

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 2223** Session of
2012

INTRODUCED BY GINGRICH, ROSS, CREIGHTON, FREEMAN, SANTARSIERO
AND HENNESSEY, FEBRUARY 29, 2012

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 4, 2012

AN ACT

1 Amending the act of January 19, 1967 (1968 P.L.992, No.442),
2 entitled, as amended, "An act authorizing the Commonwealth of
3 Pennsylvania and the local government units thereof to
4 preserve, acquire or hold land for open space uses," further
5 providing for local taxing options.

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

8 Section 1. Section 7.1 of the act of January 19, 1967 (1968
9 P.L.992, No.442), entitled "An act authorizing the Commonwealth
10 of Pennsylvania and the local government units thereof to
11 preserve, acquire or hold land for open space uses," amended
12 February 2, 2006 (P.L.15, No.4) and November 29, 2006 (P.L.1418,
13 No.154), is amended to read:

14 Section 7.1. Local Taxing Options.--(a) A local government
15 unit, excluding counties and county authorities, may by
16 ordinance impose, in addition to the statutory rate limits on
17 real estate taxes set forth in the municipal code of that local
18 government unit, a tax on real property not exceeding the
19 millage authorized by referendum under [this subsection]

1 subsection (a.1). In the alternative, a local government unit,
2 excluding counties and county authorities, may by ordinance
3 impose, in addition to the earned income tax rate limit set
4 forth in the act of December 31, 1965 (P.L.1257, No.511), known
5 as "The Local Tax Enabling Act," a tax on the earned income of
6 the residents of that local government unit not exceeding the
7 rate authorized by referendum under [this subsection] subsection
8 (a.1). Revenue from the levy [shall be used] may only be used
9 for the following:

10 (1) to retire the indebtedness incurred in purchasing
11 interests in real property or in making additional acquisitions
12 of real property for the purpose of securing an open space
13 benefit or benefits under the provisions of this act or the act
14 of June 30, 1981 (P.L.128, No.43), known as the "Agricultural
15 Area Security Law[." Revenue from the levy may also be used]";

16 (2) for transactional fees that are incidental to
17 acquisitions made in accordance with this act, including, but
18 not limited to, costs of appraisals, legal services, title
19 searches, document preparation, title insurance, closing fees
20 and survey costs[.]; or

21 ~~(3) in an amount up to twenty five percent of the annual~~ ←
22 ~~revenue ANNUALLY, UP TO 25% OF THE ACCUMULATED BALANCE OF THE~~ ←
23 ~~FUND from the levy authorized by referendum, to maintain~~
24 ~~property acquired pursuant to this act for an open space benefit~~
25 ~~or benefits, OR ALTERNATIVELY, FOR PURPOSES OF ALLOCATION, THE~~ ←
26 ~~LOCAL GOVERNMENT UNIT MAY CREATE A MAINTENANCE FUND INTO WHICH~~
27 ~~THE LOCAL GOVERNMENT UNIT MAY DEPOSIT IN AN AMOUNT UP TO 25% OF~~
28 ~~THE ANNUAL REVENUE FROM THE LEVY AUTHORIZED BY REFERENDUM, TO~~
29 ~~MAINTAIN PROPERTY ACQUIRED PURSUANT TO THIS ACT FOR AN OPEN~~
30 ~~SPACE BENEFIT OR BENEFITS. In no event, however, shall any~~

1 revenue in a particular year be used to maintain the property
2 acquired unless the annual debt service under clause (1) or
3 acquisition fees under clause (2) will be satisfied. The
4 acquisition fees shall be paid in their entirety at the time of
5 acquisition.

6 (a.1) The local taxing option authorized by [this]
7 subsection (a) shall not be exercised unless the governing body
8 of the local government unit shall by ordinance first provide
9 for a referendum on the question of the imposition at a specific
10 rate of the additional tax to be imposed and a majority of those
11 voting on the referendum question vote in favor of the
12 imposition of the tax. The referendum question shall provide the
13 electors a choice of the method by which the additional tax, if
14 authorized by the referendum, may be repealed. The additional
15 tax, however, shall not be repealed any sooner than five years
16 after the imposition of the tax or when any indebtedness
17 incurred for payment of the property or properties acquired has
18 been repaid, whichever is later. The ordinance of the governing
19 board of the local government unit providing for a referendum on
20 the question shall be filed with the county board of elections.
21 The referendum shall be governed by the provisions of the act of
22 June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania
23 Election Code." The election official shall cause the question
24 to be submitted to the electors of the local government unit at
25 the next primary, general or municipal election occurring not
26 less than the thirteenth Tuesday following the filing of the
27 ordinance with the county board of elections. At such election,
28 the question shall be submitted to the voters in the same manner
29 as other questions are submitted under the provisions of the
30 "Pennsylvania Election Code." The question to be placed upon the

1 ballot shall be framed in the following two-part form:

2 Do you favor the imposition of a (describe tax in millage
3 or earned income tax rate) by (local government unit) to
4 be used to (purpose)?

5 If the tax is imposed, by which method do you prefer that
6 the tax be repealed, which may be no sooner than five
7 years after the imposition of the tax or when any
8 indebtedness incurred for payment of the property(ies)
9 acquired has been repaid, whichever is later:

10 By ordinance at the discretion of the governing
11 body.

12 By referendum.

13 (a.2) For those local government units that have imposed the
14 local taxing option on or before the effective date of this
15 subsection, the governing body of the local government unit may,
16 no sooner than five years after the imposition of the tax or
17 when any indebtedness incurred for payment of the property or
18 properties acquired has been repaid, whichever is later, choose
19 to repeal the additional tax by ordinance.

20 (a.3) For those local government units whose electors voted
21 in a referendum pursuant to subsection (a.1) to impose the
22 higher rate of tax, after the effective date of this subsection,
23 that the method of repeal of the local taxing option shall be by
24 referendum, the procedures for the filing of the ordinance and
25 the conduct of the referendum shall be as set forth in
26 subsection (a.1), except the question to be placed upon the
27 ballot shall be framed in the following form:

28 Do you favor the continued imposition of the (describe
29 tax in millage or earned income tax rate) by (local
30 government unit) to be used to (purpose)?

1 If the referendum question passes, then the local option tax
2 shall continue to be imposed at the rate described in the
3 question. If the referendum question fails, then the increase in
4 the rate limit of the real estate or the earned income tax
5 provided for by this section shall be repealed effective in the
6 fiscal year following the referendum. Regardless of whether the
7 referendum question fails or passes, a referendum on either the
8 reimposition of the local option tax pursuant to subsection
9 (a.1) or the continued imposition of the local option tax
10 pursuant to this subsection shall not be held any sooner than
11 three years after the approval or disapproval of the referendum
12 question.

13 (a.4) For those local government units whose electors voted
14 in a referendum pursuant to subsection (a.1) to impose the
15 higher rate of tax, after the effective date of this subsection,
16 that the method of repeal of the local taxing option shall be by
17 ordinance, the governing body of a local government unit that
18 imposed the local taxing option may repeal the ordinance that
19 provided, pursuant to subsection (a), an addition to the rate
20 limits on real estate taxes or earned income taxes. The effect
21 of the repealed ordinance will be to repeal the increase in the
22 rate limits on real estate taxes or earned income taxes
23 effective in the fiscal year following the enactment of the
24 repealing ordinance. An ordinance enacted pursuant to this
25 subsection shall not be required to be approved by referendum.

26 (b) (1) Any of the following categories of real property
27 may be exempted from further millage increases:

28 (i) Real property in which the open space property interests
29 have been acquired by a local government unit in accordance with
30 this act.

1 (ii) Real property that is subject to an easement acquired
2 in accordance with the act of June 30, 1981 (P.L.128, No.43),
3 known as the "Agricultural Area Security Law."

4 (iii) Real property from which TDRs have been transferred
5 and retired by a local government unit without their development
6 potential having occurred on other lands.

7 (2) The exemption from further millage increases authorized
8 by clause (1) shall become effective only if the governing body
9 of each taxing district that imposes a tax on the real property
10 approves the exemption either by ordinance in the case of a
11 county or municipal corporation or by resolution in the case of
12 a school district.

13 (3) The exemption from further millage increases for real
14 property as provided for in this subsection shall be authorized
15 only for real property qualifying for such exemption under the
16 provisions of section 2(b)(1) of Article VIII of the
17 Constitution of Pennsylvania.

18 (4) If the governing body of each taxing district so
19 resolves, the millage freeze authorized herein shall apply to
20 all eligible real property, whether the real property met the
21 criteria of this subsection prior to or subsequent to the date
22 of the ordinances and resolution imposing the millage freeze.
23 For prior acquisitions, the date on which the millage rate shall
24 be frozen is the date that the last of the required ordinances
25 or resolution becomes effective. For subsequent acquisitions,
26 the date on which the millage rate shall be frozen is the date
27 the local government unit completes the acquisition. The
28 governing body of each taxing district shall give prompt notice
29 to the appropriate tax collection agent of the exact amount of
30 the millage, the date it was frozen and each parcel to which the

1 freeze applies.

2 (5) The exemptions granted under this act shall not be
3 considered by the State Tax Equalization Board in deriving the
4 market value of school district real property so as to reduce
5 the subsidy to that school district or to increase the subsidy
6 to any other school district.

7 Section 2. This act shall take effect immediately.