

**ACT 72**

**INFORMATION**

**PROCESSES**  
**&**  
**PROCEDURES**

# Act 72 of 2004 Timeline

## Oct. 2004-Nov. 2007



### October 2004

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

### 10/16/04

- Deadline for district to post mark and deliver Homestead/Farmstead (H/F) applications to all owners of residential property parcels

### December 2004

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

### 12/01/04

- PDE must provide school districts that do not currently levy an EIT with information from the Department of Revenue

### 12/31/04

- 60 days prior to H/F application filing deadline
- Deadline for district to mail second H/F notice

### 12/15/04

- Deadline for board to certify the amount of "qualifying contribution" to PDE. The "qualifying contribution" is the amount of revenue generated from a 0.1% EIT levy
- Deadline for board to certify to PDE the total amount of tax credits due pursuant to the Sterling Act provisions

#### Color Key

- Red – Annual occurrence, same date
- Blue – Annual occurrence, varying date



## January 2005

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	<b>15</b>
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

### 01/15/05

- Deadline for PDE to submit "qualifying contribution" amounts to the Secretary of the Budget

## March 2005

S	M	T	W	T	F	S
		<b>1</b>	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

### 03/01/05

- H/F applications filing deadline

## April 2005

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	<b>15</b>	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

### 04/15/05

- Sec. of Budget certifies amount of funds available in the property tax relief fund

## May 2005

S	M	T	W	T	F	S
<b>1</b>	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	<b>30</b>	31				

### 05/01/05

- Deadline for PDE to notify districts of the amount of Property Tax Reduction Allocation (PTRA) they will receive (if applicable)
- Deadline for county assessor to submit report to school district

### 05/30/05

- Deadline for school boards to approve resolution authorizing 0.1% EIT levy, if they wish to be eligible for state gaming revenues (PTRAs)
- Deadline for school boards that do not currently levy an EIT to approve a resolution mandating a November 2007 referendum question, if they wish to be eligible for state gaming revenues (PTRAs)
- Appropriate time for school board to indicate, if desired, intention to hold a November 2005 referendum – no formal action necessary

## June 2005

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	<b>30</b>		

### 06/30/05

- Budget Deadline for 2005-06 fiscal year

## July 2005

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

## August 2005

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

## September 2005

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

## November 2005

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

## December 2005

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

## 07/01/05

- Start of 2005-06 fiscal year

## AUG. 1st week

- Appropriate time to begin advertising procedures pursuant to the Local Tax Enabling Act, if district is holding a November 2005 referendum

## 09/01/05

- Deadline for PDE to publish the "index" in the *Pennsylvania Bulletin*

## 09/09/05

- 60 days prior to general election
- Deadline for board to submit optional November 2005 referendum question to county election officials

## 11/08/05

- GENERAL ELECTION DAY

## 12/15/05

- Deadline for board to certify to PDE the total amount of tax credits due pursuant to the Sterling Act provisions

## 12/27/05

- 30 days prior to deadline for preliminary budget display
- Deadline for PDE to inform school districts of the year from which data will be used in determining whether exceptions to back-end referendum are approved

## 08/15/05

- Deadline for PDE to calculate the "index"

## 09/30/05

- Deadline for PDE to inform districts of the "index" and preliminary budget adoption compliance deadline dates

## 12/31/05

- 60 prior to H/F application filing deadline
- Deadline for district to mail H/F notice





### January 2006

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

### 01/26/06

- 110 days to primary election
- Deadline for preliminary 2006-07 school budgets to go on display (Only applicable to districts that will receive state gaming revenue (PTRAs))

### February 2006

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

### 02/07/06

- Governor's budget address

### 02/15/06

- 90 days to primary election
- Deadline for board to adopt preliminary 2006-07 budget

### 02/20/06

- 85 days to primary election
- Deadline for board to submit any proposed tax increase to PDE

### 02/23/06

- One week prior to deadline to file for exception
- Deadline to advertise that school board is seeking an exception from the back-end referendum (applies to any exception)

### March 2006

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

### 03/01/06

- H/F applications filing deadline

### 03/02/06

- 75 days to primary election
- Deadline for PDE to inform districts if proposed tax increase complies with or exceeds the index
- Deadline to submit exception filings to court or PDE

### 03/22/06

- 55 days to primary election
- Deadline for court/PDE to rule and inform districts if exceptions have been granted or denied

### 03/27/06

- 50 days to primary election
- Deadline for board to submit referendum question to county officials if exception is denied.

### 03/17/06

- 60 days to primary election
- Deadline for board to submit referendum question to county election officials

### April 2006

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

### 04/15/06

- Sec. of Budget certifies amount of funds available in the property tax relief fund

### 04/20/06

- Sec. of Budget notifies PDE if allocations will be distributed to districts (Probable first year of PTRAs allocations)

### May 2006

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

### 05/01/06

- Deadline to notify districts of the amount of Property Tax Reduction Allocation (PTRAs) they will receive (Probable first year of PTRAs allocations)
- Deadline for county assessor to submit report to school district

### 05/16/06

- PRIMARY ELECTION DAY



### June 2006

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	<b>30</b>	

### 06/30/06

- Budget Deadline for 2006-07 fiscal year
- Deadline to set H/F exemption amounts (if PTRAs available)

### July 2006

S	M	T	W	T	F	S
						<b>1</b>
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

### 07/01/06

- Start of 2005-06 fiscal year
- 0.1% EIT levy becomes effective if PTRAs are available (Probable first year of PTRAs allocations)

### August 2006

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	<b>15</b>	16	17	18	19
20	21	22	23	<b>24</b>	25	26
27	28	29	30	31		

### 08/15/06

- Deadline for PDE to calculate the "index"

### 08/24/06

- First half of PTRAs is distributed to districts

### September 2006

S	M	T	W	T	F	S
						<b>1</b>
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	<b>30</b>					

### 09/01/06

- Deadline for PDE to publish the "index" in the *Pennsylvania Bulletin*

### 09/30/06

- Deadline for PDE to inform districts of the "index" and preliminary budget adoption compliance deadline dates

### October 2006

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	<b>26</b>	27	28
29	30	31				

### 10/26/06

- Second half of PTRAs is distributed to districts

### December 2006

S	M	T	W	T	F	S
				1	2	
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	<b>26</b>	27	28	29	30
<b>31</b>						

### 12/26/06

- 30 days prior to deadline for preliminary budget display
- Deadline for PDE to inform school districts of the year from which data will be used in determining whether exceptions to back-end referendum are approved

### 12/31/06

- 60 days prior to H/F application filing deadline
- Deadline for district to mail H/F notice



## January 2007

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

### 01/25/07

- 110 days to primary election
- Deadline for preliminary 2006-07 school budgets to go on display (Only applicable to districts that will receive state gaming revenue (PTRAs))

## February 2007

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28			

### 02/06/07

- Governor's Budget Address (if current gov. is re-elected)

### 02/14/07

- 90 days to primary election
- Deadline for board to adopt preliminary 2007-08 budget

### 02/19/07

- 85 days to primary election
- Deadline to submit any proposed tax increase to PDE

### 02/22/07

- One week prior to deadline to file for an exception
- Deadline to advertise that school board is seeking an exception from the back-end referendum (applies to any exception)

## March 2007

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

### 03/01/07

- H/F application filing deadline
- 75 days to primary election
- Deadline for PDE to inform districts if proposed tax increase complies with or exceeds the index
- Deadline to submit exception filings to court or PDE

### 03/16/07

- 60 days to primary election
- Deadline for board to submit referendum question to county election officials

### 03/21/07

- 55 days to primary election
- Deadline for court/PDE to rule and inform districts if exceptions have been granted or denied

### 03/06/07

- Governor's budget address (if new gov. is elected)

### 03/26/07

- 50 days to primary election
- Deadline for board to submit referendum question to county officials if exception is denied

## April 2007

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

### 04/15/07

- Sec. of Budget certifies amount of funds available in the property tax relief fund

### 04/20/07

- Sec. of Budget notifies PDE if allocations will be distributed to districts

## May 2007

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

### 05/01/07

- Deadline for PDE to notify districts of the amount of Property Tax Reduction Allocation (PTRA) they will receive
- Deadline for county assessor to submit report to school district



## June 2007

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	<b>30</b>

## August 2007

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	<b>15</b>	16	17	18
19	20	21	22	<b>23</b>	24	25
26	27	28	29	30	31	

## September 2007

S	M	T	W	T	F	S
						<b>1</b>
2	3	4	5	6	<b>7</b>	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

## October 2007

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	<b>25</b>	26	27
28	29	30	31			

## November 2007

S	M	T	W	T	F	S
				1	2	3
4	5	<b>6</b>	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

### 06/30/07

- Budget deadline for 2007-08 fiscal year
- Deadline for board to set H/F exemption amounts (if PTRAs available)



### 08/15/07

- Deadline for PDE calculate the "index"

### 08/23/07

- First half of PTRAs is distributed to districts

### 09/01/07

- Deadline for PDE to publish the "index" in the *Pennsylvania Bulletin*

### 09/07/07

- 60 days prior to general election
- Deadline for board to submit required\* November 2007 referendum question to county election officials

\*Only districts that receive state money and are not providing at least 1/2 of the maximum allowable H/F exemption would be required to submit to the '07 referendum. Districts that are required to, but do not hold the referendum, would lose state gaming revenues (PTRAs) until a referendum was held

### 10/25/07

- Second half of PTRAs is distributed to districts

### 11/06/07

- GENERAL ELECTION DAY

## Option 1



School board adopts resolution implementing a 0.1% EIT increase by May 30, 2005



Eligible for state gaming revenues



November 2005 referendum (optional) asking voters if they wish to increase the EIT further or convert to a PIT for additional property tax reduction



Subject to early budget adoption and back-end referendum



November 2007 referendum to increase local income tax to provide for no less than 50% of the maximum allowable H/F exemption. If district already provides this level of tax reduction, no referendum is required. If this level of exemption is not provided and no referendum is held, the district loses its eligibility to collect state gaming revenues until such a referendum is proposed.



Future referendums to increase local income tax further for purposes of property tax reduction. In no instance may a district provide more than the maximum allowable H/F exemption.



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## Option 2



School board does not adopt resolution implementing a 0.1% EIT increase by May 30, 2005



School board opts to place a November 2005 referendum on the ballot asking voters if they wish to increase or levy an EIT for the purpose of reducing property taxes

Pass  
EIT goes into effect at level proposed in referendum

Fail  
School board must increase or implement EIT levy of 0.1%

Eligible for state gaming revenues; subject to early budget adoption and back-end referendum



November 2007 referendum to increase local income tax to provide for no less than 50% of the maximum allowable H/F exemption. If district already provides this level of tax reduction, no referendum is required. If this level of exemption is not yet provided and no referendum is held, the district loses its eligibility to collect state gaming revenues until such a referendum is proposed.



Future referendums to increase local income tax further for purposes of additional property tax reduction. In no instance may a district provide more than the maximum allowable H/F exemption.



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## Option 3



The school district does not levy an EIT and the school board does not pass a resolution implementing a 0.1% EIT by May 30, 2005



The school board adopts a resolution by May 30, 2005, promising to hold a November 2007 referendum



Eligible for state gaming revenues;  
subject to early budget adoption and  
back-end referendum



November 2007 referendum to increase local income tax to  
provide for no less than 50%  
of the maximum allowable H/F exemption



Pass  
Implement new tax and continue to  
remain eligible to receive  
state gaming funds



Fail  
Must enact a 0.1% EIT to  
remain eligible to receive  
state gaming funds



Future referendums to increase local income tax further for purposes of additional property tax reduction. In no instance may a district provide more than the maximum allowable H/F exemption.



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## Option 4



School board does not adopt resolution implementing a 0.1% EIT increase by May 30, 2005



School board does not opt to place a November 2005 referendum on the ballot asking voters if they wish to increase or levy an EIT for the purpose of reducing property taxes



School board never can collect state revenues or offer property tax reduction pursuant to Act 72

## Option 4-a (Alternate Interpretation)

School board does not adopt resolution implementing a 0.1% EIT increase by May 30, 2005



School board does not opt to place a November 2005 referendum on the ballot asking voters if they wish to increase or levy an EIT for the purpose of reducing property taxes



School board may offer a referendum in 2007 or beyond to increase or institute a local EIT to provide for no less than 50% of the maximum allowable H/F exemption



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## School District Options for Tax Relief Pursuant to Act 72 of 2004



Act 72 of 2004 provides school directors with three options that would make their school districts eligible to receive state gaming funds. The options are as follows:

1. To adopt a resolution no later than May 30, 2005, that increases its EIT by 0.1% or to implement a new EIT at that rate. This represents the most direct path to state gaming funds. Accordingly, these school districts would be subject to the back-end referendum and related budget adoption provisions of the act commencing with the crafting of their 2006-07 school budgets.
2. To hold a referendum in the November 2005 election asking the voters of the district if they wish to increase their EIT that would be used to reduce property taxes. If this referendum passes, then the district is deemed eligible to receive state gaming funds. If this referendum fails, the school district then would be mandated to institute the 0.1% EIT increase and also would receive state gaming funds. Accordingly, these school districts would be subject to the back-end referendum and related budget adoption provisions of the act commencing with the crafting of their 2006-07 school budgets.
3. For the approximately 38 school districts that do not currently levy an EIT, they could forego the initial 0.1% EIT levy, if in its place the district adopted a resolution by May 30, 2005, stating that the district will hold a November 2007 referendum. Voters would be asked if they wish to levy an EIT or convert that tax to a PIT that, along with state gaming funds, would be used to reduce property taxes by an amount equal to no less than 50% of the maximum allowable homestead/farmstead exemption. Notwithstanding, if the 2007 referendum fails, the district would be required to institute a 0.1% EIT and also would receive state gaming funds. Accordingly, these school districts would be subject to the back-end referendum and related budget adoption provisions of the act commencing with the crafting of their 2006-07 school budgets.

If none of these three avenues is pursued, there is no future recourse for a district to become eligible for state gaming funds. Therefore, it is essential that school boards weigh the impacts of these options and make a final determination prior to the May 30, 2005, deadline. School districts that do opt for state gaming funds would be required to hold a November 2007 referendum asking voters if they wish to increase their EIT or institute a local PIT that, along with state gaming funds, would be used to reduce property taxes by an amount equal to no less than 50% of the maximum allowable homestead/farmstead exemption. Districts that fail to propose this question, if they are not already at the requisite homestead/farmstead amount, no longer would be eligible to receive state gaming funds until such a referendum is proposed in future municipal elections. Furthermore, districts that receive state gaming funds would be free to raise income tax rates in the future to increase tax reduction further, as long as approval is received from voters through a referendum and the maximum allowable homestead/farmstead exemption is not exceeded.

### Foregoing State Funds

Districts that do not opt for state gaming funds may have limited options to reduce property taxes through a homestead/farmstead exemption in future years. Currently, there are two divergent interpretations of the act regarding future tax reduction. They are as follows:



1. These districts would have the option, beginning in 2007 and beyond, to place a referendum on the ballot at future municipal or general elections. While school districts would not be required to do so, if the option were exercised, certain guidelines would govern the ballot question. Specifically, boards would be required to ask voters of the district if they wish to increase their EIT that would reduce property taxes by an amount equal to no less than 50% of the maximum allowable homestead/farmstead exemption. By no means would the adoption of such a referendum make the district eligible for state gaming funds. Accordingly, these school districts would not be subject to the back-end referendum and related budget adoption provisions of the act.
2. These districts would have no authority or ability to place referendum questions on the ballot asking the voters if they wish to increase income taxes in order to reduce property taxes. Again, these school districts would not be subject to the back-end referendum and related budget adoption provisions of the act.

PSBA continues to analyze the provisions of the act and will keep you updated of changes in the interpretation of the law.

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## Front-end Referendum Procedures



Act 72 authorizes school districts that accept state gaming funds (Property Tax Reduction Allocations) to augment those funds by increasing their earned income tax or converting their earned income tax to a personal income tax.<sup>1</sup> Such increases, however, first must be approved by the district's voters through what is known as a "front-end" referendum. Typically, these referendum elections are held at the general municipal elections, which take place in the fall of every odd-numbered year.

The act contains specific provisions on how such elections must be held and, in some instances, what the referendum questions must state. This handout explains the necessary procedures that must be undertaken to conduct front-end referendum elections that are in compliance with Act 72.

The Act is clear that a district that takes the appropriate steps to become eligible to receive state gaming allocations may, at a municipal election, put a front-end referendum question on the ballot asking their voters to approve increases to the school earned income tax (EIT) or to convert their EIT to a personal income tax (PIT). With some exceptions that are discussed elsewhere in this handout, all revenue generated from a tax approved by voters through a front-end referendum must be used to reduce school property taxes through a homestead or farmstead exemption.

Beginning with the fall of 2005, districts can place a front-end referendum question on the ballot. Those districts that approved, by May 30, 2005, a resolution to levy a 0.1% earned income tax can ask voters to increase that tax or to convert that tax and an amount placed on the question to a personal income tax. Districts that did not approve a resolution in May for the 0.1% EIT only can ask voters to approve an increase in the earned income tax, and use the revenues to reduce property taxes and cannot convert to a PIT at this time.<sup>2</sup>

Regardless of which steps the district takes in making itself eligible to receive state gaming funds (PTRAs), it must place a front-end referendum question on the ballot at the November 2007 election that allows for at least 50% of the maximum allowable property tax reduction. Unlike the 2005 front-end referendum, this election is a requirement in order to remain eligible for state gaming allocations. Furthermore, districts must propose homestead/farmstead exclusions to homeowners that are at least half of the maximum allowed.<sup>3</sup> In other words, there is a required minimum tax rate for the 2007 front-end referendum. As mentioned previously, districts that do not place a question on the ballot at the November 2007 election lose their eligibility for state gaming allocations until a front-end question that provides the requisite amount of property tax relief is proposed at a subsequent general or municipal election.<sup>4</sup>

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<sup>1</sup> There is an alternate interpretation of the act's provisions that holds that any school district is allowed to put a front-end referendum question on the ballot, regardless of whether or not the district accepts state gaming allocations. However, it appears that this was not the intention of the General Assembly and school districts taking this route should be aware that there could be prospective legislative or court action that would render this interpretation illegal.

<sup>2</sup> Act 72 requires a "qualifying contribution" of any school district that intends to accept state gaming allocations. Districts cannot convert to a PIT until it has made this contribution. For purposes of Act 72, this requirement is met once a district approves a resolution increasing or establishing an EIT by 0.1% or after a fall, 2005 front-end referendum is approved.

<sup>3</sup> The maximum allowable homestead/farmstead exemption is 50% of the median assessed value of eligible property in each school district. The 2007 referendum must provide tax relief that is equal to 1/2 this amount. This minimum requirement does not apply to districts that already provide property tax relief at 1/2 the maximum allowable level.

<sup>4</sup> Note that this is the one exception to the rule that all front-end referendum questions can only be held at municipal elections.



The rules are slightly different for those school districts that currently do not levy an EIT. There are 38 such districts in Pennsylvania, located mostly in the Pocono Mountain area and in the Philadelphia suburbs. These districts can become eligible to receive state gaming allocations by adopting a resolution to implement a 0.1% EIT by May 30, 2005. In the alternative, these districts can become eligible by simply approving a resolution, by the same deadline, stating that they will hold a referendum in November 2007. Please note if the November 2007 referendum fails, these districts would be required to adopt the 0.1% EIT to retain their eligibility to receive state gaming allocations. The same minimum proscribed tax relief amounts apply in this instance.

Prior to placing a front-end referendum question on the ballot, the board must give public notice of intent, adopt a resolution stating its intentions and conduct at least one public hearing on the resolution. Current guidelines for public notice apply to these provisions. Referendum questions must be submitted to the election officials in each county no later than 60 days prior to the election.

Front-end referendum questions must state the rate of the proposed earned income tax or personal income tax to be levied, the reason for the tax, the estimated per homestead tax reduction, and the current rate of earned income or personal income tax levied by the school district.

The question must be clear and in language that is readily understandable by a layperson, and must be framed as follows:

Do you favor imposing an additional X% (insert name of tax)? The revenue generated from the increased tax rate will be used to reduce taxes on qualified residential property by an estimated amount of \$Y. The current (insert name of tax) for the school district is Z%.

A district that has made its qualifying contribution also can convert its existing earned income tax to a personal income tax. The personal income tax is levied on a larger number of income sources than the EIT. It includes earnings from stock dividends, interest and other sources that are not taxable under an EIT.

The conversion to a PIT must be made in a revenue-neutral manner. In other words, the rate of a PIT must be set so that it produces dollar-for-dollar the same revenue as the district's EIT. Districts intending to convert to a PIT should be aware of the following: 1) the district must convert any EIT that it imposes under the authority of any statute and 2) once the conversion is approved by voters, the district no longer can impose an EIT under any statute. Consequently, districts that convert their EIT to a PIT cannot, in a subsequent year, implement the provisions of Act 24.<sup>5</sup>

A district that wants to convert its earned income tax must ask the front-end referendum question in this manner:

Do you favor converting the school district's current earned income and net profits tax into a personal income tax at X%? The revenue generated from the personal income tax will be used to reduce taxes on qualified residential property by an estimated amount of \$Y, and to replace the revenue from the current school district's earned income and net profits tax, which is levied now at Z%.

Regardless of type, any tax approved through the front-end referendum process becomes effective on the first day of the fiscal year following its approval.

Revenue from an earned income tax approved through the front-end referendum process must be used to reduce property taxes except that, in the year of its implementation or a year in which it is increased, an amount equal to 2% of the revenue generated can be retained by the district for its use. In subsequent years, districts must continue to maintain the same amount spent on property tax reduction as that established in the year of its implementation or increase. The district can retain revenue that exceeds that amount.

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<sup>5</sup> Act 24 of 2001 allows school districts to eliminate their occupational privilege tax and to increase their earned income tax to replace the lost revenue.

Revenue from a personal income tax approved through the front-end referendum process must be used in the following manner:

In the year of its implementation or an increase, all revenue received by the school district because of the conversion of the 0.1% EIT and any additional PIT approved by the voters must be used for property tax relief. In subsequent years, revenue received that is attributable to the conversion of the 0.1% EIT or a PIT approved by the voters must be used to maintain the same amount spent on property tax relief established in the year of implementation or increase. The district can retain revenue that exceeds that amount.

All revenue generated by the 0.1% qualifying contribution must be used to reduce property taxes in the year of implementation. In subsequent years, the district must continue to maintain the same amount that was spent on property tax reduction as that established in the year of implementation. The district can retain revenue that exceeds that amount.

### Front-end referendum: Questions and Answers

1. What is the difference between a front-end referendum question and a back-end referendum question?

A front-end referendum question typically is posed to voters in the fall and asks whether or not voters will approve an increase in income-based taxes to be used to augment state gaming allocations in reducing property taxes. A back-end referendum question typically is posed to voters in the spring and asks voters to approve tax increases proposed by the school board.

2. Which districts can propose a front-end referendum question?

It is clear from the provisions of Act 72 that any district that takes action to make itself eligible to receive state gaming allocations can pose a front-end referendum question. There is an alternative interpretation of the act's provisions that all districts, regardless of whether or not they become eligible to accept state gaming allocations, can pose front-end referendum questions. However, PSBA believes that this **is not** the prevailing interpretation, and districts that adhere to it are susceptible to further legislative amendments to the act and court interpretations to the contrary.

3. How soon can districts propose a front-end referendum question?

The earliest that Act 72 contemplates districts asking a front-end referendum question is November 2005. This is not a requirement however; but, depending on how the district frames the question, it allows them to let the voters decide whether or not to accept state gaming funds or to decide whether or not to augment these funds with a more substantial local contribution.

4. What tax rates must be proposed at the front-end referendum?

There are no specific requirements for the rate at the November 2005 referendum; however, as a practical matter, the minimum that ever can be placed on the ballot is 0.1% and the maximum is the rate that would provide districts with sufficient revenues that – when added to its state gaming allocations and the 0.1% EIT or other qualifying local contribution – allows the district to provide the maximum allowable level of property tax relief. It is important to note that the rate of an increased tax must be calculated so that, when combined with the qualifying contribution and the state gaming allocation, it produces the desired level of property tax relief.

If a district proposes a front-end referendum question in November 2007 or in a subsequent year, it must propose a tax rate that, when combined with its state gaming allocation and its 0.1% EIT or other qualifying local contribution, must allow the district to provide 50% of the allowable maximum tax relief.

5. Are districts required to propose a front-end referendum question in November 2007?

No, however if this question is not proposed in November 2007, districts lose their eligibility to receive state gaming allocations until a question, using the proscribed rates is proposed. Note that if a district chooses to ask this question in a year subsequent to 2007, it may be proposed at a general or municipal election.

6. When can a school district convert its earned income tax to a personal income tax and what would be the advantages of doing so?

A district can propose converting its EIT to a PIT as early as November 2005, but only if it already has made its qualifying local contribution. In other words only if the district already has approved a resolution implementing an EIT of 0.1%. (NOTE: This must be done by 5/30/05). Districts that have not adopted this resolution must wait until November 2007 to convert.

The most notable advantage to converting to a PIT is that it applies to a larger base. In other words, it can be levied on more types of income than an earned income tax, which typically is levied only on wages and salaries. This advantage would not be realized until a few years after the tax has been converted, because all conversions must be done in a revenue-neutral fashion

One big disadvantage is that districts that convert to a PIT no longer are eligible to enact Act 24, which allows districts to repeal their occupational taxes and replace the revenue with funds garnered by an increase in the earned income tax.

Furthermore, districts that convert to a PIT no longer can implement an EIT under any statute.

7. How does a school district go about converting to a PIT?

Any conversion proposed by the school district must be approved by the voters; therefore, conversions can occur only through the referendum process, in this case the front-end process. The form that a conversion question must take, is found on pages 2 and 3 of the attached handout, as well as other applicable provisions. As stated previously, districts that convert their EIT can no longer implement the provisions of Act 24 of 2001.

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## Act 72 Back-end Referendum and Preliminary Budget Adoption Provisions



Those school districts that receive state gaming funds pursuant to Act 72 of 2004 will be subject to back-end referendum. Under the back-end referendum provisions, school directors only would be permitted to raise tax rates by a set amount, governed by certain inflationary measures. Any tax increase over this “index” would be subject to voter approval by the district’s residents. In limited circumstances, school boards would be able to seek “exceptions” to the tax rate cap with the approval of either the courts or the Department of Education. Boards that take state gaming funds will have to comply with the back-end referendum provisions, which include new budget adoption procedures, beginning with the crafting of their districts’ 2006-07 fiscal year budget. Boards that opt not to take state gaming funds for tax reduction will not be subject to these provisions.

The determining factor in whether or not participating school boards will be required to submit tax rate increases to the voting public is the “index.” Boards will be permitted to increase their tax rates only by a percentage commensurate with this number. Specifically, the index is the average of the percentage increase in the Statewide Average Weekly Wage (SAWW), and the Employment Cost Index for Elementary and Secondary Schools (ECI). For example, if the SAWW were 5% and the ECI were 3%, then the index would be 4%. However, school districts with an aid ratio that is greater than 0.400 will receive a specific index adjustment unique to their district. To determine the index for a qualifying district, 0.75 would be added to the district’s aid ratio. This sum would be multiplied by the index, resulting in the district’s adjusted index. Example:

Index	=	3
SD w/ aid ratio	=	0.500
0.500 + 0.75	=	1.25
1.25 x 3 (index)	=	3.75

This district’s adjusted index would be 3.75%. Each year, beginning in 2005, PDE is required to calculate the index no later than Aug. 15. The official index must then be published in the *Pennsylvania Bulletin* no later than Sept. 1 of each year and PDE will provide districts with the figure by Sept. 30. Finally, the index will apply separately to each county in which the school district is located.

Boards of school directors and school administrators will be subject to strict time frame deadlines regarding the adoption of a district’s preliminary budget. Typically, districts must adopt a preliminary budget by the end of May and the final budget must be adopted no later than June 30, the last day of the fiscal year (there are limited exceptions to this rule provided for by Act 48 of 2004). However, Act 72 requires that boards complete certain tasks based on the date of the primary election. The preliminary budget for the district must go on public display no later than 110 days prior to the primary election. This budget must contain estimated expenditures and revenues, as well as the proposed tax rates. The preliminary budget must be on display for no less than 20 days, and the board must give public notice of its intent to adopt no less than 10 days prior to a vote. Accordingly, the deadline to adopt the preliminary budget is 90 days prior to the primary election. No public hearing is required prior to the adoption of the preliminary budget.

School districts with preliminary budgets that contain any tax increase would be required to submit the proposed increase to PDE no later than 85 days prior to the primary election. Within 10 days of receiving the information, PDE must inform the district if the tax increase is in compliance with the



index. Boards that have proposed a tax increase that exceeds the index have two options. They either may seek the approval of an exception to the referendum requirement or submit the tax increase to the voters. Again, strict compliance time frames must be adhered to in either case.

There are a limited number of instances in which a school board can seek relief from the index-imposed tax caps. These are referred to as exceptions. Depending on the nature of the exception, a board must apply to either the local court of common pleas or PDE in order to receive approval. In these instances, the district must advertise its intent to seek an exception in a newspaper at least one week prior to either filing a petition with the court or making a request to the department. The deadline to submit to both the courts and PDE is no later than 75 days prior to the election. Again, both the courts and PDE must determine whether the exception will be granted and inform the district no later than 55 days prior to the election. If the courts approve the exception, their ruling must include the dollar amount of the exception, the tax increase necessary to fund the exception and the duration of the tax increase. In cases where PDE approves the exception, it will inform the district of the dollar amount of the exception and the tax increase necessary to cover this cost. If the exception is not granted, the board would have until 50 days prior to the election to submit a referendum question to the appropriate county officials. *Please note: This is an exception to the rule mentioned in the following paragraph.*

School boards that wish to seek voter approval must submit the referendum question to the board of elections in each county in which the district is situated no later than 60 days prior to the primary election. The question must state the specific rate of the tax increase, however, Act 72 does not propose boilerplate language for back-end referendum questions. In accordance with the Election Code, the board of elections shall, in consultation with the school district, draft a non legal interpretative statement to accompany the referendum question. This statement must include information stating why the increase is necessary and what the revenue will be expended for, as well as the consequences of the referendum being disapproved. A simple majority of voters is needed to approve the referendum. If the question fails, the board still would be permitted to increase tax rates up to the index.

The act does set forth certain prohibitions specific to the conduct of referendum campaigns. Specifically, no public funds may be used to urge individuals to vote for or against a referendum, nor can they be appropriated for political or campaign purposes. The act defines public funds as any money appropriated by the General Assembly or by a political subdivision. Notwithstanding, the law does permit public funds to be used for the dissemination of factual information relative to a referendum.

#### **Important Dates**

Days Prior to Primary	Deadline for Preliminary Budget/Referendum Action
110 days	Deadline for preliminary budgets, complete with expected revenues and expenditures, to go on display for public.
90 days	Deadline for school district to adopt preliminary budget.
85 days	Deadline for school district, if proposing any tax rate increase, to submit budget to PDE.
75 days	Deadline for PDE to inform district if tax increase complies with index, or if referendum question must be placed on the ballot, or if department or <b>court approval is required.</b>
75 days	Deadline for district to file in court for an exception to referendum. <b>Must be publicized at least one week prior (Feb. 24).</b>
60 days	Deadline for referendum question to be submitted to county election officials to be placed on the ballot.
55 days	Deadline for court or PDE to rule on district's eligibility to use exception. The court will set the tax rate and the duration of the increase for the district.
50 days	Deadline to submit referendum question to county officials to be placed on the ballot if court or PDE disapproves exception.

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## Back-End Referendum Exceptions



Act 72 enumerates 10 specific instances in which school boards can seek “exceptions” from obtaining voter approval for tax rate increases in excess of the index. Each of these exceptions requires approval from either the local court of common pleas or the Department of Education (PDE).

The following exceptions require court approval. The court of jurisdiction is governed by the location of a school district’s administration offices. These exceptions include the following:

- Costs incurred in responding to or recovering from an emergency or disaster declared pursuant to 35 Pa.C.S. § 7301 (relating to general authority of governor), or 75 Pa.C.S. § 6108 (relating to power of governor during emergency).
- Costs to implement a court order or an administrative order from a federal or state agency, as long as the tax increase is rescinded following fulfillment of the court order or administrative order.
- Costs to respond to conditions that pose an immediate threat of serious physical harm or injury to the students, staff or residents of the school district, but only until the conditions causing the threat have been fully resolved.

When seeking court approval for one of these stated exceptions, a school board must abide by mandatory deadlines established in the act. First, a board must petition the court no later than 75 days prior to the election immediately preceding the beginning of the school district’s fiscal year in order to impose a tax increase for these exceptions. In almost every board’s case, this means prior to the primary election. At least one week prior to petitioning the court, the board must publish in a newspaper of general circulation and on the district’s Web site, if applicable, a notice of its intent to file. When a hearing date has been established by the court, the district must notify its residents of the date, time and place of the hearing. Notification must be done as soon as possible, again, by using the newspaper and district Web site, if applicable. A person residing or paying taxes within the district may file a written objections with the court on the district’s petition.

It is the duty of the board seeking the exception to prove by clear and convincing evidence both that it qualifies for the exception and the anticipated dollar amount of the expenditure is for each exception sought. No later than 55 days prior to the election, the court must hand down a ruling on the petition and inform the district of its decision. If the court approves the petition, it also will determine the dollar amount of the expenditure, the tax rate increase necessary to fund it and the duration of the increase. In cases where the court denies a district’s petition, the district would have the ability to submit the referendum question for voter approval. In such cases, the referendum question must be submitted to the election officials no later than 50 days prior to the date of election immediately preceding the beginning of the district’s fiscal year.

The remainder of the exceptions require PDE approval. They include the following:

- Costs related to debt in the following instances:
  - To pay interest and principal on any indebtedness incurred under 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) prior to the effective date of this section. In no case may the school district incur additional debt under this clause except for the refinancing of expenses related to such refinancing and the establishment of funding of appropriate debt service reserves. An increase under this clause shall be rescinded following the final payment of interest and principal.



- To pay interest and principal on any electoral debt incurred under 53 Pa.C.S. pt. VII Subpt. B.
- To pay interest and principal on indebtedness for up to 60% of the construction cost average on a square-foot basis if all of the following apply:
  - The indebtedness is for a school construction project under 22 Pa. Code Ch. 21 (relating to school buildings).
  - The indebtedness to fund appropriate debt service reserves for the project is incurred after the effective date of the act.
  - The increase sought under this clause is rescinded following final payment of interest and principal.
  - The indebtedness is incurred only after existing fund balances for school construction and any undesignated fund balances have been fully committed to fund the project.
  - The indebtedness is for an academic elementary or academic secondary school building. For purposes of the act, the following shall not be considered to be an academic elementary or academic secondary school building: natatorium, stadium bleachers, athletic field, athletic field lighting equipment, and apparatus used to promote and conduct interscholastic athletics.
  - The project has been approved by the department under section 731 of the act of March 10, 1949 (p. 1.30, no.14), known as the Public School Code of 1949.
  - To pay interest and principal on indebtedness for up to \$250,000 of the construction cost of a nonacademic school construction project, as adjusted annually by the percentage increase in the average of the statewide average weekly wage and the employment cost index.
- Costs incurred in providing special education programs and services to students with disabilities if the increase in expenditures on special education programs and services was greater than 10%. The dollar amount of this exception shall be equal to the portion of the increase that exceeds 10%.
- Costs incurred in the implementation of a school improvement plan required under section 1116(b) of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 20 U.S.C. § 6316(b)) and that are not offset by a state allocation.
- Costs necessary to maintain the following:
  - Per-student local tax revenue, adjusted by the index, if the percentage growth in average daily membership between the school year for which Annual Financial Reports have been received and the third school year preceding the that year exceeds 7.5%.
  - Actual instruction expense per average daily membership, adjusted by the index, if the increase in actual instruction expense per average daily membership between the school year for which Annual Financial Reports have been received and the preceding school year is less than the index.
  - To maintain revenues derived from real property taxes, earned income and net profits taxes, personal income taxes – basic education funding allocations and special education funding allocations – adjusted by the index, for a school district where the percentage increase in revenues derived from real property taxes, earned income and net profits taxes, personal income taxes, basic education funding allocations and special education funding allocations between the school year for which Annual Financial Reports have been received and the preceding school year is less than the index.
- Costs incurred for providing health care related benefits which are directly attributable to a collective bargaining agreement in effect on the effective date of this section between the school district and its employees organization, if the anticipated increase in the cost of health care related benefits between the current year and the upcoming year is greater than the index. The dollar amount of this exception shall be equal to the portion of the increase that exceeds

the index. This subparagraph shall not apply to a collective bargaining agreement renewed, extended or entered into after the effective date of the act.

- Costs necessary to cover a school district's share of payments to the public school employees' retirement system as required under 24 Pa.C.S. § 8327 (relating to payments by employers) if the actual dollar amount of payments between the current year and the upcoming year is greater than 7.5%.

When seeking PDE approval for one of these stated exceptions, a school board must abide by mandatory deadlines established in the act. First, a board must submit an application to PDE no later than 75 days prior to the election immediately preceding the beginning of the school district's fiscal year in order to impose a tax increase for these exceptions. In almost every board's case, this means prior to the primary election. At least one week prior to submitting the application, the board must publish in a newspaper of general circulation and on the district's Web site, if applicable, a notice of its intent to file. If a hearing date is set by PDE, the district must notify its residents of the date, time and place of the hearing. Notification must be done as soon as possible, again, by using the newspaper and district Web site, if applicable.

In order to determine a district's eligibility to receive an exception, PDE will use data from the most recent school year for which they have received an AFR from every school district. No later than 55 days prior to the election, PDE must inform the district if it has denied or granted the exception. If PDE approves the application, it also will determine the dollar amount of the expenditure and the tax rate increase necessary to fund it. In cases where PDE denies a district's application, the district would have the ability to submit the referendum question for voter approval. In such cases, the referendum question must be submitted to the election officials no later than 50 days prior to the date of election immediately preceding the beginning of the district's fiscal year.



## How does the Act 72 exception for school construction work?

Since the enactment of Act 72, several questions have been asked about the act's back-end referendum exception for school construction. The act allows an exception for costs "to pay interest and principal on indebtedness for up to 60% of the construction cost average on a square foot basis if all of the following apply...." Act 72 defines the term "construction cost average on a square-foot basis" as \$128/square foot for an elementary school and \$133/square foot for a secondary school.

The act mentions six criteria that must be met before the above exception is granted. These deal with acceptance of the project by PDE, the timing of the indebtedness and its retirement and the nature of the project.

Assuming that all six criteria have been met, what then are the costs that are eligible for an exception to back-end referendum?

By way of example, let's assume that District X wants to build a 75,000 square foot elementary school. Under the exception listed above, you would need to first multiply \$128 times 60% and then multiply that amount by 75,000:

$$\begin{aligned} \$128 \times 60\% &= \$77 \text{ (rounded to the nearest whole dollar)} \\ \$77 \times 75,000 &= \$5,775,000 \end{aligned}$$

Using this example, District X can apply for an exception for an increase in taxes that would generate enough revenue to make payment on \$5,775,000 worth of indebtedness.

In another example, District Y wants to build a 110,000 square foot high school. The calculations are as follows:

$$\begin{aligned} \$133 \times 60\% &= \$80 \text{ (rounded to the nearest whole dollar)} \\ \$80 \times 110,000 &= \$8,800,000 \end{aligned}$$

In this example, District Y can apply for an exception for an increase in taxes that would generate enough revenue to make payment on \$8,800,000 worth of indebtedness.

For school buildings that combine elementary and secondary grades, the calculation would be done on a pro-rata basis between the two rates.

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## Act 72 Glossary of Terms



**Act 24** - Act 24 of 2001, a law that authorizes school districts to eliminate their occupational assessment tax and replace the lost revenue with proceeds from an increased earned income tax.

**Act 50** - Act 50 of 1998, a law that authorizes school districts to enact an earned income tax rate of 1%, 1.5% or 2%. Revenues from this tax are used to reduce school property taxes, using a homestead/farmstead exclusion.

**Act 511** - Act 511 of 1965, otherwise known as the Local Tax Enabling Act, this law contains the authorization for many of the local taxes that school districts now levy, including the earned income tax, all occupation taxes, amusement taxes and a per capita tax. (The School Code also contains authorization for school districts to levy a per capita tax.)

**Earned Income Tax** - Commonly referred to as the EIT, its real name is the Earned Income and Net Profits tax. This is a tax used by all but 38 school districts in the state. It commonly is levied against wages, salaries and the net profits of Subchapter S corporations. Pensions, social security, and interest or dividend income are not taxable under an earned income tax.

**Farmstead** - Building and structures located on a farm that is at least 10 contiguous acres in size and used in commercial agricultural production. A home located on a farmstead is considered a homestead.

**Farmstead exclusion** - The exclusion from taxation of a portion of the assessed value of the building and structures on a farm that are used in commercial agricultural production.

**Farmstead property** - Property that is at least 10 contiguous acres in size, contains buildings and structures used in commercial agricultural production, and for which an application for a property tax exclusion has been submitted and approved.

**Front-end referendum** - A question placed on the ballot, typically in a municipal election (odd-numbered years), that asks voters to approve an increase in the earned income tax rate or personal tax rate. Revenues from these taxes must be used for property tax relief using a homestead/farmstead exclusion.

**Homestead exclusion** - The exemption from taxation of a portion of the assessed value of an individual's primary residence and the lot on which it is situated.

**Homestead** - A dwelling, including the parcel of land on which it is located and other improvements, for which any of the following apply:

- The dwelling is used primarily as the domicile of the owner.
- The dwelling is a unit in a condominium used as the domicile of the owner
- A portion of the dwelling is used as the domicile of the owner



**Homestead property** - Property that contains the primary residence of the owner, and for which an application for a property tax exclusion has been submitted and approved.

**Maximum allowable exemption** - An amount equal to 50% of the median assessed value of home-stead/farmstead property located in a school district.

**Median assessed value** - The value that is the middle point in the sequential distribution of assessed values above and below which exist an equal number of assessed values. For example, 3 is the median number in the series 1, 2, 3, 4, 5.

**Qualifying contribution** - A contribution made by the taxpayers of a school district for property tax relief. The qualifying contribution makes a school district eligible to receive state gaming allocations to be used solely to reduce the school property tax. By making a qualifying contribution, a school district subjects itself to the provisions for back-end referendum and early adoption of the preliminary budget.

**Personal Income Tax** - A tax levied on individuals, estates and trusts that relates to personal income, including wages and salaries, dividends, interest, lottery/gambling winnings and other non wage income. Pensions and social security income are not taxable by a personal income tax. As authorized in Act 72, this tax would be levied on the same class of income as the state personal income tax.