

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2461 Session of  
1980

INTRODUCED BY WILSON, SIEMINSKI, ZITTERMAN, DeVERTER, KUKOVICH,  
D. R. WRIGHT, BURNS, CESSAR, COWELL, GRUPPO, SPENCER,  
HELFRICK, PUNT, ZORD, COCHRAN, WASS, YAHNER, COLE,  
CALTAGIRONE, PRATT, KOLTER, GEIST, PYLES, DAVIES, NOYE,  
E. G. JOHNSON, GRIECO, HOFFEL AND KOWALYSHYN, APRIL 9, 1980

REFERRED TO COMMITTEE ON FINANCE, APRIL 9, 1980

AN ACT

1 Amending the act of December 31, 1965 (P.L.1257, No.511),  
2 entitled "An act empowering cities of the second class,  
3 cities of the second class A, cities of the third class,  
4 boroughs, towns, townships of the first class, townships of  
5 the second class, school districts of the second class,  
6 school districts of the third class and school districts of  
7 the fourth class including independent school districts, to  
8 levy, assess, collect or to provide for the levying,  
9 assessment and collection of certain taxes subject to maximum  
10 limitations for general revenue purposes; authorizing the  
11 establishment of bureaus and the appointment and compensation  
12 of officers, agencies and employes to assess and collect such  
13 taxes; providing for joint collection of certain taxes,  
14 prescribing certain definitions and other provisions for  
15 taxes levied and assessed upon earned income, providing for  
16 annual audits and for collection of delinquent taxes, and  
17 permitting and requiring penalties to be imposed and  
18 enforced, including penalties for disclosure of confidential  
19 information, providing an appeal from the ordinance or  
20 resolution levying such taxes to the court of quarter  
21 sessions and to the Supreme Court and Superior Court,"  
22 implementing school real property tax relief; and amending  
23 the title and certain provisions eliminating authority for  
24 school districts to levy taxes.

25 The General Assembly of the Commonwealth of Pennsylvania  
26 hereby enacts as follows:

27 Section 1. The title, act of December 31, 1965 (P.L.1257,

1 No.511), known as "The Local Tax Enabling Act," is amended to  
2 read:

3 AN ACT

4 Empowering cities of the second class, cities of the second  
5 class A, cities of the third class, boroughs, towns,  
6 townships of the first class[,] and townships of the second  
7 class[, school districts of the second class, school  
8 districts of the third class and school districts of the  
9 fourth class including independent school districts,] to  
10 levy, assess, collect or to provide for the levying,  
11 assessment and collection of certain taxes subject to maximum  
12 limitations for general revenue purposes; authorizing the  
13 establishment of bureaus and the appointment and compensation  
14 of officers, agencies and employes to assess and collect such  
15 taxes; providing for joint collection of certain taxes,  
16 prescribing certain definitions and other provisions for  
17 taxes levied and assessed upon earned income, providing for  
18 annual audits and for collection of delinquent taxes, and  
19 permitting and requiring penalties to be imposed and  
20 enforced, including penalties for disclosure of confidential  
21 information[, and providing an appeal from the ordinance or  
22 resolution levying such taxes [to the court of quarter  
23 sessions and to the Supreme Court and Superior Court].

24 Section 2. Section 2 of the act, amended December 21, 1967  
25 (P.L.878, No.391), July 1, 1978 (P.L.592, No.113) and October  
26 25, 1979 (No.74), is amended to read:

27 Section 2. Delegation of Taxing Powers and Restrictions  
28 Thereon.--The duly constituted authorities of the following  
29 political subdivisions, cities of the second class, cities of  
30 the second class A, cities of the third class, boroughs, towns,

1 townships of the first class[,] and townships of the second  
2 class, [school districts of the second class, school districts  
3 of the third class, and school districts of the fourth class, in  
4 all cases including independent school districts,] may, in their  
5 discretion, by ordinance or resolution, for general revenue  
6 purposes, levy, assess and collect or provide for the levying,  
7 assessment and collection of such taxes as they shall determine  
8 on persons, transactions, occupations, privileges, subjects and  
9 personal property within the limits of such [political  
10 subdivisions,] municipal corporations and upon the transfer of  
11 real property, or of any interest in real property, situate  
12 within the [political subdivision] municipal corporation levying  
13 and assessing the tax, regardless of where the instruments  
14 making the transfers are made, executed or delivered or where  
15 the actual settlements on such transfer take place. The taxing  
16 authority may provide that the transferee shall remain liable  
17 for any unpaid realty transfer taxes imposed by virtue of this  
18 act. Each local taxing authority may, by ordinance or  
19 resolution, exempt any person whose total income from all  
20 sources is less than three thousand two hundred dollars (\$3,200)  
21 per annum from the per capita or similar head tax, occupation  
22 tax and occupational privilege tax, or earned income tax, or any  
23 portion thereof, and may adopt regulations for the processing of  
24 claims for exemptions. Such local authorities shall not have  
25 authority by virtue of this act:

26 (1) To levy, assess and collect or provide for the levying,  
27 assessment and collection of any tax on the transfer of real  
28 property when the transfer is by will or mortgage or the  
29 intestate laws of this Commonwealth or on a transfer by the  
30 owner of previously occupied residential premises to a builder

1 of new residential premises when such previously occupied  
2 residential premises is taken in trade by such builder as part  
3 of the consideration from the purchaser of a new previously  
4 unoccupied single family residential premises or on a transfer  
5 between corporations operating housing projects pursuant to the  
6 housing and redevelopment assistance law and the shareholders  
7 thereof, or on a transfer between nonprofit industrial  
8 development agencies and industrial corporations purchasing from  
9 them, or on transfer to nonprofit industrial development  
10 agencies, or on a transfer between husband and wife, or on a  
11 transfer between persons who were previously husband and wife  
12 but who have since been divorced; provided such transfer is made  
13 within three months of the date of the granting of the final  
14 decree in divorce and the property or interest therein, subject  
15 to such transfer, was acquired by the husband and wife, or  
16 husband or wife, prior to the granting of the final decree in  
17 divorce, or on a transfer between parent and child or the spouse  
18 of such a child, or between parent and trustee for the benefit  
19 of a child or the spouse of such child, by and between a  
20 principal and straw party for the purpose of placing a mortgage  
21 or ground rent upon the premises, or on a correctional deed  
22 without consideration, or on a transfer to the United States,  
23 the Commonwealth of Pennsylvania, or to any of their  
24 instrumentalities, agencies or political subdivisions, by gift,  
25 dedication or deed in lieu of condemnation, or deed of  
26 confirmation in connection with condemnation proceedings, or  
27 reconveyance by the condemning body of the property condemned to  
28 the owner of record at the time of condemnation which  
29 reconveyance may include property line adjustments provided said  
30 reconveyance is made within one year from the date of

1 condemnation, leases, or on a conveyance to a trustee under a  
2 recorded trust agreement for the express purpose of holding  
3 title in trust as security for a debt contracted at the time of  
4 the conveyance under which the trustee is not the lender and  
5 requiring the trustee to make reconveyance to the grantor-  
6 borrower upon the repayment of the debt, or in any sheriff sale  
7 instituted by a mortgagee in which the purchaser of said sheriff  
8 sale is the mortgagee who instituted said sale, or on a  
9 privilege, transaction, subject, occupation or personal property  
10 which is now or does hereafter become subject to a State tax or  
11 license fee;

12 (2) To levy, assess or collect a tax on the gross receipts  
13 from utility service of any person or company whose rates and  
14 services are fixed and regulated by the Pennsylvania Public  
15 Utility Commission or on any public utility services rendered by  
16 any such person or company or on any privilege or transaction  
17 involving the rendering of any such public utility service;

18 (3) Except on sales of admission to places of amusement or  
19 on sales or other transfers of title or possession of property,  
20 to levy, assess or collect a tax on the privilege of employing  
21 such tangible property as is now or does hereafter become  
22 subject to a State tax; and for the purposes of this clause,  
23 real property rented for camping purposes shall not be  
24 considered a place of amusement.

25 (4) To levy, assess and collect a tax on goods and articles  
26 manufactured in such political subdivision or on the by-products  
27 of manufacture, or on minerals, timber, natural resources and  
28 farm products produced in such [political subdivision] municipal  
29 corporation or on the preparation or processing thereof for use  
30 or market, or on any privilege, act or transaction related to

1 the business of manufacturing, the production, preparation or  
2 processing of minerals, timber and natural resources, or farm  
3 products, by manufacturers, by producers and by farmers with  
4 respect to the goods, articles and products of their own  
5 manufacture, production or growth, or on any privilege, act or  
6 transaction relating to the business of processing by-products  
7 of manufacture, or on the transportation, loading, unloading or  
8 dumping or storage of such goods, articles, products or by-  
9 products; except that local authorities may levy, assess and  
10 collect taxes on the occupation, occupational privilege, per  
11 capita and earned income or net profits of natural persons  
12 engaged in the above activities whether doing business as  
13 individual proprietorship or as members of partnerships or other  
14 associations;

15 (5) [To levy, assess or collect a tax on salaries, wages,  
16 commissions, compensation and earned income of nonresidents of  
17 the political subdivisions: Provided, That this limitation (5)  
18 shall apply only to school districts of the second, third and  
19 fourth classes;

20 (6)] To levy, assess or collect a tax on personal property  
21 subject to taxation by counties or on personal property owned by  
22 persons, associations and corporations specifically exempted by  
23 law from taxation under the county personal property tax law:  
24 Provided, That this limitation [(6)] shall not apply to cities  
25 of the second class;

26 [(7)] (6) To levy, assess or collect a tax on membership in  
27 or membership dues, fees or assessment of charitable, religious,  
28 beneficial or nonprofit organizations including but not limited  
29 to sportsmens, recreational, golf and tennis clubs, girl and boy  
30 scout troops and councils;

1        [(8)] (7) To levy, assess or collect any tax on a mobilehome  
2 or house trailer subject to a real property tax unless the same  
3 tax is levied, assessed and collected on other real property in  
4 the [political subdivision.] municipal corporation;

5        [(9)] (8) To levy, assess or collect any tax on individuals  
6 for the privilege of engaging in an occupation (occupational  
7 privilege tax) except that such a tax may be levied, assessed  
8 and collected only by the [political subdivision] municipal  
9 corporation of the taxpayer's place of employment.

10        Payment of any occupational privilege tax to any [political  
11 subdivision] municipal corporation by any person pursuant to an  
12 ordinance or resolution passed or adopted under the authority of  
13 this act shall be limited to ten dollars (\$10) on each person  
14 for each calendar year.

15        The situs of such tax shall be the place of employment, but,  
16 in the event a person is engaged in more than one occupation, or  
17 an occupation which requires his working in more than one  
18 [political subdivision] municipal corporation during the  
19 calendar year, the priority of claim to collect such  
20 occupational privilege tax shall be in the following order:  
21 first, the [political subdivision] municipal corporation in  
22 which a person maintains his principal office or is principally  
23 employed; second, the [political subdivision] municipal  
24 corporation in which the person resides and works, if such a tax  
25 is levied by that [political subdivision] municipal corporation;  
26 third, the [political subdivision] municipal corporation in  
27 which a person is employed and which imposes the tax nearest in  
28 miles to the person's home. The place of employment shall be  
29 determined as of the day the taxpayer first becomes subject to  
30 the tax during the calendar year.

1 It is the intent of this provision that no person shall pay  
2 more than ten dollars (\$10) in any calendar year as an  
3 occupational privilege tax irrespective of the number of  
4 [political subdivisions] municipal corporations within which  
5 such person may be employed within any given calendar year.

6 In case of dispute, a tax receipt of the taxing authority for  
7 that calendar year declaring that the taxpayer has made prior  
8 payment which constitutes prima facie certification of payment  
9 to all other [political subdivisions] municipal corporations.

10 [(10)] (9) To levy, assess or collect a tax on admissions to  
11 motion picture theatres: Provided, That this limitation [(10)]  
12 shall not apply to cities of the second class.

13 Section 3. Section 8 of the act, amended December 27, 1967  
14 (P.L.894, No.404), is amended to read:

15 Section 8. Limitations on Rates of Specific Taxes.--No taxes  
16 levied under the provisions of this act shall be levied by any  
17 [political subdivision] municipal corporation on the following  
18 subjects exceeding the rates specified in this section:

19 (1) Per capita, poll or other similar head taxes, [ten  
20 dollars (\$10)] five dollars (\$5).

21 (2) On each dollar of the whole volume of business  
22 transacted by wholesale dealers in goods, wares and merchandise,  
23 [one] one-half mill, by retail dealers in goods, wares and  
24 merchandise and by proprietors of restaurants or other places  
25 where food, drink and refreshments are served, [one and one-half  
26 mills] three-quarter mill; except in cities of the second class,  
27 where rates shall not exceed [one] one-half mill on wholesale  
28 dealers and [two mills] one mill on retail dealers and  
29 proprietors. No such tax shall be levied on the dollar volume of  
30 business transacted by wholesale and retail dealers derived from



1 the resale of goods, wares and merchandise, taken by any dealer  
2 as a trade-in or as part payment for other goods, wares and  
3 merchandise, except to the extent that the resale price exceeds  
4 the trade-in allowance.

5 (3) On wages, salaries, commissions and other earned income  
6 of individuals, [one percent] one-half percent.

7 (4) On retail sales involving the transfer of title or  
8 possession of tangible personal property, [two percent] one  
9 percent.

10 (5) On the transfer of real property, [one percent] one-half  
11 percent.

12 (6) On admissions to places of amusement, athletic events  
13 and the like, and on motion picture theatres in cities of the  
14 second class, [ten percent] five percent.

15 (7) Flat rate occupation taxes not using a millage or  
16 percentage as a basis, [ten dollars (\$10)] five dollars (\$5).

17 (8) Occupational privilege taxes, [ten dollars (\$10)] five  
18 dollars (\$5).

19 [Except as otherwise provided in this act, at any time two  
20 political subdivisions shall impose any one of the above taxes  
21 on the same person, subject, business, transaction or privilege,  
22 located within both such political subdivisions, during the same  
23 year or part of the same year, under the authority of this act  
24 then the tax levied by a political subdivision under the  
25 authority of this act shall, during the time such duplication of  
26 the tax exists, except as hereinafter otherwise provided, be  
27 one-half of the rate, as above limited, and such one-half rate  
28 shall become effective by virtue of the requirements of this act  
29 from the day such duplication becomes effective without any  
30 action on the part of the political subdivision imposing the tax

1 under the authority of this act. When any one of the above taxes  
2 has been levied under the provisions of this act by one  
3 political subdivision and a subsequent levy is made either for  
4 the first time or is revived after a lapse of time by another  
5 political subdivision on the same person, subject, business,  
6 transaction or privilege at a rate that would make the combined  
7 levies exceed the limit allowed by this subdivision, the tax of  
8 the second political subdivision shall not become effective  
9 until the end of the fiscal year for which the prior tax was  
10 levied, unless:

11 (1) Notice indicating its intention to make such levy is  
12 given to the first taxing body by the second taxing body as  
13 follows: (i) when the notice is given to a school district it  
14 shall be given at least forty-five days prior to the last day  
15 fixed by law for the levy of its school taxes; (ii) when given  
16 to any other political subdivision it shall be prior to the  
17 first day of January immediately preceding, or if a last day for  
18 the adoption of the budget is fixed by law, at least forty-five  
19 days prior to such last day; or

20 (2) Unless the first taxing body shall indicate by  
21 appropriate resolution its desire to waive notice requirements  
22 in which case the levy of the second taxing body shall become  
23 effective on such date as may be agreed upon by the two taxing  
24 bodies.

25 It is the intent and purpose of this provision to limit rates  
26 of taxes referred to in this section so that the entire burden  
27 of one tax on a person, subject, business, transaction or  
28 privilege shall not exceed the limitations prescribed in this  
29 section: Provided, however, That any two political subdivisions  
30 which impose any one of the above taxes, on the same person,

1 subject, business, transaction or privilege during the same year  
2 or part of the same year may agree among themselves that,  
3 instead of limiting their respective rates to one-half of the  
4 maximum rate herein provided, they will impose respectively  
5 different rates, the total of which shall not exceed the maximum  
6 rate as above permitted.

7 Notwithstanding the provisions of this section, any city of  
8 the second class A may enact a tax upon wages, salaries,  
9 commissions and other earned income of individuals resident  
10 therein, not exceeding one percent, even though a school  
11 district levies a similar tax on the same person provided that  
12 the aggregate of both taxes does not exceed two percent.]

13 If the municipal corporation levies and collects a tax in its  
14 fiscal year 1980 that exceeds the rate provided for in this  
15 section, the municipal corporation may continue to levy and  
16 collect the tax at the rate imposed as of its fiscal year 1980.

17 Section 4. This act shall take effect immediately upon the  
18 enactment of companion legislation amending the act of March 10,  
19 1949 (P.L.30, No.14), known as the "Public School Code of 1949,"  
20 implementing school real property tax relief.