating to  
23 the business of processing by-products of manufacture.

24           (vii) The transportation, loading, unloading or  
25 dumping or storage of goods, articles, products or by-  
26 products under this paragraph, except that school  
27 districts may levy, assess and collect taxes on a person  
28 using municipal services and the personal income of  
29 natural persons engaged in these activities whether doing  
30 business as an individual proprietorship or as members of



1 partnerships or other associations.

2 (3) Gross receipts or part of gross receipts which are:

3 (i) Discounts allowed to purchasers as cash  
4 discounts for prompt payment of their bills.

5 (ii) Charges advanced by a seller for freight,  
6 delivery or other transportation for the purchaser in  
7 accordance with the terms of a contract of sale.

8 (iii) Received upon the sale of an article of  
9 personal property which was acquired by the seller as a  
10 trade-in to the extent that the gross receipts in the  
11 sale of the article taken in trade does not exceed the  
12 amount of trade-in allowance made in acquiring the  
13 article.

14 (iv) Refunds, credits or allowances given to a  
15 purchaser on account of defects in goods sold or  
16 merchandise returned.

17 (v) Pennsylvania sales tax and any sales tax, use  
18 tax and occupancy tax imposed under law.

19 (vi) Based on the value of exchanges or transfers  
20 between one seller and another seller who transfers  
21 property with the understanding that property of an  
22 identical description will be returned at a subsequent  
23 date, except that if sellers engaged in similar lines of  
24 business exchange property and one of them makes payment  
25 to the other in addition to the property exchanged, the  
26 additional payment received may be included in the gross  
27 receipts of the seller receiving such additional cash  
28 payments.

29 (vii) Receipts of sellers from sales to other  
30 sellers in the same line where the seller transfers the

1 title or possession at the same price for which the  
2 seller acquired the merchandise.

3 (viii) Transfers between one department, branch or  
4 division of a corporation or other business entity of  
5 goods, wares and merchandise to another department,  
6 branch or division of the same corporation or business  
7 entity and which are recorded on the books to reflect  
8 such interdepartmental transactions.

9 (ix) Transfers attributable to activities occurring  
10 outside the taxing authority. Gross receipts shall be  
11 attributed to the jurisdiction in which the activities  
12 generating the receipts occur.

13 (4) The gross receipts of:

14 (i) Any bank, bank and trust company, private bank,  
15 savings bank or trust company, as defined in the act of  
16 November 30, 1965 (P.L.847, No.356), known as the Banking  
17 Code of 1965.

18 (ii) Any other institution or entity subject to the  
19 supervision of the Department of Banking under section  
20 201 of the act of May 15, 1933 (P.L.565, No.111), known  
21 as the Department of Banking Code.

22 (iii) Any national bank.

23 (iv) Any similar institution or entity established  
24 pursuant to Federal law or the law of any state.

25 (5) The gross receipts of any distributor or importing  
26 distributor of malt or brewed beverages subject to licensure  
27 under the act of April 12, 1951 (P.L.90, No.21), known as the  
28 Liquor Code.

29 Section 2. This act shall take effect in 60 days.