A Necessary Post-Mortem
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by Dr. G. Terry Madonna and Dr. Michael Young

May 30, 2005 was Memorial Day, and it surely is a day that will be memorialized in Pennsylvania political history—for it was the scheduled deadline for 500 school boards in the state to opt into the now notorious ACT 72 property tax reduction plan agreed to by Governor Ed Rendell and the state legislature. The memory; however, won’t be a sweet one for Governor Rendell or his legislative colleagues. Instead, ACT 72 will be remembered as a significant policy failure: one that will be studied for decades—some 80-percent of the state’s school boards have rejected or did not vote on the plan.

Determining blame is going to be Harrisburg’s favorite parlor game over the summer as rival political camps hustle to reproach each other for bringing about this political nightmare. But a much more important question to answer is why ACT 72 failed so badly.

Only if we understand why, can we know what to do next—for the problems and issues that inspired ACT 72 have not diminished, nor are they likely to do so. Equitable and adequate school funding, along with property tax reform, are as pressing today as they ever have been. The problem will simply not go away.

A little history is in order. Property tax relief has been the most elusive policy objective in modern Pennsylvania history. For a generation, candidates for governor have routinely criticized the inequity of the property tax, but none could successfully tame the monster. In the argot of economists, the dilemma was about "tax shifting": inevitably the burden of shifting two billion in local property tax revenues to the state meant raising some state tax—either the income or sales—so much that neither a governor nor legislators was willing to gamble on the wrath of the state’s voters.

Policy paralysis, however, did not reduce the demand for homeowner property tax relief. In fact, voters continued consistently to rate property tax relief as one of their highest state priorities. The salience of the issue has only grown over time—in part because the state’s share of education funding decreased, but also because property tax increases in many urban and suburban school districts have grown much faster than the rate of inflation.

By 2002, the political stars seemed aligned for property tax relief. Both candidates for governor argued strongly for comprehensive property tax reduction. So did scores of state legislators running for reelection. The winning gubernatorial candidate Ed Rendell acted quickly to get the state legislature to adopt property tax relief. He proposed statewide reduction to be funded by an increase in the state income tax, with some new revenues also coming from extending slot machine gaming in the state’s racetracks.

In the hands of the Republicans leaders in the legislature, the Governor’s plan soon morphed into a very different policy. What became ACT 72 now evolved into a school district option plan with a variety of contingent parts, including a requirement that participating districts raise their earned income tax, and that they accept a back end referendum for subsequent property tax increases. Key was the requirement that individual school districts opt into the plan.
In late winter the governor and his legislator allies launched an all out campaign, but ultimately they failed to gain the affirmative vote of school boards. Why the effort failed--and failed by a wide margin--has been inadequately explained.

The most commonly cited reasons for the defeat dealt with the hostility of school boards to the back end referendum; vagueness about the total amount of revenue slots would generate; the reluctance of school board members to reduce their own power; and general confusion over the complexity of the language in the law. All of these reasons are certainly important, but at least three little mentioned factors played a huge role in the rejection.

- **SCHOOL BOARD INDEPENDENCE**--other than judges probably no other elected officials are more independent than school board members. And they demonstrated their willingness to oppose implementing ACT 72 right from the start. In Pennsylvania, school board members can cross-file and run on both Republican and Democratic tickets, and when elected they receive no salary for their service. They can’t be bribed, they can’t be bought, and it’s virtually impossible to apply conventional political pressure on them. ACT 72 ran into the most stubbornly independent non-judicial elected officials in the state.

- **THE MORALITY ISSUE**--at least one third of Pennsylvanians hold an aversion to gaming. No attention was paid to this substantial swath of public opinion throughout the public debate over adopting slots revenue to fund property tax reduction. Population surveys taken for more than a decade in the state have shown this opposition to have a basis in moral and religious conviction. Never a majority, nevertheless, many individual school board members were not reticent about expressing their dislike for funding property tax relief with monies from an activity they deemed immoral. Many opponents cited the argument--whether accurate or not--that an individual would have to lose on average $700 dollars gambling to generate $300 in tax relief. ACT 72 ran into more opposition on moral reasons than anyone previously thought possible.

- **RURAL/SUBURBAN DIFFERENCES**--property tax levels are not a uniform problem everywhere in Pennsylvania. In fact, more than 100 of the 500 hundred school districts recently have had no property tax hikes or modest hikes at best. These districts--located mostly in rural and farm regions of the state--have not faced the pressure of new school building construction or large in migration of new students. School directors in these districts face little or no popular demand for property tax relief. For them, buying into a property tax relief scheme that promised only modest reductions --on average $330 per property owner--was not worth the trade off on their local autonomy. These school districts already think they are ahead of the game. ACT 72 to them simply doesn’t look like a good deal.

At this point, there is no easy solution to the long awaited property tax reduction goal. But we have learned two important lessons we did not know when Rendell entered office. One is that complicated plans like ACT 72 are not going to work, given the fact that only one in five school districts have agreed to participate--and the other thing we know is that the public wants something that does work.

Scarcity of policy solutions is not the problem, nor has it ever been; we know what we have to do and how to do it. What we lack is the political will to get the job done.
Pennsylvania voters have been remarkably patient while successive governors and legislatures have fumbled this issue. With an election year looming, one wonders how long that patience will continue.

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