
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1682 Session of
2009

INTRODUCED BY STURLA, FREEMAN, BEYER, CALTAGIRONE, DePASQUALE,
HARHAI, HARKINS, McILVAINE SMITH, MICOZZIE, MOUL, MUNDY,
SANTONI, K. SMITH AND WHITE, JUNE 12, 2009

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JUNE 12, 2009

AN ACT

1 Authorizing counties to impose sales, use and occupancy taxes;
2 and providing for the levying, assessment and collection of
3 taxes and for the powers and duties of the Department of
4 Community and Economic Development or any successor agency,
5 the Department of Revenue and the State Treasurer.

6 TABLE OF CONTENTS

7 Chapter 1. General Provisions

8 Section 101. Short title.

9 Section 102. Definitions.

10 Section 103. Scope.

11 Section 104. Preemption.

12 Section 105. Rates of taxation in home rule counties.

13 Chapter 3. Subjects of Taxation

14 Subchapter A. Tax Authorization

15 Section 301. General tax authorization.

16 Section 302. Continuity of tax.

17 Section 303. Election to participate under act.

18 Section 304. Local tax study commission.

19 Section 305. Municipal sales, use and occupancy tax initiative.

1 Subchapter B. County Sales, Use and Occupancy Tax
2 Section 311. Construction.
3 Section 312. Imposition of tax.
4 Section 313. Situs.
5 Section 314. Licenses.
6 Section 315. Rules and regulations; collection costs.
7 Section 316. Procedure and administration.
8 Section 317. County sales, use and occupancy tax funds.
9 Section 318. Disbursements.
10 Section 319. Adoption of municipal ordinances.
11 Section 320. Allocations.
12 Chapter 5. Disposition of Tax Revenues
13 Section 501. Sales, use and occupancy tax revenues.
14 Section 502. Municipal collaborative efforts fund.
15 Section 503. Supplemental appropriations for collaborative
16 services.
17 Section 504. Revenue limitation exceptions.
18 Chapter 7. Miscellaneous Provisions
19 Section 701. (Reserved).
20 Section 702. Effective date.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 CHAPTER 1

24 GENERAL PROVISIONS

25 Section 101. Short title.

26 This act shall be known and may be cited as the County and
27 Municipal Property Tax Relief and Collaborative Services Act.

28 Section 102. Definitions.

29 The following words and phrases when used in this act shall
30 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Board of county commissioners." Includes the successor in
3 function to the board of county commissioners in a county which
4 has adopted a home rule charter under the provisions 53 Pa.C.S.
5 Pt. III Subpt. E (relating to home rule and optional plan
6 government), but does not include the city council of a city of
7 the first class or the county council of a county of the second
8 class.

9 "County." A county-level municipality within this
10 Commonwealth. The term includes a county which has adopted a
11 home rule charter or optional plan of government under the
12 provisions of 53 Pa.C.S. Pt. III Subpt. E (relating to home rule
13 and optional plan government). The term does not include a
14 county of the first class or a county of the second class.

15 "Current year." The calendar year or fiscal year for which a
16 tax is levied.

17 "Department." The Department of Revenue of the Commonwealth.

18 "Domicile." As defined in section 501 of the act of December
19 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling
20 Act.

21 "Homestead." As defined in 53 Pa.C.S. § 8401 (relating to
22 definitions).

23 "Local Tax Enabling Act." The act of December 31, 1965
24 (P.L.1257, No.511), known as The Local Tax Enabling Act.

25 "Municipality." A city of the second class A, city of the
26 third class, borough, incorporated town, township of the first
27 class, township of the second class, home rule municipality,
28 optional plan municipality, optional form municipality or
29 similar general purpose unit of government which may after the
30 effective date of this section be established by statute, except

1 a city of the first class or a city of the second class. Unless
2 the context clearly indicates otherwise, for the purposes of
3 this act, a municipality located in a county shall include
4 municipalities that are located entirely or partially in the
5 county.

6 "Nonqualified municipality." A municipality that is not a
7 qualified municipality under this act.

8 "Nonresident." An individual domiciled outside a
9 municipality.

10 "Ordinance." Includes a resolution.

11 "Population." The number of individuals residing in an area
12 as determined in the most recent Federal decennial census.

13 "Preceding year." The calendar year or fiscal year before
14 the current year.

15 "Qualified municipality." A municipality that qualifies in
16 accordance with section 305(b) or 319.

17 "Succeeding year." The calendar year or fiscal year
18 following the current year.

19 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),
20 known as the Tax Reform Code of 1971.

21 "Taxpayer." An individual required under this act to file a
22 tax return or to pay a tax.

23 Section 103. Scope.

24 It is the intent of this act to confer upon each county the
25 power to levy, assess and collect taxes upon the subjects of
26 taxation specified in this act.

27 Section 104. Preemption.

28 No act of the General Assembly in effect prior to or after
29 the effective date of this section shall vacate or preempt any
30 ordinance passed or adopted under the authority of this act or

1 any other act providing authority for the imposition of a tax by
2 a county, unless the act of the General Assembly expressly
3 vacates or preempts the authority to pass or adopt the
4 ordinance.

5 Section 105. Rates of taxation in home rule counties.

6 A county which has adopted a home rule charter or optional
7 plan of government under the provisions of 53 Pa.C.S. Pt. III
8 Subpt. E (relating to home rule and optional plan government)
9 may not fix the rate of taxation for the subjects of taxation
10 authorized under Chapter 3 in excess of the rates fixed in
11 Chapter 3.

12 CHAPTER 3

13 SUBJECTS OF TAXATION

14 SUBCHAPTER A

15 TAX AUTHORIZATION

16 Section 301. General tax authorization.

17 (a) General rule.--Subject to section 303 and except as
18 provided in subsection (b), a county shall have the power and
19 may by ordinance levy and assess or provide for the levying and
20 assessment of taxes on the sale or use of tangible personal
21 property and services and the occupancy of a hotel room at a
22 rate of 1% for general revenue purposes as it shall determine on
23 any or all of the subjects of taxation set forth in this act
24 within the geographical limits of the county.

25 (b) Exclusions.--No county which levies a tax authorized by
26 this act shall have any power or authority to levy, assess or
27 collect:

28 (1) A tax based upon a flat rate or on a millage rate on
29 an assessed valuation of a particular trade, occupation or
30 profession, commonly known as an occupation tax.

1 (2) A per capita, poll, residence or similar head tax.

2 (3) The intangible personal property tax under the act
3 of June 17, 1913 (P.L.507, No.335), referred to as the
4 Intangible Personal Property Tax Law.

5 Section 302. Continuity of tax.

6 A tax levied under the provisions of this act shall continue
7 in force on a calendar year basis without annual reenactment
8 unless the tax is subsequently repealed.

9 Section 303. Election to participate under act.

10 (a) General rule.--A board of county commissioners which
11 elects to participate under the provisions of this act shall do
12 so by using the procedures specified in subsection (b) and in
13 accordance with the following provisions:

14 (1) An election to participate under this act shall
15 remain in effect for a period of at least three full calendar
16 years.

17 (2) A board of county commissioners after making an
18 election to participate under this act may, after a period of
19 at least three full calendar years of participation, elect
20 under the provisions of subsection (c) to cease participation
21 under this act and levy, assess and collect the taxes
22 prohibited by section 301(b) to the extent otherwise provided
23 by law.

24 (b) Ordinance.--Subject to the notice and public hearing
25 requirements of section 316(a), a board of county commissioners
26 may elect to participate under this act by adopting an ordinance
27 imposing the tax. The ordinance must be adopted no later than
28 September 1 preceding the calendar year when the tax will be
29 initially imposed.

30 (c) Repeal.--Subject to the notice and public hearing

1 requirements of section 316(c), a board of county commissioners
2 may elect to cease participation under this act by adopting an
3 ordinance repealing the tax. The ordinance must be adopted no
4 later than September 1 preceding the calendar year when the tax
5 will be repealed.

6 Section 304. Local tax study commission.

7 (a) First-year implementation.--In considering whether to
8 levy, assess, collect or provide for the levy, assessment or
9 collection of any tax under this act, a board of county
10 commissioners may, by February 1 of the year preceding the
11 calendar year for which any such tax shall be levied, appoint a
12 local tax study commission in accordance with the following
13 provisions:

14 (1) The local tax study commission shall consist of
15 five, seven or nine members appointed by the board of county
16 commissioners. One member of the local tax study commission
17 may be a member of the board of county commissioners. No
18 member of the local tax study commission may be a relative,
19 by blood or marriage, of an official or employee of the
20 county. All members must be residents of the county.
21 Representatives on a local tax study commission should
22 reasonably reflect the socioeconomic, age and occupational
23 diversity of the county.

24 (2) The board of county commissioners shall provide
25 necessary and reasonable staff to support the local tax study
26 commission.

27 (3) The members of the local tax study commission shall
28 receive reimbursement only for necessary and reasonable
29 expenses in the discharge of their duties.

30 (4) The local tax study commission shall study the

1 existing taxes levied, assessed and collected by the county
2 and determine if and how the tax policies of the county may
3 be strengthened or made more equitable by adopting for levy,
4 assessment and collection of a sales, use and occupancy tax
5 as provided for in this act. This study shall include, but
6 not be limited to, consideration of all of the following:

7 (i) Historic rate and revenue provided by taxes
8 currently levied, assessed and collected by the county.

9 (ii) The percentage of total revenues provided by
10 taxes currently levied, assessed and collected.

11 (iii) The age, income, employment and property use
12 characteristics of the existing tax base.

13 (iv) The projected revenues of any taxes currently
14 levied, assessed and collected.

15 (v) The projected revenues of any taxes referred to
16 in this paragraph not currently levied, assessed and
17 collected by the county.

18 (5) Within 120 days of its appointment, the local tax
19 study commission shall make a nonbinding recommendation to
20 the board of county commissioners of the appropriate tax or
21 combination of taxes, identified in paragraph (4), to be
22 levied, assessed and collected commencing the next fiscal
23 year.

24 (6) Upon appointment of the commission and except as
25 provided for in paragraph (8), no tax may be levied, assessed
26 or collected for the next fiscal year until receipt of the
27 recommendation of the local tax study commission.

28 (7) No later than September 1 prior to the commencement
29 of the next fiscal year, the board of county commissioners
30 shall accept or reject the recommendation of the local tax

1 study commission or adopt any other appropriate tax or
2 combination of taxes for the county commencing the next
3 fiscal year as provided by this act and other applicable law.

4 (8) If the local tax study commission fails to make a
5 nonbinding recommendation within 120 days of its appointment,
6 the board of county commissioners shall discharge the
7 appointed local tax study commission and appoint itself as
8 the local tax study commission. No later than September 1
9 prior to the commencement of the next fiscal year, the board
10 of county commissioners shall adopt the appropriate tax or
11 combination of taxes for the county commencing the next
12 fiscal year as provided by this act and other applicable law.

13 (9) The local tax study commission shall publish or
14 cause to be published, within 30 days of making its
15 recommendation, a final report of its activities and
16 recommendations and shall deliver the final report to the
17 chief clerk of the county who shall supply copies to
18 interested persons at their request.

19 (10) Receipts are required for all reimbursable
20 expenses.

21 (11) All the records, receipts, minutes of meetings and
22 written discussions of the local tax study commission shall,
23 upon its discharge, be turned over to the chief clerk of the
24 county for permanent safekeeping. The chief clerk shall make
25 such materials available for public inspection at any time
26 during regular business hours.

27 (12) The local tax study commission shall be discharged
28 on the filing of its final report.

29 (b) Effect.--A county that levies, assesses and collects or
30 provides for the levy, assessment or collection of any tax,

1 after having received the recommendations of a local tax study
2 commission and acted, shall continue to levy, assess and collect
3 the same tax or combination of taxes for a minimum of the next
4 three fiscal years.

5 (c) Periodic review.--Beginning at least three fiscal years
6 after action by a board of county commissioners on the
7 recommendation of a tax study commission under this section, and
8 no more frequently than every three fiscal years thereafter, the
9 board of commissioners may appoint a local tax study commission
10 in the manner provided in subsection (a). The local tax study
11 commission appointed under this subsection shall be charged with
12 all of the same powers and duties provided for a local tax study
13 commission under subsection (a).

14 (d) Construction.--Nothing in this section shall be
15 construed to preclude the board of county commissioners from
16 changing or altering the rates of any such tax or combination of
17 taxes if it deems necessary to the extent otherwise permitted by
18 law.

19 Section 305. Municipal sales, use and occupancy tax initiative.

20 (a) General rule.--After the first January 1 occurring at
21 least six months following the effective date of this section,
22 if the board of county commissioners of a county has not elected
23 to participate under this act, municipalities located in that
24 county may require, as provided in this section, the board of
25 county commissioners of the county to impose the sales, use and
26 occupancy tax as provided in section 312.

27 (b) Procedure.--

28 (1) If the board of county commissioners of a county has
29 not elected to participate under this act by the first
30 January 1 occurring at least six months following the

1 effective date of this section, the governing body of a
2 municipality located in that county may place before the
3 governing bodies of all the municipalities located in that
4 county the following question:

5 Do you favor the imposition of a county sales, use and
6 occupancy tax at the rate of 1% as provided in section
7 312 of the County and Municipal Property Tax Relief and
8 Intergovernmental Collaboration Act?

9 (2) Circulation of the question may begin no earlier
10 than January 1 of the year prior to the proposed year of
11 implementation, and the vote by the governing bodies of the
12 municipalities must conclude no later than June 1 of the year
13 prior to the proposed year of implementation.

14 (3) Each governing body of a municipality voting in the
15 affirmative on the question shall certify its vote on the
16 question to the board of county commissioners. The governing
17 body of a municipality that is located in more than one
18 county shall certify its vote on the question to the board of
19 county commissioners for each county where the municipality
20 is located.

21 (4) The affirmative votes of the governing bodies of
22 municipalities whose combined population represents more than
23 60% of the population within the county shall be necessary
24 for the board of county commissioners to elect participation
25 under this act. The population of a municipality that is
26 located in more than one county shall be determined
27 separately for each county where the municipality is located
28 on the basis of the municipality's population within each
29 county.

30 (5) Upon receipt of certifications from municipalities

1 indicating approval of the question by municipalities whose
2 combined population represents more than 60% of the
3 population of the county, the board of county commissioners
4 of the county shall, for the next calendar year, elect to
5 participate under this act, pursuant to the procedures of
6 section 303.

7 (6) A municipality is qualified to receive a
8 disbursement under section 318 if the municipality:

9 (i) votes in the affirmative on the question under
10 this section; or

11 (ii) qualifies in accordance with the provisions of
12 section 319.

13 SUBCHAPTER B

14 COUNTY SALES, USE AND OCCUPANCY TAX

15 Section 311. Construction.

16 The tax imposed by the board of county commissioners under
17 this subchapter shall be in addition to any tax imposed by the
18 Commonwealth under Article II of the Tax Reform Code. Except for
19 the differing situs provisions under section 313, the provisions
20 of Article II of the Tax Reform Code shall apply to the tax.

21 Section 312. Imposition of tax.

22 (a) Sales.--

23 (1) The board of county commissioners may levy and
24 assess upon each separate sale at retail of tangible personal
25 property or services, as defined in Article II of the Tax
26 Reform Code, within the boundaries of the county, a tax on
27 the purchase price.

28 (2) The tax shall be collected by the vendor from the
29 purchaser and shall be paid over to the Commonwealth as
30 provided in this subchapter.

1 (b) Use.--

2 (1) In any county within which the tax authorized in
3 subsection (a) is imposed, there shall be levied, assessed
4 and collected upon the use, within the county, of tangible
5 personal property purchased at retail and on services
6 purchased at retail, as defined in Article II of the Tax
7 Reform Code, a tax on the purchase price.

8 (2) The tax shall be paid over to the Commonwealth by
9 the person who makes the use.

10 (3) The use tax imposed under this subchapter shall not
11 be paid over to the Commonwealth by any person who has paid
12 the tax imposed by subsection (a) or has paid the tax imposed
13 by this subsection to the vendor with respect to the use.

14 (c) Occupancy.--

15 (1) In any county within which a tax authorized by
16 subsection (a) is imposed, there shall be levied, assessed
17 and collected an excise tax on the rent upon every occupancy
18 of a room or rooms in a hotel in the county.

19 (2) The tax shall be collected by the operator or owner
20 from the occupant and paid over to the Commonwealth.

21 (d) Rate and uniformity.--The tax authorized by subsections
22 (a), (b) and (c) shall be imposed at a rate of 1% and shall be
23 uniform.

24 (e) Computation.--The tax imposed under this section shall
25 be computed in the manner set forth in section 503(e)(2) of the
26 act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania
27 Intergovernmental Cooperation Authority Act for Cities of the
28 First Class.

29 Section 313. Situs.

30 The situs of sales at retail or uses of motor vehicles,

1 aircraft, motorcraft and utility services shall be determined in
2 the manner specified by section 504 of the act of June 5, 1991
3 (P.L.9, No.6), known as the Pennsylvania Intergovernmental
4 Cooperation Authority Act for Cities of the First Class and by
5 Article II-A of the Tax Reform Code.

6 Section 314. Licenses.

7 A license for the collection of the tax imposed by this
8 subchapter shall be issued in the same manner as is provided for
9 in section 505 of the act of June 5, 1991 (P.L.9, No.6), known
10 as the Pennsylvania Intergovernmental Cooperation Authority Act
11 for Cities of the First Class. Licensees shall be entitled to
12 the same discount as provided in section 227 of the Tax Reform
13 Code.

14 Section 315. Rules and regulations; collection costs.

15 (a) Regulations.--Rules and regulations shall be applicable
16 to the taxes imposed under section 312 in the same manner as is
17 provided for in section 506(1) and (2) of the act of June 5,
18 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental
19 Cooperation Authority Act for Cities of the First Class.

20 (b) Administrative costs.--

21 (1) The department may retain a sum equal to 1% of the
22 revenues collected under this subchapter for its
23 administrative costs.

24 (2) When the annual operating budget for the department
25 is submitted to the General Assembly, the department shall
26 also submit to the chairman and minority chairman of the
27 Appropriations Committee of the Senate and to the chairman
28 and minority chairman of the Appropriations Committee of the
29 House of Representatives the actual sums retained for costs
30 of collection in the preceding fiscal year, together with all

supporting details.

Section 316. Procedure and administration.

(a) Ordinance.--

(1) A county desiring to impose the tax authorized by section 312 shall give at least 60 days' written notice to each municipality in the county of its intent to impose the tax and shall adopt an ordinance after the expiration of 60 days after the date of the notice. The notice and ordinance shall state the tax rate and refer to this subchapter. The ordinance shall authorize the imposition of the tax on all subjects provided for in section 312.

(2) Prior to adopting an ordinance imposing the tax under section 312, the board of county commissioners shall give public notice of its intent to adopt the ordinance in the manner provided by section 306 of the Local Tax Enabling Act and shall conduct at least one public hearing regarding the proposed adoption of the ordinance.

(3) The board of county commissioners may waive the requirement for a public hearing if the ordinance will be adopted pursuant to the provisions of section 305.

(b) Notification to department.--A certified copy of the county ordinance shall be delivered to the department by September 1 of the year prior to the effective date of the ordinance. The county ordinance shall become effective on the January 1 following delivery of the certified copy to the department.

(c) Repeal.--

(1) A county, having enacted the tax authorized by section 312 and desiring to repeal the tax, shall give at least 60 days' written notice to every municipality located

1 in the county of its intent to repeal the tax and shall adopt
2 an ordinance after the expiration of 60 days after the date
3 of the notice. The ordinance shall authorize the repeal of
4 the tax on all subject under section 312.

5 (2) Prior to adopting an ordinance repealing the tax
6 imposed under section 312, the board of county commissioners
7 shall give public notice of its intent to repeal the
8 ordinance in the manner provided by section 506 of the Local
9 Tax Enabling Act and shall conduct at least one public
10 hearing regarding the proposed repeal of the ordinance.

11 (d) Delivery of repeal ordinance.--The board of county
12 commissioners shall deliver a certified copy of a repeal
13 ordinance to the department by September 1 of the year prior to
14 the effective date of the repeal.

15 Section 317. County sales, use and occupancy tax funds.

16 (a) Funds established in State Treasury.--There is hereby
17 established in the State Treasury for each county imposing the
18 tax under section 312 a county sales, use and occupancy tax fund
19 in the name of each county. The State Treasurer shall be
20 custodian of the funds which shall be subject to the provisions
21 of law applicable to funds listed in section 302 of the act of
22 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

23 (b) Deposits into funds.--

24 (1) The tax imposed under section 312 shall be received
25 by the department and paid to the State Treasurer and, along
26 with interest and penalties, less any collection costs
27 allowed under this subchapter and any refunds and credits
28 paid, shall be credited to the respective fund not less
29 frequently than every two weeks.

30 (2) During any period prior to the credit of moneys to

each such fund, interest earned on moneys received by the department and paid to the State Treasurer under this subchapter shall be deposited into the respective fund.

(c) Lapsing and interfund transfers prohibited.--All moneys in each respective fund, including, but not limited to, moneys credited to the fund under this section, prior year encumbrances and the interest earned thereon, shall not lapse or be transferred to any other fund, but shall remain in the respective fund.

(d) Investment.--Pending their disbursement, moneys received on behalf of or deposited into each respective fund shall be invested or reinvested as are other moneys in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or reinvestment of the moneys shall be credited to the respective fund.

Section 318. Disbursements.

(a) General rule.--On or before the tenth day of every month, the State Treasurer shall make disbursements as provided in this section.

(b) Disbursement to counties.--

(1) The State Treasurer shall disburse to a county imposing the tax under section 312 an amount of money equal to 50% of the tax deposited in the respective county sales, use and occupancy tax fund for deposit into the county general fund for disposition as provided under section 501(a).

(2) The State Treasurer shall disburse to a county, in addition to its share under paragraph (1), an amount of money equal to the amount allocated to all of the nonqualified municipalities as provided in this section.

1 (c) Allocation to municipalities.--The State Treasurer shall
2 allocate to the municipalities located in the county an amount
3 of money equal to 40% of the tax deposited in the respective
4 county sales, use and occupancy tax fund, which shall be
5 apportioned to all of the municipalities located in that county
6 as computed under section 320(a).

7 (d) Disbursement to municipalities.--

8 (1) The amount apportioned to each qualified
9 municipality shall be disbursed to the qualified municipality
10 for deposit into the municipal general fund for disposition
11 as provided in section 501(b).

12 (2) The amount apportioned to each nonqualified
13 municipality shall be disbursed to the county as provided in
14 subsection (b)(2) for deposit into the county general fund
15 for disposition as provided under section 501(a).

16 (e) Disbursement to municipal collaborative efforts fund.--
17 The State Treasurer shall disburse to the municipal
18 collaborative efforts fund established by the county under
19 section 502 an amount of money equal to 10% of the tax deposited
20 in the respective county sales, use and occupancy tax fund.

21 (f) Penalty.--If disbursements are not made on or before the
22 tenth day of each month, a 5% penalty shall be added thereto
23 plus an additional 1% late charge per month delayed, along with
24 interest and penalties accruing under section 317. Payment of
25 penalties and late charges under this subsection shall be made
26 from the General Fund of the Commonwealth into the county sales,
27 use and occupancy tax fund established under section 317.

28 Section 319. Adoption of municipal ordinances.

29 (a) Initial year qualification.--A municipality is qualified
30 to receive a disbursement under section 318 if, prior to

1 enactment of the county ordinance, the municipality:

2 (1) Adopts a municipal ordinance containing the
3 statement:

4 We strongly urge the county to enact a county sales, use
5 and occupancy tax and intend to accept disbursements of
6 the sales, use and occupancy tax collected.

7 (2) Delivers a certified copy of the municipal ordinance
8 to the board of county commissioners on or before the
9 enactment of the county ordinance. A municipality that is
10 located in more than one county shall deliver a certified
11 copy to the board of county commissioners for each county
12 where the municipality is located.

13 (b) Subsequent year qualification.--A municipality is
14 qualified to receive a disbursement under section 318 if, prior
15 to October 1 of any year after the year of initial imposition of
16 the tax by a county, the municipality meets the following
17 requirements:

18 (1) Adopts a municipal ordinance containing the
19 statement:

20 We support the enactment by the county of the county
21 sales, use and occupancy tax and strongly urge its
22 continuation and intend to accept disbursements of the
23 sales, use and occupancy tax collected.

24 (2) Delivers a certified copy of the municipal ordinance
25 to the board of county commissioners on or before the
26 enactment of the county ordinance by October 15 of the year
27 in which the ordinance is enacted. A municipality that is
28 located in more than one county shall deliver a certified
29 copy to the board of county commissioners for each county
30 where the municipality is located.

1 (c) Nonqualification.--Notwithstanding the provisions of
2 subsection (b), a municipality shall not qualify to receive a
3 disbursement under section 318 earlier than 36 months after the
4 initial date of imposition of the tax unless the municipality:

5 (1) enacts an ordinance in accordance with the
6 provisions of subsection (a); or

7 (2) votes in the affirmative to the question in
8 accordance with the provisions of section 305.

9 Section 320. Allocations.

10 (a) Allocations to municipalities.--The State Treasurer
11 shall compute allocations to municipalities in the following
12 manner:

13 (1) Fifty percent of the money allocated to
14 municipalities in the county shall be distributed pro rata
15 based on the weighted tax revenues for each municipality
16 located in the county as a percentage of the total weighted
17 tax revenues of all municipalities located in the county. For
18 municipalities located in more than one county, the weighted
19 tax revenues for the county shall be prorated based upon the
20 population of the municipality in each county divided by the
21 total population of the municipality.

22 (2) Fifty percent of the money allocated to
23 municipalities in the county shall be distributed pro rata
24 based on the population of each municipality located in the
25 county as a percentage of the sum of the population of all
26 municipalities located in the county. For municipalities
27 located in more than one county, the population of the county
28 shall be determined separately for each county where the
29 municipality is located on the basis of the municipality's
30 population within each county.

(b) Calculation of weighted tax revenues.--Calculations of weighted tax revenues shall be made by the Department of Community and Economic Development or any successor agency and certified to the State Treasurer based upon information reported to the Department of Community and Economic Development or any successor agency, subject to review, verification and approval by the Department of Community and Economic Development or any successor agency.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Per capita market value." The total market value of all real property divided by population as determined by the most recent decennial census.

"Total tax revenues." Real property tax revenues, revenues received by levy of a tax under the Local Tax Enabling Act, revenues received by levy of a tax under this act and revenues received by levy of a tax under the act of August 9, 1955 (P.L.323, No.130), known as The County Code, the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code, the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, the act of June 24, 1931 (P.L.1206, No.331), known as the First Class Township Code, and the act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code, as applicable to the municipality.

"Weighted tax revenues." Total tax revenues from all sources of a municipality divided by the per capita market value of the municipality.

CHAPTER 5

DISPOSITION OF TAX REVENUES

1 Section 501. Sales, use and occupancy tax revenues.

2 (a) Counties.--

3 (1) In the first year of implementation of the tax under
4 section 312, no less than 60% of any additional revenues
5 received by a county from the tax shall be used to offset the
6 revenues lost as a result of the prohibition against
7 imposition of the taxes enumerated in section 301(b) and then
8 to reduce the county real property tax, first by means of a
9 homestead exclusion and then, if the maximum homestead
10 exclusion has been attained, by means of reduction in the
11 property tax millage rate.

12 (2) Revenues received and retained by a county from the
13 tax under section 312 shall be expended for public purposes
14 authorized by statutes governing counties.

15 (b) Municipalities.--

16 (1) In the first year of implementation of the taxes
17 under section 312, no less than 60% of any additional
18 revenues received by a qualified municipality from the tax
19 shall be used for the following, separately or in
20 combination:

21 (i) To offset the municipal real property tax, first
22 by means of a homestead exclusion and then, if the
23 maximum homestead exclusion has been attained, by means
24 of reduction in the property tax millage rate.

25 (ii) To offset lost municipal revenue based on the
26 value of real property in the municipality that has been
27 exempted from real property taxation pursuant to law.

28 (2) If, in the first year of implementation, 60% of the
29 amount of revenues received by a qualified municipality
30 exceeds the sum of the amount of offsets available under

paragraph (1) for that year, then that excess revenue shall be used for the following, separately or in combination:

(i) To offset any other municipal tax or fee.

(ii) To make a supplemental appropriation in accordance with section 503.

(3) Revenues received and retained by a qualified municipality from the taxes under section 312 shall be expended for public purposes of health, safety and welfare as provided in the municipality's governing statutes.

Section 502. Municipal collaborative efforts program.

(a) Fund established.--There is hereby established in each county levying the tax under section 312 a municipal collaborative efforts fund.

(b) Deposits.--Payments received under section 318(e) shall be deposited in the municipal collaborative efforts fund of the county for use as specified in this section.

(c) Municipal collaborative efforts board.--

(1) Upon levy of the taxes under section 312 by a county, a municipal collaborative efforts board will be established within the county.

(2) The municipal collaborative efforts board shall award grants for the provision of municipal collaborative efforts within the county that meet criteria established by the municipal collaborative efforts board.

(3) All of the members of the municipal collaborative efforts board must be elected officials from qualified municipalities in the county.

(4) The municipal collaborative efforts board shall be comprised of no fewer than three voting members and one nonvoting member, and no more than seven voting members and

1 one nonvoting member. The municipal collaborative efforts
2 board shall include at least one representative from each
3 class of municipality located in the county; provided that
4 the class of municipality consists of at least one qualified
5 municipality. The number of representatives from each class
6 of municipality located in the county shall be in reasonable
7 proportion to the number of municipalities within each class
8 of municipality in the county.

9 (5) The board of county commissioners shall appoint
10 members to the municipal collaborative efforts board from
11 nominations made by resolution of the qualified
12 municipalities in the county. Prior to appointment, the board
13 of county commissioners shall submit the nominees to councils
14 of governments and county associations of municipalities
15 existing in the county, if any, for review and comment.

16 (6) Members shall serve a two-year term and may be
17 nominated for successive terms. Vacancies shall be filled by
18 the board of county commissioners for the balance of the
19 unexpired term, and any appointment made shall be from the
20 same class of qualified municipality. Initial appointments
21 shall be made within 60 days of a county levying the taxes
22 under section 312, and vacancies shall be filled within 60
23 days of their occurrence from nominees submitted by
24 municipalities of the class for which the vacancy exists.

25 (7) Within 30 days of appointment, and on the first
26 Monday after the first day of January of each year following,
27 the municipal collaborative efforts board shall organize.

28 (8) No more than 10% of the annual payments received
29 under section 318(e) may be used by the municipal
30 collaborative efforts board for administrative purposes.

1 (9) The municipal collaborative efforts board shall
2 adopt standard rules of parliamentary procedure and shall
3 adopt such other rules and regulations necessary for conduct
4 of the business of the municipal collaborative efforts board.
5 The Department of Community and Economic Development shall
6 develop sample rules and regulations and other guidance
7 materials.

8 (d) Disbursements.--

9 (1) Disbursement of funds shall be made to one or more
10 qualified municipalities or groups of qualified
11 municipalities organized under 53 Pa.C.S. Ch. 23 Subch. A
12 (relating to intergovernmental cooperation) or operating
13 under other contractual agreement, for the purpose of
14 providing municipal collaborative efforts.

15 (2) Nonqualified municipalities shall be ineligible for
16 funds under this section unless the funding is pursuant to an
17 agreement under 53 Pa.C.S. Ch. 23 Subch. A in which the
18 majority of participating municipalities are qualified
19 municipalities or pursuant to other contractual agreement in
20 which the majority of participating municipalities are
21 qualified municipalities.

22 (e) Audit.--Following the close of the fiscal year, the
23 municipal collaborative efforts board shall provide for an
24 examination of its financial records and the financial records
25 of its fund by a certified public accountant in accordance with
26 generally accepted government auditing standards. The municipal
27 collaborative efforts board may require any recipient of funds
28 under this section to provide to the municipal collaborative
29 efforts board an audit of the use of those funds in accordance
30 with generally accepted government auditing standards.

1 (f) Definition.--For the purposes of this section, the term
2 "qualified municipality" shall have the same meaning given in
3 section 102, except that for municipal collaborative efforts
4 provided by agreement for municipalities in more than one
5 county, the term shall include municipalities qualified in
6 another county.

7 Section 503. Supplemental appropriations for collaborative
8 services.

9 A county or municipality may appropriate and transfer by
10 contract a portion of its receipts of disbursements under this
11 act to one or more other counties or municipalities or groups of
12 municipalities organized under 53 Pa.C.S. Ch. 23 Subch. A
13 (relating to intergovernmental cooperation), for the purpose of
14 providing governmental services on behalf of that county or
15 municipality.

16 Section 504. Revenue limitation exceptions.

17 (a) Waiver.--A board of county commissioners or the
18 governing body of a municipality may waive the limitations
19 relating to the reduction or elimination of taxes in sections
20 501, but only to the degree necessary, in the following cases:

21 (1) If an increase in local expenditures is necessary to
22 respond to or recover from an emergency or disaster declared
23 by the Governor.

24 (2) If the political subdivision is required to
25 implement a court decision.

26 (3) To pay interest and principal on any indebtedness
27 incurred under the provisions of 53 Pa.C.S. Pt. VII Subpt. B
28 (relating to indebtedness and borrowing).

29 (4) To pay increases in pension fund requirements which
30 are in excess of the annual average increase over the

1 immediately preceding five fiscal years.

2 (5) To respond to a county or municipality declared to
3 be distressed under the act of July 10, 1987 (P.L.246,
4 No.47), known as the Municipalities Financial Recovery Act.

5 (6) To increase revenues when actual revenues decline
6 from the immediately preceding year, but only to the extent
7 of the revenue decline.

8 (7) If the increase does not exceed the limitations on
9 millage rates for real property under the act of August 9,
10 1955 (P.L.323, No.130), known as The County Code, the act of
11 June 23, 1931 (P.L.932, No.317), known as The Third Class
12 City Code, the act of February 1, 1966 (1965 P.L.1656,
13 No.581), known as The Borough Code, the act of June 24, 1931
14 (P.L.1206, No.331), known as the First Class Township Code,
15 and the act of May 1, 1933 (P.L.103, No.69), known as The
16 Second Class Township Code.

17 (8) (i) To respond to a Federal or State statute,
18 regulation or order adding to or significantly altering
19 responsibilities and duties or requiring expenditure of
20 funds to the extent not funded by the Federal Government
21 or State government.

22 (ii) This paragraph shall apply only to a Federal or
23 State statute, regulation or order taking effect after
24 the effective date of this section.

25 (9) To increase revenue equal to the percentage increase
26 in the Statewide average weekly wage from the immediately
27 preceding year or 5%, whichever is less.

28 (b) Appeal.--

29 (1) A person aggrieved by a waiver of limitations
30 pursuant to this section may appeal to the court of common

1 pleas in the judicial district in which the county or
2 municipality is located.

3 (2) The following shall apply to any proceedings
4 instituted under this subsection:

5 (i) The county or municipality that is subject of
6 the appeal must show by clear and convincing evidence the
7 necessity to claim the waiver of limitations.

8 (ii) The county or municipality must show by clear
9 and convincing evidence that there are no assets or other
10 feasible alternatives available to the county or
11 municipality.

12 (iii) A person shall have standing as a party to a
13 proceeding under this subsection as long as the person
14 resides within or pays real property taxes to the taxing
15 jurisdiction of the county or municipality that is
16 subject of the appeal.

17 CHAPTER 7

18 MISCELLANEOUS PROVISIONS

19 Section 701. (Reserved).

20 Section 702. Effective date.

21 This act shall take effect immediately.