

HB 50

Veto No. 5

August 1, 1975

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 50, Printer's No. 1271, entitled "An act amending the act of May 22, 1933 (P.L.853, No.155), entitled 'The General County Assessment Law,' providing an exemption for vacant school property."

The bill provides that all vacant property held by a county, borough, or school district for future school purposes is exempted from taxation, with the exemption removed retroactively if planning, designing, or construction for school purposes does not commence within two years.

The exemption violates the Constitution of Pennsylvania and is thus void.

Our Constitution provides that "The General Assembly may by law exempt from taxation . . . that portion of public property which is actually and regularly used for public purposes."

Under this provision two tests must be met before an exemption may be granted. The property must be public property and it must be employed in a use for which an exemption may be legally granted. The first test is obviously met. The second is not.

Land exempted by this bill must be vacant. It may be available for public use, or contemplated for public use, but it is not actually used for any public purposes. Such contemplated usage, in the near or distant future, is not sufficient to warrant an exemption. Pennsylvania courts have consistently held that until public property is actually used for public purposes it is taxable.

For these reasons, I must disapprove House Bill No. 50.

MILTON J. SHAPP