

Act 1 Referendum Exceptions

To avoid common filing mistakes:

1. Adopt a Preliminary General Fund Budget – §311
 - Proposed preliminary budget must be made available for public inspection by January 27, 2011
 - Public notice of intent to adopt budget by February 6, 2011
 - Adopt budget by February 16, 2011
 - Submit both electronic and signed paper copy to PDE by February 21, 2011

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To avoid common filing mistakes:

2. To request referendum exceptions, preliminary budget **must** contain a real estate tax rate in excess of index
 - Real Estate Tax Rate report (RETR), line U, must be greater than \$0
 - Line U does not have to equal amount of referendum exceptions being requested
3. Advertise at least 7 days prior to submitting referendum exceptions – §333(j)(2)
(i.e. clicking 'Submit' button in RES)

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To avoid common filing mistakes:

4. February 24, 2011 is last day to place advertisement and still be able to submit exceptions
5. Advertisement could be included with notice of intent to adopt preliminary budget (by February 6, 2011)
6. Review *Referendum Exception Guidelines* document
7. Submit referendum exceptions online by 11:59 p.m. March 3, 2011
8. Any problems during process, call PDE **immediately**

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To avoid common filing mistakes:

9. After clicking 'Submit' button, print 'Summary of Exceptions' for superintendent's signature, and immediately mail to PDE.
10. If contacted by PDE staff during review process, submit new signed 'Summary' when allowable exception amounts have changed.

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To avoid common filing mistakes:

11. If school district intends to submit referendum question to voters to approve a tax rate increase over the index *or* to levy a new tax:
 - a. By March 18, 2011, submit question to County Board of Elections in each county
 - b. Referendum for tax rate increase over index should be for amount that exceeds referendum exceptions

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Act 1 Referendum Exceptions

Changes in the retirement exception calculation:

- No change in calculation – only in data collected:
 1. Enter salary base (instead of object 230)
 2. RES will pre-populate PSERS rates and calculate amount of expenditures (object 230)
 3. Salary data for 2010-2011 should be based on most up-to-date estimate of salaries (not from original 2010-2011 budget)
 4. Allowable exception is amount of increase in SD's share of payments to PSERS in excess of SD's index

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Act 1 Referendum Exceptions

Refresher course on the other PDE exceptions

- School Construction – generally, provides exception for increase in debt service payments
- Four types of construction exception:
 1. Grandfathered Debt
 - a) For issue/note/loan incurred prior to either September 3, 2004 or June 27, 2006
 2. Electoral Debt
 - a) Must have issue/note/loan previously approved by voters

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Refresher course on the other PDE exceptions

3. Academic Project
 - a) Uses construction cost averages (CCA) of \$155 for elementary and \$160 for secondary
 - b) Maximum project cost for exception is equal to lesser of 60% of CCA or total net project cost
 - c) Exception calculated as increase in local share of debt service multiplied by the percent that line b is of amount of project financed by debt
4. Nonacademic Project
 - a) Maximum cost of \$283,494 for each project

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Refresher course on the other PDE exceptions

- Four “AFR” exceptions – compare 2008-09 to 2009-10

1. Special Education Expenditures

- a) Exception for increase in costs over SD’s index
- b) Expenditures using ARRA funds are included in 2009-10

2. School Improvement Plan

- a) Exception for costs to implement a SI plan, as approved by PDE, that exceed any State allocation dedicated to school improvement (ABG, EAP, etc)

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Refresher course on the other PDE exceptions

- Four “AFR” exceptions – compare 2008-09 to 2009-10

3. Maintenance of Local Tax Revenue or AIE per ADM

- a) Exception calculated in two separate pieces; allowable exception is greater of each piece
- b) Local revenue per ADM: SD must have increase in ADM greater than 7.5% between 2006-07 and 2009-10

4. Maintenance of Selected Revenue Sources

- a) Basic Education Funding for 2009-10 includes Federal SFSF (*total* BEF allocation)

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Refresher course on the other PDE exceptions

- Health Care-Related Benefits
 1. Collective-bargaining agreement must have been in place on January 1, 2006
 2. Agreements renewed, extended, or entered into after January 1, 2006 are not eligible (retroactive agreements are also not eligible)

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Refresher course on the other PDE exceptions

Final General Fund Budget reminders:

- Follow timeline on PDE website:
 1. Proposed version by May 30, 2011
 2. Public inspection, 20 days prior to final
 3. Public notice, 10 days prior to final
 4. Submit final to PDE within 15 days

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Refresher course on the other PDE exceptions

Final General Fund Budget reminders:

- No requirement to use approved referendum exceptions
- Amount of tax revenue in excess of index (RETR line U) must be equal to or less than total approved exceptions
- If using exceptions on final budget, complete Certification of Utilization screen in RES and submit to PDE with final budget paperwork

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Referendum Exception Mailbox: ra-res@state.pa.us

Property Tax Relief Mailbox: ra-propertytax@state.pa.us

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PASBO Webcast November 16, 2010



Edward G. Rendell, Governor

• Thomas E. Gluck, Acting Secretary of Education

• www.education.state.pa.us



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DEPARTMENT OF EDUCATION

Court Approved Exceptions to Act 1 Real Estate Tax Index Limit



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Court Approved Exceptions – Statute Language

Court or Administrative Order Exception

53 P.S. § 6926.333(f)(2)(ii) provides exception for:

“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.” **(Note future rescission requirement.)**



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Court or Administrative Order Examples

- RE tax assessment decrease/tax refund.
- Special education decision by agency or court
- Court or administrative agency order relating to: employment, Title IX gender equity, ADA, construction, or other.



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Court Approved Exceptions – Court Procedures

53 P.S. § 6926.333(i) specifies court procedures as follows:

- At least 75 days before primary election (**March 3, 2011**), SD file court petition.
- At least one week before filing, publish advertisement of intent to file (publish in newspaper and on SD website).
- After court sets hearing date, publish notice of hearing date (publish in newspaper and on SD website).



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- SD prove qualification for exception “by clear and convincing evidence.”
- SD prove dollar amount of expense “by clear and convincing evidence.”
- “Clear and convincing evidence” means testimony and evidence so clear, direct, weighty, and convincing as to allow the judge to reach a **clear conclusion, without hesitancy, of truth of facts**. *Fagan v. PennDOT*, 875 A.2d 1195 (Pa. Cmwlth. 2005)



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- At least 55 days before primary election (**March 23, 2011**), court must issue ruling on:
 - Amount of expense for which exception granted.
 - Tax rate increase required to fund exception.
 - ***Appropriate duration of tax rate increase.***
- ***Note tight timetable – 20 days from filing to decision!***
- Sample court petition – KKAG will provide on request – just call or e-mail.



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Other Court Approved Exceptions

Emergency or Disaster Exception

53 P.S. § 6926.333(f)(2)(i) provides exception for:

- Costs resulting from emergency or disaster – in each case, declared by Governor. (Note future rescission of tax rate increase not required.)

Threat of Harm Exception

53 P.S. § 6926.333(f)(2)(iv) provides exception for:

- Costs caused by conditions posing immediate threat of serious harm or injury to students, staff, or residents. (Note future rescission required when conditions resolved.)



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