

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1417 Session of
2012

INTRODUCED BY ERICKSON, ROBBINS, EICHELBERGER, WOZNIAK AND
BLAKE, FEBRUARY 13, 2012

REFERRED TO LOCAL GOVERNMENT, FEBRUARY 13, 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 from the levy authorized by referendum, to maintain
23 property acquired pursuant to this act for an open space benefit
24 or benefits. In no event, however, shall any revenue in a
25 particular year be used to maintain the property acquired unless
26 the annual debt service under clause (1) or acquisition fees
27 under clause (2) will be satisfied. The acquisition fees shall
28 be paid in their entirety at the time of acquisition.

29 (a.1) The local taxing option authorized by [this]
30 subsection (a) shall not be exercised unless the governing body

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7 authorized by the referendum, may be repealed.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8 tax, however, shall not be repealed any sooner than five years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

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

28 If the tax is imposed, by which method do you prefer that
29 the tax be repealed, which may be no sooner than five
30 years after the imposition of the tax or when any

indebtedness incurred for payment of the property(ies)
acquired has been repaid, whichever is later:

☐ By ordinance at the discretion of the governing
body.

☐ By referendum.

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

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

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

If the referendum question passes, then the local option tax
shall continue to be imposed at the rate described in the
question. If the referendum question fails, then the increase in
the rate limit of the real estate or the earned income tax
provided for by this section shall be repealed effective in the
fiscal year following the referendum. Regardless of whether the
referendum question fails or passes, a referendum on either the

reimposition of the local option tax pursuant to subsection (a.1) or the continued imposition of the local option tax pursuant to this subsection shall not be held any sooner than three years after the approval or disapproval of the referendum question.

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

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

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

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

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

(2) The exemption from further millage increases authorized

1 by clause (1) shall become effective only if the governing body
2 of each taxing district that imposes a tax on the real property
3 approves the exemption either by ordinance in the case of a
4 county or municipal corporation or by resolution in the case of
5 a school district.

6 (3) The exemption from further millage increases for real
7 property as provided for in this subsection shall be authorized
8 only for real property qualifying for such exemption under the
9 provisions of section 2(b)(1) of Article VIII of the
10 Constitution of Pennsylvania.

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

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

30 Section 2. This act shall take effect immediately.