

COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF THE GOVERNOR  
HARRISBURG

THE GOVERNOR

October 22, 2010

TO THE HONORABLE, THE HOUSE OF REPRESENTATIVES  
OF THE COMMONWEALTH OF PENNSYLVANIA:

I am returning herewith, without my approval, House Bill 101, Printer's Number 4389. I regret doing so, as there are favorable provisions within the legislation which I support.

Prior to the passage of House Bill 101, the Administration put the legislature on notice that this bill was seriously flawed; we informed the Education Committees of the House of Representatives and the Senate, the Appropriations Committees in both chambers, and the Leaders' Offices of the serious constitutional infirmity in the provision of the bill which exempts non-profit entities that rent to charter school entities from payment real property taxes.

Having supported many of the initiatives included in this legislation-- including provisions related dating and sexual violence education and prevention, affordability of textbooks for college students and recognition for Vietnam veterans—withholding my signature from this bill is certainly not easy for me. It is my hope that the legislature will act quickly in January to pass legislation encompassing these reforms. Though I understand the importance of the aforementioned provisions of this legislation, I am required to review each bill that reaches my desk for any constitutional defects, and this bill is constitutionally flawed.

Our Constitution requires uniformity of taxation, with limited exemptions which are enumerated as follows: (a) the General Assembly may by law exempt from taxation: (i) actual places of regularly stated religious worship; (ii) actual places of burial, when used or held by a person or organization deriving no private or corporate profit therefrom and no substantial part of whose activity consists of selling personal property in connection therewith; (iii) that portion of public property which is actually and regularly used for public purposes; (iv) that portion of the property owned and occupied by any branch, post or camp of honorably discharged servicemen or servicewomen which is actually and regularly used for benevolent, charitable or patriotic purposes; and (v) institutions of purely public charity, but in the case of any real property tax exemptions only that portion of real property of such institution which is actually and regularly used for the purposes of the institution.

This bill is constitutionally infirm insofar as it would provide a real property tax exemption for property that is leased to a charter or cyber charter school or an associated

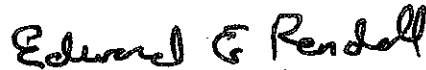
To the Honorable, The House of Representatives  
of the Commonwealth of Pennsylvania

October 22, 2010

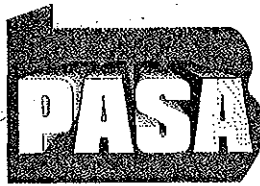
Page 2

foundation *by a nonexempt entity*. Leased property does not constitute real property "of" the public charity under Pennsylvania's Constitution or under the existing statute which defines a purely public charity, Act 55 of 1997. Although I am not supportive of this purpose, and many respected parties who understand our school funding system share my view, as evidenced by the letters attached, if the legislature wishes to legally provide for this property tax exemption for these entities, they can do so by amending Act 55 to include these entities in the definition of a purely public charity. Further, as written this exemption would itself constitute a violation of the Uniformity Clause, as lessors of property to other tax exempt entities would not enjoy a similar exemption, and, as such, I must withhold my signature from this bill.

Sincerely,

A handwritten signature in black ink that reads "Edward G. Rendell". The signature is written in a cursive, slightly slanted style.

Edward G. Rendell  
Governor



Pennsylvania Association of School Administrators

2608 Market Place ~ Harrisburg, PA 17110-9358  
(717) 540-4448 (717) 540-4405 fax www.pasa-net.org

October 20, 2010

The Honorable Edward G. Rendell  
Governor  
Commonwealth of Pennsylvania  
225 Main Capitol Building  
Harrisburg, PA 17120

Dear Governor Rendell:

I write on behalf of the Pennsylvania Association of School Administrators (PASA) whose members include school district superintendents and other school leaders across Pennsylvania to ask that you veto House Bill 101. While the bill contains some positive provisions and several provisions that merely incorporate existing state programs and policies into statute, PASA has serious concerns about Section 1722-A, which provides certain charter schools and charter school foundations a real estate tax exemption for property owned by the charter school, charter school foundation or property leased to these entities. In addition, the provision retroactively applies to charter schools that filed an appeal from an assessment and nullifies existing agreements for payments in lieu of taxes entered into prior to December 31, 2009. PASA believes these provisions are contrary to the Impairment of Contracts clause in Article I and prohibition against passage of special legislation that exempts property from taxation in Article III, Section 32 of the Pennsylvania Constitution.

In addition, this legislation will impose additional mandates on public schools at a time when resources are already stretched while also further reducing local tax revenue by exempting charter schools from school district property taxes.

Sincerely,

A handwritten signature in black ink that reads "Jim Buckheit". The signature is written in a cursive, slightly slanted style.

Jim Buckheit  
Executive Director

**PENNSYLVANIA ASSOCIATION**



**OF RURAL AND SMALL SCHOOLS**

The Honorable Edward G. Rendell  
225 Main Capitol Building  
Harrisburg, Pennsylvania 17120

October 20, 2010

Dear Governor Rendell,

Please excuse the informal nature of this letter, but in the interests of time, I felt it justifiable.

The Pennsylvania Association of Rural and Small Schools (PARSS) is very concerned about elements of HB 101, also called the "School Code Bill". These concerns rise to the level where this organization believes that the use of your veto authority is justified, and that this bill should not become law.

The sections dealing with school safety, while well intentioned, place extremely burdensome requirements on school superintendents and their staffs to make plans, develop programs, maintain and report data, without any indication that such will increase student's security and safety. This is particularly so of the Commonwealth's smaller school districts, who are not staffed at a high level and are already overwhelmed by record keeping requirements, in lieu of spending more time helping students learn in a secure environment.

The language in the bill that would exempt charter schools, cyber charters and non profits from taxation are, if they became law, an invitation to improper behavior that, by virtue of this exemption, has been made legal. Such carte blanche is an invitation to excess. This is something we have had experience with in the recent past, and should have the common sense to not to repeat.

PARSS believes that this legislation merits being vetoed and we urge you to that action.

Sincerely,

Joe Bard



# CITY OF PHILADELPHIA

OFFICE OF THE MAYOR  
215 City Hall  
Philadelphia, PA 19107  
(215) 686-2181  
FAX (215) 686-2180

MICHAEL A. NUTTER  
Mayor

October 20, 2010

The Honorable Edward G. Rendell  
Governor of Pennsylvania  
225 Main Capitol Building  
Harrisburg, PA 17120

Re: House Bill 101, P.N. 4389

Dear Governor Rendell:

House Bill 101 is on your desk awaiting executive action. Despite the fact that the bill contains some valuable provisions amending Pennsylvania's Public School Code, I am writing to urge you to veto this bill based on the provisions of the bill that would grant property tax exemptions to certain entities that lease buildings or land to any charter or cyber charter school.

I am a strong supporter of charter schools. In my view, however, existing laws granting exemptions from the payment of property taxes for institutions of purely public charity should be sufficient to protect non-profit charter and associated non-profit institutions from property tax liability when warranted.

I understand that there are provisions of this bill that you may support. The state should not, however, be granting special tax exemptions for lessors of land to charter schools that do not already qualify under existing exemptions. I urge you to veto House Bill 101 so that we can continue to collect property taxes to fund education for all of the students of the Commonwealth.

Sincerely,

  
Michael A. Nutter,  
Mayor


**From:** Rivera, Pedro A. [mailto:parivera@lanaster.k12.pa.us]  
**Sent:** Wednesday, October 20, 2010 5:19 PM  
**To:** Cooper, Donna  
**Subject:** Pedro Rivera-Opposition to HB 101

Honorable Edward G. Rendell,

I am forwarding an email to express my concern over HB 101, as a Superintendent in an urban community like the one I serve in Lancaster I am fortunate that 27% of our current properties throughout the city are owned by non-profit organizations. Not-for-profit agencies provide a great resource for families and the community at large and serve as wonderful partners to our school district, however they also create an unintended burden to the local tax payer. Districts who are only able to generate revenue from 70+ percent of their constituencies find great difficulty in balancing the needs of the community at large and the needs of the students we serve, approving HB 101 would only add to that burden. I strongly encourage you to reconsider your position, especially in times of financial uncertainty every dollar counts for our children and the communities we serve.

Thank you for all you do and have done to support education,  
Pedro Rivera  
Superintendent, School District of Lancaster

(E) (1) NOTWITHSTANDING THE PROVISIONS OF SECTION 204 OF THE ACT OF MAY 22, 1933 (P.L.853, NO.155), KNOWN AS THE GENERAL COUNTY ASSESSMENT LAW, ALL SCHOOL PROPERTY, REAL AND PERSONAL, OWNED BY ANY CHARTER SCHOOL, CYBER CHARTER SCHOOL OR AN ASSOCIATED NONPROFIT FOUNDATION, OR OWNED BY A NONPROFIT CORPORATION OR NONPROFIT FOUNDATION AND LEASED TO A CHARTER SCHOOL, CYBER CHARTER SCHOOL OR ASSOCIATED NONPROFIT FOUNDATION AT OR BELOW FAIR MARKET VALUE, THAT IS OCCUPIED AND USED BY ANY CHARTER SCHOOL OR CYBER CHARTER SCHOOL FOR PUBLIC SCHOOL, RECREATION OR ANY OTHER PURPOSES PROVIDED FOR BY THIS ACT, SHALL BE MADE EXEMPT FROM EVERY KIND OF STATE, COUNTY, CITY, BOROUGH, TOWNSHIP OR OTHER REAL ESTATE TAX, INCLUDING PAYMENTS IN LIEU OF TAXES ESTABLISHED THROUGH AGREEMENT WITH THE COMMONWEALTH OR ANY LOCAL TAXING AUTHORITY, AS WELL AS FROM ALL COSTS OR EXPENSES FOR PAVING, CURBING, SIDEWALKS, SEWERS OR OTHER MUNICIPAL IMPROVEMENTS: PROVIDED, THAT ANY CHARTER SCHOOL OR CYBER CHARTER SCHOOL OR OWNER OF PROPERTY LEASED TO A CHARTER SCHOOL OR CYBER CHARTER SCHOOL MAY MAKE A MUNICIPAL IMPROVEMENT IN A STREET ON WHICH ITS SCHOOL PROPERTY ABUTS OR MAY CONTRIBUTE A SUM TOWARD THE COST OF THE IMPROVEMENT.

<p>Advancing Learning in Lancaster</p>  <p>TOGETHER WE CAN</p>	<p><b>Pedro A. Rivera, Superintendent</b> <b><a href="mailto:parivera@lanaster.k12.pa.us">parivera@lanaster.k12.pa.us</a></b> <b>1020 Lehigh Avenue</b> <b>Lancaster, PA. 17602</b> <b>717-291-6121 (office)</b> <b>717-291-6002 (fax)</b></p>
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341 South Bellefield Avenue | Pittsburgh, PA 15213-3516  
Parent Hotline: 412-622-7920 | superintendentoffice@pghboe.net | www.pps.k12.pa.us

**Mark Roosevelt**, Superintendent of Schools

October 20, 2010

Hon. Edward G. Rendell  
Governor  
Commonwealth of Pennsylvania  
225 Main Capitol Building  
Harrisburg, PA 17120

Re: HB 101

Dear Governor Rendell,

I am writing this letter to advise you that the District's legal counsel has raised concerns with HB 101, the Omnibus School Code legislation, recently approved by the Legislature.

The provision of the Bill (Section 20 which amends section 1722-A of School Code) which grants tax exempt status to any property leased to a charter school is problematic and potentially at odds with Uniformity Provision of the Pennsylvania Constitution.

I am certain that the Governor's Office of General Counsel will review the legal provisions of this legislation, but I am concerned that this may be a potentially onerous provision for a school district such as Pittsburgh which has a number of such schools and cannot afford to lose additional revenue.

I urge you to review this legislation and if necessary to exercise your power of veto with respect to this legislation.

Respectfully,



Mark Roosevelt  
Superintendent

Cc: Ira Weiss, Esq., Weiss Law Offices  
Lisa Fischetti, Pittsburgh Public Schools – Chief of Staff and External Affairs  
Chris Berdnik – Pittsburgh Public Schools - Chief of Finance/Operations Officer

**From:** Amy Slamp [mailto:Amy\_Slamp@etownschools.org]  
**Sent:** Wednesday, October 20, 2010 4:20 PM  
**To:** Cooper, Donna  
**Subject:** Fwd: Link to HB 101

Dear Donna,

I don't know if you remember me but I used to work with Diane Castelbuono at PDE and worked specifically on high school reform issues such as Project 720. First I want to thank you and the Governor for the hard work you have done over the last few years in trying to deal with school funding issues in Pennsylvania. We greatly appreciate the effort that the Governor and his administration have made and I know it didn't come without a great deal of effort and sacrifice on everyone's part.

The reason I am emailing you today is to share my concern with HB 101, particularly the portion that gives tax exempt status for for-profit companies that lease buildings to charter schools, which is highlighted below. With the economy such as it is and with the declining property tax revenue we are all facing, this bill would provide another way for businesses to avoid paying property taxes to school districts. Please reconsider this bill and consider the impact that this has on school districts as we continue to deal with the challenges we are all facing at this time.

Thank you for your consideration on this matter.  
Sincerely,  
Amy Slamp

(E) (1) NOTWITHSTANDING THE PROVISIONS OF SECTION 204 OF THE ACT OF MAY 22, 1933 (P.L.853, NO.155), KNOWN AS THE GENERAL COUNTY ASSESSMENT LAW, ALL SCHOOL PROPERTY, REAL AND PERSONAL, OWNED BY ANY CHARTER SCHOOL, CYBER CHARTER SCHOOL OR AN ASSOCIATED NONPROFIT FOUNDATION, OR OWNED BY A NONPROFIT CORPORATION OR NONPROFIT FOUNDATION AND LEASED TO A CHARTER SCHOOL, CYBER CHARTER SCHOOL OR ASSOCIATED NONPROFIT FOUNDATION AT OR BELOW FAIR MARKET VALUE, THAT IS OCCUPIED AND USED BY ANY CHARTER SCHOOL OR CYBER CHARTER SCHOOL FOR PUBLIC SCHOOL, RECREATION OR ANY OTHER PURPOSES PROVIDED FOR BY THIS ACT, SHALL BE MADE EXEMPT FROM EVERY KIND OF STATE, COUNTY, CITY, BOROUGH, TOWNSHIP OR OTHER REAL ESTATE TAX, INCLUDING PAYMENTS IN LIEU OF TAXES ESTABLISHED THROUGH AGREEMENT WITH THE COMMONWEALTH OR ANY LOCAL TAXING AUTHORITY, AS WELL AS FROM ALL COSTS OR EXPENSES FOR PAVING, CURBING, SIDEWALKS, SEWERS OR OTHER MUNICIPAL IMPROVEMENTS: PROVIDED, THAT ANY CHARTER SCHOOL OR CYBER CHARTER SCHOOL OR OWNER OF PROPERTY LEASED TO A CHARTER SCHOOL OR CYBER CHARTER SCHOOL MAY MAKE A MUNICIPAL IMPROVEMENT IN A STREET ON WHICH ITS SCHOOL PROPERTY ABUTS OR MAY CONTRIBUTE A SUM TOWARD THE COST OF THE IMPROVEMENT.

=====  
Amy Hodges Slamp  
Superintendent  
Elizabethtown Area School District

**DALLAS SCHOOL DISTRICT**  
P.O. Box 2000 ...Dallas, Pennsylvania 18612  
Phone-570-675-5201...Fax-570-675-0192  
<http://www.dallassd.com>

**Paul M. Reinert, Ph.D.**  
*Assistant Superintendent*

**Frank P. Galicki**  
*Superintendent*

**Grant S. Palfey**  
*Business Manager*

October 21, 2010

The Honorable Edward G. Rendell  
Governor  
Commonwealth of Pennsylvania  
225 Main Capitol Building  
Harrisburg, PA 17120

Dear Governor Rendell:

I am writing this letter as the President-Elect of the Pennsylvania Association of School Administrators (PASA), whose members I represent, to respectfully request that you veto House Bill 101. I know you are a strong proponent of public education and are concerned about the growing financial burden on the local school districts. This was evidenced by your research on the costing-out study and your proposed legislation for implementation.

House Bill 101 contains some positive provisions but, also, several provisions that merely incorporate existing state programs and policies into statutes. Section 1722-A provides certain charter schools and charter school foundations a real estate tax exemption for property owned or leased by the charter school entity.

As a sitting superintendent, I am responsible for creating a fiscally accountable budget, which contains tax limitations due to the index that is mandated. My district will lose thousands of dollars by allowing this tax-free exemption not to mention how this could have a ripple effect for other entities that currently pay taxes that wish to be tax-free.

In conclusion, please consider my request and veto HB 101.

Respectfully,



Frank P. Galicki  
Superintendent

nm

# BENSALEM TOWNSHIP SCHOOL DISTRICT

DOROTHY D. CALL ADMINISTRATIVE CENTER  
3000 DONALLEN DRIVE BENSALEM, PA 19020

JACK A. MYERS  
DIRECTOR OF BUSINESS OPERATIONS

(215) 750-2800, EXT. 4200  
FAX: (215) 359-0211

October 20, 2010

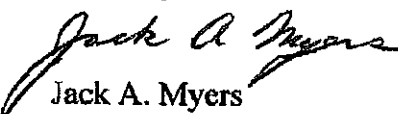
Governor Edward Rendell  
Commonwealth of Pennsylvania  
22 Main Capitol Building  
Harrisburg, PA 17120

Dear Governor Rendell:

I write on behalf of the taxpayers of Bensalem Township School District in Bucks County to ask that you veto House Bill 101. While the bill contains some positive provisions that merely incorporate existing state programs and policies into statute, Bensalem has serious concerns about Section 1722-A, which provides certain charter schools and charter school foundations a real estate tax exemption for property owned by the charter school, charter school foundation, or property leased to these entities. Of particular concern to our school district is that in addition, the provision retroactively applies to charter schools that filed an appeal from an assessment and nullifies existing agreements for payments in lieu of taxes entered into prior to December 31, 2009. These provisions are contrary to the Impairment of Contracts clause in Article I as well as the prohibition against passage of special legislation that exempts property from taxation in Article III, Section 32 of the Pennsylvania Constitution. Bensalem Township School District entered into a contract in 1997 to sell an existing school building to a charter school. In a supportive move, a very nominal sum was conveyed to the district at the time of sale because both parties agreed to a provision in the sale's agreement which called for annual payments to the district of an amount equal to that which would have been paid in real estate taxes. This PILOT amounts to over \$177,000 per year. Furthermore, a new charter school is in the process of making application to the district. If the property they lease also is removed from the tax rolls, the district would face the loss of another \$200,000 - \$300,000 per year. The combined loss would nearly equal a full mil of tax on the balance of our tax base.

I convey the concerns of not only myself and the Superintendent, but the members of the Board of School Directors as well. Thank you for your ongoing support of public education.

Sincerely,



Jack A. Myers  
Director of Business Operations

THE SCHOOL DISTRICT OF PHILADELPHIA  
OFFICE OF THE SUPERINTENDENT  
440 N. BROAD STREET, SUITE 301  
PHILADELPHIA, PENNSYLVANIA 19130

LEROY D. NUNERY II, M.B.A., Ed.D.  
DEPUTY SUPERINTENDENT &  
CHIEF EXECUTIVE OFFICER

TELEPHONE (215) 400-6676  
FAX (215) 400-4102

October 21, 2010

The Honorable Edward G. Rendell  
Governor  
Commonwealth of Pennsylvania  
Room 225, Main Capitol Building  
Harrisburg, Pennsylvania 17120

**Re: House Bill 101**

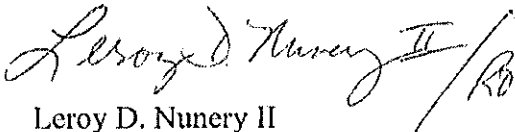
Dear Governor Rendell:

We understand that House Bill No. 101 is before you for signature. The School District of Philadelphia has concerns with a specific provision of this bill which we ask that you consider prior to signing. The proposed new provision in the Public School Code, section 1722-(E), would exempt all real and personal property of charter schools - or owned by nonprofits and leased to charter schools - from all state, county and city taxes, including real estate taxes. The School District of Philadelphia has 74 charter schools, some of which lease their real property from nonprofit corporations or foundations.

Based on the information known to the School District at this time, there is a potential significant revenue loss to the City of Philadelphia and, by extension, The School District of Philadelphia if this Bill becomes law. Quantifiable data is not available at this time. In light of the fact that there was no hearing on this legislation, we believe that this issue deserves further deliberation prior to becoming law.

Thank you for your consideration of our concerns on this issue.

Respectfully,

  
Leroy D. Nunery II