

No. 1982-182

AN ACT

SB 847

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," providing for the clarification of the taxing power of first class A school districts to conform with the intent of Act 150 of 1975 and Act 46 of 1977, and further providing for temporary special aid for school districts.

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

Section 1. Section 652.1, act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949," added December 19, 1975 (P.L.511, No.150) and subsection (a)(1)(iv) amended August 5, 1977 (P.L.178, No.46), is amended to read:

Section 652.1. Taxing Power of Elected Board of Public Education of School Districts of the First Class A.—(a) The elected Board of Public Education in any school district of the first class A shall have authority to impose taxes for the purposes of such school district as follows:

(1) Without ordinance and under the following statutes their reenactments and amendments, at the rates fixed therein, namely:

(i) Act of June 20, 1947 (P.L.745, No.320), (Mercantile License Tax),

(ii) Act of June 20, 1947 (P.L.733, No.319), (Personal Property Tax),

(iii) Act of August 24, 1961 (P.L.1135, No.508), (Income Tax),

(iv) Real property tax acts:

Act of March 10, 1949 (P.L.30, No.14), 11.75 mills,

Act of November 30, 1955 (P.L.793, No.226), 1.5 mills,

Act of July 12, 1957 (P.L.837, No.386), .75 mills,

Act of November 19, 1959 (P.L.1552, No.557), 2 mills,

Act of October 21, 1965 (P.L.650, No.321), 1 mill,

Act of November 26, 1968 (P.L.1098, No.340), 6 mills,

Act of December 15, 1975 (P.L.483, No.143), 6 mills.

(2) *In addition to the taxing authority set forth in the act of August 24, 1961 (P.L.1135, No.508), (Income Tax), by ordinance, a tax of one per centum (1%) on wages, salaries, commissions and other earned income of individuals: Provided, however, That the total tax levied under the act of August 24, 1961 (P.L.1135, No.508) and the total tax levied under this subsection on wages, salaries, commissions and other earned income of individuals may equal but shall not exceed two per centum (2%).*

(3) *In addition to the taxing authority set forth in the real property tax acts referred to in section 652.1(a)(1)(iv), by ordinance a tax, sufficient to meet the school district's anticipated expenses on each dollar of the total assessment of all property assessed and certified for taxation in the territory constituting the district.*

[(2)] (4) *In addition thereto, by ordinance on any persons, transactions, occupations, privileges, subjects and real or personal property as they shall determine not prohibited by section 2 of the act of December 31, 1965 (P.L. 1257, No. 511), known as "The Local Tax Enabling Act" and not specifically excluded under paragraph (5) hereof; even if the ordinance imposing such tax or taxes is duplicative of the taxes enumerated in section 652.1(a)(1); but no ordinance shall authorize the imposition of a tax on the wages, salary or net income of any person not a resident of such school district.*

(5) *No tax of any kind may be imposed on admission to places of amusement, athletic events, motion picture theaters, occupations or occupational privilege, gross receipts of businesses, including institutions and nonprofit services, and parking, but this paragraph shall not apply to taxes imposed on the whole volume of business transacted by retail and wholesale dealers in goods, wares and merchandise.*

(b) Any ordinance authorizing a tax, other than under a statute and at the rate fixed thereby, shall fix the rate thereof and provide for the levy, assessment and collection of the same.

[(c)] *In any case where an ordinance of the elected board of education imposes a tax on the same subject and person on which any coterminous political subdivision imposes a similar tax, the rate shall be halved as provided in section 8 of "The Local Tax Enabling Act."*

Section 2. The act is amended by adding sections to read:

Section 652.2. Appeals by Taxpayers.—**(a)** *Within thirty (30) days after a tax has been levied for the first time by an elected Board of Public Education in any school district of the first class A, taxpayers representing twenty-five per centum (25%) or more of the total valuation of real estate in the school district as assessed for taxation purposes or taxpayers of the school district not less than twenty-five (25) in number aggrieved by the ordinance or resolution shall have the right to appeal therefrom to the court of common pleas of the county upon giving bond with sufficient security in the amount of five hundred dollars (\$500), approved by the court, to prosecute the appeal with effect and for the payment of costs. The petition shall set forth the objections to the tax and the facts in support of such objections and shall be accompanied by the affidavit of at least five (5) of the petitioners that the averments of the petition are true and the petition is not filed for the purpose of delay.*

(b) *No such appeal shall act as a supersedeas unless specifically allowed by the court to which the appeal is taken or a judge thereof.*

(c) *Immediately upon the filing of any such petition, the petitioners shall serve a copy of the petition and any rule granted by the court upon the president or secretary of the legislative body levying the tax.*

(d) The court shall fix a day for a hearing not less than fifteen (15) days nor more than thirty (30) days after the filing of the petition. Notice of the time of such hearing shall be given to all interested parties as the court shall direct. The court shall promptly hear and dispose of the appeal.

(e) It shall be the duty of the court to declare the ordinance and the tax imposed thereby to be valid unless it concludes that the ordinance is unlawful; but the court shall not interfere with the reasonable discretion of the legislative body in selecting the subjects or fixing the rates of the tax. The court may declare invalid all or any portion of the ordinance or of the tax imposed or may reduce the rates of tax.

(f) Any party to the proceeding shall have the right to appeal from the decision of the court of common pleas to the Commonwealth Court as in other cases, but such appeal shall be taken within thirty (30) days from the time the decree of the court was entered and not thereafter. Any two (2) or more parties may join in such appeal.

Section 2502.10. Temporary Special Aid to School Districts Due to Real Property Reassessments.—(a) For the school year 1978-1979 and each school year thereafter, a school district experiencing a fifteen per centum (15%) loss in total local revenue for the support of the public schools in any one (1) year due to the reassessment of one or more properties within the boundaries of the public school district shall qualify for special aid for a period of two (2) years on the condition that the school district tax rates which were in effect at the time of the reassessment are not reduced. Countywide reassessment shall not qualify a district for this special aid.

(b) During the first year of the reduction in revenue caused by the reassessment, a school district shall qualify for and receive a special grant equal to fifty per centum (50%) of the reduction, and in the following school year the district shall qualify for and receive a special grant equal to twenty-five per centum (25%) of the reduction in revenue caused by the reassessment: Provided, however, That a school district that qualified for such payments prior to the date of this amendatory act shall receive its first payment in the year this amendatory act is enacted.

(c) The special aid authorized by this section shall be paid from undistributed basic instruction subsidy funds to the extent that such funds are available.

Section 3. Within 60 days of the passage of this act, any elected Board of Public Education in any school district of the first class A, in addition to its regular annual levies may, by additional ordinance, levy the following taxes for the fiscal years beginning January 1, 1981 and January 1, 1982:

(a) For fiscal year beginning January 1, 1981:

(1) A total tax of 41 mills on the dollar of the total assessment of all property assessed and certified for taxation in the territory constituting the district.

(2) A total tax of 1.5% on wages, salaries, commissions and other earned income of individuals.

(b) For fiscal year beginning January 1, 1982:

(1) A total tax of 36 mills on the dollar of the total assessment of all property assessed and certified for taxation in the territory constituting the district.

(2) A total tax of 1.5% on wages, salaries, commissions and other earned income of individuals.

Section 4. The provisions of this act shall be severable. If any provision of the act or the application thereof to any person or circumstance is held invalid, the remainder of this act and the application of such provision to other persons or circumstances, shall not be affected thereby.

Section 5. This act shall take effect immediately and shall apply retroactively to January 1, 1981, except that the provisions of section 2502.10, added by section 2 of this amendatory act, shall be effective immediately and shall apply retroactively to July 1, 1978.

APPROVED—The 25th day of June, A. D. 1982.

DICK THORNBURGH