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**Review of Allegheny County School
Districts' Compliance with the Act 146
Real Estate Tax Revenue Limitation
105% Windfall Provision
For The Fiscal Year Ended
June 30, 2002**

July 1, 2003

Introduction

In February 2002, the Allegheny County Controller's Office unveiled its School Board Millage Watch Program (the "Program"). The Program was created to monitor the compliance of the school districts in the County with the State of Pennsylvania Act 146 of 1998 ("Act 146"). Although Act 146 applies to county, municipal, and school district taxes, the Program focuses on school districts, as the school property tax represents the largest portion of an Allegheny County property owner's real estate property tax bill.

The purpose of this report is to analyze the 105% real estate tax revenue anti-windfall provision of Act 146. In addition, this report will include actual calculations of the provision for the school districts located within Allegheny County for their fiscal year ended June 30, 2002.

Background

Funding of Pennsylvania Public Schools

The state of Pennsylvania provides subsidies to public school districts in Pennsylvania for educational programs and services. The major subsidy types include Basic Education, Special Education, Vocational Education, Transportation, Construction, Retirement Reimbursement, and Social Security Reimbursement. The Basic Instructional Subsidy ("BIS") is the largest state subsidy provided to the public school districts.

The school districts make up any shortfalls between estimated expenditures and subsidies through a tax levy based upon the value of real estate.

Originally, the BIS was a formula-driven reimbursement based primarily on a school district's net assets, the number of students, and a statewide average cost per student. The formula was later revised to include factors for poverty, super poverty, and small and large district allowances. The BIS attempted to reflect a relationship between the average actual instruction expense and the state reimbursement to school districts for these costs. This relationship represented a state and local partnership to equally share payment for the Pennsylvania constitutional mandates, providing a thorough and efficient system for public education.

According to educational information services, in the early 1970's, the Commonwealth provided approximately 54% of the BIS. Today the Commonwealth's contribution has diminished to a level of approximately 35%. As the Commonwealth's share of the BIS to school districts decreased, local property taxes were increased to replace the subsidies that were no longer provided by the state.

In addition to basic educational requirements, the state issues mandates to school districts to provide specific educational programs. Often, these mandates are either unfunded or under funded by the Commonwealth. Nonetheless, the school districts are required to provide these mandated programs and services. As stated previously, the main resource to secure local funding to support these mandates and other programs is the local property tax. Therefore, as the number of unfunded or under funded mandates has increased, the local property tax levy has increased to cover the shortfall.

Act 146

The Pennsylvania Legislature enacted Act 146 16 P.S. § 4980.2, which became effective January 1, 1999. Act 146 provides that:

“... when a county of the second class makes its annual reassessment at values based upon an established predetermined ratio as required by law or when a county of the second class changes its established predetermined ratio, each political subdivision which hereafter levies its real estate taxes on that revised assessment or valuation shall for that year reduce its tax rate, if necessary, for the purpose of having the total amount of property tax revenue received exclusively as a result of the reassessment or change in ratio not to exceed one hundred five percent of the total amount of property tax revenue received in the preceding year, notwithstanding the increased valuations of properties under the annual reassessment system. For the purpose of determining the total amount of revenue received exclusively as a result of the reassessment or change in ratio for the year, the amount to be levied on newly constructed buildings or structures or on increased valuations based on new improvements made to existing structures shall not be considered.”

The “political subdivisions” referred to in the Act are the counties, municipalities, and school districts of Pennsylvania.

School districts that exceed the 105% limitation are not considered to be in violation of Act 146 if they voted for a tax increase during the budget process for the current year.

Allegheny County Property Reassessments

On January 2, 1996, the Allegheny County Board of Property Assessment, Appeals and Review (the “Board”) adopted a resolution that froze property assessments, with the exception of new buildings, construction, improvements and subdivisions. The freeze was to remain in effect for five years or until such time as a countywide reassessment was completed.

Subsequently, certain owners of residential real property in Allegheny County filed a complaint for declaratory judgment in the Court of Common Pleas of Allegheny County, alleging that the Board failed to maintain uniformity and to keep current with fair market value in its assessments of real property in the County, stating that the freeze resulted in widespread disparities in the assessment of comparable real properties. By orders dated April 18, 1997, and May 22, 1997, the trial court declared the policy and practice of freezing property tax assessments in the County to be unlawful and instructed the Board to commence the revision and equalization of assessments according to a schedule set forth in the May 22, 1997 order in Miller v. Board of Property Assessment, Appeals and Review, 703 A.2d 733 (Pa. 1997). The court ordered that the revaluation be completed prior to the issuance of the 2001 property tax bills.

In response to the court-ordered assessments, on May 20, 1998, the county Commissioners and the Board entered into a \$23,950,000 contract with Manatron, Inc. to perform the countywide revaluation through its subsidiary Sabre Systems and Service, Inc. (“Sabre”). On January 8, 2001, the Allegheny County Property Assessment Oversight Board certified the reassessed values.

On March 22, 2001, the County Controller's Office released its first report on Sabre's compliance with the terms of its contract with the county. The report revealed that 27% of residential and 30% of commercial neighborhoods in the county were not in compliance with the coefficient of dispersion (COD) limits contained in the contract. In the report, the Controller recommended that Sabre correct the mistakes identified in the report and that the County proactively notify over-assessed property owners and urge them to appeal, as well as ensure that under-assessed properties are adjusted through the formal appeals process. Due to Sabre's noncompliance, the Controller continues to withhold final payments to the company.

The 2001 revaluation resulted in approximately 92,000 property owners filing assessment appeals. Of the 2001 appeals that have been decided, approximately 65% have resulted in reductions that averaged 27%, approximately 7% have resulted in increases that averaged 42%, and approximately 28% resulted in no change to the property value.

A further revaluation in 2002 resulted in approximately 91,000 new appeals for 2002, and an additional 38,000 of property owners who filed appeals in 2001 but did not receive a hearing during 2001. Of the 2002 appeals that have been decided, approximately 58% have resulted in reductions that averaged 23%, approximately 3% have resulted in increases that averaged 45%, and approximately 39% resulted in no change to the property value.

During the three years prior to the 2001 reassessment, an average of 8,100 property appeals were filed annually in Allegheny County

Scope & Methodology

The Controller unveiled the Allegheny County School District Millage Watch Program in February 2002. To ensure the accuracy and completeness of the calculations, the program was postponed in order to allow most of the 2001/2002 appeals to be heard and for the school districts to complete certain financial documents necessary to the review. The review focused on the school districts' compliance with Act 146 for the fiscal year ended June 30, 2002.

It was determined that the school districts used the certified assessments as of January, 2000, to bill for the fiscal year ended June 30, 2001, and used the certified assessments as of January, 2001, to bill for the fiscal year ended June 30, 2002.

In early 2003, the Controller's Office contacted the business managers of the school districts and requested selected financial information required to calculate compliance with Act 146 (see attached Exhibit I).

The information received from the schools and used in the calculations was verified against information obtained from the County's Office of Property Assessment ("Property Assessment") and/or the Allegheny Intermediate Unit ("AIU"). The AIU is an education service agency created by the Pennsylvania state legislature that provides customized programs and services to local school districts. The AIU also performed the Act 146 calculations for the fiscal year ended June 30, 2002, for all County school districts, except the Pittsburgh Public School District, and noted no major discrepancies between its calculations and the Controller's.

The millage rates used for our review were obtained from the county Treasurer's Office and confirmed with each school district.

105% Anti-Windfall Calculation

Base Year and Base Year Collections

The first step in the calculation is to determine the "base" year for the calculation. As our review focuses on whether the collections for fiscal year ended June 30, 2002, exceeded the 105% limitation, the base year would be the fiscal year ended June 30, 2001.

Next, the actual net real estate taxes received during the base year must be obtained. These taxes should only include collections on the current year tax levy. Any delinquent taxes collected during the base year for prior years should be excluded.

Each year, school districts are required to file an Annual Financial Report ("AFR") with the Pennsylvania Department of Education. The AFR is a standardized financial report that contains selected information related to each school district.

According to the Pennsylvania School Systems Manual of Accounting and Related Financial Procedures, the manual that describes the nature of the line items of the AFR, line item 6110 represents "revenue received from taxes assessed and levied upon real property." Furthermore, corroboration with school business managers and AIU officials reveal that this amount is reported net of refunds paid for that year. Therefore, the "actual real estate taxes received" for each school district for the fiscal year ended June 30, 2001, is readily obtainable from line item 6111 of the school's AFR for that year.

105% Limitation

In order to determine the 105% anti-windfall limitation, the actual net real estate taxes received during the base year should be multiplied by 105%. Line item 6110 from AFR's filed for the year ended June 30, 2001 was multiplied by 105% to calculate the maximum collections that each school district could collect in the subsequent year without voting for a tax increase.

Subsequent Year Actual Net Real Estate Taxes Collections

Since the base year was determined to be the fiscal year ended June 30, 2001, the subsequent year would be the fiscal year ended June 30, 2002. Accordingly, the actual real estate taxes received for the subsequent year were obtained from the school districts' AFR for fiscal year ended June 30, 2002.

New Construction

Prior to the comparison of subsequent year collections to the 105% anti-windfall limitation, the subsequent year collections related to new construction must be identified and subtracted from the total collections. This new construction relates to taxable residential and commercial structures.

Since the certified assessments for 2001 were used by the school districts for their tax bills for the fiscal year ended June 30, 2002, properties that had new construction and were placed on the tax rolls for the first time in 2001 had to be identified and subtracted from the total collections. In order to determine the assessed value of new construction for each school district, the Controller's -Office obtained files of the certified assessments from 2000 and 2001 from the Department of Computer Services ("DCS"). The 2001 file was compared to the 2000 file, and any property that did not have a building value in 2000 but had a building value in 2001 was representative of the new construction. Due to a lack of verifiable information from Property Assessment, increases in certified assessments resulting from improvements to existing structures were not included in the new construction figures.

In order to determine the taxes assessed on the new construction, the new construction amounts were multiplied by the 2002 millage rate for each school district. The 2002 millage rate refers to the millage rate used by the school to bill for the fiscal year ended June 30, 2002.

After applying the millage rates to the new construction amounts, the collection percentage found in the AFR for the year ended June 30, 2002, was applied to the gross new construction billings. This rate represents a historical collection rate for the school district. The resulting new construction net collections are required to be subtracted from the "actual real estate taxes received" for the year ended June 30, 2002.

Tax Increase Resulting From Adopted Millage Increases

School districts that exceed the 105% limitation are not considered to be in violation of Act 146 if they voted for a tax increase during the budget process for the current year. According to the AIU, the following 10 school districts voted for a tax increase for the fiscal year ended June 30, 2002:

<u>Exceeded 105% Limitation</u>	<u>Did Not Exceed 105% Limitation</u>
Elizabeth-Forward	Deer Lakes
Highlands	Northgate
Montour	Riverview
Moon	
South Park	
West Jefferson Hills	
West Mifflin	

Adjusted Real Estate Tax Collections

Collections determined to be derived from new construction are subtracted from the June 30, 2002 "actual real estate taxes received" to arrive at revenue collected exclusively as a result of a reassessment or change in ratio. This amount is then compared to the 105% cap calculated previously, noting any over/under amounts.

Other Factors Affecting the Calculation

Other factors can occur after the end of the fiscal year that will ultimately affect the outcome of the 105% windfall calculation. Those factors include:

- Real estate tax collections related to the fiscal year ending June 30, 2002, that were paid after the end of the fiscal year. These tax collections would be classified as delinquent taxes in future fiscal years.
- 2001 real estate tax appeal dispositions that were issued after the completion of our analysis. Currently there are a significant number of 2001 real estate appeals filed with the Board of Viewers that have not been heard.
- Changes in assessed value related to new construction or improvements of existing properties that have been processed by the Office of Property Assessment subsequent to the completion of our analysis for the applicable periods in our report.

Findings & Recommendations

Findings

Our review of compliance with Act 146 for the year ended June 30, 2002 revealed the following related to the 43 school districts located entirely in Allegheny County (see attached Schedule D):

- 32 (75%) school districts were under the 105% anti-windfall limitation of Act 146. 3 of the 32 school districts voted for a tax increase,
- 7 (16%) school districts exceeded the 105% anti-windfall limitation of Act 146 and voted for a tax increase,
- 4 (9%) school districts exceeded the 105% anti-windfall limitation of Act 146 but did not vote for a tax increase.

The following is a summary of the percentage of adjusted real estate tax collections for the school districts for the year ended June 30, 2002 as compared to the year ended June 30, 2001:

2002 Collections as a % of 2001	# Of School Districts	# Of School Districts Who Voted For a Tax Increase
110.00% - 122.31%	7	5
105.01% - 109.99%	4	2
100.01% - 105.00%	23	2
<100.00%	9	1
Total	43	10

In addition, our review revealed that the ambiguous nature of Act 146 resulted in inconsistent methods of calculations among Allegheny County's school districts.

Recommendations

We recommend that the 4 school districts that exceeded the 105% anti-windfall limitation develop a plan to take corrective action to ensure compliance with the anti-windfall provision of Act 146. The corrective actions could include offering or expanding a senior citizen discount or homestead exemption in the next fiscal year.

In addition, we recommend that the school districts continue to recalculate their Act 146 compliance until all taxes have been collected, all real estate tax appeals have been heard, and all new construction/additions have been added to the tax rolls for each year that a reassessment occurs.

**ALLEGHENY COUNTY CONTROLLER'S OFFICE
MILLAGE WATCH PROGRAM
ACT 146 - 105% WINDFALL PROVISION
SCHEDULE I**

School District	2000/2001 Actual Tax Collections Per AFR	2001/2002 105% Cap	2001/2002 Actual Tax Collections Per AFR	New Construction	Adjusted 2001/2002 Collections	% of 2000/2001 Collections	Increase/ (Decrease) From 2000/2001	Variance From 105% Cap	Voted For Tax Increase
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SCHOOL DISTRICTS OVER 105% LIMITATION BUT DID NOT VOTE FOR TAX INCREASE

Duquesne	1,630,015	1,711,516	1,966,649	15,217	1,951,432	119.72%	321,417	239,916	NO
Steel Valley	6,431,670	6,753,254	7,440,692	230,845	7,209,847	112.10%	778,177	456,593	NO

* Steel Valley contends that the new construction should be \$67 million, or taxes of \$1.2 million. Also, the district contends that \$693,678 that was collected, but later distributed to the Waterfront TIF district, should be included in the 2001 "Actual Tax Collections."

Mt. Lebanon	33,771,259	35,459,822	36,784,277	129,457	36,654,820	108.54%	2,883,561	1,194,998	NO
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* Mt. Lebanon recognized the over-collection of property tax revenues during 2001-2002 and reduced the 2002-2003 millage by .57 mills.

South Fayette	9,751,990	10,239,590	11,051,921	627,757	10,424,164	106.89%	672,174	184,574	NO
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* South Fayette issued tax refunds after June 30, 2002, that were not accrued in the AFR. Additionally, the district contends that interim taxes should be included in "Actual Tax Collections."

SCHOOL DISTRICTS IN EXCESS OF 105% LIMITATION AND VOTED FOR A TAX INCREASE

Elizabeth-Forward	9,859,754	10,352,742	12,136,459	76,924	12,059,535	122.31%	2,199,781	1,706,793	YES
South Park	8,688,090	9,122,495	10,175,704	166,081	10,009,623	115.21%	1,321,533	887,128	YES
Montour	20,618,820	21,649,761	24,471,554	831,572	23,639,982	114.65%	3,021,162	1,990,221	YES
Highlands	10,212,729	10,723,365	11,595,346	72,338	11,523,008	112.83%	1,310,279	799,643	YES
Moon	22,158,782	23,266,721	25,257,031	523,445	24,733,586	111.62%	2,574,804	1,466,865	YES
West Jefferson Hills	14,050,885	14,753,429	15,568,058	569,083	14,998,975	106.75%	948,090	245,546	YES
West Mifflin	16,405,595	17,225,875	17,380,779	66,334	17,314,445	105.54%	908,850	88,570	YES

SCHOOL DISTRICTS UNDER 105% LIMITATION

North Hills	30,617,461	32,148,334	32,335,476	202,637	32,132,839	104.95%	1,515,378	(15,495)	NO
Gateway	29,218,591	30,679,521	31,413,739	752,397	30,661,342	104.94%	1,442,751	(18,179)	NO
McKeesport	11,356,677	11,924,511	11,987,856	72,532	11,915,324	104.92%	558,647	(9,187)	NO
Cornell	4,314,440	4,530,162	4,744,633	221,075	4,523,558	104.85%	209,118	(6,604)	NO
West Allegheny	15,459,064	16,232,017	17,118,397	938,462	16,179,935	104.66%	720,871	(52,082)	NO
Northgate	7,227,263	7,588,626	7,807,773	260,590	7,547,183	104.43%	319,920	(41,443)	YES
Wilkinsburg	8,627,837	9,059,229	9,059,229	55,931	9,003,298	104.35%	375,461	(55,931)	NO
Brentwood	5,833,436	6,125,108	6,086,155	1,881	6,084,274	104.30%	250,838	(40,834)	NO
Upper St. Clair	27,521,996	28,898,096	29,080,999	393,224	28,687,775	104.24%	1,165,779	(210,321)	NO
Clairton	2,174,898	2,283,643	2,285,222	18,666	2,266,556	104.21%	91,658	(17,087)	NO
Quaker Valley	15,196,052	15,955,855	16,050,857	226,928	15,823,929	104.13%	627,877	(131,926)	NO
Bethel Park	30,504,621	32,029,852	31,902,344	176,686	31,725,658	104.00%	1,221,037	(304,194)	NO
Baldwin-Whitehall	26,156,765	27,464,603	27,392,290	206,501	27,185,789	103.93%	1,029,024	(278,814)	NO
Carlynton	10,144,717	10,651,953	10,577,827	41,805	10,536,022	103.86%	391,305	(115,931)	NO
Pittsburgh	154,256,187	161,968,996	163,624,898	3,853,461	159,771,437	103.58%	5,515,250	(2,197,559)	NO
Shaler	28,552,360	29,979,978	29,788,689	235,658	29,553,031	103.50%	1,000,671	(426,947)	NO
Plum	13,785,031	14,474,283	14,570,078	306,628	14,263,450	103.47%	478,419	(210,833)	NO
Riverview	6,585,873	6,915,167	6,951,807	163,875	6,787,932	103.07%	202,059	(127,235)	YES
South Allegheny	3,698,404	3,883,324	3,807,016	9,890	3,797,126	102.67%	98,722	(86,198)	NO
East Allegheny	7,779,628	8,168,609	7,937,362	63,369	7,873,993	101.21%	94,365	(294,616)	NO
Fox Chapel	34,432,507	36,154,132	35,194,814	399,236	34,795,578	101.05%	363,071	(1,358,554)	NO
North Allegheny	51,161,914	53,720,010	53,431,900	1,754,035	51,677,865	101.01%	515,951	(2,042,145)	NO
Avonworth	6,950,006	7,297,506	7,200,953	224,240	6,976,713	100.38%	26,707	(320,793)	NO
Keystone Oaks	18,693,974	19,628,673	18,593,639	45,228	18,548,411	99.22%	(145,563)	(1,080,262)	NO
Hampton	17,174,038	18,032,740	17,670,333	670,185	17,000,148	98.99%	(173,890)	(1,032,592)	NO
Penn Hills	24,621,413	25,852,484	24,260,673	93,864	24,166,809	98.15%	(454,604)	(1,685,675)	NO
Sto-Rox	5,526,096	5,802,401	5,430,181	8,732	5,421,449	98.11%	(104,647)	(380,952)	NO
Pine-Richland	19,775,892	20,764,687	20,971,096	1,868,554	19,102,542	96.60%	(673,350)	(1,662,145)	NO
Chartiers Valley	21,098,970	22,153,919	20,572,119	796,470	19,775,649	93.73%	(1,323,321)	(2,378,270)	NO
Allegheny Valley	10,601,388	11,131,457	9,827,026	56,201	9,770,825	92.17%	(830,563)	(1,360,632)	NO
Woodland Hills	32,066,729	33,670,065	28,825,939	323,932	28,502,007	88.88%	(3,564,722)	(5,168,058)	NO
Deer Lakes	8,144,953	8,552,201	8,518,839	2,220,580	6,298,259	77.33%	(1,846,694)	(2,253,942)	YES

* Comments provided by School Districts