

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 284 Session of  
2005

INTRODUCED BY BOSCOLA, FERLO, KASUNIC, C. WILLIAMS, WAUGH,  
GREENLEAF AND WONDERLING, FEBRUARY 15, 2005

REFERRED TO FINANCE, FEBRUARY 15, 2005

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 further providing for delegation of taxing powers and  
23 restrictions thereon.

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

26 Section 1. Section 2 of the act of December 31, 1965  
27 (P.L.1257, No.511), known as The Local Tax Enabling Act, amended  
28 December 1, 2004 (P.L.1729, No.222), is amended to read:

1       Section 2.   Delegation of Taxing Powers and Restrictions  
2   Thereon.--The duly constituted authorities of the following  
3   political subdivisions, cities of the second class, cities of  
4   the second class A, cities of the third class, boroughs, towns,  
5   townships of the first class, townships of the second class,  
6   school districts of the second class, school districts of the  
7   third class, and school districts of the fourth class, in all  
8   cases including independent school districts, may, in their  
9   discretion, by ordinance or resolution, for general revenue  
10   purposes, levy, assess and collect or provide for the levying,  
11   assessment and collection of such taxes as they shall determine  
12   on persons, transactions, occupations, privileges, subjects and  
13   personal property within the limits of such political  
14   subdivisions, and upon the transfer of real property, or of any  
15   interest in real property, situate within the political  
16   subdivision levying and assessing the tax, regardless of where  
17   the instruments making the transfers are made, executed or  
18   delivered or where the actual settlements on such transfer take  
19   place. The taxing authority may provide that the transferee  
20   shall remain liable for any unpaid realty transfer taxes imposed  
21   by virtue of this act. Each local taxing authority [may] shall,  
22   by ordinance or resolution, exempt any person whose total income  
23   from all sources is less than twelve thousand dollars (\$12,000)  
24   per annum from the per capita or similar head tax, occupation  
25   tax and emergency and municipal services tax, or earned income  
26   tax, or any portion thereof, and [may] shall adopt regulations  
27   for the processing of claims for exemptions. Such local  
28   authorities shall not have authority by virtue of this act:

29       (1) To levy, assess and collect or provide for the levying,  
30   assessment and collection of any tax on the transfer of real

1 property when the transfer is by will or mortgage or the  
2 intestate laws of this Commonwealth or on a transfer by the  
3 owner of previously occupied residential premises to a builder  
4 of new residential premises when such previously occupied  
5 residential premises is taken in trade by such builder as part  
6 of the consideration from the purchaser of a new previously  
7 unoccupied single family residential premises or on a transfer  
8 between corporations operating housing projects pursuant to the  
9 housing and redevelopment assistance law and the shareholders  
10 thereof, or on a transfer between nonprofit industrial  
11 development agencies and industrial corporations purchasing from  
12 them, or on transfer to or from nonprofit industrial development  
13 agencies, or on a transfer between husband and wife, or on a  
14 transfer between persons who were previously husband and wife  
15 but who have since been divorced; provided such transfer is made  
16 within three months of the date of the granting of the final  
17 decree in divorce, or the decree of equitable distribution of  
18 marital property, whichever is later, and the property or  
19 interest therein, subject to such transfer, was acquired by the  
20 husband and wife, or husband or wife, prior to the granting of  
21 the final decree in divorce, or on a transfer between parent and  
22 child or the spouse of such a child, or between parent and  
23 trustee for the benefit of a child or the spouse of such child,  
24 or on a transfer between a grandparent and grandchild or the  
25 spouse of such grandchild, or on a transfer between brother and  
26 sister or brother and brother or sister and sister or the spouse  
27 of such brother or sister, or on a transfer to a conservancy  
28 which possesses a tax-exempt status pursuant to section  
29 501(c)(3) of the Internal Revenue Code, and which has as its  
30 primary purpose the preservation of land for historic,

1 recreational, scenic, agricultural or open space opportunities,  
2 by and between a principal and straw party for the purpose of  
3 placing a mortgage or ground rent upon the premises, or on a  
4 correctional deed without consideration, or on a transfer to the  
5 United States, the Commonwealth of Pennsylvania, or to any of  
6 their instrumentalities, agencies or political subdivisions, by  
7 gift, dedication or deed in lieu of condemnation, or deed of  
8 confirmation in connection with condemnation proceedings, or  
9 reconveyance by the condemning body of the property condemned to  
10 the owner of record at the time of condemnation which  
11 reconveyance may include property line adjustments provided said  
12 reconveyance is made within one year from the date of  
13 condemnation, leases, or on a conveyance to a trustee under a  
14 recorded trust agreement for the express purpose of holding  
15 title in trust as security for a debt contracted at the time of  
16 the conveyance under which the trustee is not the lender and  
17 requiring the trustee to make reconveyance to the grantor-  
18 borrower upon the repayment of the debt, or a transfer within a  
19 family from a sole proprietor family member to a family farm  
20 corporation, or in any sheriff sale instituted by a mortgagee in  
21 which the purchaser of said sheriff sale is the mortgagee who  
22 instituted said sale, or on a privilege, transaction, subject,  
23 occupation or personal property which is now or does hereafter  
24 become subject to a State tax or license fee;

25       (2) To levy, assess or collect a tax on the gross receipts  
26 from utility service of any person or company whose rates and  
27 services are fixed and regulated by the Pennsylvania Public  
28 Utility Commission or on any public utility services rendered by  
29 any such person or company or on any privilege or transaction  
30 involving the rendering of any such public utility service;

1       (3) Except on sales of admission to places of amusement or  
2 on sales or other transfers of title or possession of property,  
3 to levy, assess or collect a tax on the privilege of employing  
4 such tangible property as is now or does hereafter become  
5 subject to a State tax; and for the purposes of this clause,  
6 real property rented for camping purposes shall not be  
7 considered a place of amusement.

8       (4) To levy, assess and collect a tax on goods and articles  
9 manufactured in such political subdivision or on the by-products  
10 of manufacture, or on minerals, timber, natural resources and  
11 farm products produced in such political subdivision or on the  
12 preparation or processing thereof for use or market, or on any  
13 privilege, act or transaction related to the business of  
14 manufacturing, the production, preparation or processing of  
15 minerals, timber and natural resources, or farm products, by  
16 manufacturers, by producers and by farmers with respect to the  
17 goods, articles and products of their own manufacture,  
18 production or growth, or on any privilege, act or transaction  
19 relating to the business of processing by-products of  
20 manufacture, or on the transportation, loading, unloading or  
21 dumping or storage of such goods, articles, products or by-  
22 products; except that local authorities may levy, assess and  
23 collect an emergency and municipal services tax and taxes on the  
24 occupation, per capita and earned income or net profits of  
25 natural persons engaged in the above activities whether doing  
26 business as individual proprietorship or as members of  
27 partnerships or other associations;

28       (5) To levy, assess or collect a tax on salaries, wages,  
29 commissions, compensation and earned income of nonresidents of  
30 the political subdivisions: Provided, That this limitation (5)

1 shall apply only to school districts of the second, third and  
2 fourth classes;

3 (6) To levy, assess or collect a tax on personal property  
4 subject to taxation by counties or on personal property owned by  
5 persons, associations and corporations specifically exempted by  
6 law from taxation under the county personal property tax law:  
7 Provided, That this limitation (6) shall not apply to cities of  
8 the second class;

9 (7) To levy, assess or collect a tax on membership in or  
10 membership dues, fees or assessment of charitable, religious,  
11 beneficial or nonprofit organizations including but not limited  
12 to sportsmens, recreational, golf and tennis clubs, girl and boy  
13 scout troops and councils;

14 (8) To levy, assess or collect any tax on a mobilehome or  
15 house trailer subject to a real property tax unless the same tax  
16 is levied, assessed and collected on other real property in the  
17 political subdivision.

18 (9) To levy, assess or collect any tax on individuals for  
19 the privilege of engaging in an occupation (emergency and  
20 municipal services tax) except that such a tax may be levied,  
21 assessed and collected only by the political subdivision of the  
22 taxpayer's place of employment.

23 Payment of any emergency and municipal services tax to any  
24 political subdivision by any person pursuant to an ordinance or  
25 resolution passed or adopted under the authority of this act  
26 shall be no less than ten dollars (\$10) nor more than fifty-two  
27 dollars (\$52) on each person for each calendar year.

28 The situs of such tax shall be the place of employment, but,  
29 in the event a person is engaged in more than one occupation, or  
30 an occupation which requires his working in more than one

1 political subdivision during the calendar year, the priority of  
2 claim to collect such emergency and municipal services tax shall  
3 be in the following order: first, the political subdivision in  
4 which a person maintains his principal office or is principally  
5 employed; second, the political subdivision in which the person  
6 resides and works, if such a tax is levied by that political  
7 subdivision; third, the political subdivision in which a person  
8 is employed and which imposes the tax nearest in miles to the  
9 person's home. The place of employment shall be determined as of  
10 the day the taxpayer first becomes subject to the tax during the  
11 calendar year.

12 It is the intent of this provision that no person shall pay  
13 more than fifty-two dollars (\$52) in any calendar year as an  
14 emergency and municipal services tax irrespective of the number  
15 of political subdivisions within which such person may be  
16 employed within any given calendar year.

17 In case of dispute, a tax receipt of the taxing authority for  
18 that calendar year declaring that the taxpayer has made prior  
19 payment which constitutes prima facie certification of payment  
20 to all other political subdivisions.

21 (10) To levy, assess or collect a tax on admissions to  
22 motion picture theatres: Provided, That this limitation (10)  
23 shall not apply to cities of the second class.

24 (11) To levy, assess or collect a tax on the construction of  
25 or improvement to residential dwellings or upon the application  
26 for or issuance of permits for the construction of or  
27 improvements to residential dwellings.

28 (12) To levy, assess and collect a mercantile or business  
29 privilege tax on gross receipts or part thereof which are: (i)  
30 discounts allowed to purchasers as cash discounts for prompt

1 payment of their bills; (ii) charges advanced by a seller for  
2 freight, delivery or other transportation for the purchaser in  
3 accordance with the terms of a contract of sale; (iii) received  
4 upon the sale of an article of personal property which was  
5 acquired by the seller as a trade-in to the extent that the  
6 gross receipts in the sale of the article taken in trade does  
7 not exceed the amount of trade-in allowance made in acquiring  
8 such article; (iv) refunds, credits or allowances given to a  
9 purchaser on account of defects in goods sold or merchandise  
10 returned; (v) Pennsylvania sales tax; (vi) based on the value of  
11 exchanges or transfers between one seller and another seller who  
12 transfers property with the understanding that property of an  
13 identical description will be returned at a subsequent date;  
14 however, when sellers engaged in similar lines of business  
15 exchange property and one of them makes payment to the other in  
16 addition to the property exchanged, the additional payment  
17 received may be included in the gross receipts of the seller  
18 receiving such additional cash payments; (vii) of sellers from  
19 sales to other sellers in the same line where the seller  
20 transfers the title or possession at the same price for which  
21 the seller acquired the merchandise; or (viii) transfers between  
22 one department, branch or division of a corporation or other  
23 business entity of goods, wares and merchandise to another  
24 department, branch or division of the same corporation or  
25 business entity and which are recorded on the books to reflect  
26 such interdepartmental transactions.

27 (13) To levy, assess or collect an amusement or admissions  
28 tax on membership, membership dues, fees or assessments,  
29 donations, contributions or monetary charges of any character  
30 whatsoever paid by the general public, or a limited or selected



1 number thereof, for such persons to enter into any place,  
2 indoors or outdoors, to engage in any activities, the  
3 predominant purpose or nature of which is exercise, fitness,  
4 health maintenance, improvement or rehabilitation, health or  
5 nutrition education, or weight control.

6 (14) Except by cities of the second class, to levy, assess  
7 or collect a tax on payroll amounts generated as a result of  
8 business activity.

9 (15) Except by cities of the second class in which a sports  
10 stadium or arena that has received public funds in connection  
11 with its construction or maintenance is located, to levy, assess  
12 and collect a publicly funded facility usage fee upon those  
13 nonresident individuals who use such facility to engage in an  
14 athletic event or otherwise render a performance for which they  
15 receive remuneration.

16 (16) To levy, assess or collect an amusement or admissions  
17 tax on the charge imposed upon a patron for the sale of  
18 admission to or for the privilege of admission to a bowling  
19 alley or bowling lane to engage in one or more games of bowling.

20 Section 2. This act shall take effect immediately.