

October 18, 2013



To: Senate Finance Committee

From: Coalition for Fairness in Property Tax Reform



RE: Opposition to Senate Bill 76 and House Bill 1189



The issue of addressing school district real property taxes has once again been laid before you for your consideration, currently in the form of House Bill 1189, P.N. 2355. After taking time to gather information from our members, and the recent movement of this bill we have decided to oppose this legislation. The associations listed below have previously expressed concerns with different tax-shifting proposals, including Senate Bill 76, and we write to express similar concerns regarding H.B. 1189.



Below are just a few of the many questions we have with House Bill 1189 and, we urge the House to delay consideration of this measure until these and other questions have been sufficiently addressed and the proposal thoroughly vetted.



- How is a business with multiple locations in different school districts able to calculate and properly remit taxes?
- How does a business that has to pay a mercantile or business tax compete with a business in another district that does not?
- In the legislation, there is no freeze on rates, after one year a district can increase the property taxes and therefore increase the business taxes to counteract the property tax---there is nothing to stop rates from rising exponentially. What is preventing a perpetual increase of these taxes?
- School districts budgets throughout the Commonwealth are harmed by unfunded state mandates such as prevailing wage requirements. What cost reduction efforts are being made to counteract the increase in property taxes that force school districts to increase them in the first place?
- Many businesses rent their location; it is up to the landlord to pass on any savings from property tax reduction. In most cases, that is not likely to happen, so will these businesses simply pay more without any benefit?



Senate Bill 76 is still included with the discussion and this coalition would like to remind the members about our previously expressed concerns that have not been adequately answered. Below are just a few of the many questions we have with this proposal and, absent unambiguous answers, we ask for continued delayed consideration of this measure.



- Does S.B. 76 implement the Department of Revenue’s ruling on merchants outside of Pennsylvania having a remote sales tax ‘nexus’ for sales over the Internet, telephone or catalogs? Would those purchases be explicitly subject to the sales and use tax, to the extent they are taxed after an in-state, conventional sale, under the legislation?
- If an item of clothing is originally priced at \$50.00 or more but is then marked down to less than \$50.00 as a sale item does the retailer collect sales tax? If a consumer has a coupon that reduces an item of clothing that costs more than \$50.00 to less than \$50.00, does the retailer collect sales tax?
- Does the tax on food items not on the WIC list apply to food items restaurants buy to prepare in their restaurants? Currently, there is sales tax on prepared food. S.B. 76 provides for a business-to-business exemption, however it does not mention the purchase of food for a restaurant; grocery products and prepared foods are two different taxable items. Do restaurants need to pay tax on the food they purchase from their food companies, or is the sales tax charged on the prepared food still cover the tax?
- Does the sales and use tax apply to defense in routine administrative enforcement actions – i.e. hiring an expert?
- Are transactions connected with the ownership of property reported on an individual’s schedule E taxed?
- Must a business that does not sell or lease services or tangible property be required to furnish a certificate for each exempt transaction? Who is authorized to sign the sworn affidavit?
- Does this raise equal protection and uniform taxation issues by imposing sales tax on certain people using professional services while exempting similarly situated others?

This coalition does not want anyone to lose his or her home to taxation. However, we do not have enough information to truly understand how H.B. 1189 will be implemented and what the consequences will be for individuals and businesses. Despite our often-distinct differences we share this common concern, and we therefore urge you to not support House Bill 1189 and Senate Bill 76.

Sincerely,

Pennsylvania Chamber of Business and Industry
 Pennsylvania Manufacturers’ Association
 Pennsylvania Retailers’ Association
 National Federation of Independent Business
 Pennsylvania Food Merchants Association
 Manufacturer and Business Association
 Pennsylvania Bar Association
 Philadelphia Bar Association
 Pennsylvania NewsMedia Association
 Broadband Cable Association of Pennsylvania
 Pennsylvania Petroleum Association
 Pennsylvania Defense Institute