

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 2460

Session of  
1980

INTRODUCED BY WILSON, SIEMINSKI, ZITTERMAN, DeVERTER, KUKOVICH,  
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CALTAGIRONE, PRATT, KOLTER, GEIST, PYLES, DAVIES, NOYE,  
E. G. JOHNSON, GRIECO, HOFFEL AND KOWALYSHYN, APRIL 9, 1980

REFERRED TO COMMITTEE ON FINANCE, APRIL 9, 1980

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," implementing school real property tax  
6 relief; providing limitations on the use of such tax to  
7 finance public schools; and authorizing certain taxes to be  
8 levied in lieu of real property taxes.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. The act of March 10, 1949 (P.L.30, No.14), known  
12 as the "Public School Code of 1949," is amended by adding  
13 sections to read:

14 Section 602.1. Limitation on Real Property Taxes;  
15 Exceptions; Duty of Landlords.--(a) For the school fiscal year  
16 1981-1982 or, if appropriate, calendar year 1982, no school  
17 district shall levy a tax on the assessed valuation of real  
18 property which will produce greater revenue for the district for  
19 school purposes than eighty per centum (80%) of the total local

1 taxes levied by the school district for school purposes in that  
2 school fiscal or calendar year. For the school fiscal year 1982-  
3 1983 or, if appropriate, calendar year 1983, no school district  
4 shall levy a tax on the assessed valuation of real property  
5 which will produce greater revenue for school purposes than  
6 sixty-five per centum (65%) of the total local taxes levied for  
7 school purposes in that school fiscal or calendar year. For the  
8 school fiscal year 1983-1984 or, if appropriate, calendar year  
9 1984, and each school year thereafter, no school district shall  
10 levy a tax on the assessed valuation of real property which will  
11 produce greater revenue for school purposes than fifty per  
12 centum (50%) of the total taxes levied for school purposes in  
13 that school fiscal or calendar year.

14 (b) Each year the Secretary of Education shall calculate the  
15 ratio of market value of residential property to personal income  
16 for each school district and shall certify to each school  
17 district with a ratio greater than two (2) (when rounded to the  
18 nearest tenth) that the district is exempt for the following  
19 five (5) years from the limitations imposed by subsection (a).  
20 In calculating the ratio the secretary shall use the market  
21 value of residential property (including lots) located within  
22 the district certified to him by the State Tax Equalization  
23 Board and the personal income reported by the residents of the  
24 district as certified to him by the Secretary of Revenue.

25 (c) Within thirty (30) days after receipt of his school real  
26 property tax bill, a landlord shall disclose in writing to each  
27 tenant who has occupied a rental unit for more than forty-five  
28 (45) days the reduction in real property taxes, if any, under  
29 this amendatory act which is attributable to that tenant's unit.  
30 The amount of tax reduction attributable to each unit shall be

1 based upon allocated square footage occupied or other reasonable  
2 criteria. The rental amount specified in any subsequent lease  
3 shall reflect any reduction in real property taxes required by  
4 this section.

5 Section 602.2. Personal Income Tax Authorization.--(a) A  
6 school district, in addition to any other taxes authorized by  
7 law, may provide by ordinance or resolution for the levying of a  
8 tax upon the personal income of the residents of the district.  
9 For the school fiscal year 1981-1982 or, if appropriate,  
10 calendar year 1982, the personal income tax may be levied at a  
11 rate not to exceed one per centum (1%). For the school fiscal  
12 year 1982-1983 or, if appropriate, calendar year 1983, the tax  
13 may be levied at a rate not to exceed one and one-half per  
14 centum (1 1/2%). For the school fiscal year 1983-1984 or, if  
15 appropriate, calendar year 1984 and for each school year  
16 thereafter, the tax may be levied at a rate not to exceed two  
17 per centum (2%). "Personal income" shall mean the total income  
18 taxed under Article III, act of March 4, 1971 (P.L.6, No.2),  
19 known as the "Tax Reform Code of 1971."

20 (b) A school district levying the personal income tax  
21 authorized by subsection (a) shall provide relief from the tax  
22 for persons who, because of poverty, are determined to be in  
23 need of special tax provisions. Such tax relief shall be in  
24 accordance with the special tax provision schedule in section  
25 304 of the "Tax Reform Code of 1971."

26 (c) A school district levying the personal income tax  
27 authorized by subsection (a) may provide relief from the tax for  
28 persons who, because of age, are determined to be in need of  
29 special tax provisions. Such tax relief shall be in accordance  
30 with section 4, act of March 11, 1971 (P.L.104, No.3), known as

1 the "Senior Citizens Property Tax or Rent Rebate and Older  
2 Persons Inflation Needs Act."

3 (d) Upon written notification by the school district of the  
4 rate of personal income tax imposed by the school district, an  
5 employer shall deduct and withhold from the compensation for  
6 each payroll period of each employee who is a resident of that  
7 school district, a tax computed in such manner as to result, so  
8 far as practicable, in withholding from the employee's  
9 compensation during each calendar year an amount substantially  
10 equivalent to the tax reasonably estimated to be due for such  
11 year with respect to such compensation. Subject to the  
12 foregoing, the ordinance levying the tax shall provide for  
13 withholding, collecting and enforcing procedures which are not  
14 inconsistent with the provisions of the act of December 31, 1965  
15 (P.L.1257, No.511), known as "The Local Tax Enabling Act,"  
16 relating to the withholding of earned income.

17 Section 602.3. Business Use or Occupancy Tax; Definitions.--

18 (a) The following words, terms and phrases when used in this  
19 section shall have the meaning ascribed to them in this  
20 subsection except where the context clearly indicates a  
21 different meaning:

22 (1) "Area available for use or occupancy" shall include the  
23 whole portion of any real property, any structure thereon and  
24 space therein exclusive of service, utility and common areas  
25 controlled by the landlord.

26 (2) "Landlord" shall include in addition to the owner of  
27 real property, any person who grants the right to use or occupy  
28 real property or any part thereof to any lessee, sub-lessee,  
29 licensee or concessionaire.

30 (3) "Taxable year" shall mean July 1 of any calendar year

1 through June 30 of the following calendar year.

2 (4) "Taxpayer" shall mean a taxable user or occupier of real  
3 property within the school district.

4 (b) A school district, in addition to any other taxes  
5 authorized by law, may provide by ordinance or resolution for  
6 the levying of a business use or occupancy tax on the user or  
7 occupier of real property within the school district for the  
8 privilege of carrying on any business, trade, occupation,  
9 profession, vocation or any other commercial, industrial or  
10 agricultural activity on the real property.

11 (c) This tax shall not apply to:

12 (1) The use or occupancy of real property to the extent that  
13 the real property is used or occupied as the dwelling or  
14 principal place of residence of the user or occupier; or

15 (2) The use or occupancy of real property for a purpose  
16 which exempts it from local real property taxes.

17 (d) For the school fiscal years 1981-1982 through 1983-1984  
18 or, if appropriate, calendar years 1982 through 1984, the rate  
19 of tax shall be subject to section 602.7. Thereafter, no school  
20 district shall levy the tax at a rate that would result in the  
21 annual yield of the tax increasing at a greater rate than the  
22 annual yield of the personal income tax authorized by section  
23 602.2.

24 (e) Computation of tax:

25 (1) The landlord shall on or before September 1 of each  
26 taxable year compute the tax which is payable for the portion of  
27 the property which he uses or occupies and for the portion which  
28 each tenant uses or occupies, and where he, or a tenant, is the  
29 sole user or occupier of the property, pay or collect and pay  
30 over, as the agent for the school district the tax due within

twenty-five (25) days after the end of each quarter of the taxable year.

(2) In the case where the total area available for use and occupancy of the property is occupied by tenants and no portion is used or occupied by the landlord, the tax shall be allocated by the landlord among the tenants on the basis of rents contracted for between the landlord and the tenants; in the case where the total area available for use or occupancy is used or occupied by the landlord and one or more tenants, the tax shall be allocated among the users and occupiers on the basis of the area used or occupied divided by the total area available for use or occupancy. The tax due for each user and occupier for the quarter of the taxable year shall be computed by multiplying the proportion of the area used or occupied or the proportion of the total rentals paid or to be paid by the user or occupier multiplied by the total assessed value of the property multiplied by the rate of tax multiplied by the months of actual use or occupancy divided by twelve. The use or occupancy of a portion of the property for any period of time during a month shall be presumed to constitute the use or occupancy of the portion for the entire month.

(3) The school district may provide for discounts not to exceed ten per centum (10%) of the tax due for the annual prepayment of the tax by the landlord or by him on behalf of the tenants. Where the landlord prepays the tax he shall have a right to collect the tax due from each tenant and shall have a cause of action against any tenant who fails to pay to the landlord the tax due after notice and demand.

Section 602.4. Amusement Tax.--A school district of the second, third or fourth class, in addition to any other taxes

1 authorized by law, may provide by ordinance or resolution for  
2 the levying of a tax on sales of admission to places of  
3 amusement. The rate of tax on admissions to places of amusement  
4 shall not exceed five per centum (5%) of the price of admission.

5 Section 602.5. Real Estate Transfer Tax.--A school district  
6 of the second, third or fourth class, in addition to any other  
7 taxes authorized by law, may provide by ordinance or resolution  
8 for the levying of a tax on the transfer of real property. The  
9 rate of tax on the transfer of real property shall not exceed  
10 one-half per centum (1/2%). Said school districts shall not have  
11 authority to levy, assess and collect or provide for the  
12 levying, assessment and collection of any tax on the transfer of  
13 real property when the transfer is by will or mortgage or the  
14 intestate laws of this Commonwealth or on a transfer by the  
15 owner of previously occupied residential premises to a builder  
16 of new residential premises when such previously occupied  
17 residential premises is taken in trade by such builder as part  
18 of the consideration from the purchaser of a new previously  
19 unoccupied single-family residential premises or on a transfer  
20 between corporations operating housing projects pursuant to the  
21 housing and redevelopment assistance law and the shareholders  
22 thereof, or on a transfer between nonprofit industrial  
23 development agencies and industrial corporations purchasing from  
24 them, or on transfer to nonprofit industrial development  
25 agencies, or on a transfer between husband and wife, or on a  
26 transfer between persons who were previously husband and wife  
27 but who have since been divorced; provided such transfer is made  
28 within three (3) months of the date of the granting of the final  
29 decree in divorce and the property or interest therein, subject  
30 to such transfer, was acquired by the husband and wife, or

1 husband or wife, prior to the granting of the final decree in  
2 divorce, or on a transfer between parent and child or the spouse  
3 of such a child, or between parent and trustee for the benefit  
4 of a child or the spouse of such child, by and between a  
5 principal and straw party for the purpose of placing a mortgage  
6 or ground rent upon the premises, or on a correctional deed  
7 without consideration, or on a transfer to the United States,  
8 the Commonwealth of Pennsylvania, or to any of their  
9 instrumentalities, agencies or political subdivisions, by gift,  
10 dedication or deed in lieu of condemnation, or deed of  
11 confirmation in connection with condemnation proceedings, or  
12 reconveyance of the condemning body of the property condemned to  
13 the owner of record at the time of condemnation which  
14 reconveyance may include property line adjustments provided said  
15 reconveyance is made within one (1) year from the date of  
16 condemnation, leases or on a conveyance to a trustee under a  
17 recorded trust agreement for the express purpose of holding  
18 title in trust as security for a debt contracted at the time of  
19 the conveyance under which the trustee is not the lender and  
20 requiring the trustee to make reconveyance to the grantor-  
21 borrower upon the repayment of the debt, or in any sheriff sale  
22 instituted by a mortgagee in which the purchaser of said sheriff  
23 sale is the mortgagee who instituted said sale.

24 Section 602.6. Residential Construction Tax; Definitions.--

25 (a) The following words, terms and phrases when used in this  
26 section shall have the meanings ascribed to them in this  
27 subsection except where the context clearly indicates a  
28 different meaning:

29 (1) "Convert" shall mean any activity whereby an  
30 improvement to real property not theretofore used as a residence



is changed to a residence, or whereby the number of residential units within a residence are increased in number.

(2) "Residence" shall include any improvement to real property constructed and intended as a place of residence for one (1) or more persons, including single-family and multifamily residences, but not including accommodations for transient occupancy such as motels, hotels, tourist homes, campgrounds, hospitals and convalescent homes.

(3) "Residential unit" shall include a group of rooms within a residence for occupancy by one (1) or more persons separate and independent from other groups of rooms within the same residence, whether or not one (1) or more facilities, such as heating, toilet, laundry and the like, are shared by the occupants of two (2) or more room groups.

(b) A school district of the second, third or fourth class, in addition to any other taxes authorized by law, may provide by ordinance or resolution for the levying of a residential construction tax. Every person who constructs a residence or converts an improvement to real property into a residence within the school district may be taxed at a rate not to exceed five hundred dollars (\$500) per residential unit. Housing built exclusively for occupancy by limited income senior citizens shall be exempt from the tax.

Section 602.7. Schedule for Implementation of Taxes.--A school district may continue to levy any tax it levied for the school fiscal year 1979-1980 or, if appropriate, calendar year 1980, under the authority of the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act," but in no case may the rate of tax imposed be greater than the rate imposed for the school fiscal year 1979-1980 or, if appropriate,

1 calendar year 1980. For those school districts imposing an  
2 amusement tax, real estate transfer tax or residential  
3 construction tax for which the rate of tax for the school fiscal  
4 year 1979-1980 or, if appropriate, calendar year 1980, was more  
5 than the maximum rate authorized in sections 602.4, 602.5 and  
6 602.6, the tax rate for any subsequent year shall not exceed the  
7 rate of tax imposed for the previous year. No school district  
8 may levy any tax under the authority of "The Local Tax Enabling  
9 Act," after the school fiscal year 1982-1983 or, if appropriate,  
10 calendar year 1983. For the school fiscal years 1981-1982  
11 through 1983-1984 and the calendar years 1982 through 1984, if  
12 appropriate, no school district shall impose the personal income  
13 tax authorized by section 602.2 at a rate that would yield an  
14 amount greater than the budgeted amount in dollars of  
15 residential property tax reduction plus the budgeted dollar  
16 reduction in taxes levied under the authority of "The Local Tax  
17 Enabling Act." For the school fiscal years 1981-1982 through  
18 1983-1984 and the calendar years 1982 through 1984, if  
19 appropriate, no school district shall impose the business use or  
20 occupancy tax authorized by section 602.3 at a rate that would  
21 yield an amount greater than the budgeted dollar reduction in  
22 dollars of nonresidential property tax reduction. Nothing herein  
23 shall prevent school districts from reducing property taxes  
24 below the limitations prescribed in section 602.1.

25 Section 602.8. Collection of Taxes.--The act of December 31,  
26 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act,"  
27 except for sections 2 and 8, is incorporated in sections 602.2,  
28 602.3, 602.4, 602.5 and 602.6 where appropriate and not  
29 inconsistent.

30 Section 2. Section 679 of the act is repealed.

1       Section 3. Except for administrative provisions and sections  
2   602.4, 602.5 and 602.6 which authorize existing taxes, the  
3   provisions of this act are nonseverable and if any such  
4   provision is held invalid, the remaining provisions of this act  
5   shall be void. This act shall be read in pari materia with the  
6   companion amendments to the act of December 31, 1965 (P.L.1257,  
7   No.511), known as "The Local Tax Enabling Act," implementing  
8   school real property tax relief.

9       Section 4. Section 1 shall take effect immediately; section  
10   2 shall take effect for the school fiscal year 1983-1984 or, if  
11   appropriate, calendar year 1984.