

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 390 Session of
1999

INTRODUCED BY CORMAN, HART, JUBELIRER, MELLOW, MADIGAN,
HELFRICK, WENGER, STAPLETON, BRIGHTBILL, WAUGH, RHOADES,
ROBBINS, MUSTO, O'PAKE, MOWERY, GERLACH, WHITE, COSTA, EARLL,
HOLL, CONTI, THOMPSON, BOSCOLA, LEMMOND AND SLOCUM,
FEBRUARY 12, 1999

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 7, 1999

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 employees 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 THE IMPOSITION OF AN AMUSEMENT OR
23 ADMISSIONS TAX ON CERTAIN CONVENTION CENTERS AND FOR
24 LIMITATIONS ON RATES OF SPECIFIC TAXES; PROVIDING FOR SPECIAL
25 LIMITATION ON RATES OF TAXES FOR CERTAIN AMUSEMENTS; AND
26 further defining "net profits."

<—

27 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 ~~Section 1. The definition of "net profits" in section 13 of~~ <—
3 ~~the act of December 31, 1965 (P.L.1257, No.511), known as The~~
4 ~~Local Tax Enabling Act, is amended to read:~~

5 SECTION 1. SECTION 2 OF THE ACT OF DECEMBER 31, 1965 <—
6 (P.L.1257, NO.511), KNOWN AS THE LOCAL TAX ENABLING ACT, IS
7 AMENDED BY ADDING A CLAUSE TO READ:

8 SECTION 2. DELEGATION OF TAXING POWERS AND RESTRICTIONS
9 THEREON.--THE DULY CONSTITUTED AUTHORITIES OF THE FOLLOWING
10 POLITICAL SUBDIVISIONS, CITIES OF THE SECOND CLASS, CITIES OF
11 THE SECOND CLASS A, CITIES OF THE THIRD CLASS, BOROUGHES, TOWNS,
12 TOWNSHIPS OF THE FIRST CLASS, TOWNSHIPS OF THE SECOND CLASS,
13 SCHOOL DISTRICTS OF THE SECOND CLASS, SCHOOL DISTRICTS OF THE
14 THIRD CLASS, AND SCHOOL DISTRICTS OF THE FOURTH CLASS, IN ALL
15 CASES INCLUDING INDEPENDENT SCHOOL DISTRICTS, MAY, IN THEIR
16 DISCRETION, BY ORDINANCE OR RESOLUTION, FOR GENERAL REVENUE
17 PURPOSES, LEVY, ASSESS AND COLLECT OR PROVIDE FOR THE LEVYING,
18 ASSESSMENT AND COLLECTION OF SUCH TAXES AS THEY SHALL DETERMINE
19 ON PERSONS, TRANSACTIONS, OCCUPATIONS, PRIVILEGES, SUBJECTS AND
20 PERSONAL PROPERTY WITHIN THE LIMITS OF SUCH POLITICAL
21 SUBDIVISIONS, AND UPON THE TRANSFER OF REAL PROPERTY, OR OF ANY
22 INTEREST IN REAL PROPERTY, SITUATE WITHIN THE POLITICAL
23 SUBDIVISION LEVYING AND ASSESSING THE TAX, REGARDLESS OF WHERE
24 THE INSTRUMENTS MAKING THE TRANSFERS ARE MADE, EXECUTED OR
25 DELIVERED OR WHERE THE ACTUAL SETTLEMENTS ON SUCH TRANSFER TAKE
26 PLACE. THE TAXING AUTHORITY MAY PROVIDE THAT THE TRANSFEREE
27 SHALL REMAIN LIABLE FOR ANY UNPAID REALTY TRANSFER TAXES IMPOSED
28 BY VIRTUE OF THIS ACT. EACH LOCAL TAXING AUTHORITY MAY, BY
29 ORDINANCE OR RESOLUTION, EXEMPT ANY PERSON WHOSE TOTAL INCOME
30 FROM ALL SOURCES IS LESS THAN FIVE THOUSAND DOLLARS (\$5,000) PER

1 ANNUM FROM THE PER CAPITA OR SIMILAR HEAD TAX, OCCUPATION TAX
2 AND OCCUPATIONAL PRIVILEGE TAX, OR EARNED INCOME TAX, OR ANY
3 PORTION THEREOF, AND MAY ADOPT REGULATIONS FOR THE PROCESSING OF
4 CLAIMS FOR EXEMPTIONS. SUCH LOCAL AUTHORITIES SHALL NOT HAVE
5 AUTHORITY BY VIRTUE OF THIS ACT:

6 * * *

7 (14) TO LEVY, ASSESS OR COLLECT AN AMUSEMENT TAX OR AN
8 ADMISSIONS TAX ON EVENTS OCCURRING WITHIN A FACILITY IN A COUNTY
9 OF THE THIRD CLASS THAT MEETS ALL OF THE FOLLOWING CRITERIA:

10 (I) THE FACILITY IS OWNED AND OPERATED BY A GOVERNING
11 AUTHORITY ESTABLISHED UNDER THE ACT OF MAY 2, 1945 (P.L.382,
12 NO.164), KNOWN AS THE "MUNICIPALITY AUTHORITIES ACT OF 1945";

13 (II) THE FACILITY IS PUBLICLY FUNDED IN PART BY THE COUNTY
14 HOTEL TAX ESTABLISHED UNDER THE ACT OF DECEMBER 27, 1994
15 (P.L.1375, NO.162), KNOWN AS THE "THIRD CLASS COUNTY CONVENTION
16 CENTER AUTHORITY ACT," AS PROVIDED IN SECTION 23(E) OF THAT ACT;
17 AND

18 (III) THE FACILITY IS LOCATED IN A TOWNSHIP WHICH IS A
19 TOWNSHIP OF THE FIRST CLASS ON THE EFFECTIVE DATE OF THIS
20 CLAUSE, AND WHICH HAS A POPULATION OF LESS THAN NINE THOUSAND
21 FIVE HUNDRED PERSONS.

22 SECTION 2. SECTION 8 INTRODUCTORY PARAGRAPH, (6), (9), (10)
23 AND (11) OF THE ACT, AMENDED OR ADDED OCTOBER 11, 1984 (P.L.885,
24 NO.172) AND JULY 9, 1987 (P.L.203, NO.30), ARE AMENDED AND THE
25 SECTION IS AMENDED BY ADDING A CLAUSE TO READ:

26 SECTION 8. LIMITATIONS ON RATES OF SPECIFIC TAXES.--NO TAXES
27 LEVIED UNDER THE PROVISIONS OF THIS ACT OR 53 PA.C.S. § 8402(C)
28 (RELATING TO SCOPE AND LIMITATIONS) SHALL BE LEVIED BY ANY
29 POLITICAL SUBDIVISION ON THE FOLLOWING SUBJECTS EXCEEDING THE
30 RATES SPECIFIED IN THIS SECTION:

1 * * *

2 (6) ON ADMISSIONS TO PLACES OF AMUSEMENT, ATHLETIC EVENTS
3 AND THE LIKE, AND ON MOTION PICTURE THEATRES IN CITIES OF THE
4 SECOND CLASS, TEN PERCENT IN CITIES OF THE SECOND CLASS AND IN
5 ALL OTHER POLITICAL SUBDIVISIONS THE RATES SPECIFIED IN SECTION
6 8.1.

7 * * *

8 (9) ON ADMISSIONS TO SKI FACILITIES, TEN PERCENT IN CITIES
9 OF THE SECOND CLASS AND IN ALL OTHER POLITICAL SUBDIVISIONS THE
10 RATES SPECIFIED IN SECTION 8.1. THE TAX BASE UPON WHICH THE TAX
11 SHALL BE LEVIED SHALL NOT EXCEED FORTY PERCENT OF THE COST OF
12 THE LIFT TICKET. THE LIFT TICKET SHALL INCLUDE ALL COSTS OF
13 ADMISSIONS TO THE SKI FACILITY.

14 (10) ON ADMISSIONS TO GOLF COURSES, TEN PERCENT IN CITIES OF
15 THE SECOND CLASS AND IN ALL OTHER POLITICAL SUBDIVISIONS THE
16 RATES SPECIFIED IN SECTION 8.1. THE TAX BASE UPON WHICH THE TAX
17 SHALL BE LEVIED SHALL NOT EXCEED FORTY PERCENT OF THE GREENS
18 FEE. THE GREENS FEE SHALL INCLUDE ALL COSTS OF ADMISSIONS TO THE
19 GOLF COURSE.

20 (11) ON ADMISSIONS TO BOWLING ALLEYS OR BOWLING LANES, TEN
21 PERCENT IN CITIES OF THE SECOND CLASS AND IN ALL OTHER POLITICAL
22 SUBDIVISIONS THE RATES SPECIFIED IN SECTION 8.1. THE TAX BASE
23 UPON WHICH THE TAX SHALL BE LEVIED SHALL NOT EXCEED FORTY
24 PERCENT OF THE CHARGE IMPOSED UPON A PATRON FOR THE SALE OF
25 ADMISSION TO OR THE PRIVILEGE OF ADMISSION TO A BOWLING ALLEY OR
26 BOWLING LANE TO ENGAGE IN ONE OR MORE GAMES OF BOWLING.

27 (12) ON ADMISSIONS TO AUTOMOBILE RACING FACILITIES, TEN
28 PERCENT IN CITIES OF THE SECOND CLASS AND IN ALL OTHER POLITICAL
29 SUBDIVISIONS THE RATES SPECIFIED IN SECTION 8.1. THE TAX BASE
30 UPON WHICH THE TAX SHALL BE LEVIED SHALL NOT EXCEED FORTY

1 PERCENT OF THE COST OF ADMISSION TO AN AUTOMOBILE RACING
2 FACILITY.

3 * * *

4 SECTION 3. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

5 SECTION 8.1. SPECIAL LIMITATIONS ON RATES OF TAXES FOR
6 CERTAIN AMUSEMENTS.--(A) (1) A MUNICIPALITY THAT LEVIES,
7 ASSESSES AND COLLECTS AN AMUSEMENT OR ADMISSIONS TAX UNDER THIS
8 ACT AND IN CONFORMITY WITH 53 PA.C.S. § 8402(C) (RELATING TO
9 SCOPE AND LIMITATIONS) FOR THE ACTIVITIES SET FORTH IN SECTION
10 8(6), (9), (10), (11) AND (12) ON OR BEFORE THE EFFECTIVE DATE
11 OF THIS SECTION MAY LEVY, ASSESS AND COLLECT THAT TAX AT A RATE
12 NOT TO EXCEED FOUR PERCENT SUBJECT TO THE REDUCTION PERIOD
13 PROVIDED FOR IN CLAUSE (2).

14 (2) A MUNICIPALITY THAT IS SUBJECT TO CLAUSE (1) AND THAT
15 COLLECTS A RATE OF TAX IN EXCESS OF THE AMOUNT PROVIDED FOR IN
16 CLAUSE (1) ON THE EFFECTIVE DATE OF THIS SECTION SHALL REDUCE
17 THAT RATE TO THE RATE PROVIDED FOR IN CLAUSE (1) OVER A PERIOD
18 OF FOUR YEARS BEGINNING JANUARY 1, 2001, IN EQUAL ANNUAL
19 INCREMENTS.

20 (B) A MUNICIPALITY THAT:

21 (1) DOES NOT LEVY, ASSESS AND COLLECT AN AMUSEMENT OR
22 ADMISSIONS TAX UNDER THIS ACT AND IN CONFORMITY WITH 53 PA.C.S.
23 § 8402(C) FOR THE ACTIVITIES SET FORTH IN SECTION 8(6), (9),
24 (10), (11) AND (12) ON OR BEFORE THE EFFECTIVE DATE OF THIS
25 SECTION; AND

26 (2) ENACTS AN ORDINANCE TO LEVY, ASSESS AND COLLECT SUCH TAX
27 AFTER THE EFFECTIVE DATE OF THIS SECTION IN ACCORDANCE WITH LAW;
28 MAY LEVY, ASSESS AND COLLECT THAT TAX AT A RATE NOT TO EXCEED
29 FOUR PERCENT.

30 (C) (1) SUBJECT TO THE PROVISIONS OF CLAUSES (2) AND (3), A

SCHOOL DISTRICT SHALL HAVE NO AUTHORITY TO LEVY AN AMUSEMENT OR
ADMISSIONS TAX AFTER JUNE 30, 1997.

(2) A SCHOOL DISTRICT THAT LEVIES, ASSESSES AND COLLECTS AN
AMUSEMENT OR ADMISSIONS TAX UNDER THIS ACT IN CONFORMITY WITH 53
PA.C.S. § 8402(C) (RELATING TO AMUSEMENTS AND ADMISSIONS TAX),
ON OR BEFORE JUNE 30, 1997, MAY LEVY, ASSESS AND COLLECT THAT
TAX FOR A PERIOD OF FOUR YEARS FROM JULY 1, 2001, SUBJECT TO THE
REDUCTIONS UNDER CLAUSE (3) OF THIS SUBSECTION.

(3) ANY SCHOOL DISTRICT WHICH LEVIES, ASSESSES AND COLLECTS
AN AMUSEMENT OR ADMISSIONS TAX UNDER CLAUSE (2) SHALL PHASE OUT
THAT TAX OVER A FOUR-YEAR PERIOD BEGINNING JULY 1, 2001, BY
REDUCING THE RATE OF TAX IN EQUAL INSTALLMENTS.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE
A SCHOOL DISTRICT TO COLLECT AN AGGREGATE SUM OF AMUSEMENT OR
ADMISSIONS TAXES IN EXCESS OF THE AMOUNT COLLECTED BY THE SCHOOL
DISTRICT FOR THE FISCAL YEAR ENDING IN 1997.

(D) THIS SECTION SHALL NOT APPLY TO A CITY OF THE SECOND
CLASS.

SECTION 8.2. REIMBURSEMENT FOR CUSTOMARY AND ORDINARY
EXPENSES.--(A) A MUNICIPALITY THAT LEVIES AN AMUSEMENT OR
ADMISSIONS TAX PURSUANT TO THIS ACT MAY REQUEST AND COLLECT
REIMBURSEMENT FROM THE OWNER OR OPERATOR OF A FACILITY UNDER A
DUTY TO COLLECT OR REMIT AN AMUSEMENT OR ADMISSIONS TAX IF THE
COST OF THE CUSTOMARY AND ORDINARY SERVICES THAT ARE PROVIDED BY
THE MUNICIPALITY AND THAT ARE DIRECTLY ASSOCIATED WITH THE
OPERATION OF THAT FACILITY ARE NOT OFFSET BY THE AMOUNT OF ALL
LOCAL TAXES COLLECTED WITH RESPECT TO THE OWNERSHIP AND
OPERATION OF THAT FACILITY.

(B) THE AMOUNT OF REIMBURSEMENT COLLECTED BY THE
MUNICIPALITY SHALL NOT EXCEED THE COST OF THE CUSTOMARY AND

1 ORDINARY SERVICES PROVIDED BY THE MUNICIPALITY, REDUCED BY THE
2 AMOUNT OF ALL LOCAL TAXES COLLECTED FROM THE OWNER OR OPERATOR
3 OF THE FACILITY. THE SERVICES FOR WHICH THE MUNICIPALITY MAY
4 COLLECT REIMBURSEMENT SHALL BE LIMITED TO THE CUSTOMARY AND
5 ORDINARY SERVICES THAT ARE DIRECTLY RESULTING FROM THE OPERATION
6 OF THAT FACILITY WITHIN THE FISCAL YEAR. THE LOCAL TAXES
7 COLLECTED FROM THE OWNER OR OPERATOR OF THE FACILITY SHALL BE
8 THE TAXES COLLECTED WITHIN THE FISCAL YEAR BY OR ON BEHALF OF
9 THE MUNICIPALITY FROM THE OWNER OR OPERATOR OF THAT FACILITY
10 WITH RESPECT TO THE OWNERSHIP AND OPERATION OF THAT FACILITY.
11 PRIOR TO COLLECTING ANY REIMBURSEMENT, THE MUNICIPALITY SHALL
12 PROVIDE TO THE OWNER OR OPERATOR OF THE FACILITY A LIST OF THE
13 CUSTOMARY AND ORDINARY SERVICES FOR WHICH REIMBURSEMENT IS
14 CLAIMED, AN ESTIMATE OF THE COST OF THOSE SERVICES AND A LISTING
15 BY TYPE OF THE AMOUNT OF LOCAL TAXES COLLECTED WITH RESPECT TO
16 THE OWNERSHIP AND OPERATION OF THAT FACILITY.

17 (C) ANY DISPUTE REGARDING THE AMOUNT OF REIMBURSEMENT TO BE
18 COLLECTED UNDER THIS SECTION SHALL BE RESOLVED BY FILING A
19 PETITION FOR ADJUDICATION IN THE COURT OF COMMON PLEAS IN THE
20 JUDICIAL DISTRICT IN WHICH THE FACILITY IS LOCATED.

21 SECTION 4. THE DEFINITION OF "NET PROFITS" IN SECTION 13 OF
22 THE ACT IS AMENDED TO READ:

23 Section 13. Earned Income Taxes.--On and after the effective
24 date of this act the remaining provisions of this section shall
25 be included in or construed to be a part of each tax levied and
26 assessed upon earned income by any political subdivision levying
27 and assessing such tax pursuant to this act. The definitions
28 contained in this section shall be exclusive for any tax upon
29 earned income and net profits levied and assessed pursuant to
30 this act, and shall not be altered or changed by any political

1 subdivision levying and assessing such tax.

2 I. Definitions

3 * * *

4 "Net profits." The net income from the operation of a
5 business, profession, or other activity, except corporations,
6 after provision for all costs and expenses incurred in the
7 conduct thereof, determined either on a cash or accrual basis in
8 accordance with the accounting system used in such business,
9 profession, or other activity, but without deduction of taxes
10 based on income. For taxpayers engaged in the business,
11 profession or activity of farming, the term shall not include:

12 (1) any interest earnings generated from any monetary
13 accounts or investment instruments of the farming business;

14 (2) any gain on the sale of farm machinery;

15 (3) any gain on the sale of livestock held twelve months or
16 more for draft, breeding or dairy purposes; and

17 (4) any gain on the sale of other capital assets of the
18 farm.

19 * * *

20 ~~Section 2. This act shall apply to tax years beginning on or~~ <—
21 ~~after January 1, 1998.~~

22 ~~Section 3. This act shall take effect immediately.~~

23 SECTION 5. THE AMENDMENT OF "NET PROFITS" IN SECTION 13 OF <—
24 THE ACT SHALL BE RETROACTIVE TO JANUARY 1, 1998.

25 SECTION 6. THIS ACT SHALL APPLY AS FOLLOWS:

26 (1) THE ADDITION OF SECTION 2(14) OF THE ACT SHALL APPLY
27 TO THE TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 1999.

28 (2) THE AMENDMENT OR ADDITION OF SECTIONS 8(6), (9),
29 (10) AND (11) AND 8.1 AND 8.2 OF THE ACT SHALL APPLY TO THE
30 TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2000.

1 (3) THE ADDITION OF SECTION 8(12) OF THE ACT SHALL APPLY
2 TO THE TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2001.

3 (4) THE AMENDMENT OF "NET PROFITS" IN SECTION 13 OF THE
4 ACT SHALL APPLY TO THE TAX YEARS BEGINNING ON OR AFTER
5 JANUARY 1, 1998.

6 SECTION 7. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.