

## 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

SENATE AMENDMENTS TO HOUSE AMENDMENTS, NOVEMBER 21, 2000

## 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 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  
28 hereby enacts as follows:

~~Section 1. Section 2 of the act of December 31, 1965  
(P.L.1257, No.511), known as The Local Tax Enabling Act, is  
amended by adding a clause to read:~~

~~Section 2. Delegation of Taxing Powers and Restrictions  
Thereon. The duly constituted authorities of the following  
political subdivisions, cities of the second class, cities of  
the second class A, cities of the third class, boroughs, towns,  
townships of the first class, townships of the second class,  
school districts of the second class, school districts of the  
third class, and school districts of the fourth class, in all  
cases including independent school districts, may, in their  
discretion, by ordinance or resolution, for general revenue  
purposes, levy, assess and collect or provide for the levying,  
assessment and collection of such taxes as they shall determine  
on persons, transactions, occupations, privileges, subjects and  
personal property within the limits of such political  
subdivisions, and upon the transfer of real property, or of any  
interest in real property, situate within the political  
subdivision levying and assessing the tax, regardless of where  
the instruments making the transfers are made, executed or  
delivered or where the actual settlements on such transfer take  
place. The taxing authority may provide that the transferee  
shall remain liable for any unpaid realty transfer taxes imposed  
by virtue of this act. Each local taxing authority may, by  
ordinance or resolution, exempt any person whose total income  
from all sources is less than five thousand dollars (\$5,000) per  
annum from the per capita or similar head tax, occupation tax  
and occupational privilege tax, or earned income tax, or any  
portion thereof, and may adopt regulations for the processing of  
claims for exemptions. Such local authorities shall not have~~

1 ~~authority by virtue of this act:~~

2       ~~\* \* \*~~

3       ~~(14) To levy, assess or collect an amusement tax or an~~  
4 ~~admissions tax on events occurring within a facility in a county~~  
5 ~~of the third class that meets all of the following criteria:~~

6       ~~(i) the facility is owned and operated by a governing~~  
7 ~~authority established under the act of May 2, 1945 (P.L.382,~~  
8 ~~No.164), known as the "Municipality Authorities Act of 1945";~~

9       ~~(ii) the facility is publicly funded in part by the county~~  
10 ~~hotel tax established under the act of December 27, 1994~~  
11 ~~(P.L.1375, No.162), known as the "Third Class County Convention~~  
12 ~~Center Authority Act," as provided in section 23(c) of that act;~~  
13 ~~and~~

14       ~~(iii) the facility is located in a township which is a~~  
15 ~~township of the first class on the effective date of this~~  
16 ~~clause, and which has a population of less than nine thousand~~  
17 ~~five hundred persons.~~

18       ~~Section 2. Section 8 introductory paragraph, (6), (9), (10)~~  
19 ~~and (11) of the act, amended or added October 11, 1984 (P.L.885,~~  
20 ~~No.172) and July 9, 1987 (P.L.203, No.30), are amended and the~~  
21 ~~section is amended by adding a clause to read:~~

22       ~~Section 8. Limitations on Rates of Specific Taxes. No taxes~~  
23 ~~levied under the provisions of this act or 53 Pa.C.S. § 8402(c)~~  
24 ~~(relating to scope and limitations) shall be levied by any~~  
25 ~~political subdivision on the following subjects exceeding the~~  
26 ~~rates specified in this section:~~

27       ~~\* \* \*~~

28       ~~(6) On admissions to places of amusement, athletic events~~  
29 ~~and the like, and on motion picture theatres in cities of the~~  
30 ~~second class, ten percent in cities of the second class and in~~

~~all other political subdivisions the rates specified in section 8.1.~~

~~\* \* \*~~

~~(9) On admissions to ski facilities, ten percent in cities of the second class and in all other political subdivisions the rates specified in section 8.1. The tax base upon which the tax shall be levied shall not exceed forty percent of the cost of the lift ticket. The lift ticket shall include all costs of admissions to the ski facility.~~

~~(10) On admissions to golf courses, ten percent in cities of the second class and in all other political subdivisions the rates specified in section 8.1. The tax base upon which the tax shall be levied shall not exceed forty percent of the greens fee. The greens fee shall include all costs of admissions to the golf course.~~

~~(11) On admissions to bowling alleys or bowling lanes, ten percent in cities of the second class and in all other political subdivisions the rates specified in section 8.1. The tax base upon which the tax shall be levied shall not exceed forty percent of the charge imposed upon a patron for the sale of admission to or the privilege of admission to a bowling alley or bowling lane to engage in one or more games of bowling.~~

~~(12) On admissions to automobile racing facilities, ten percent in cities of the second class and in all other political subdivisions the rates specified in section 8.1. The tax base upon which the tax shall be levied shall not exceed forty percent of the cost of admission to an automobile racing facility.~~

~~\* \* \*~~

~~Section 3. The act is amended by adding sections to read:~~

~~Section 8.1. Special Limitations on Rates of Taxes for Certain Amusements. (a) (1) A municipality that levies, assesses and collects an amusement or admissions tax under this act and in conformity with 53 Pa.C.S. § 8402(c) (relating to scope and limitations) for the activities set forth in section 8(6), (9), (10), (11) and (12) on or before the effective date of this section may levy, assess and collect that tax at a rate not to exceed four percent subject to the reduction period provided for in clause (2).~~

~~(2) A municipality that is subject to clause (1) and that collects a rate of tax in excess of the amount provided for in clause (1) on the effective date of this section shall reduce that rate to the rate provided for in clause (1) over a period of four years beginning January 1, 2001, in equal annual increments.~~

~~(b) A municipality that:~~

~~(1) does not levy, assess and collect an amusement or admissions tax under this act and in conformity with 53 Pa.C.S. § 8402(c) for the activities set forth in section 8(6), (9), (10), (11) and (12) on or before the effective date of this section; and~~

~~(2) enacts an ordinance to levy, assess and collect such tax after the effective date of this section in accordance with law; may levy, assess and collect that tax at a rate not to exceed four percent.~~

~~(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  
ordinary services provided by the municipality, reduced by the  
amount of all local taxes collected from the owner or operator  
of the facility. The services for which the municipality may  
collect reimbursement shall be limited to the customary and~~

~~1 ordinary services that are directly resulting from the operation  
2 of that facility within the fiscal year. The local taxes  
3 collected from the owner or operator of the facility shall be  
4 the taxes collected within the fiscal year by or on behalf of  
5 the municipality from the owner or operator of that facility  
6 with respect to the ownership and operation of that facility.  
7 Prior to collecting any reimbursement, the municipality shall  
8 provide to the owner or operator of the facility a list of the  
9 customary and ordinary services for which reimbursement is  
10 claimed, an estimate of the cost of those services and a listing  
11 by type of the amount of local taxes collected with respect to  
12 the ownership and operation of that facility.~~

~~13 (c) Any dispute regarding the amount of reimbursement to be  
14 collected under this section shall be resolved by filing a  
15 petition for adjudication in the court of common pleas in the  
16 judicial district in which the facility is located.~~

~~17 Section 4. The definition of "net profits" in section 13 of  
18 the act is amended to read:~~

19 SECTION 1. THE DEFINITION OF "NET PROFITS" IN SECTION 13 OF  
20 THE ACT OF DECEMBER 31, 1965 (P.L.1257, NO.511), KNOWN AS THE  
21 LOCAL TAX ENABLING ACT, IS AMENDED TO READ:

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

I. Definitions

\* \* \*

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

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

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

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

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

\* \* \*

Section 5 2. The amendment of "net profits" in section 13 of the act shall be retroactive to January 1, ~~1998~~ 2000. <—

~~Section 6. This act shall apply as follows:~~ <—

~~(1) The addition of section 2(14) of the act shall apply to the tax years beginning on or after January 1, 1999.~~

~~(2) The amendment or addition of sections 8(6), (9), (10) and (11) and 8.1 and 8.2 of the act shall apply to the tax years beginning on or after January 1, 2000.~~

~~(3) The addition of section 8(12) of the act shall apply to the tax years beginning on or after January 1, 2001.~~

~~(4) The amendment of "net profits" in section 13 of the~~

SECTION 3. THE AMENDMENT OF THE DEFINITION OF "NET PROFITS" <—



1 IN SECTION 13 OF THE act shall apply to the tax years beginning  
2 on or after January 1, ~~1998~~ 2000. <—  
3 Section 7 4. This act shall take effect immediately. <—