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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**  
**No. 1001** Session of  
1987

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INTRODUCED BY ANGSTADT, PETRONE, NOYE, TIGUE, HERSHEY, DISTLER,  
CIVERA, BUNT AND JOHNSON, APRIL 7, 1987

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REFERRED TO COMMITTEE ON FINANCE, APRIL 7, 1987

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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 granting school districts additional powers to tax the income  
23 of individuals; and authorizing an optional taxing district  
24 personal income tax equivalent with certain limitations and  
25 restrictions.

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

28 Section 1. The title of the act of December 31, 1965  
29 (P.L.1257, No.511), known as The Local Tax Enabling Act, is

1 amended to read:

2 AN ACT

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

23 Section 2. Section 8 of the act, amended October 11, 1984  
24 (P.L.885, No.172), is amended to read:

25 Section 8. Limitations on Rates of Specific Taxes.--(a) No  
26 taxes levied under the provisions of this act shall be levied by  
27 any political subdivision on the following subjects exceeding  
28 the rates specified in this section:

29 (1) Per capita, poll or other similar head taxes, ten  
30 dollars (\$10).

1 (2) On each dollar of the whole volume of business  
2 transacted by wholesale dealers in goods, wares and merchandise,  
3 one mill, by retail dealers in goods, wares and merchandise and  
4 by proprietors of restaurants or other places where food, drink  
5 and refreshments are served, one and one-half mills; except in  
6 cities of the second class, where rates shall not exceed one  
7 mill on wholesale dealers and two mills on retail dealers and  
8 proprietors. No such tax shall be levied on the dollar volume of  
9 business transacted by wholesale and retail dealers derived from  
10 the resale of goods, wares and merchandise, taken by any dealer  
11 as a trade-in or as part payment for other goods, wares and  
12 merchandise, except to the extent that the resale price exceeds  
13 the trade-in allowance.

14 (3) [On] (i) Except as hereinafter provided, on wages,  
15 salaries, commissions and other earned income of individuals,  
16 one percent[.] for political subdivisions and for any school  
17 district which declines to use the optional income tax  
18 provisions in section 13.1.

19 (ii) When a school district utilizes the optional tax  
20 provisions of section 13.1, all income of individuals shall be  
21 taxable and no rate limitation shall be imposed on any school  
22 district which utilizes such optional tax provisions.

23 (4) On retail sales involving the transfer of title or  
24 possession of tangible personal property, two percent.

25 (5) On the transfer of real property, one percent.

26 (6) On admissions to places of amusement, athletic events  
27 and the like, and on motion picture theaters in cities of the  
28 second class, ten percent.

29 (7) Flat rate occupation taxes not using a millage or  
30 percentage as a basis, ten dollars (\$10).

1 (8) Occupational privilege taxes, ten dollars (\$10).

2 (9) On admissions to ski facilities, ten percent. The tax  
3 base upon which the tax shall be levied shall not exceed forty  
4 percent of the cost of the lift ticket. The lift ticket shall  
5 include all costs of admissions to the ski facility.

6 (10) On admissions to golf courses, ten percent. The tax  
7 base upon which the tax shall be levied shall not exceed forty  
8 percent of the greens fee. The greens fee shall include all  
9 costs of admissions to the golf course.

10 (b) Except as otherwise provided in this act and except when  
11 a school district imposes the optional income tax set forth in  
12 section 13.1, at any time two political subdivisions shall  
13 impose any one of the above taxes on the same person, subject,  
14 business, transaction or privilege, located within both such  
15 political subdivisions, during the same year or part of the same  
16 year, under the authority of this act then the tax levied by a  
17 political subdivision under the authority of this act shall,  
18 during the time such duplication of the tax exists, except as  
19 hereinafter otherwise provided, be one-half of the rate, as  
20 above limited, and such one-half rate shall become effective by  
21 virtue of the requirements of this act from the day such  
22 duplication becomes effective without any action on the part of  
23 the political subdivision imposing the tax under the authority  
24 of this act. When any one of the above taxes has been levied  
25 under the provisions of this act by one political subdivision  
26 and a subsequent levy is made either for the first time or is  
27 revived after a lapse of time by another political subdivision  
28 on the same person, subject, business, transaction or privilege  
29 at a rate that would make the combined levies exceed the limit  
30 allowed by this subdivision, the tax of the second political

1 subdivision shall not become effective until the end of the  
2 fiscal year for which the prior tax was levied, unless:

3 (1) Notice indicating its intention to make such levy is  
4 given to the first taxing body by the second taxing body as  
5 follows: (i) when the notice is given to a school district it  
6 shall be given at least forty-five days prior to the last day  
7 fixed by law for the levy of its school taxes; (ii) when given  
8 to any other political subdivision it shall be prior to the  
9 first day of January immediately preceding, or if a last day for  
10 the adoption of the budget is fixed by law, at least forty-five  
11 days prior to such last day; or

12 (2) Unless the first taxing body shall indicate by  
13 appropriate resolution its desire to waive notice requirements  
14 in which case the levy of the second taxing body shall become  
15 effective on such date as may be agreed upon by the two taxing  
16 bodies.

17 (c) It is the intent and purpose of this provision to limit  
18 rates of taxes referred to in this section so that the entire  
19 burden of one tax on a person, subject, business, transaction or  
20 privilege shall not exceed the limitations prescribed in this  
21 section: Provided, however, That any two political subdivisions  
22 which impose any one of the above taxes, on the same person,  
23 subject, business, transaction or privilege during the same year  
24 or part of the same year may agree among themselves that,  
25 instead of limiting their respective rates to one-half of the  
26 maximum rate herein provided, they will impose respectively  
27 different rates, the total of which shall not exceed the maximum  
28 rate as above permitted.

29 (d) Notwithstanding the provisions of this section, any city  
30 of the second class A may enact a tax upon wages, salaries,

1 commissions and other earned income of individuals resident  
2 therein, not exceeding one percent, even though a school  
3 district levies a similar tax on the same person provided that  
4 the aggregate of both taxes does not exceed two percent.

5 Section 3. Sections 10(b), 11 and 12 of the act are amended  
6 to read:

7 Section 10. Collection of Taxes.--\* \* \*

8 (b) Single Collector for [Earned] Income Taxes When Certain  
9 School Districts Impose Such Taxes.--Whenever a school district  
10 of the second, third or fourth class shall be established  
11 pursuant to section 296, act of March 10, 1949 (P.L.30), known  
12 as the "Public School Code of 1949," added August 8, 1963 (P.L.  
13 564), and such school district shall levy, assess and collect or  
14 provide for the levying, assessment and collection of [a] any  
15 tax upon [earned] income, such school district and all cities,  
16 boroughs, towns and townships within its geographical limits  
17 which levy, assess and collect or provide for the levying,  
18 assessment and collection of [a] any tax upon [earned] income,  
19 may on January 1, 1967, or as soon thereafter as the school  
20 district shall provide for the levying, assessment and  
21 collection of any taxes upon [earned] income, select one person  
22 or agency to collect the taxes upon [earned] income imposed by  
23 all such political subdivisions. In selecting such person or  
24 agency, each political subdivision shall share in the selection  
25 upon a basis agreed upon by each political subdivision, or in  
26 the absence of any agreement on the basis of voting according to  
27 the proportion that the population of each bears to the entire  
28 population of the combined collection district, according to the  
29 latest official Federal census, and the majority of such votes  
30 cast shall determine the person or agency selected to collect

1 the taxes. The provisions of this paragraph shall not prohibit  
2 school districts and other political subdivisions which levy,  
3 assess and collect or provide for the levying, assessment and  
4 collection of any taxes upon [earned] income, under authority of  
5 this act, from selecting the same person or agency to collect  
6 such tax upon [earned] income in an area larger than the  
7 geographical limits of a school district established pursuant to  
8 section 296 of the "Public School Code of 1949."

9 Section 11. Audits of [Earned] Income Taxes.--Except in  
10 cities of the second class, the governing body of each political  
11 subdivision which levies, assesses and collects or provides for  
12 the levying, assessment and collection of [a] any tax upon  
13 [earned] income, shall provide for not less than one examination  
14 each year of the books, accounts and records of the income tax  
15 collector, by a certified public accountant, a firm of certified  
16 public accountants, a competent independent public accountant,  
17 or a firm of independent public accountants appointed by the  
18 governing body. Whenever one person or agency is selected to  
19 collect [earned] any income taxes for more than one political  
20 subdivision, the books, accounts and records of such person or  
21 agency shall be examined as provided above in the case of a tax  
22 collector for each political subdivision, except that the  
23 accountant shall be selected in the manner provided for  
24 selection of one person or agency to collect [earned] any income  
25 taxes for the school district established under section 296 of  
26 the "Public School Code of 1949," and the cities, boroughs,  
27 towns and townships within the geographical limits of such  
28 school district. The reports of the audit shall be sent to the  
29 governing body or bodies of the political subdivision or  
30 political subdivisions employing the accountant. No further or

1 additional audit shall be performed by elected or appointed  
2 auditors.

3 Section 12. Audits of Taxes Other Than [Earned] Income  
4 Taxes.--The books, accounts and records of persons collecting  
5 taxes pursuant to this act, other than taxes levied, assessed  
6 and collected upon [earned] income, shall be audited, adjusted  
7 and settled in the manner prescribed by law for the auditing,  
8 adjusting and settling of accounts of persons receiving or  
9 expending funds of the political subdivision which has levied,  
10 assessed and collected the taxes pursuant to this act, other  
11 than taxes levied, assessed and collected upon [earned] income.

12 Section 4. The introductory paragraph, divisions I and II  
13 and subdivision B of division III of section 13 of the act,  
14 amended October 4, 1978 (P.L.930, No.177), are amended to read:

15 Section 13. [Earned] Income Taxes.--On and after the  
16 effective date of this act the remaining provisions of this  
17 section shall be included in or construed to be a part of each  
18 tax levied and assessed upon [earned] any portion of income by  
19 any political subdivision levying and assessing such tax  
20 pursuant to this act. The definitions contained in this section  
21 shall be exclusive for any tax upon [earned] any portion of  
22 income and net profits levied and assessed pursuant to this act,  
23 and shall not be altered or changed by any political subdivision  
24 levying and assessing such tax.

25 I. Definitions

26 "Association." A partnership, limited partnership, or any  
27 other unincorporated group of two or more persons.

28 "Business." An enterprise, activity, profession or any other  
29 undertaking of an unincorporated nature conducted for profit or  
30 ordinarily conducted for profit whether by a person,

1 partnership, association, or any other entity.

2 "Corporation." A corporation or joint stock association  
3 organized under the laws of the United States, the Commonwealth  
4 of Pennsylvania, or any other state, territory, foreign country  
5 or dependency.

6 "Current year." The calendar year for which the tax is  
7 levied.

8 "Domicile." The place where one lives and has his permanent  
9 home and to which he has the intention of returning whenever he  
10 is absent. Actual residence is not necessarily domicile, for  
11 domicile is the fixed place of abode which, in the intention of  
12 the taxpayer, is permanent rather than transitory. Domicile is  
13 the voluntarily fixed place of habitation of a person, not for a  
14 mere special or limited purpose, but with the present intention  
15 of making a permanent home, until some event occurs to induce  
16 him to adopt some other permanent home. In the case of  
17 businesses, or associations, the domicile is that place  
18 considered as the center of business affairs and the place where  
19 its functions are discharged.

20 "Earned income." Salaries, wages, commissions, bonuses,  
21 incentive payments, fees, tips and other compensation received  
22 by a person or his personal representative for services  
23 rendered, whether directly or through an agent, and whether in  
24 cash or in property; not including, however, wages or  
25 compensation paid to persons on active military service,  
26 periodic payments for sickness and disability other than regular  
27 wages received during a period of sickness, disability or  
28 retirement or payments arising under workmen's compensation  
29 acts, occupational disease acts and similar legislation, or  
30 payments commonly recognized as old age benefits, retirement pay

1 or pensions paid to persons retired from service after reaching  
2 a specific age or after a stated period of employment or  
3 payments commonly known as public assistance, or unemployment  
4 compensation payments made by any governmental agency or  
5 payments to reimburse expenses or payments made by employers or  
6 labor unions for wage and salary supplemental programs,  
7 including, but not limited to, programs covering  
8 hospitalization, sickness, disability or death, supplemental  
9 unemployment benefits, strike benefits, social security and  
10 retirement.

11 "Income tax officer or officer." Person, public employe or  
12 private agency designated by governing body to collect and  
13 administer the tax on [earned] income and net profits.

14 "Employer." A person, partnership, association, corporation,  
15 institution, governmental body or unit or agency, or any other  
16 entity employing one or more persons for a salary, wage,  
17 commission or other compensation.

18 "Net profits." The net income from the operation of a  
19 business, profession, or other activity, except corporations,  
20 after provision for all costs and expenses incurred in the  
21 conduct thereof, determined either on a cash or accrual basis in  
22 accordance with the accounting system used in such business,  
23 profession, or other activity, but without deduction of taxes  
24 based on income.

25 "Nonresident." A person, partnership, association or other  
26 entity domiciled outside the taxing district.

27 "Person or individual." A natural person.

28 "Preceding year." The calendar year before the current year.

29 "Resident." A person, partnership, association or other  
30 entity domiciled in the taxing district.

1 "Succeeding year." The calendar year following the current  
2 year.

3 "Taxpayer." A person, partnership, association, or any other  
4 entity, required hereunder to file a return of [earned] any  
5 income or net profits, or to pay a tax thereon.

6 II. Imposition of Tax

7 The tax levied under this act shall be applicable to [earned]  
8 any portion of income received and to net profits earned in the  
9 period beginning January 1, of the current year, and ending  
10 December 31, of the current year or for taxpayer fiscal years  
11 beginning in the current year, except that taxes imposed for the  
12 first time shall become effective from the date specified in the  
13 ordinance or resolution, and the tax shall continue in force on  
14 a calendar year or taxpayer fiscal year basis, without annual  
15 reenactment, unless the rate of the tax is subsequently changed.  
16 Changes in rate shall become effective on the date specified in  
17 the ordinance.

18 III. Declaration and Payment of Tax

19 \* \* \*

20 B. [Earned] Income.

21 Annual [Earned] Income Tax Return.

22 At the election of the governing body every taxpayer shall,  
23 on or before April 15, of the succeeding year, make and file  
24 with the officer on a form prescribed or approved by the officer  
25 a final return showing the amount of [earned] any portion of  
26 income received during the period beginning January 1, of the  
27 current year, and ending December 31, of the current year, the  
28 total amount of tax due thereon, the amount of tax paid thereon,  
29 the amount of tax thereon that has been withheld pursuant to the  
30 provisions relating to the collection at source and the balance

1 of tax due. At the time of filing the final return, the taxpayer  
2 shall pay the balance of the tax due or shall make demand for  
3 refund or credit in the case of overpayment.

4 [Earned] Income Not Subject to Withholding.

5 Every taxpayer who is employed for a salary, wage,  
6 commission, or other compensation and who received any [earned]  
7 portion of income not subject to the provisions relating to  
8 collection at source, shall as the governing body elects:

9 (1) Make and file with the officer on a form prescribed or  
10 approved by the officer, an annual return setting forth the  
11 aggregate amount of [earned] such income not subject to  
12 withholding from him during the period beginning January 1, and  
13 ending December 31, of the current year, and such other  
14 information as the officer may require, and pay to the officer  
15 the amount of tax shown as due thereon on or before April 15, of  
16 the succeeding year, or

17 (2) Make and file with the officer on a form prescribed or  
18 approved by the officer, a quarterly return on or before April  
19 30, of the current year, July 31, of the current year, October  
20 31, of the current year, and January 31, of the succeeding year,  
21 setting forth the aggregate amount of [earned] income not  
22 subject to withholding by him during the three-month periods  
23 ending March 31, of the current year, June 30, of the current  
24 year, September 30, of the current year, and December 31, of the  
25 current year, respectively, and subject to the tax, together  
26 with such other information as the officer may require. Every  
27 taxpayer making such return shall, at the time of filing  
28 thereof, pay to the officer the amount of tax shown as due  
29 thereon.

30

\* \* \*

1 Section 5. The act is amended by adding a section to read:

2 Section 13.1 Optional Personal Income Tax Equivalent

3 Authorization for School Districts.--(a) Subject to the

4 limitations set forth in subsection (c), a taxing district, in

5 addition to any other taxes authorized by law, may provide by

6 ordinance or resolution for a real property tax equivalency

7 levied upon the personal income of the residents of its

8 district. The taxing district shall first determine the

9 necessary uniform real property tax levy to meet their budget

10 needs for the fiscal year. The portion of any real property tax

11 necessary to meet this requirement would be satisfied by the

12 equivalent amount of personal income tax levy. Each year the

13 Department of Education for school districts shall calculate the

14 personal income tax equivalent of each mill of real property

15 tax. The departments shall use the assessed value of real

16 property located within each taxing district as certified to the

17 department by the State Tax Equalization Board and the personal

18 income reported of the residents of each taxing district as

19 certified to the departments by the Secretary of Revenue in this

20 calculation.

21 (b) The tax imposed in subsection (a) shall be subject to

22 the provisions of section 13 relating to the collection of,

23 reporting of, withholding of and the payment and penalties for

24 late payments of an earned income tax.

25 (c) Every taxing district which imposes the equivalency tax

26 authorized in subsection (a) shall not impose or collect any

27 real property tax.

28 (d) Whenever a taxing district initially imposes the tax

29 authorized in subsection (a), such taxing district shall retain

30 that tax structure for a period of at least two years.

1 Thereafter, whenever such taxing district desires to change its  
2 tax structure by utilizing the options available in this act,  
3 such change as the taxing district effects shall be continued  
4 for a period of at least six years.

5 (e) Any taxing district which does not choose to impose the  
6 tax set forth in subsection (a) shall be limited to imposing any  
7 income tax provided in this act only upon the earned income of  
8 the residential taxpayer.

9 (f) As used in this section the following words and phrases  
10 shall have the meanings given to them in this subsection:

11 "Income." (1) The following classifications shall  
12 constitute income for purposes of this section:

13 (i) Compensation. All salaries, wages, commissions, bonuses  
14 and incentive payments, whether based on profits or otherwise,  
15 fees, tips and similar remuneration received for services  
16 rendered, whether directly or through an agent and whether in  
17 cash or in property, except income derived from the United  
18 States Government for active duty outside the Commonwealth of  
19 Pennsylvania as a member of its armed forces.

20 (ii) Net profits. The net income from the operation of a  
21 business, profession, or other activity, except corporations,  
22 after provision for all costs and expenses incurred in the  
23 conduct thereof, determined either on a cash or accrual basis in  
24 accordance with accepted accounting principles and practices but  
25 without deduction of taxes based on income.

26 (iii) Net gains or income from disposition of property. Net  
27 gains or net income, less net losses, derived from the sale,  
28 exchange or other disposition of property, including real or  
29 personal, whether tangible or intangible as determined in  
30 accordance with accepted accounting principles and practices.

1 For the purpose of this act, for the determination of the basis  
2 of any property, real and personal, if acquired prior to June 1,  
3 1971, the date of acquisition shall be adjusted to June 1, 1971,  
4 as if the property had been acquired on that date. If the  
5 property was acquired after June 1, 1971, the actual date of  
6 acquisition shall be used in determination of the basis. The  
7 term "net gains or income" shall not include gains or income  
8 derived from obligations which are statutorily free from State  
9 or local taxation under any other act of the General Assembly of  
10 the Commonwealth of Pennsylvania or under the laws of the United  
11 States. The term "sale, exchange or other disposition" shall not  
12 include the exchange of stock or securities in a corporation a  
13 party to a reorganization in pursuance of a plan of  
14 reorganization, solely for stock or securities in such  
15 corporation or in another corporation a party to the  
16 reorganization and the transfer of property to a corporation by  
17 one or more persons solely in exchange for stock or securities  
18 in such corporation if immediately after the exchange, such  
19 person or persons are in control of the corporation. For  
20 purposes of this clause, stock or securities issued for services  
21 shall not be considered as issued in return for property.

22 (iv) Net gains or income derived from or in the form of  
23 rents, royalties, patents and copyrights.

24 (v) Dividends.

25 (vi) Interest derived from obligations which are not  
26 statutorily free from State or local taxation under any other  
27 act of the General Assembly of the Commonwealth of Pennsylvania  
28 or under the laws of the United States.

29 (vii) Gambling and lottery winnings.

30 (viii) Net gains or income derived through estates or

1 trusts.

2 (2) To the extent that income or gain is subject to tax  
3 under one of the classes of income enumerated in this  
4 definition, such income or gain shall not be subject to tax  
5 under another of such enumerated classes.

6 (3) The term "income" shall not mean or include:

7 (i) periodic payments for sickness and disability other than  
8 regular wages received during a period of sickness or  
9 disability;

10 (ii) disability, retirement or other payments arising under  
11 workmen's compensation acts, occupational disease acts and  
12 similar legislation by any government;

13 (iii) payments commonly recognized as old age or retirement  
14 benefits paid to persons retired from service after reaching a  
15 specific age or after a stated period of employment;

16 (iv) payments commonly known as public assistance, or  
17 unemployment compensation payments by any governmental agency;

18 (v) payments to reimburse actual expenses;

19 (vi) payments made by employers or labor unions for programs  
20 covering hospitalization, sickness, disability or death,  
21 supplemental unemployment benefits, strike benefits, social  
22 security and retirement; or

23 (vii) any compensation received by United States servicemen  
24 serving in a combat zone.

25 "Taxing district." A school district other than a school  
26 district of the first class.

27 Section 6. This act shall apply to the tax year beginning  
28 January 1, 1988.

29 Section 7. This act shall take effect immediately.