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**SENATE BILL 669, PRINTER'S NUMBER 1970
ACT 50 OF 1998**

MAY 11, 1998

HIGHLIGHTS OF ACT 50 OF 1998 TAX REFORM

- o Primarily affects school districts by providing a means of relying on increased earned income and net profit taxes to replace nuisance taxes and reduce real estate taxes. Also impacts, in some instances, on municipalities and/or counties.
- o Prohibits school districts from enacting an amusement or admissions tax as a new revenue source but retains such tax for municipalities.
- o Continues restrictions for municipalities and school districts placed upon mercantile/business privilege taxes by Act 145 of 1988.
- o Prohibits municipalities and school districts from levying a sign privilege tax or a tax on the transfer of motor vehicles as a new source of revenue.
- o Reduces the amount of debt which a school district may incur from 350% to 225% of the borrowing base.
- o Enacts a Local Taxpayer Bill of Rights applicable to counties, municipalities and school districts regarding non-real estate taxes.
- o Real Estate Tax Deferral Program is authorized for counties, municipalities and school districts.
- o Authorizes a Homestead Property Exclusion for counties, municipalities and school districts.
- o Prohibits a school district from imposing certain nuisance taxes when levying the earned income and net profits tax under this act. Levy of the earned income and net profits tax under this act is contingent upon a referendum. Successful referenda are also required to raise property taxes once reduced by the levy of an earned income and net profit tax under the act and to end participation under this act.
- o Authorizes school districts participating under this act to levy an earned income and net profits tax at a maximum rate of 1.5% and to exempt from payment of the tax persons whose income is less than \$7500. Revenues from such levy are to be used primarily to replace revenues from lost nuisance taxes and to replace property taxes.

ACT 50 OF 1998 - SENATE BILL 669, PRINTER'S NUMBER 1970

Section 8401 - Definitions

- o “Homestead” - a dwelling primarily used as the domicile of an owner, including units in condominiums and cooperatives. It includes dwellings not described where a portion is used as the domicile of the owner.
- o “Municipality” - a county, city, borough, incorporated town, or township.
- o “Political subdivision” - any county, city, borough, incorporated town, township, or school district.
- o “School district” - all districts except the Philadelphia School District.

Section 8402 - Scope

- o This section clarifies that the act:
 - (1) is **not** intended to affect the power of a school district to levy a real estate transfer tax (8402(b)).
 - (2) is intended to give each school district the power to levy an earned income and net profits tax (8402(a)).
 - (3) authorizes school districts to continue to levy an amusement or admissions tax adopted prior to June 30, 1997. The rate imposed or amount collected by the school district is capped at the level as of June 30, 1997. If a school district did not levy this tax as of June 30, 1997, it cannot do so. Existing overall limitations on the levy of the amusement tax (i.e., admissions to motion picture theaters may only be taxed in the City of Pittsburgh) and as applied to ski facilities, golf courses, and bowling alleys (i.e., the tax base for admissions to ski facilities is 40 percent of the cost of the lift ticket; for admissions to golf courses, the tax base is 40 percent of the greens fees; and for bowling alleys, the tax base is 40 percent of the cost of admission) remain in effect. This prohibition applies regardless of participation in the program created by this act (8402(c)(1)).
 - (4) allows municipalities which levied an amusement or admissions tax on December 31, 1997, to continue to levy the tax. The municipality's rate of tax is capped at the rate levied on December 31, 1997, or 5 percent, whichever is greater. Municipalities which have not levied an amusement tax as of December 31, 1997, are limited to 5 percent if the tax is imposed. The same prohibition on taxing admissions to motion picture theaters, except in the City of Pittsburgh, as well as the identical restrictions on ski facilities, golf courses, and bowling alleys, apply (8402(c)(2)).

- (5) continues the restrictions on the mercantile or business privilege taxes as provided by Section 533 of Act 145 of 1988 (8402(d)).
- (6) permits a political subdivision which levied a sign tax or sign privilege tax on or before December 31, 1997, to continue to levy that tax at the rate imposed on December 31, 1997. A political subdivision which did not levy this tax prior to December 31, 1997, is prohibited from imposing such a tax. This prohibition applies regardless of whether the political subdivision elects to participate in the program created by this act (8402(e)).
- (7) prohibits any political subdivision that did not levy a tax on the transfer of motor vehicles on December 31, 1997, from imposing that tax. Again, this prohibition applies regardless of whether the political subdivision opts to participate under this act (8402(f)).

Section 8022 - Limitation on Incurrence of School Debt

- o Previously, under the Local Government Unit Debt Act (LGUDA), school districts generally could have incurred debt of up to 250 percent of their borrowing base, which, prior to this enactment, was defined as the arithmetic average of the total revenues of the three previous fiscal years. If lease rental debt were added to the nonelectoral debt limit of 250 percent, the limit would have become 350 percent of the borrowing base. Only borrowing above that amount was subject to referendum. The change made by this act requires a referendum to approve new debt if the amount of the then outstanding nonelectoral debt and the then outstanding lease rental debt, together with any existing new debt (both nonelectoral and lease rental) that is incurred (in the case of school districts of the first class A [Pittsburgh School District] through fourth class), exceeds 225 percent of the school district's borrowing base as defined in LGUDA. This reduction in nonelectoral debt applies to school districts regardless of whether they participate under this act.

Section 8404 - Earned Income Tax

- o A municipality that imposes an earned income tax under the Local Tax Enabling Act remains subject to the limits imposed by that Act.

LOCAL TAXPAYER BILL OF RIGHTS

Section 8422 - Definitions

- o This section applies to "Eligible tax[es]" which are defined as:
 - (a) Any tax under the Local Tax Enabling Act.
 - (b) Any per capita tax.

- (c) Any tax on income.
 - (d) Gross receipts tax.
 - (e) Earned income and net profits tax.
 - (f) Occupation, occupation assessment, or occupational privilege tax.
 - (g) Privilege tax.
 - (h) Tax on amusements or admissions.
- o “Local taxing authority” - a political subdivision levying an eligible tax.

Section 8423 - Disclosure Statement

- o This section requires the local taxing authority to prepare a statement which sets forth the following:
- (1) The rights of a taxpayer and the obligation of a local taxing authority during an audit or administrative review of a taxpayer’s books and records (8423(a)(1)).
 - (2) The administrative and judicial appeals process (8423(a)(2)).
 - (3) The procedure for filing and processing refund claims and taxpayer complaints (8423(a)(3)).
 - (4) The enforcement procedures (8423(a)(4)).
- o The local taxing authority must provide any taxpayer contacted concerning an audit, assessment, determination, review, or collection of an eligible tax of the availability of the disclosure statement referenced heretofore and provide a free copy thereof to the taxpayer upon the taxpayer’s request (8423(b)).

Section 8424 - Requirements for Requests

- o The taxpayer has a minimum of 30 calendar days from the mailing date to respond to a local taxing authority’s request for information. The local taxing authority must grant reasonable extensions for good cause shown (8424(a)(1)). The taxing authority must notify the taxpayer of the extension procedures in the initial request for information (8424(a)(2)). The local taxing authority can take no lawful action against the taxpayer for the tax year in question until expiration of the applicable response period, including extensions (8424(a)(3)).
- o The local taxing authority can request information on returns for not more than three years prior to the mailing date of the notice (8424(b)(1)). This subsection does not apply if the local taxing authority has sufficient information to indicate that the taxpayer failed to file a required return or pay an eligible tax more than three years prior to the date of the notice (8424(b)).

- o The local taxing authority may require a taxpayer to provide a federal income tax return if it can demonstrate that the federal tax information is reasonably necessary for the enforcement or collection of an eligible tax, and the information is not available from other available sources or the Department of Revenue (8424(c)).

Section 8425 - Refund of Overpayments

- o A taxpayer who overpaid may file a written request with the local taxing authority for refund or credit of the eligible tax. A request for refund shall be made within three years of the due date for filing the report as extended or one year after actual payment, whichever is later. If no report is required, a request must be made within three years of the due date for payment or within one year of actual payment, whichever is later (8425(a)). A tax return filed by a taxpayer showing an overpayment is deemed to be a written request for a cash refund unless otherwise indicated on the tax return (8425(a)(1)). A request is not considered a petition under Section 8430 and shall not preclude a taxpayer from submitting a petition under Section 8431 (8425(a)(2)).
- o A written request for a refund must be filed within one year of date of payment for amounts paid as a result of a notice asserting or informing the taxpayer of an underpayment (8425(b)).

Section 8426 - Interest on Overpayments

- o All overpayments of tax due a local taxing authority, including real property taxes, shall bear simple interest. The interest is calculated from the date of overpayment to the date of resolution (8426(a)). The interest rate paid is the rate the Commonwealth is required to pay pursuant to Section 806.1 of the Fiscal Code (8426(b)).

Exception: No interest is paid if the overpayment is refunded or applied against any other tax, interest, or penalty due the local taxing authority within 75 days after the last day for filing the report or within 75 days after the date the return or report of the liability due is filed, whichever is later (8426(c)(1)).

- o Overpayments of interest or penalty shall not bear any interest (8426(c)(2)).
- o A taxpayer's acceptance of a refund check does not prejudice the taxpayer's right to claim any additional overpayment and interest thereon. Tender of a refund check by the local taxing authority is deemed to be acceptance of the check by the taxpayer (8426(d)).
- o This section also defines "date of overpayment" and "date of resolution" (8426(e)).

Section 8427 - Notice of Basis of Underpayment

- o The local taxing authority must give the taxpayer written notice of the basis for any underpayment. The notice shall include:
 - (1) The tax period(s) for which the underpayment is asserted.
 - (2) The amount of underpayment detailed by tax period.
 - (3) The legal basis for the authority's underpayment determination.
 - (4) The itemization of the revisions made by the authority to the return or report filed by the taxpayer which results in the determination of an underpayment.

Section 8428 - Abatement of Certain Interest or Penalty

- o In the case of any underpayment, the local taxing authority may abate all or part of interest for any period for the following:
 - (1) Any underpayment due to any error or delay by the local taxing authority in the performance of a ministerial act but only if no significant aspect of the error or delay can be attributed to the taxpayer (8428(a)(1)).
 - (2) Any error or delay in the payment is attributable to an agent or employee being erroneous or dilatory in the performance of a ministerial act (8428(a)(2)).
 - (3) Erroneous written advice given by the local taxing authority to the taxpayer if such advice was relied upon by the taxpayer and was in response to specific written request of the taxpayer; and a portion of the penalty or excess interest did not result from the taxpayer's failure to provide adequate or accurate information (8428(b)(1)).
- o This subsection does not require a local taxing authority to provide written advice to the taxpayer (8428(b)(2)).

Section 8429 - Application of Payments

- o All voluntary payments of eligible taxes are prioritized as follows: (1) tax; (2) interest; (3) penalty; (4) other fees or charges.

Section 8430 - Administrative Appeals

- o A political subdivision levying an eligible tax must establish an administrative appeals process to receive and make determinations on petitions from taxpayers relating to the assessment, determination, or refund of an eligible tax. The section provides four alternatives for the administrative process:

- (1) Review and decision or hearing and decision by a local tax appeals board appointed by the governing body.
 - (a) The board must consist of at least 3 but not more than 7 members.
 - (b) Qualifications for service on the board and compensation, if any, is determined by the governing body.
 - (c) The governing body may enter into agreements with other political subdivisions to establish a joint local tax appeals board.

OR
- (2) Review and decision by the governing body in executive session.

OR
- (3) Hearing and decision by a hearing officer appointed by the governing body, which determines the qualifications and compensation, if any, of the hearing officer.

OR
- (4) An administrative review or appeals process existing on the effective date of the chapter which is substantially similar to one of the alternatives delineated in this section.

Section 8431 - Petitions

- o A petition is timely filed if it is postmarked on or before the final day on which the petition is required to be filed (8431(a)). Deadlines to timely file petitions are as follows:
 - (1) Refund petitions must be filed within three years after the due date for the filing of the report as extended or one year after actual payment of the eligible tax, whichever is later. If no report is required, within three years of the due date for payment of an eligible tax or within one year of actual payment, whichever is later (8431(a)(1)).
 - (2) Petitions for reassessment of an eligible tax must be filed within 90 days of the date of the assessment notice (8431(a)(2)).
- o The governing body is required to adopt regulations specifying the form and content of petitions, including the process and deadlines (8431(b)).

Section 8432 - Practice and Procedure

- o The governing body shall adopt regulations regarding the practice and procedure of the administrative appeals.

Section 8433 - Decisions

- o Decisions on petitions must be issued within 60 days of the date a complete and accurate petition is received. Failure to act within 60 days is deemed an approval.

Section 8434 - Appeals

- o Any person aggrieved by a decision of the appeals board who has a direct interest in the decision has the right to appeal to the court of common pleas.

Section 8435 - Equitable and Legal Principles to Apply

- o The board may apply both equitable and legal principles in making decisions.

Section 8436 - Installment Agreements

- o A local taxing authority and a taxpayer may enter into an agreement allowing the taxpayer to satisfy any tax liability in installment payments if the authority believes the agreement will facilitate collection (8436(a)). *The local taxing authority may terminate the agreement if:*
 - (1) the taxpayer provided inaccurate or incomplete information to the local taxing authority prior to the date of the agreement; or
 - (2) it believes that collection of an eligible tax under the agreement is in jeopardy (8436(b)(2)).
- o *The local taxing authority may alter, modify, or terminate the agreement if:*
 - (1) the financial condition of the taxpayer has significantly changed, and the taxpayer is provided at least 30 days' notice of the action, which must contain the reasons why the local taxing authority believes the significant change has occurred (8436(b)(3)).
 - (2) the taxpayer fails to pay an installment, fails to pay any other tax liability at the time the liability is due, or fails to provide a financial condition update as requested by the local taxing authority (8436(b)(4)).
- o A taxpayer can prepay in whole or in part any tax liability under any agreement (8436(c)).

Section 8437 - Confidentiality of Tax Information

- o Any information gained by the local taxing authority as a result of an audit, return, report, investigation, hearing, or verification is confidential and shall not be divulged to or examined by any person or published. Violation of this section is a misdemeanor of the third degree, with a penalty of a \$2,500 fine, or not more than one year in prison, or both. If the offender is an officer or employee of the local taxing authority, he shall be dismissed from office or discharged from employment.

Section 8438 - Taxes on Real Property

- o This chapter only applies to real property taxes if there has been an overpayment. If so, the interest rate under Section 8426 will apply.

REAL ESTATE TAX DEFERRAL PROGRAM

Section 8573 - Authority

- o Municipalities, counties, and school districts are authorized to participate in a tax deferral program established by this act.

Section 8574 - Income Eligibility

- o A claimant is eligible for a tax deferral if the claimant and the claimant's spouse have an annual household income not exceeding the maximum household income limitations provided in the Senior Citizens Rebate and Assistance Act.

Section 8575 - Amount of Tax Deferral

- o An annual real estate tax deferral equals the increase in real property taxes upon the homestead, which is defined as the increase in taxes above the taxes paid in the tax year preceding the implementation of the program or the tax year immediately preceding an applicant's entry into the program (8575(a)).
- o A prohibition exists against the granting of a deferral if the total amount of deferred taxes, plus the total of liens on the property, plus the outstanding principal on mortgages on the property, exceeds a certain percentage of the market value of the property (8575(b)).

Section 8576 - Application for Tax Deferral

- o An eligible person may submit an application on an annual basis to the political subdivision. This application includes, among other things: a certification of ownership of the property; a certification that the property is adequately insured to satisfy all outstanding liens; proof of income eligibility; and receipts showing timely payment of the preceding year's nondeferred real property tax liability (8576(a)).
- o Once admitted into the program, a claimant shall remain eligible for a tax deferral, provided that the claimant continues to meet eligibility requirements (8576(b)).

Section 8577 - Contents of Application

- o An application for a tax deferral must contain: a statement that the tax deferral is provided in exchange for a tax lien against the homestead; and information explaining how the tax deferral will become due, payable, and delinquent, including a statement of the consequences for failure to pay.

Section 8578 - Satisfaction of Liens - Payment

- o All taxes deferred constitute a prior lien on the claimant's homestead in favor of the political subdivision (8578(a)), which may be paid at any time (8578(b)(1)). If the deferred taxes are not paid during the lifetime of the claimant or his spouse, the lien shall be paid prior to the conveyance of the homestead or by the passing of title through will or statute (8578(b)(2)).
- o A surviving spouse shall not be required to pay any deferred taxes due to the death of the claimant, if the spouse maintains his or her domicile in the property (8578(b)(3)).

HOMESTEAD PROPERTY EXCLUSION

Section 8583 - Exclusion for Homestead Property

- o A governing body of a political subdivision may exclude from taxation a fixed dollar amount of the assessed value of each homestead property in the political subdivision (8583(a)).
- o This section provides for the application of the homestead exclusion in taxing districts crossing county lines and for those which utilize split rate taxes (8583(b),(c)).
- o New Construction - If constructed during the taxable year and used as homestead property, the exclusion shall be prorated in a manner consistent with the assessment of real property taxes on the building (8583(d)).
- o Reassessment - The amount of the exclusion for homestead property shall be adjusted following the reassessment of all the properties by one of the following formulas:
 - (1) if the assessment base is revised by applying a change in the established predetermined ratio, the exclusion for homestead property shall be adjusted by the percentage change between the existing predetermined ratio and the newly established predetermined ratio; or
 - (2) if the assessor performs a revision of assessments by revaluing all properties and applying an established predetermined ratio, the exclusion for homestead property shall be adjusted by dividing the exclusion for homestead property for the year

preceding the revision of assessments by the common level ratio and multiplying the quotient of that calculation by the newly established predetermined ratio (8583(e)).

Section 8584 - Administration and Procedure

- o Application - Owners may file with the chief county assessor an application uniform in nature and developed by the Department of Community and Economic Development to have property approved as homestead property or farmstead property. A farmstead includes all buildings and structures on a farm not less than ten acres in area not otherwise exempt from real property taxes or qualified for any other exclusion or abatement, that are used in commercial agricultural production or housing or raising animals. The farmstead must be the domicile of the owner of the property (8584(a); 8587).
- o Applications for the exclusion must be filed by March 1 of each year (8584(b)). The assessor must make applications available at least 75 days before March 1 and give sufficient notice regarding the availability of the applications (8584(c)).
- o Denial of application - When an application for approval of a parcel as homestead or farmstead property is denied, the county assessor must notify the applicant in writing within 120 days after the filing deadline, and provide all the reasons for denial. Failure to comply by the assessor shall be deemed to be approval of the application (8584(d)).
- o Appeals - Upon the denial of an application, an owner may appeal to the appropriate assessment board for a review of the sufficiency of the application and whether the parcel meets the definition of homestead or farmstead property. The appeal of the assessor's decision follows each political subdivision's assessment appeals procedures (8584(e)).

Appeals concerning the assessed value of real property under the appropriate assessment law shall be based on the assessed value before application of the exclusions for homestead or farmstead property (8584(f)).
- o False or fraudulent applications - The county assessor is authorized to randomly review applications for false or fraudulent information, and penalties for providing false information are provided (8584(g),(h)).
- o Reports - The county assessor must provide without charge to the counties and each political subdivision within the county a certified report listing, among other information, the identification and assessed values of parcels classified as homestead and farmstead property (8584(i)).
- o Notification on change of use - The act requires that property owners whose property is currently listed as homestead or farmstead property and which no longer qualifies for the

exclusion notify the assessor within 45 days of the date when the property no longer qualifies. Failure to notify the assessor will be treated in the same manner as a submission of false information (8584(j)).

Section 8585 - Exclusion for Farmstead Property

- o The farmstead exemption is capped at an amount equal to the homestead exemption (8585(b)). A farmstead exemption is provided in addition to any homestead exemption for a dwelling on a farm (8585(b)). Farmstead exemptions are pro-rated for property constructed during the year in which such exemption is available (8585(d)).
- o Reassessment - the amount of the exclusion for farmstead property shall be adjusted following a county reassessment in a manner similar to that of the homestead exclusion (8585(e)).

Section 8586 - Limitations on Amount of Exclusions

- o Pursuant to the Constitution of Pennsylvania, this section prohibits governing bodies from authorizing a homestead exclusion which exceeds one-half of the median assessed value of property in the political subdivision. It provides for political subdivisions that are located in more than one county. It prohibits the governing body from increasing its millage tax rates on real property to pay for the homestead and farmstead exemptions.

TAX AUTHORIZATION AND REFERENDUM

Section 8701 - General Tax Authorization

- o This section authorizes school districts to levy, assess, and collect an earned income and net profits tax and prohibits levying the following taxes when the earned income and net profits tax under this act is used (8701(a)):
 - (1) Occupation taxes based on a flat rate or millage rate (8701(b)(1)).
 - (2) Occupational privilege tax (8701(b)(2)).
 - (3) Per capita, poll, residence, or similar head taxes (8701(b)(3)).
 - (4) An earned income tax under the authority of the Local Tax Enabling Act (8701(b)(4)).
 - (5) An earned income tax levied by the Pittsburgh School District (8701(b)(5)) and other certain taxes levied by the school district except for the real estate transfer tax (8701(b)(6)).
 - (6) Any other taxes authorized under the Local Tax Enabling Act (8701(b)(7)).

NOTE: See exceptions listed under **Section 8402 - Scope**, particularly as they apply to amusement and sign privilege taxes.

Section 8702 - Continuity of Tax

- o This section provides that the earned income and net profits tax continues year-to-year without reauthorization by the governing body unless the rate of the earned income and net profits tax is increased or the tax is subsequently repealed.

Section 8703 - Adoption of Referendum

- o Prior to imposing an earned income and net profits tax, the school board must conduct a referendum. If the school board adopts an earned income and net profits tax, it may not impose any of the above taxes for a period of three years (8703(a)).
- o Referendums may be placed on the ballot at the municipal election preceding the year in which an earned income and net profits tax will be imposed. The referendum must state:
 - (1) the initial rate of the proposed earned income and net profits tax;
 - (2) the reasons for the tax; and
 - (3) the amount of revenue growth for the first fiscal year following the adoption of the referendum as a percent increase over the prior years' budgeted revenue (8703(b)).
- o The percentage increase of projected revenue growth in the first fiscal year following the adoption of the referendum may not exceed the annual percent change in the statewide average weekly wage (8703(b)).
- o A plain language statement must accompany the question on the referendum, and it must include the following:
 - (1) the initial rate of earned income and net profits tax;
 - (2) the maximum allowable rate of the earned income and net profits tax;
 - (3) estimated revenues;
 - (4) the amount of proposed revenue growth;
 - (5) the estimated reduction in real property taxes and the elimination of certain existing taxes;
 - (6) the method to be used to reduce real property taxes;
 - (7) the class or classes of real property for which real property taxes will be reduced; and
 - (8) the estimated amount of real property tax reduction by class expressed as an average percent reduction by class (8703(b)).

- o A governing body may increase earned income and net profits tax rates without conducting a referendum. Future property tax increases are subject to referendum provisions in Section 8704. If the electorate fails to adopt the referendum authorizing an earned income and net profits tax system under this act, taxes levied pursuant to any other act may be increased (8704(b)).
- o A successful referendum must be conducted to end participation under this act. The school board must provide notice and public hearings before conducting a referendum to end participation (8703(c)).
- o If the school board has not proposed an earned income and net profits tax within two years of the effective date of this act, the electorate may circulate a petition signed by 2 percent of electors voting for the Office of Governor in the last election in the school district. The petition must be filed with the election officials and submitted to the school board. The board is required to establish a local tax study commission which subsequently will make recommendations regarding the levy of an earned income and net profits tax (8703(d)(1)(i)).
- o If the tax study commission recommends an earned income and net profits tax and the school board fails to place the referendum question on the ballot at the next municipal election, the electors may place the question on the ballot by filing a petition signed by 5 percent of electors voting for the Office of Governor in the last election in the school district. After the petition is filed, the election officials shall place the referendum on the ballot at the next municipal election (8703(d)(1)(ii)). Provisions are made for the filing of petitions regarding school districts which are located in more than one county (8703(e)).

Section 8704 (Back End Referendum)

- o With an exception, the school board shall not increase its real estate tax rate without first obtaining the approval of the electorate of the school district in a referendum in the primary election immediately preceding the fiscal year of the proposed tax increase (8704(a)).
- o The exception to this general rule results if the increase in the rate of the real property tax does not cause local tax revenue to increase by more than the percentage increase of the statewide average weekly wage in the preceding year. Prior to any increase under this exception, the school board must certify to the court the estimated total local tax revenues used in the calculation (8704(c)).

Other Exceptions to a Back End Referendum:

- (1) To respond to an emergency or disaster declared by the Governor (8704(d)(1)).
- (2) To implement a court order or an administrative order from a federal or state agency (8704(d)(2)).

- (3) To pay interest and principal on any indebtedness incurred; however, no school district may incur additional debt under this provision, except for refinancing existing debt (8704(d)(3)).
- (4) To respond to conditions that pose a serious physical threat to students, staff, or residents of the school district (8704(d)(4)).
- (5) Special purpose taxes approved by the voters (8704(d)(5)).
- (6) To maintain per-student local tax revenue at an amount not to exceed the level of the preceding year, adjusted for the percent increase in the statewide average weekly wage. This exception applies only if student enrollment in the district between the current fiscal year and the third fiscal year exceeds 10 percent. Student enrollment will be measured by average daily membership under the Public School Code of 1949, and per-student local tax revenue shall be determined by dividing local tax revenue by average daily membership (8704(d)(6)).

Court Action For Exception to Back End Referendum:

- Court approval is required before an increase in real estate taxes may be imposed under this section (with the exception of (a) special purpose tax levies approved by the voters, and (b) debt payments). The school district must publish a notice in a newspaper of general circulation of its intent to file a court action seeking approval of a tax increase at least one week prior to filing the action. The school district must also publish notice that a hearing has been set, stating the date, time, and place of the hearing (8704(e)).
- The school board must prove by clear and convincing evidence the necessity of a tax increase or that there are no assets or feasible alternatives available to the school district. The court shall determine the appropriate duration of the increase and may retain jurisdiction. On its own motion, the court may revoke approval or order rescission of a tax increase (8704(e)). Standing as a party to the court proceeding is granted to residents and/or taxpayers of the school district (8704(f)).

Section 8705 - Local Tax Study Commission

- o A school board may appoint a five-member local tax study commission to study the existing taxes levied, assessed, and collected, and to determine how the tax policies could be improved by the levy, assessment, and collection of taxes under this act.
- o The commission, within 90 days of appointment, shall make a nonbinding recommendation to the school board regarding the imposition of an earned income and net profits tax to be levied in the next fiscal year. The school board must accept or reject the recommendation no

later than 90 days prior to the municipal election occurring at least 150 days after the submission of the recommendation, or the school board may adopt an alternative proposal. Furthermore, if the commission fails to issue a recommendation, the school board may adopt a proposal authorized under this act.

Section 8706 - Property Tax Limits on Reassessment

- o After any county makes a countywide revision of assessment, **if a school district participates under this act** and thus it levies any real estate tax based upon the revised assessment, the school district shall reduce its tax rate, if necessary, to limit the percentage increase to less than or equal to the percentage increase in the statewide average weekly wage for the preceding year. The amount of taxes to be levied on newly constructed buildings or structures shall not be considered. However, back end referendum requirements shall apply to increases in the tax rate above the limits provided in this section.

Section 8711-8717 - Earned Income and Net Profits Tax

- o School districts have the power to levy a tax on earned income and net profits at a maximum rate of 1.5 percent. Rates may be 1.0 percent, 1.25 percent, or 1.5 percent (8711).
- o A school district may exempt from the payment of the tax persons whose income is less than \$7,500 (8714).
- o Nonresidents working in Philadelphia, if their school district of residence participates under the act, shall receive a credit of 0.2756 percent against their state income tax. School districts in Bucks, Delaware, and Montgomery counties must, and school districts in counties of the third class (e.g., Chester County) may, place in the referendum question whether the credit should be utilized to further reduce real estate taxes or be retained by the nonresident taxpayer (8713(b)). If this credit is ruled to be unconstitutional, the remaining parts of this act remain in effect.
- o The crediting provisions of the Local Tax Enabling Act apply to an earned income and net profits tax paid under this act (8713(a)).
- o In order to levy the tax, a school board shall adopt a resolution which refers to this subchapter prior to placing a question on the ballot. Prior to adopting the resolution, public notice must be given of the intent to adopt a resolution as provided under the Local Tax Enabling Act. At least one public hearing shall be held on the proposed adoption of the resolution (8716).
- o Earned income and net profits taxes imposed under this act are to be collected by the officer collecting the wage tax under the Local Tax Enabling Act (8712).

- o Revenue from an earned income and net profits tax or an increase in the rate of such tax shall be used as follows:
 - (A) For the first fiscal year of implementation of newly imposed tax, all earned income and net profits tax revenue received by the school district shall be used in the following order:
 - (1) to offset any lost revenue resulting from the prohibition of nuisance taxes;
 - (2) to provide for an increase in budgeted revenues over the preceding fiscal year in an amount specified in the referendum; and
 - (3) to reduce school district real property taxes, by providing a rate of exclusion for homestead property tax and, if necessary, by means of a reduction in the millage rate after the limit on the exclusion for homestead property has been reached (8717(1)).
 - (B) All revenue received in the first year of the new tax that is directly attributable to a tax increase shall be used to reduce school district real property tax by means of an exclusion for homestead property and, if necessary, for a reduction in the millage rate after the limit on the exclusion for homestead property has been reached (8717(2)).

Chapter 89 - Register for Certain Taxes

- o The Department of Community and Economic Development shall maintain an official register, updated annually, of all local earned income and net profits taxes levied under Chapter 87, which provides for increases of tax rates by referendum. The school districts must furnish information by July 15 of each year (8912; 8913).
- o The register shall be available upon request no later than August 15th of each year. The period of the register shall be from July 1 until June 30 of the next year. If the register is not available by this date, the register from the previous date shall continue to be effective, not to exceed a year (8914; 8915).

An appropriation of \$6,000,000 is made to DCED for the purpose of making one time transition grants to counties for costs associated with implementing the homestead property exclusion.

While it may be the perception that this act applies to school districts only, the following apply to municipalities as well:

Section 8402(c)(2) - limitations on the amusement and admission taxes;

Section 8402(d) - mercantile and business privilege tax as affected by Section 533 of Act 145 of 1988;

Section 8402(e) - limitations on the sign privilege tax;

Section 8402(f) - limitation on tax on the transfer of motor vehicles;

Section 8404 - sharing provision limitation under Act 511;

Section 8421-8438 - Local Taxpayer Bill of Rights;

Section 8471-8478 - Real Estate Tax Deferment Program Act;

Section 8581-8589 - Homestead Property Exclusion Act.