

MODEL BYLAWS

for

ACT 32 TAX COLLECTION COMMITTEES

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the Pennsylvania Association of School Business Officials and the law
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content of these model bylaws.**

Model Bylaws

ARTICLE I. Board of Delegates

Section 1. Governing Body. The governing body of the _____ County Tax Collection Committee (the “TCC”) shall be called the Board of Delegates (the “Board”). The Board shall consist of voting delegates appointed by the school districts and municipalities (the “Taxing Authorities”) within the _____ Tax Collection District (the “TCD”). Subject to these By-Laws and Act 32 of 2008 (53 P.S. § 6924.101 *et seq.* (2008)), the Board shall have full power and authority to act as the governing body of the TCC.

Section 2. Delegates. Each Taxing Authority that imposed an income tax prior to July 1, 2009, shall appoint one voting delegate, an alternate delegate and, if desired, a second alternate delegate. In the absence of the voting delegate, the first alternate delegate will be considered the voting delegate. In the absence of both the voting delegate and the first alternate delegate, the second alternate delegate will be considered the voting delegate. All delegates serve at the pleasure of and may be removed at any time by the governing body of the Taxing Authority that appointed the delegate.

Comment: Because of the complexity inherent in the law, it might be difficult to administer a TCC without some changes to the bylaws as permitted in 53 P.S. § 6924.505(f). The Board may consider some of the following options to facilitate the operation of the TCC: 1) changing or eliminating the weighted vote; 2) reducing the number of delegates 3) utilizing a Management Committee; and/or 4) retaining an Executive Director. Option 1 follows the standard weighted vote whereas Option 2

provides one equally weighted vote for each taxing authority. There are alternatives that may fit the makeup of your TCC better than these options, but it would be best to address voting in Section 3.

[Option 1 **Section 3. Voting.** All actions taken by the Board shall be by majority of the weighted vote of those delegates present, provided a quorum is present at the time of voting. The Department of Community and Economic Development ("DCED") will calculate the weight of each delegate's vote pursuant to 53 P.S. § 6924.505(c)(3) and publish the results in the Local Tax Register. Pursuant to such section, the TCC shall recalculate the weighting of the votes of the delegates on July 1, 2010 and on July 1 every year thereafter based on the appropriate parameters. The weight of the vote of a delegate appointed to represent more than one taxing authority shall be the sum of each weight assigned to the vote of each taxing authority delegate.]

[Option 2 **Section 3. Voting.** All actions taken by the Board shall be by majority vote of those delegates present, providing a quorum is present at the time of voting. In counting delegate votes, each delegate shall have one equally weighted vote for each taxing authority the delegate represents.]

Section 4. Quorum. Quorum shall be established by the presence of a majority of the voting delegates of the TCC. For purposes of calculating quorum, a delegate representing more than one taxing authority shall represent an amount in correlation to the number of taxing authorities the delegate represents.

Section 5. Meetings. Meetings of the Board shall be held on such dates as shall be established by the Board but no less often than quarterly. Public meetings of the Board shall be subject to the Sunshine Act (65 Pa.C.S.A. § 701 *et seq.*). Special meetings may

be called by the Chairperson[or the Management Committee]. The Secretary shall maintain the minutes of the meetings of the Board.

Comment on Section 5: A TCC may want to make it possible for a delegate or committee member to participate in a meeting by conference call. While DCED believes such a provision may be useful, it should be limited to specific circumstances in order to promote an organized meeting environment.

Section 6. Board Duties. The duties of the board shall include the following:

- a. The Board shall receive and review information provided by the Secretary, Chairperson and others in order to keep fully informed as to TCC business, operations and other affairs.
- b. The Board shall keep records of all votes and other actions taken by the TCC.
- c. The Board shall appoint and oversee a Tax Officer. In addition, the Board shall set the compensation of the Tax Officer and shall require, hold, set and review the Tax Officer's bond.
- d. The Board shall establish the manner and extent of financing of the tax collection committee.
- e. The Board shall adopt, amend and repeal bylaws, resolutions, policies and procedures for the administration of the collection of taxes within the tax collection district.
- f. At each regular Board meeting, the Secretary shall present a report to the Board of all TCC expenditures paid or incurred during the calendar year quarter preceding the month in which the meeting is held.
- g. Although the Board in performing its duties will rely substantially on information from and decisions by the Secretary, Chairperson and others, the Board shall have

ultimate responsibility and authority with respect to TCC business, financial oversight and other TCC affairs.

- h. The Board will always have the right to direct TCC action on any matter by policy, resolution, directive or other measure, including a direction that reverses prior action of any committee or officer. Any reversal of a prior action shall not negate any contract rights acquired by a third party pursuant to a contract properly approved before the Board action reversing the prior decision.

Comment on Section 7: While a Board may delegate much of the day to day activities of the TCC, this section should be used to list those decisions which it does not want to delegate.

Section 7. Retention of Board Authority. Except as otherwise provided in these bylaws, all powers of the TCC shall be exercised by or under authority of the Board, and the business and affairs of the TCC shall be managed under direction of the Board. The Board may delegate authority for actions to committees, officers and others. However, without regard to any prior delegation of authority only the Board shall have authority to act on, any of the following:

- a. Adoption, amendment or repeal of [policies,] [procedures,] bylaws or resolutions.
- b. Approval to merge or take joint action with one or more other TCCs to form a multi-county TCC.
- c. Approval to acquire, lease, rent or dispose of real or personal property.
- d. Appointment of additional officers.
- e. Approval of the TCC annual budget.
- f. Appointment or removal of TCC officers.

- g. Appointment of the TCC solicitor, TCC auditor, TCC insurance agent and Tax Appeal Board Members.
- h. Approval to create a bureau to collect taxes within the TCD, or to dissolve any such bureau.
- i. Approval of requests by political subdivisions for the TCC to collect any tax other than income tax.
- j. Appointment of the Tax Officer and approval or termination of the tax collection agreement with the Tax Officer.
- k. Approval to open, relocate or close any office.
- l. Ratification of all TCC expenditures.
- m. Initiation of lawsuits.
- n. Transfer of funds between or among TCCs.
- o. Approval to borrow money, accept grants, incur indebtedness and issue notes, debentures and other obligations to evidence borrowing.
- p. Any other issue or matter as to which the Board in the future adopts a resolution reserving the authority to act on the issue or matter.
- q. See Appendix A for examples of additional items.]

Comment on Section 8: In addition, some decisions are so important, so fundamental to the way the Board operates that the Board should consider bylaws which require a supermajority vote in limited circumstances. The law does not require Boards to do so, but DCED believes such a provision would be valuable in preventing mistakes that could have a lasting effect and may be difficult to reverse.

Section 8. Vote Required for Certain Decisions. Notwithstanding any other provision of these bylaws, action taken by the Board on the following issues or matters shall be by roll call vote and shall require the affirmative vote of a two-thirds (2/3) super-

majority of all the delegate votes present: (1) amendment of these bylaws. (2) Approval to merge or take joint action with one or more other TCCs to form a multi-county TCC. (3) Approval to purchase or sell real estate. (4) Appointment of additional officers (5) Approval to incur debt in excess of \$_____ .

ARTICLE II. Officers, Agents and Employees

Comment: The law does not require a Treasurer to be elected but, considering the financial nature of the Board's mission, a Treasurer may be an essential part to an efficiently run TCC.

Section 1. Officers. The Board will have and shall elect the following officers: Chairperson, Vice-Chairperson, Secretary[, Treasurer] and any other officers as provided by these bylaws (the "Officers"). Different officers may be held by the same person if determined appropriate by the Board. Beginning on January 1, 2011 and every year thereafter, each officer shall hold office for a term of one (1) year starting January 1 and until a successor has been elected, or earlier if a vacancy occurs. Any Officer may be removed by the Board at any time, with or without cause.

Section 2. Annual Meeting. In the year after the first meeting and every year thereafter, the Board shall designate one of its regular meetings as its annual organization meeting. At the annual organization meeting, the Board shall elect officers, review the tax officer's performance, and as necessary the Board may appoint a solicitor, a certified public accountant or public accountant to perform an annual audit of the tax collection activities of the Tax Officer and the financial activities of the TCC, the members of the

Tax Appeal Board, and one or more banks to serve as the primary depository for the TCC.

Section 3. The Chairperson. The Chairperson shall be a voting delegate. The Chairperson shall preside at Board meetings, set Board meeting agendas, and perform other duties as designated by the Board.

Section 4. The Vice-Chairperson. The Vice-Chairperson shall be a voting delegate and shall perform duties as designated by the Board. In the event of the Chairperson's absence or unavailability, the Vice-Chairperson shall perform the duties of the Chairperson at that meeting only.

Section 5. The Secretary. The Secretary may or may not be a voting delegate. The Secretary shall maintain the minutes and records of the Board and provide notices to each delegate and alternate appointed to the TCC. If the Secretary is not in attendance at a meeting, the Chairperson shall designate one of the delegates in attendance to act as Secretary for purposes of that meeting only. Within thirty (30) days after the election of any officer, the Secretary shall notify DCED of the name and address of each officer.

[Section 6. The Treasurer. The Treasurer may or may not be a voting delegate. The Treasurer shall have the care and custody of all operational monies belonging to the TCC, shall cause such monies to be deposited into such financial institutions and accounts as designated by the Board, shall make a report of TCC finances at each Board meeting, shall assist in the preparation of the budget and shall make financial information available to the Board, the Officers, the committees and shall exercise all duties incident to the office of the Treasurer. The Board may require the

Treasurer to have a bond in an appropriate amount as determined by the Board. The cost of the Treasurer's bond will be assumed by the TCC.]

Section 7. Additional Officers. The Board may appoint officers in addition to the Chairperson, Vice Chairperson, Secretary and Treasurer. Any additional officer may or may not be a voting delegate, shall not preside at meetings unless both the Chairperson and Vice-Chairperson are absent or unavailable, and shall perform duties as designated by the Board.

Section 8. Tax Officer. The Board shall appoint a Tax Officer for the assessment, collection and administration of income taxes levied, imposed and collected in fiscal years beginning on and after January 1, 2012. Prior to initiating any official duties, the Tax Officer shall give and acknowledge a bond to the TCC consistent with the provisions of 53 P.S. § 6924.509(d) and any regulations or guidelines published by DCED.

Comment on Section 9: The law does not require each TCC to appoint a Solicitor, but, considering the complexity of the issues that will face the Board from the very beginning, DCED strongly recommends appointing a solicitor.

Section 9. Solicitor. The Board [shall][may] appoint a Solicitor to advise the TCC regarding any legal issues that may arise. [The Solicitor [shall][may] be present at all regular meetings of the Board and [shall][may] be present at other meetings of the Board, Management Committee, Executive Director and Tax Appeal Board upon request with proper notice given.]

Section 10. Open Records Officer. The Board shall appoint an Open Records Officer. The Open Records Officer shall consult with the Solicitor as needed and ensure that the TCC is compliant with The Right to Know Law, 65 P.S. § 67.101 *et seq.* The Open Records Officer shall receive Right to Know requests submitted to the TCC, direct the requests to the appropriate person within the TCC or within another agency, track the TCC's progress in responding to requests and issue interim and final responses to requests.

[Section 11. Executive Director. The Board may appoint an Executive Director to manage the daily operations of the TCC. The Executive Director shall report directly to and perform tasks as directed by the [Management Committee][Board]. Subject to these bylaws, the Executive Director shall have the following powers and duties:

a . See Appendix A for examples of powers and duties that could be given to an Executive Director.]

ARTICLE III. Notice

Section 1. Required Notices. The TCC shall give notice to all voting and nonvoting delegates and officers of all meetings of the Board. The TCC shall give such notice at least 5 business days in advance of any regular or special Board meeting. If a delegate is unable to be present, either in person or via electronic means, at a Board meeting, it is the responsibility of the delegate to advise the taxing authority's alternate delegates. The TCC shall give notice to all committee members of all meetings of committees of the Board. The TCC shall give such notice at least 24 hours in advance of any regular or special committee meeting. Any person shall have the right to waive required notice. A meeting notice shall at minimum specify the date, time and address of

the meeting. For a public meeting, the Secretary shall also give public notice of the meeting in accordance with the Pennsylvania Sunshine Act.

Section 2. Manner of Giving Notice to Delegates, Officers or Committee Members. Any notice or document required to be given to a delegate, officer or committee member shall be given to the person either by hand delivery, or by sending a copy thereof as follows:

a. Written notice may be given by first class or express mail, postage prepaid or other courier service with charges prepaid, to the person's postal address supplied by the person to the Board for the purpose of notice. Notice given in this manner shall be deemed given to the person when deposited in the U.S. mail or with a courier service for delivery to the person.

b. Alternatively, written notice may be given by facsimile transmission, e-mail or other electronic communication to the person's facsimile number or address for e-mail or other communication supplied by the person to the Board for the purpose of notice. Notice given in this manner shall be deemed given to the person when confirmed by a matching transmission receipt from a facsimile or a matching read receipt from the email recipient.

c. Alternatively, notice of a meeting required to be given to a delegate, officer or committee member may be given by telephone. Notice given in this manner shall be deemed to be given to the person when a telephone conversation occurs with the person, or when a voice mail is left on a recording at a telephone number supplied by the person to the Board for the purpose of notice.

Section 3. Manner of Giving Notice to Taxing Authorities. Any notice or document required to be given directly to a Taxing Authority shall be given either by hand delivery, or by sending a copy thereof as follows:

a. Written notice may be given by first class or express mail, postage prepaid or other courier service with charges prepaid, to the taxing authority postal address either supplied to the Board by the Taxing Authority or appearing on the Taxing Authority website which has been updated in the past year. Notice given in this manner shall be deemed given to the Taxing Authority when hand delivered or deposited in the U.S. mail or with a courier service for delivery to the Taxing Authority.

b. Alternatively, written notice may be given by facsimile transmission, e-mail or other electronic communication to the Taxing Authority facsimile number or address for e-mail or other communication supplied to the Board by such Taxing Authority or appearing on the Taxing Authority website which has been updated in the past year. Notice given in this manner shall be deemed given to the Taxing Authority when confirmed by a matching transmission receipt from a facsimile or a matching read receipt from the email recipient.

Section 4. Manner of Giving Notice to DCED. Any notice or document required to be given to DCED may be given by first class or express mail, postage prepaid, or other courier service with charges prepaid, to DCED's official address. Notice may also be given to DCED in any other manner established by DCED. Notice shall be deemed given to DCED when deposited in the U.S. mail or with a courier service for delivery to DCED.

ARTICLE IV. Committees

Comment: DCED suggests the Board establish committees based upon the TCC's specific needs. For example, a Nominating Committee charged with establishing nominating policies and officer term limits may help a TCC maintain a healthy turnover of officers. As another example, an Audit Committee charged with reviewing the annual

audits and the auditing procedures and made up of individuals independent of the TCC may encourage more effective oversight and monitoring.

Section 1. Committees. The Board may designate committees as needed. The members of such committees shall be appointed by the Chairperson, subject to the approval of the Board.

Section 2. Committee Meetings. Committee meetings shall be held on dates and at times established by the respective committee. Special committee meetings shall be called upon request received from any officer or committee member and upon approval of the Chair of the committee.

Section 3. Quorum and Voting. Quorum of a committee shall be established by the presence of a majority of all committee members. Except as otherwise provided by these bylaws, all action taken by a committee shall be by majority vote of all committee members present.

Section 4. Committee Powers and Duties. Subject to these bylaws, any committee appointed by the Board shall have and may exercise all powers and authority granted by resolution of the Board.

Section 5. Coordination. The various committees shall coordinate their activities. Any recommendation, which shall require the expenditure of funds not provided in the budget shall first be transmitted in writing to the [Management Committee for its consideration and recommendation to the Board] [Board].

[**Section 6. Advisory.** The Executive Director shall serve as an Advisory Member of each committee but shall not have any vote on any committee action.]

[**Section 7. Management Committee.** The Board shall appoint a Management Committee that shall consist of the Board Chairperson, Vice Chairperson, and five (5) additional voting delegates appointed by the Board. The purpose of the Management Committee is to assist in the oversight of TCC management and in exercising certain specific powers. Subject to these bylaws, the Management Committee shall have the following powers and duties:

a. See Appendix A for examples of powers and duties that could be given to a Management Committee.]

ARTICLE V. Finances

Section 1. Fiscal Year. The TCC fiscal year shall begin on _____ and end on _____.

Section 2. The Budget. The proposed budget for the operation of the TCC shall be distributed by the Chairperson to the delegates and taxing authorities at least sixty (60) days prior to meeting scheduled for the adoption of the Budget. If no budget is adopted at that meeting, the Board shall set another meeting within ten (10) days of the annual organization meeting for the purpose of adopting a budget. A budget for the forthcoming fiscal year shall be adopted fifteen (15) days before the end of the current TCC fiscal year. A copy of the budget shall be transmitted to each delegate, officer, committee member and Taxing Authority within ten (10) days of its adoption.

Section 3. Allocation of Costs. The net expenses of the TCC shall be allocated among the taxing authorities for which the TCC collects taxes. All such expenses shall be weighted in direct proportion to the income tax revenues collected in each participating taxing authority based upon the TCC's most recent annual audit report.

Section 4. Bonds. In addition to the bonds for the Tax Officer, Treasurer and others, the Board may require a bond in an appropriate amount set by the Board which cost shall be assumed by the Board for each person with signature authority on any of the accounts of the TCC.

ARTICLE VI. Miscellaneous

Section 1. Adding a Taxing Authority. If, after June 30, 2009, a taxing authority imposes an income tax for the first time, the taxing authority shall provide all documentation necessary for the collection of taxes to the TCC as determined by the TCC. Once the TCC confirms the taxing authority has provided the documentation necessary for the collection of taxes, the taxing authority's delegate may elect to participate on the Board as a voting delegate in accordance with these bylaws.

Section 2. Tax Appeal Board. The Tax Appeal Board or the Joint Tax Appeal Board shall hear the appeals of a determination of the Tax Officer relating to the assessment, collection, refund, withholding, remittance or distribution of income taxes. An appeal may be filed by a taxpayer, employer, political subdivision or another tax collection district. All Tax Appeal Board members shall be voting delegates. The Tax Appeal Board shall be comprised of three (3) regular members and two (2) alternate members appointed by the Board. A panel of three (3) members shall hear and decide each appeal. If a regular member is unavailable to participate in the appeal, one of the

alternate members shall participate in place of the regular member. The members of the Tax Appeal Board shall not be the Tax Officer or an employee, agent, advisor or consultant of the Tax Officer of the TCC or any other TCC that is a member of the Joint Tax Appeal Board. The TCC may join with other tax collection committees to form a Joint Tax Appeal Board. All appeals shall be conducted in a manner consistent with 53 Pa.C.S. § 8431 *et seq.* A member of the Tax Appeal Board may be removed by the Board at any time, with or without cause. The Tax Appeal Board may consult with the TCC Solicitor regarding any legal issues that may arise.

Section 3. Amending the Bylaws. The Board shall provide a copy of each proposed amendment to all delegates and taxing authorities thirty (30) business days before the Board meeting at which it will be presented for adoption.

Section 4. Gender. All references to the male and use of the male pronoun in these bylaws shall be considered to be references to the female and use of the female pronoun where applicable.

Comment: Listed below are examples of the powers and duties that a TCC may delegate to a Management Committee (Art. IV Section 7) or Executive Director (Art. II Section 11). If the TCC does not desire to delegate a power or duty to the Management Committee or Executive Director, it is recommended that the TCC reserve it for the Board in Article I Section 7.

APPENDIX A - POWERS AND DUTIES

1. Gather information relevant to Board [or Management Committee] decisions, present the findings to the Board [or Management Committee] and make recommendations based upon those findings.
2. [Recommendation][Approval] of the compensation of the Executive Director [or any other employee or position].
3. Set the compensation of TCC employees other than the Executive Director to the extent provided for in the budget.
4. [With the approval of the Management Committee,] select other TCC employees to the extent provided for in the budget.
5. Direct actions by the Executive Director.
6. Recommendation of slate of officer nominees and other appointments.
7. [Recommendation][Approval] of TCC positions other than the Executive Director.
8. [Recommendation][Approval] of TCC expense allocation among the Taxing Authorities.

9. [Recommendation][Approval] of employee or Tax Officer bond or theft protection insurance amounts.
10. Enter into contracts as necessary.
11. [Recommendation][Approval] of any contract not reserved for Board action.
12. [Recommendation][Approval] to amend the budget by transferring amounts budgeted in one expenditure category to another expenditure category when it is determined the the funds budgeted in the first category will not be needed.
13. [Recommendation][Approval] of new accounts or signature authority with respect to accounts established at any bank or other financial institution previously approved by the Board.
14. [Recommendation][Approval] of credit cards to be used for payment of TCC expenses through any bank or other financial institution previously approved by the Board.
15. Obtain and monitor TCC insurance from the TCC insurance agent.
16. Establish the scope of the audit of the Tax Officer and TCC's financial statements performed by the TCC auditor.
17. Assist in the development of contracts and requests for proposals.
18. Under the direction of the Solicitor, ensure compliance with applicable laws and regulations.
19. Coordinate the transition from the former tax collectors to the Tax Officer including but not limited to meeting the requirements imposed on the TCC by Act 32 of 2008.

20. Monitor TCC finances and ensure TCC funds are being spent as delineated in the budget.
21. Calculation and presentation of TCC expense allocation among the Taxing Authorities.
22. [Recommendation][Approval] of amendments to the tax collection agreement that do not materially favor one taxing authority over another.
23. [Recommendation][Approval] of the Department of Revenue Information Exchange Agreement.
24. Adoption of regulations, policies and procedures for tax administration.
25. Oversee the Tax Appeal Board's operations.
26. Coordinate the TCC involvement in the DCED mediation process as necessary or appropriate.
27. Furnish all information required by DCED for the DCED tax register.
28. Manage all other aspects of the daily operations of the TCC.
29. Defend the TCC in all courts and respond to legal claims, inquiries and complaints.