

Referendum Exceptions Submitted to PDE Guidelines for the 2010-2011 Fiscal Year Special Session Act 1 of 2006

(Does not apply to Philadelphia City SD)

(Dates do not apply to Pittsburgh SD and Scranton SD)

I. Preliminary Budget and Approval of Tax Rate Increases (Section 311, 333(a)(1), 333(e))

School districts must adopt a preliminary budget by February 17, 2010. The adopted preliminary budget, which includes a schedule of proposed tax rate increases, must be submitted to the Pennsylvania Department of Education (PDE) by February 22, 2010.

After review of the school district's proposed tax rate increases as reported on the preliminary budget, PDE will inform each school district in writing by March 4, 2010, if any further actions must be taken. If proposed tax rate increases exceed the school district's index, (1) the tax rate increase must be reduced to the index, (2) a referendum exception must be sought from PDE or the Court of Common Pleas, or (3) the tax rate increases must be approved by voters at the primary election on May 18, 2010.

In lieu of a preliminary budget process, school districts have the option of adopting a resolution indicating that the rate of any tax will not be raised by more than its index. School districts must submit a copy of this resolution and a schedule of proposed tax rate increases to PDE by January 28, 2010. After review of the school district's resolution and proposed tax rate increases, PDE will inform each school district in writing by February 12, 2010, whether the proposed tax rate increases are less than or equal to its index.

If proposed tax rate increases exceed the school district's index, the school district is required to adhere to sections 311(a) and (c)—relating to preliminary budget adoption—and will be permitted to submit referendum exceptions to PDE or the Court of Common Pleas. PDE will only approve referendum exceptions if the school district demonstrates a need for exceptions by adopting a balanced preliminary budget that contains a tax rate increase in excess of the school district's index.

II. Index (Section 302, 313, 333(l))

Each September, PDE will publish the index for use in the determination of allowable tax rate increases in the following fiscal year. The base index is the average of the percentage increase in the statewide average weekly wage, as determined by the PA Department of Labor and Industry, for the preceding calendar year and the percentage increase in the Employment Cost Index for Elementary and Secondary Schools, as determined by the Bureau of Labor Statistics in the U.S. Department of Labor, for the previous 12-month period ending June 30. For a school district with a market value/personal income aid ratio (MV/PI AR) greater than 0.4000, its index equals the base index multiplied by the sum of .75 and its MV/PI AR for the current year.

For the 2010-2011 fiscal year, the base index is 2.9%. The index for each school district is available on the PDE website at www.education.state.pa.us. Click on Programs, Programs O-R, Property Tax Relief.

III. Referendum Exceptions (Section 333(f), (j), (n))

Section 333(f) provides for nine referendum exceptions. A tenth exception is provided for in Section 333(n). Three of the ten exceptions (response to an emergency or disaster declared by the Governor; implementation of a court order or administrative order from a Federal or State agency; response to conditions that pose an immediate threat of serious harm or injury) must be approved by the Court of Common Pleas and are not described in this document.

For the 2010-2011 fiscal year, requests for referendum exceptions must be submitted to PDE or the Court of Common Pleas in the judicial district in which the administrative office of the school district is located, as applicable, by March 4, 2010. At least one week prior to submitting its request to PDE, a school district requesting a referendum exception must publish notice of its intent to seek PDE approval in a newspaper of general circulation and on the school district's publicly accessible World Wide Web site, if one is maintained.

PDE has developed an online application, accessed via the Education Hub, for calculating and submitting the data needed to review the requests for referendum exceptions. In addition, Excel templates are available on the PDE website for use by school districts in estimating potential exception amounts.

General provisions (Section 333(f)(1), (2))

If approved by PDE or the Court of Common Pleas, a school district may, without seeking voter approval, increase the rate of a tax levied for the support of public schools by more than its index if all of the following apply:

- (1) The revenue raised by the allowable increase under the school district's index is insufficient to balance the proposed budget due to one or more of the expenditures listed in paragraph (2).
- (2) The revenue generated by increasing the rate of a tax by more than the school district's index will be used to pay for any of the following:

- **School Construction** (Section 333(f)(2)(iii))

General Instructions for All School Construction Exceptions

1. The phrase *effective date*¹ will be used throughout the School Construction section of this document and has two possible meanings, depending on the school district:
 - for the 109 school districts that opted in to Act 72, *effective date* refers to September 4, 2004, and
 - for all remaining school districts, *effective date* refers to June 27, 2006.

¹ Although the actual effective date of Act 72 of 2004 was September 3, 2004, for functional reasons these Guidelines treat it as September 4, 2004. Special Session Act 1 of 2006 provides that school districts that opted in to Act 72 (the Homeowner Tax Relief Act) may seek referendum exceptions for indebtedness incurred prior to September 4, 2004, and for indebtedness incurred *on or after September 4, 2004*, for school construction projects. Act 1 also provides that school districts that did not elect to participate in Act 72 may seek referendum exceptions for indebtedness incurred prior to the effective date of Act 1 and for indebtedness incurred *on or after the effective date of Act 1*. Since these provisions in Act 1 use the term "effective date" in reference to both non-Act 72 school districts and Act 72 districts, we have constructed a meaning for the phrase "effective date" in order to facilitate discussion of the referendum exceptions for both groups. Although this is a slight aberration from the actual effective date of Act 72, it does not change the substance of any provisions.

2. For each issue/note/loan issued prior to adoption of the preliminary budget **with** PlanCon Part H or K approval and with budgeted payments in 2009-2010 or 2010-2011, provide copies of the following:
 - for indebtedness incurred before the *effective date*, but issued on or after the *effective date*:
 - complete copy of the executed board resolution, including the signature page, incurring the indebtedness,
 - for variable rate issues/notes/loans:
 - debt payment schedule based on budgeted interest rates,
 - rationale for the budgeted interest rates used in preparing the payment schedule
 - for vocational project financing: calculation showing the school district's share of scheduled payments
3. For each issue/note/loan issued prior to adoption of the preliminary budget **without** PlanCon Part H or K approval and with budgeted payments in 2009-2010 or 2010-2011, provide copies of the following:
 - complete copy of the executed board resolution, including the signature page, incurring the indebtedness -- if the amount issued is less than the amount incurred, include an amended or supplemental resolution or a statement signed by the superintendent or business manager that ties the issue to the resolution,
 - settlement sheet with date of issuance,
 - debt payment schedule,
 - for variable rate issues/notes/loans:
 - debt payment schedule based on budgeted interest rates,
 - rationale for the budgeted interest rates used in preparing the payment schedule,
 - for vocational project financing: calculation for the school district's share of scheduled payments,
 - for refunding: signed verification report for advance refunding or certification for current refunding from paying agent/trustee,
 - for partial refunding: payment schedule for the debt service not refunded; this should include any payments made in FY 2009-2010 prior to the refunding,
 - for issues funding reimbursable projects or refunding any reimbursable issues: estimated reimbursable percent calculations (for original financing refer to the page D14 calculations in PlanCon Part D; for refinancings refer to PlanCon Part K). Calculations must be based on the most up-to-date information on project costs. In particular, the estimated reimbursable percent for projects with bids awarded must be based on the bid costs, not previous estimates.
4. For each issue/note/loan not yet issued for which payments in 2010-2011 are being budgeted, provide copies of the following:
 - complete copy of the executed board resolution, including the signature page, or statement of intent to incur and issue indebtedness signed by superintendent or business manager,
 - proposed debt payment schedule,
 - for variable rate issues/notes/loans:
 - debt payment schedule based on budgeted interest rates,
 - rationale for the budgeted interest rates used in preparing the payment schedule,

- for vocational project financing: calculation for the school district's share of scheduled payments,
 - for issues funding reimbursable projects or refunding any reimbursable issues but without PlanCon Part H or K approval: estimated reimbursable percent calculations (for original financing refer to the page D14 calculations in PlanCon Part D; for refinancings refer to PlanCon Part K). Calculations must be based on the most up-to-date information on project costs. In particular, the estimated reimbursable percent for projects with bids awarded must be based on the bid costs, not previous estimates.
5. Costs associated with any subsequent refinancing of this indebtedness will also qualify for an exception. The amount of refinancing bonds that a school district may issue is limited to a principal amount equal to the following: (1) the amount needed to pay, discharge or redeem the outstanding principal amount of the bonds to be refinanced, plus (2) any additional principal issued to meet the issuance costs of the refinancing such as underwriter's fees, bond insurance, legal fees, etc.
 6. For refinancing incurred after the *effective date*, also include a copy of the following:
 - complete copy of the executed board resolution, including the signature page, incurring the indebtedness for the original issue.
 7. The required documentation described above may be submitted electronically to ra-res@state.pa.us or via regular mail to the Division of Subsidy Data and Administration for receipt by PDE within 3 days of the date that referendum exceptions are submitted. Failure to timely submit requested documentation could result in disapproval of the referendum exception.

(A) Indebtedness incurred prior to *effective date*

1. Costs associated with paying principal and interest on the indebtedness, incurred under the Local Government Unit Debt Act prior to the *effective date*, qualify for an exception.
2. A referendum exception may be requested if the total budgeted payments—for principal and interest on indebtedness incurred under 53 Pa. C.S. Pt. VII, Subpart B, which is supported by recurring revenues—increase due to an increase in the local share (debt service payments net of state reimbursement) or a decrease in nonrecurring revenues. The school district will be eligible for an exception for the amount of the increase in recurring revenue needed for the budgeted payments.
3. Liquidity, remarketing and other fees on a variable rate bond issue are not principal or interest on indebtedness. Therefore, if taxes must be increased by more than the amount allowable by its index and any approved referendum exceptions in order to meet these costs, a school district must seek voter approval.
4. Swap payments will qualify for the referendum exception if a school district:
 - a) makes swap payments to an authority (State Public School Building Authority or a municipal authority) on a swap agreement entered into by the authority on the school district's behalf, and
 - b) the swap payment is a component of the interest charge the school district makes to the authority on indebtedness, and

- c) the debt (underlying that swap agreement) was incurred prior to the effective date, and
 - d) the proposed tax increase will be used to make those swap payments.
5. If a school district makes swap payments to a swap counterparty (i.e., not through an authority as described above), those payments will not qualify for a referendum exception. Therefore, a school district will need to seek voter approval if taxes must be increased by more than the amount allowable by its index and any approved referendum exceptions to meet these costs.
6. For example:

FY 2009-2010 local share of debt service payments	\$1,000,000
Nonrecurring revenues applied to debt service	- <u>\$ 500,000</u>
FY 2009-2010 local share from recurring revenue	\$ 500,000
 FY 2010-2011 local share of debt service payments	 \$1,100,000
Nonrecurring revenues applied to debt service	- <u>\$ 200,000</u>
FY 2010-2011 local share from recurring revenue	\$ 900,000
FY 2009-2010 local share from recurring revenue	- <u>\$ 500,000</u>
Referendum exception available	\$ 400,000
 FY 2011-2012 local share of debt service payments	 \$1,100,000
Nonrecurring revenues applied to debt service	- <u>\$ 0</u>
FY 2011-2012 local share from recurring revenue	\$1,100,000
FY 2010-2011 local share from recurring revenue	- <u>\$ 900,000</u>
Referendum exception available	\$ 200,000

7. Any tax rate increase to pay these costs must be rescinded following the final payment of principal and interest.

(B) Electoral debt

1. Costs associated with paying principal and interest on any voter-approved debt, incurred under the Local Government Unit Debt Act, qualify for an exception. Voter approval must have occurred prior to requesting a referendum exception.
2. A referendum exception may be requested if the total budgeted payments—for principal and interest on indebtedness incurred under 53 Pa. C.S. Pt. VII, Subpart B, which is supported by recurring revenues—increase due to an increase in the local share (debt service payments net of state reimbursement) or a decrease in nonrecurring revenues. The school district will be eligible for an exception for the amount of the increase in recurring revenue needed for the budgeted payments.

Note: For each issue/note/loan with budgeted payments in 2009-2010 or 2010-2011, provide a copy of the certification of electoral approval to issue bonds or notes.

(C) Academic elementary or secondary school building project

1. The indebtedness is for a school construction project approved no later than February 22, 2010, as authorized by Section 731 of the "Pennsylvania Public School Code of 1949" and Chapter 21, School Buildings, of the "State Board of Education Regulations," in accordance with the following:

- For reimbursable projects, PDE approval of final plans and specifications only occurs upon the issuance of written approval of PlanCon Part F, Construction Documents.
 - For non-reimbursable projects in school districts of the 2nd, 3rd or 4th class, PDE approval of the Self-Certification for Non-Reimbursable Construction Project (PDE-3074) fulfills this requirement.
 - For non-reimbursable projects in a 1st class A school district, board approval of plans and specifications meets this requirement.
2. A referendum exception may be requested if the total budgeted payments— for principal and interest on indebtedness incurred under 53 Pa. C.S. Pt. VII, Subpart B, which is supported by recurring revenues—increase due to an increase in the local share (debt service payments net of state reimbursement) or a decrease in nonrecurring revenues. The school district will be eligible for an exception for the amount of the increase in recurring revenue needed for the budgeted payments.
 3. The indebtedness is for an academic elementary or academic secondary school building. Note: Costs for natatoriums, stadium bleachers, athletic fields, athletic field lighting equipment and apparatus, as well as for school district administration and other non-academic school facilities, will not qualify for this referendum exception. (See (D) below for nonacademic projects.)
 4. Costs associated with paying principal and interest on indebtedness incurred on or after the effective date, for up to 60% of the construction cost average on a square-foot basis for each academic elementary or secondary school building project qualify for an exception.
 5. Area vocational-technical schools / career and technical centers will be viewed as secondary school buildings for the purpose of this section. A school district that incurs indebtedness for its share of the AVTS/CTC project can request a referendum exception for the debt payments. Appropriation leases do not qualify as indebtedness.
 6. The indebtedness is incurred only after existing fund balances for school construction and any unreserved undesignated fund balances have been fully committed to fund the project. *Reserved* and *designated unreserved* fund balances in the General Fund do not need to be committed to the school construction project to qualify for this exception.

For purposes of this exception, “existing school construction fund balances” shall include the following:

- a) Section 690 Capital Reserve Fund: all funds for the project for which the Section 690 Fund was established,
- b) Section 1431 Capital Reserve Fund: all funds available must be accounted for and applied to projects that will be funded in the budget year,
- c) Capital Projects Fund: all funds for the project other than issues/notes/loans issued for the project,
- d) Indebtedness incurred prior to the *effective date* that has been issued,
- e) Other school construction funds.

PDE will also review any special funds established by the school district to determine if any unreserved undesignated fund balance in those funds can lawfully be used to pay for school construction debt service.

7. Swap payments will qualify for the referendum exception if a school district:
 - a) makes swap payments to an authority (State Public School Building Authority or a municipal authority) on a swap agreement entered into by the authority on the school district's behalf, and
 - b) the swap payment is a component of the interest charge the school district makes to the authority on indebtedness, and
 - c) the debt (underlying that swap agreement) was incurred on or after the *effective date*, and
 - d) the proposed tax increase will be used to make those swap payments.
8. A school district may apply for an academic project exception for a particular project in more than one year. For example, a school district may apply for an exception for an elementary school project for FY 2010-2011 and then apply for another exception in the future if the related debt service payments increase.
9. The approved tax rate increase is rescinded following final payment of principal and interest.

Definitions:

1. Debt is "incurred" under the Local Government Unit Debt Act (LGUDA) when the school district has taken all necessary steps to finally adopt its required debt resolution (for all debt except electoral debt) (See Section 8002(b) of LGUDA). There is no requirement that the debt proceedings be filed with the Department of Community and Economic Development (DCED) and/or approved by DCED in order to meet this definition. By contrast, the LGUDA does require DCED approval, where applicable, prior to issuance of the debt.
2. The "construction cost average on a square-foot basis" is adjusted annually by the percentage increase in the average of the statewide average weekly wage and the employment cost index. The fiscal year applied to the project is based on the bid opening date. The following table lists the rates by fiscal year:

Fiscal Year	Bid Opening Date	Elementary Rate	Secondary Rate
2006-2007 *	Prior to 7/1/2006	\$128	\$133
2007-2008	7/1/2006—6/30/2007	\$137	\$142
2008-2009	7/1/2007—6/30/2008	\$143	\$148
2009-2010	7/1/2008—6/30/2009	\$149	\$154
2010-2011	7/1/2009—6/30/2010	\$153	\$158

* Applies only to Act 72 school districts.

3. The grades to be housed in a school building at the completion of a planned project will determine how a building will be classified.
 - An academic elementary school building will house pre-kindergarten through sixth grade.
 - An academic secondary school building will house seventh through twelfth grade.
 - For buildings housing both elementary and secondary grades, the architectural area assigned to the elementary grades will first be multiplied by the SS Act 1 elementary construction cost average per square foot. Next, the architectural area assigned to the secondary grades will be multiplied by the SS Act 1 secondary construction cost average per square foot. The elementary and secondary construction cost limits will then be added

together and multiplied by 60% to determine the referendum exception limit for a planned project.

Examples:

1. Academic elementary school: 200,000 square feet
 $200,000 \times \$153 \times 60\% = \$18,360,000$
Allowable referendum exception: principal and interest payments due in 2010-2011 for a bond issue up to \$18,360,000
2. Academic secondary school: 200,000 square feet
 $200,000 \times \$158 \times 60\% = \$18,960,000$
Allowable referendum exception: principal and interest payments due in 2010-2011 for a bond issue up to \$18,960,000
3. Academic middle school:
Elementary architectural area: 100,000 square feet
Secondary architectural area: 100,000 square feet
 $(100,000 \times \$153 + 100,000 \times \$158) \times 60\% = \$18,660,000$
Allowable referendum exception: principal and interest payments due in 2010-2011 for a bond issue up to \$18,660,000

(D) Nonacademic projects

1. School districts may request an exception for each nonacademic school construction project. In addition, for any nonacademic work included in the scope of an academic elementary or secondary school building project, an exception for the nonacademic construction costs may be requested as one nonacademic project.

Note: As part of the approval process under Section 333(j)(1), PDE will evaluate the scope of each project submitted by a school district to ensure that projects have not been unreasonably divided into multiple projects for purposes of seeking multiple referendum exceptions. In this evaluation, PDE will consider the following factors: location of the projects planned by the district, the bidding and construction timeline, and the planned scope of construction.

2. A school district may apply for a nonacademic project exception on a particular project in more than one year. For example, a district may apply for an exception for a natatorium project for FY 2010-2011 and then apply for another exception in the future if the related debt service payments increase.
3. A referendum exception may be requested if the total budgeted payments— for principal and interest on indebtedness incurred under 53 Pa. C.S. Pt. VII, Subpart B, which is supported by recurring revenues—increase due to an increase in the local share (debt service payments net of state reimbursement) or a decrease in nonrecurring revenues. The school district will be eligible for an exception for the amount of the increase in recurring revenue needed for the budgeted payments.

4. The "construction cost maximum" is adjusted annually by the percentage increase in the average of the statewide average weekly wage and the employment cost index. The fiscal year applied to the project is based on the bid opening date. The following table lists the rates by fiscal year:

Fiscal Year	Construction Cost Maximum
2006-2007 *	\$250,000
2007-2008	\$250,000
2008-2009	\$261,000
2009-2010	\$271,701
2010-2011	\$279,580

* Applies only to Act 72 school districts.

5. Swap payments will qualify for the referendum exception if a school district:
- makes swap payments to an authority (State Public School Building Authority or a municipal authority) on a swap agreement entered into by the authority on the school district's behalf, and
 - the swap payment is a component of the interest charge the school district makes to the authority on indebtedness, and
 - the debt (underlying that swap agreement) was incurred on or after the *effective date*, and
 - the proposed tax increase will be used to make those swap payments.
6. The approved tax rate increase must be rescinded following final payment of principal and interest.

- **Special Education Expenditures** (Section 333(f)(2)(v))

If expenditures for special education programs and services for students with disabilities increased by more than the school district's index between 2007-2008 and 2008-2009, the school district is eligible for an exception equal to the portion of the increase that exceeds its index.

Special education services expenditures are defined as the portion of the expenditures spent on services described in the Individualized Education Program (IEP) for students with disabilities from the following accounts: 2120 Guidance Services, 2140 Psychological Services, 2150 Speech Pathology and Audiology Services, 2160 Social Work Services, 2260 Instruction and Curriculum Development Services (expenditures for the Director of Special Education only), 2350 Legal Services, 2420 Medical Services, 2440 Nursing Services and 2700 Student Transportation Services.

Example:

School district 2010-2011 index is 2.9%

2008-2009 special education expenditures: \$1,703,437

2007-2008 special education expenditures: \$1,412,689

2.9% of 2007-2008 special education expenditures: \$ 40,968

2008-2009 - 2007-2008 special education expenditures: \$ 290,748

Allowable referendum exception: \$290,748 - \$40,968 = \$249,780

- ***School Improvement Plan*** (Section 333(f)(2)(vi))

If the school district incurred costs (exclusive of costs covered by Federal funds) for the implementation of a school improvement plan required by No Child Left Behind in 2008-2009, the school district will be eligible for an exception equal to the expenditures not offset by a State allocation dedicated to school improvement (including, but not necessarily limited to, the School Improvement Grant plus the portion of the Pennsylvania Accountability Grant and Education Assistance Program funding used for school improvement).

- ***Maintenance of local tax revenue or actual instruction expense per average daily membership*** (Section 333(f)(2)(vii))

(A) Fast growing school districts: local tax revenue per average daily membership

To qualify, the school district's average daily membership (ADM) must have increased more than 7.5% between 2005-2006 and 2008-2009. If local tax revenue (revenue codes 6111 through 6400 and 7340) per ADM for 2008-2009 does not exceed local tax revenue per ADM for 2007-2008 increased by its 2010-2011 index, the qualifying school district will be eligible for an exception equal to the difference multiplied by the 2008-2009 ADM.

Example:

School district 2010-2011 index is 2.9%

2005-2006 ADM: 2,742.369 2008-2009 ADM: 2,980.167 8.7% increase

2008-2009 local tax revenue: \$14,757,846

2008-2009 local tax revenue per ADM: \$4,952

2007-2008 local tax revenue: \$13,689,276 2007-2008 ADM: 2,827.286

2007-2008 local tax revenue per ADM: \$4,842

2007-2008 local tax revenue per ADM increased by index:

$$\$4,842 \times 1.029 = \$4,982$$

Difference: \$4,982 - \$4,952 = \$30

Allowable referendum exception: \$30 x 2,980.167 = \$89,405

or

(B) All school districts: Actual instruction expense per average daily membership

If the actual instruction expense (AIE) per ADM for 2008-2009 does not exceed the AIE per ADM for 2007-2008 increased by its 2010-2011 index, the school district will be eligible for an exception equal to the difference multiplied by the 2008-2009 ADM.

Example:

School district 2010-2011 index is 2.9%

2008-2009 AIE: \$15,585,125

2008-2009 ADM: 2,770.338

2008-2009 AIE per ADM: \$5,626

2007-2008 AIE: \$15,418,426 2007-2008 ADM: 2,755.247
 2007-2008 AIE per ADM: \$5,596

2007-2008 AIE per ADM increased by index
 $\$5,596 \times 1.029 = \$5,758$

Difference: $\$5,758 - \$5,626 = \$132$

Allowable referendum exception: $\$132 \times 2,770.338 = \$365,685$

- ***Maintenance of selected revenue sources*** (Section 333(f)(2)(viii))

If the sum of real property taxes (revenue codes 6111, 6112, 6411, 6412), earned income and net profits taxes (EIT) (revenue codes 6151, 6161, 6451, 6461) or (personal income taxes (PIT)), Basic Education Funding allocation, Special Education Funding allocation (includes contingency funding), and State Property Tax Reduction Allocation for 2008-2009 does not exceed the sum of these amounts for 2007-2008 increased by its 2010-2011 index, the school district will be eligible for an exception equal to the difference.

Example:

School district 2010-2011 index is 3.1%

2008-2009 real estate taxes:	\$ 3,111,610
2008-2009 earned income tax:	\$ 961,214
2008-2009 Basic Education Funding:	\$ 6,212,501
2008-2009 Special Education Funding:	\$ 917,469
2008-2009 State Property Tax Reduction Allocation	<u>\$ 2,000,000</u>
2008-2009 total selected revenue:	\$ 13,202,794

2007-2008 real estate taxes:	\$ 5,113,039
2007-2008 earned income tax:	\$ 905,335
2007-2008 Basic Education Funding:	\$ 6,090,688
2007-2008 Special Education Funding:	<u>\$ 873,683</u>
2007-2008 total selected revenue:	\$ 12,982,745

2007-2008 total selected revenue increased by index:
 $\$12,982,745 \times 1.031 = \$13,385,210$

Allowable referendum exception: $\$13,385,210 - 13,202,794 = \$182,416$

- ***Health care-related benefits*** (Section 333(f)(2)(ix))

To qualify, the collective bargaining agreement between the school district and its employees' organization for the 2010-2011 school year must have been in effect on January 1, 2006. Collective bargaining agreements that were renewed, extended or entered into after January 1, 2006, (including agreements that were made retroactive to or prior to January 1, 2006) are not eligible for this exception.

If the anticipated percentage increase in the cost of health care-related benefits (expenditure object codes 211, 212, 215, 216, 271, 272, 275, 276) between 2009-2010 and 2010-2011 is greater than its 2010-2011 index, the qualifying school district will be eligible for an exception equal to the portion of the increase that exceeds its index.

Example:

Collective bargaining agreement was in effect on January 1, 2006, and will not expire during 2010-2011.

School district 2010-2011 index is 3.3%

2010-2011 estimated health care-related benefits: \$1,322,688

2009-2010 estimated health care-related benefits: \$1,016,045

2009-2010 estimated health care-related benefits increased by index
 $\$1,016,045 \times 1.033 = \$1,049,574$

Allowable referendum exception: $\$1,322,688 - \$1,049,574 = \$273,114$

- ***Retirement contributions*** (Section 333(n))

If the anticipated increase in the school district's share of payments to the Public School Employees' Retirement System (expenditure object code 230 minus revenue code 7820) between 2009-2010 and 2010-2011 is greater than the school district's index, the school district will be eligible for an exception equal to the portion of the payment increase that exceeds its index. The amount of revenue listed for 7820 must be at least 50% of the non-federal expenditures listed for object code 230.

Example:

School district 2010-2011 index is 2.9%

2010-2011 estimated school district share of payments to PSERS: \$239,700

2009-2010 estimated school district share of payments to PSERS: \$213,950

2.9% of 2009-2010 estimated SD share of payments to PSERS: \$ 6,205

2010-2011 *minus* 2009-2010 estimated SD share of payments to PSERS: \$ 25,750

Allowable referendum exception: $\$25,750 - \$6,205 = \$19,545$

Department approval/disapproval (Section 333(j))

PDE shall approve the referendum exception request if a review of the data demonstrates that the school district qualifies for one or more of the exceptions.

If the request for an exception is approved, PDE shall determine the dollar amount of the expenditure for which the exception is sought and the tax rate increase required to fund the exception. If PDE denies the request, the school district must (1) reduce the tax rate increase to no more than its index or (2) submit a referendum question for voter approval in the primary election (for school districts with a July 1 through June 30 fiscal year).