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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 909 Session of  
2015

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INTRODUCED BY WHITE, BARTOLOTTA, FOLMER, STEFANO, WARD,  
HUTCHINSON, AUMENT, ALLOWAY, MENSCH, WAGNER AND VOGEL,  
JUNE 24, 2015

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REFERRED TO FINANCE, JUNE 24, 2015

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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," in taxation by school districts,  
11 further providing for definitions, for adoption of  
12 preliminary budget proposals, for information to school  
13 districts, for property tax limits on reassessment and for  
14 public referendum requirements for increasing certain taxes.

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

17 Section 1. The definitions of "employment cost index,"  
18 "index" and "statewide average weekly wage" in section 302 of  
19 the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known  
20 as the Taxpayer Relief Act, are repealed:

21 Section 302. Definitions.

22 The following words and phrases when used in this chapter  
23 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 \* \* \*

3 ["Employment cost index." The most recent official figures,  
4 for the previous 12-month period beginning July 1 and ending  
5 June 30 for the Employment Cost Index Series for Elementary and  
6 Secondary Schools, reported by the Bureau of Labor Statistics of  
7 the Federal Department of Labor.]

8 \* \* \*

9 ["Index." As follows:

10 (1) Except as set forth in paragraph (2), the average of  
11 the percentage increase in the Statewide average weekly wage  
12 and the employment cost index.

13 (2) For a school district with a market value/income aid  
14 ratio greater than 0.400 for the school year prior to the  
15 school year for which the index is calculated, the value  
16 under paragraph (1) multiplied by the sum of:

17 (i) 0.75; and

18 (ii) the school district's market value/income aid  
19 ratio for the school year prior to the school year for  
20 which the index is calculated.]

21 \* \* \*

22 ["Statewide average weekly wage." That amount determined by  
23 the Department of Labor and Industry in the same manner that it  
24 determines the average weekly wage under section 404(e)(2) of  
25 the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1),  
26 known as the Unemployment Compensation Law, except that it shall  
27 be calculated for the preceding calendar year.]

28 \* \* \*

29 Section 2. Sections 311(d) and 313 of the act are amended to  
30 read:

1 Section 311. Adoption of preliminary budget proposals.

2 \* \* \*

3 (d) Resolution.--

4 (1) A board of school directors may elect to adopt a  
5 resolution indicating that it will not raise the rate of any  
6 tax for the support of the public schools for the following  
7 fiscal year [by more than the index]. The resolution must be  
8 adopted no later than 110 days prior to the date of the  
9 election immediately preceding the upcoming fiscal year. The  
10 resolution must make the following unconditional  
11 certifications:

12 (i) That the board of school directors will not  
13 increase any tax [at a rate that exceeds the index as  
14 calculated by the department].

15 (ii) That the board of school directors will comply  
16 with the procedures set forth in section 687 of the  
17 Public School Code for the adoption of its proposed and  
18 final budgets.

19 (iii) That the board of school directors certifies  
20 that [increasing any tax at a rate less than or equal to  
21 the index will be sufficient] no tax increase is  
22 necessary to balance its final budget.

23 (2) A board of school directors that adopts a resolution  
24 under this section shall do all of the following:

25 (i) Comply with the procedures in section 687 of the  
26 Public School Code for the adoption of its proposed and  
27 final budgets and shall not be subject to subsections (a)  
28 and (c).

29 [(ii) Submit information on a proposed increase in  
30 the rate of a tax levied for the support of the public

1 schools to the department on a uniform form prepared by  
2 the department no later than five days after the adoption  
3 of the resolution.]

4 (iii) Send a copy of the resolution adopted pursuant  
5 to this section to the department no later than five days  
6 after the adoption of the resolution.

7 [(3) A board of school directors that adopts a  
8 resolution under this section shall not be eligible to seek  
9 referendum exceptions under section 333(f), and section  
10 333(e) shall not apply.

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

23 Section 313. Information to school districts.

24 (1) No later than September 30, 2006, and September 30  
25 of each year thereafter, the department shall provide each  
26 school district with the [following information:

27 (i) The] dates by which actions required under this  
28 chapter shall take place.

29 [(ii) The index for the applicable fiscal year.]

30 (2) For the 2006-2007 school year, the department shall

1 provide each school district with the information required  
2 under this section no later than ten days after the effective  
3 date of this act.

4 Section 3. Section 327 of the act is repealed:

5 [Section 327. Property tax limits on reassessment.

6 Notwithstanding any other provision of law, including this  
7 act, after any county makes a countywide revision of assessment  
8 of real property at values based upon an established  
9 predetermined ratio as required by law or after any county  
10 changes its established predetermined ratio, a board of school  
11 directors in a school district located within that county which,  
12 after July 1, 2006, for the first time levies its real estate  
13 taxes on that revised assessment or valuation shall for the  
14 first year reduce its tax rate, if necessary, for the purpose of  
15 having the percentage increase in taxes levied for that year  
16 against the real properties contained in the duplicate for the  
17 preceding year be less than or equal to the index for the  
18 preceding year notwithstanding the increased valuations of such  
19 properties under the revised assessment. For the purpose of  
20 determining the total amount of taxes to be levied for the first  
21 year, the amount to be levied on newly constructed buildings or  
22 structures or on increased valuations based on new improvements  
23 made to existing houses need not be considered. The tax rate  
24 shall be fixed for that year at a figure which will accomplish  
25 this purpose. The provisions of section 333 shall apply to  
26 increases in the tax rate above the limits provided in this  
27 section.]

28 Section 4. Section 333(b), (c)(3), (e), (f), (g), (h), (j),  
29 (l), (n) and (o) of the act, amended June 30, 2011 (P.L.148,  
30 No.25), are amended to read:

1 Section 333. Public referendum requirements for increasing  
2 certain taxes.

3 \* \* \*

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

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

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

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

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

30 (c) Referendum.--

1           \* \* \*

2           (3) [Except as set forth in subsection (j), a] A school  
3           district acting pursuant to this subsection shall submit the  
4           referendum question required under this section to the  
5           election officials of each county in which it is situate no  
6           later than 60 days prior to the election immediately  
7           preceding the fiscal year in which the tax increase would  
8           take effect.

9           \* \* \*

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

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

30                 (2) the proposed tax increase must be approved by the

1 electorate under subsection (c) (1); or

2 (3) an exception must be sought under subsection (j).

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

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

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

13 (iii) Costs associated with the following:

14 (A) For a board of school directors that elected  
15 to participate in the former act of July 5, 2004  
16 (P.L.654, No.72), known as the Homeowner Tax Relief  
17 Act, to pay interest and principal on any  
18 indebtedness incurred under 53 Pa.C.S. Pt. VII Subpt.  
19 B (relating to indebtedness and borrowing) prior to  
20 September 4, 2004. In no case may the school district  
21 incur additional debt under this clause except for  
22 the refinancing of existing debt, including the  
23 payment of costs and expenses related to such  
24 refinancing and the establishment of funding of  
25 appropriate debt service reserves. An increase under  
26 this clause shall be rescinded following the final  
27 payment of interest and principal.

28 (A.1) For a board of school directors that did  
29 not elect to participate in the former act of July 5,  
30 2004 (P.L.654, No.72), known as the Homeowner Tax



1 Relief Act, to pay interest and principal on any  
2 indebtedness incurred under 53 Pa.C.S. Pt. VII Subpt.  
3 B prior to the effective date of this act. In no case  
4 may the school district incur additional debt under  
5 this clause except for the refinancing of existing  
6 debt, including the payment of costs and expenses  
7 related to such refinancing and the establishment of  
8 funding of appropriate debt service reserves. An  
9 increase under this clause shall be rescinded  
10 following the final payment of interest and  
11 principal.

12 (B) To pay interest and principal on any  
13 electoral debt incurred under 53 Pa.C.S. Pt. VII  
14 Subpt. B. An increase under this clause shall be  
15 rescinded following the final payment of interest and  
16 principal.

17 (E) For purposes of this subparagraph, electoral  
18 debt includes the refunding or refinancing of  
19 electoral debt for which an exception is permitted  
20 under clause (B) as long as the refunding or  
21 refinancing incurs no additional debt other than for:

22 (I) costs and expenses related to the  
23 refunding or refinancing; and

24 (II) funding of appropriate debt service  
25 reserves.

26 (F) For purposes of this subparagraph,  
27 indebtedness includes the refunding or refinancing of  
28 indebtedness for which an exception is permitted  
29 under clauses (A) and (A.1) as long as the refunding  
30 or refinancing incurs no additional debt other than

1 for:

2 (I) costs and expenses related to the  
3 refunding or refinancing; and

4 (II) funding of appropriate debt service  
5 reserves.

6 (v) Costs incurred in providing special education  
7 programs and services to students with disabilities if  
8 the increase in expenditures on special education  
9 programs and services, net of State special education  
10 payments, was greater than the index. The dollar amount  
11 of this exception shall be equal to the portion of the  
12 increase that exceeds the index.

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

17 (h) Limitation on tax rate.--The increase in the rate of any  
18 tax allowed pursuant to an exception under subsection (f) (2) (v)  
19 or (n) shall not exceed the rate increase required as determined  
20 by the department pursuant to subsection (j).

21 (j) Department approval.--

22 (1) A school district that seeks to increase the rate of  
23 tax due to an expenditure under subsection (f) (2) (iii) or (v)  
24 or (n) shall obtain the approval of the department before  
25 imposing the tax increase. The department shall establish  
26 procedures for administering the provisions of this  
27 subsection, which may include an administrative hearing on  
28 the school district's submission.

29 (2) A school district proceeding under the provisions of  
30 this subsection shall publish in a newspaper of general

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

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

15 (i) the school district qualifies for one or more  
16 exceptions under subsection (f)(2)(iii) or (v) or (n);  
17 and

18 (ii) the sum of the dollar amounts of the exceptions  
19 for which the school district qualifies makes the school  
20 district eligible under subsection (f)(1).

21 (4) For the purpose of determining the eligibility of a  
22 school district for an exception under subsection (f)(2)(v),  
23 the department shall utilize data from the most recent school  
24 years for which annual financial report data required under  
25 section 2553 of the Public School Code of 1949 has been  
26 received. The department shall inform school districts of the  
27 school years determined under this subsection no later than  
28 30 days prior to the date on which public inspection of  
29 proposed school budgets is required under section 311(c).

30 (5) (i) The department shall rule on the school

1 district's request and shall inform the school district of  
2 its decision no later than 55 days prior to the date of the  
3 election immediately preceding the beginning of the school  
4 district's fiscal year.

5 (ii) If the department approves the request, the  
6 department shall determine the dollar amount of the  
7 expenditure for which the exception is sought and the tax  
8 rate increase required to fund the exception.

9 (iii) If the department denies the request, the  
10 school district may submit a referendum question under  
11 subsection (c)(1). The question must be submitted to the  
12 election officials no later than 50 days prior to the  
13 date of the election immediately preceding the beginning  
14 of the school district's fiscal year.

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

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

25 (ii) The specific exceptions requested by each  
26 school district and the dollar amount of the expenditure  
27 for each exception.

28 (iii) The department's ruling on the request for the  
29 exception.

30 (iv) If the exception was approved, the dollar

1 amount of the expenditure for which the exception was  
2 sought and the tax rate increase required to fund the  
3 exception.

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

6 (1) Index calculation.--No later than August 15, 2005, and  
7 each August 15 thereafter, the department shall calculate the  
8 index. The department shall publish the index by September 1,  
9 2005, and each September 1 thereafter in the Pennsylvania  
10 Bulletin.]

11 \* \* \*

12 [(n) Treatment of certain required payments.--

13 (1) The provisions of subsections (f) and (j) shall  
14 apply to a school district's share of payments to the Public  
15 School Employees' Retirement System as required under 24  
16 Pa.C.S. § 8327 (relating to payments by employers) if the  
17 increase in estimated payments between the current year and  
18 the upcoming year, as determined by the department under this  
19 section, is greater than the index.

20 (2) For purposes of this subsection, the following  
21 apply:

22 (i) The school district's share of payments as  
23 required by 24 Pa.C.S. § 8327 for the current year shall  
24 be determined by the department using:

25 (A) The lesser of the school district's total  
26 compensation for the current year or the school  
27 district's total compensation for the 2011-2012  
28 school year.

29 (B) The employer contribution rate under 24  
30 Pa.C.S. § 8328 (relating to actuarial cost method)

1 for the current year.

2 (C) A State retirement subsidy calculation based  
3 on the school district's total compensation under  
4 clause (A) and the employer contribution rate under  
5 clause (B).

6 (ii) The school district's share of payments as  
7 required by 24 Pa.C.S. § 8327 for the upcoming year shall  
8 be determined by the department using all of the  
9 following:

10 (A) The lesser of the school district's:

11 (I) estimated total compensation for the  
12 upcoming year; or

13 (II) total compensation for the 2011-2012  
14 school year.

15 (B) The employer contribution rate under 24  
16 Pa.C.S. § 8328 for the upcoming year.

17 (C) A State retirement subsidy calculation based  
18 on the school district's total compensation under  
19 clause (A) and the employer contribution rate under  
20 clause (B).

21 (3) The dollar amount to which subsection (f) applies  
22 shall be determined as follows:

23 (i) Multiply:

24 (A) the index; by

25 (B) the school district's share of payments for  
26 the current year, as determined by the department  
27 under this subsection.

28 (ii) Subtract:

29 (A) the product under subparagraph (i); from

30 (B) the amount of increase, as determined by the

1 department under this subsection, in the school  
2 district's share of payments between:

3 (I) the current year; and

4 (II) the upcoming year.

5 (4) As used in this subsection, the term "compensation"  
6 has the meaning ascribed in 24 Pa.C.S. § 8102 (relating to  
7 definitions).]

8 (o) Rescission.--

9 (1) Any increase in a rate of a tax levied for support  
10 of the public schools imposed prior to or during the [2011-  
11 2012] 2016-2017 school year under a referendum exception  
12 granted, prior to the effective date of this subsection,  
13 under subsection (f) (2) (i), (ii) or (iii) (C) and (D) shall be  
14 rescinded:

15 (i) immediately following fulfillment of the court  
16 order or administrative order that was the basis for the  
17 referendum exception;

18 (ii) immediately following the payment of costs to  
19 resolve a condition which posed an immediate threat of  
20 serious physical harm or injury to the students, staff or  
21 residents of the school district that was the basis for  
22 the referendum exception; or

23 (iii) following the final payment of interest and  
24 principal related to the indebtedness.

25 (2) For the purposes of this subsection, the term "final  
26 payment of interest and principal" does not include a school  
27 district's payment of debt as a result of refunding or  
28 refinancing the debt.

29 Section 5. The amendment of section 333 of the act shall  
30 apply to any proposed tax increase that takes effect in a fiscal

1 year beginning after December 31, 2016.

2 Section 6. This act shall take effect July 1, 2016, or  
3 immediately, whichever is later.