
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1248

Session of
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YUDICHAK, HALUSKA, BAKER, CIVERA AND WILT, MARCH 31, 2005

REFERRED TO COMMITTEE ON FINANCE, MARCH 31, 2005

AN ACT

1 Authorizing counties to impose sales and use, personal income or
2 earned income and net profits taxes; and providing for the
3 levying, assessment and collection of taxes and for the
4 powers and duties of the Department of Community and Economic
5 Development or any successor agency, the Department of
6 Revenue and the State Treasurer.

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14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 CHAPTER 1
17 GENERAL PROVISIONS

18 Section 101. Short title.

19 This act shall be known and may be cited as the Optional
20 County Tax Reform Act.

21 Section 102. Definitions.

22 The following words and phrases when used in this act shall
23 have the meanings given to them in this section unless the
24 context clearly indicates otherwise:

25 "Board of county commissioners." Includes the successor in
26 function to the board of county commissioners in a county which
27 has adopted a home rule charter under the provisions 53 Pa.C.S.
28 Pt. III Subpt. E (relating to home rule and optional plan
29 government), but does not include the city council of a city of
30 the first class or the board of county commissioners of a county

1 of the second class.

2 "Classes of income." The classes of income set forth in
3 section 303 of the act of March 4, 1971 (P.L.6, No.2), known as
4 the Tax Reform Code of 1971.

5 "Compensation." As defined in section 301 of the act of
6 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
7 1971.

8 "County." A county-level municipality within this
9 Commonwealth, regardless of classification. The term includes a
10 county which has adopted a home rule charter or optional plan of
11 government under the provisions of 53 Pa.C.S. Pt. III Subpt. E
12 (relating to home rule and optional plan government). The term
13 does not include a county of the first class or a county of the
14 second class.

15 "Current year." The calendar year or fiscal year for which
16 the tax is levied.

17 "Department." The Department of Revenue of the Commonwealth.

18 "Domicile." As defined in section 13 of the act of December
19 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling
20 Act.

21 "Earned income." The classes of income defined as "earned
22 income" in section 13 of the act of December 31, 1965 (P.L.1257,
23 No.511), known as The Local Tax Enabling Act.

24 "Employer." As defined in section 301 of the act of March 4,
25 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

26 "Governing body." The board of county commissioners,
27 including the successor in function to the board of county
28 commissioners in a county which has adopted a home rule charter
29 under the provisions of 53 Pa. C. S. Pt. III Subpt. E (relating
30 to home rule and optional plan government). The term does not

1 include the board of the county council of a county of the
2 second class.

3 "Homestead." As defined in 53 Pa.C.S. § 8401 (relating to
4 definitions).

5 "Individual." As defined in section 301 of the act of March
6 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

7 "Local Tax Enabling Act." The act of December 31, 1965
8 (P.L.1257, No.511), known as The Local Tax Enabling Act.

9 "Municipality." A city of the second class, city of the
10 second class A, city of the third class, borough, incorporated
11 town, township of the first class, township of the second class,
12 home rule municipality, optional plan municipality, optional
13 form municipality or similar general purpose unit of government
14 which may after the effective date of this act be established by
15 statute, except a city of the first class.

16 "Nonresident." An individual domiciled outside the
17 municipality.

18 "Ordinance." Includes a resolution.

19 "Personal income." The classes of income enumerated in
20 section 303 of the act of March 4, 1971 (P.L.6, No.2), known as
21 the Tax Reform Code of 1971, and upon which is imposed a
22 personal income tax by the Commonwealth.

23 "Preceding year." The calendar year or fiscal year before
24 the current year.

25 "Register." The register provided for in Chapter 9 (relating
26 to register for certain taxes).

27 "School district." A school district of the first class A,
28 second class, third class or fourth class, including any
29 independent school district.

30 "Succeeding year." The calendar year or fiscal year

1 following the current year.

2 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),
3 known as the Tax Reform Code of 1971.

4 "Taxpayer." An individual required under this act to file a
5 tax return or to pay a tax.

6 Section 103. Scope.

7 It is the intent of this act to confer upon each county the
8 power to levy, assess and collect taxes upon the subjects of
9 taxation set forth in this act.

10 Section 104. Preemption.

11 No act of the General Assembly in effect prior to or after
12 the effective date of this act shall vacate or preempt any
13 ordinance passed or adopted under the authority of this act or
14 any other act providing authority for the imposition of a tax by
15 a county, unless the act of the General Assembly expressly
16 vacates or preempts the authority to pass or adopt such
17 ordinances.

18 Section 105. Rates of taxation in home rule counties.

19 A home rule county may not fix the rate of taxation for the
20 subjects of taxation authorized under Chapter 3 (relating to
21 subjects of taxation) in excess of the rates fixed in Chapter 3.

22 CHAPTER 3

23 SUBJECTS OF TAXATION

24 SUBCHAPTER A

25 TAX AUTHORIZATION

26 Section 301. General tax authorization.

27 (a) General rule.--Subject to section 303 (relating to
28 election to participate under act) and except as provided in
29 subsection (b), a county shall have the power and may by
30 ordinance levy, assess and collect or provide for the levying,

1 assessment and collection of taxes on the sale or use of
2 tangible personal property and services and the occupancy of a
3 hotel room at a rate of 1%, on the personal income of resident
4 taxpayers up to a maximum rate of 0.5% in increments of 0.25% or
5 on the earned income of resident taxpayers up to a maximum rate
6 of 0.5% in increments of 0.25% for general revenue purposes as
7 it shall determine on any or all of the subjects of taxation set
8 forth in this act within the geographical limits of the county.

9 (b) Exclusions.--No county which levies a tax authorized by
10 this act shall have any power or authority to levy, assess or
11 collect:

12 (1) A tax based upon a flat rate or on a millage rate on
13 an assessed valuation of a particular trade, occupation or
14 profession, commonly known as an occupation tax.

15 (2) A per capita, poll, residence or similar head tax.

16 (3) The intangible personal property tax under the act
17 of June 17, 1913 (P.L.507, No.335), referred to as the
18 Intangible Personal Property Tax Law.

19 Section 302. Continuity of tax.

20 A tax levied under the provisions of this act shall continue
21 in force on a calendar year basis, as the case may be, without
22 annual reenactment unless the rate of tax is increased or the
23 tax is subsequently repealed.

24 Section 303. Election to participate under act.

25 (a) General rule.--

26 (1) A governing body which desires to participate under
27 the provisions of this act shall make that determination by
28 using the procedures set forth in subsection (b).

29 (2) A governing body after making an election to
30 participate under this act may, after a period of at least

1 three full calendar years of participation, elect, under the
2 provisions of subsection (b), to cease participation under
3 this act and levy, assess and collect the taxes prohibited by
4 section 301(b) (relating to general tax authorization) to the
5 extent otherwise provided by law.

6 (b) Public referendum.--Subject to the notice and public
7 hearing requirements of section 316(a) (relating to procedure
8 and administration), 325(a) (relating to procedure and
9 administration) or 334 (relating to procedure and
10 administration), whichever is applicable, a governing body may
11 elect to participate under this act by obtaining the approval of
12 the electorate of the affected county in a public referendum at
13 the November election preceding the calendar year when the taxes
14 will be initially imposed. The referendum question must state
15 the initial rate of the proposed tax.

16 (c) Increase in tax rate limited.--Following an election to
17 participate under this act, the governing body may only increase
18 the tax rate in the following cases:

19 (1) If an increase in local expenditures is necessary to
20 respond to or recover from an emergency or disaster declared
21 by the Governor.

22 (2) If the political subdivision is required to
23 implement a court decision.

24 (3) To pay interest and principal on any indebtedness
25 incurred under the provisions of 53 Pa.C.S. Pt. VII Subpt. B
26 (relating to indebtedness and borrowing).

27 (4) To pay increases in pension fund requirements which
28 are in excess of the annual average increase over the
29 immediately preceding five fiscal years.

30 (5) To respond to a municipality declared to be

1 distressed under the act of July 10, 1987 (P.L.246, No.47),
2 known as the Municipalities Financial Recovery Act.

3 (6) To increase revenues when actual revenues decline
4 from the immediately preceding year, but only to the extent
5 of the revenue decline.

6 (7) To respond to a Federal or State statute, regulation
7 or order adding to or significantly altering responsibilities
8 and duties or requiring expenditure of county funds to the
9 extent not funded by the Federal or State Government. This
10 provision shall apply only to a Federal or State statute,
11 regulation or order taking effect after the effective date of
12 this act.

13 Section 304. Local tax study commission.

14 (a) First-year implementation.--Before any county levies,
15 assesses or collects or provides for the levy, assessment or
16 collection of any tax under the authority of this act, the
17 governing body may appoint a local tax study commission in
18 accordance with the following provisions:

19 (1) The local tax study commission shall consist of
20 five, seven or nine members appointed by the governing body.
21 One member of the local tax study commission may be a member
22 of the governing body, as deemed appropriate by the governing
23 body. No member of the local tax study commission shall be a
24 relative, by blood or marriage, of an official or employee of
25 the county. All members shall be residents of the county.
26 Representatives on a local tax study commission must
27 reasonably reflect the socioeconomic, age and occupational
28 diversity of the county.

29 (2) The governing body shall provide necessary and
30 reasonable staff to support the local tax study commission

1 and shall reimburse the members of the local tax study
2 commission for necessary and reasonable expenses in the
3 discharge of their duties.

4 (3) The local tax study commission shall study the
5 existing taxes levied, assessed and collected by the county
6 and determine if and how the tax policies of the county could
7 be strengthened or made more equitable by adopting for levy,
8 assessment and collection one or a combination of any of the
9 following taxes: personal income tax, real estate tax, sales
10 tax or earned income and net profits tax at such levels and
11 in such combinations on permissible subjects of taxation as
12 do not exceed the limitations in this act. This study shall
13 include, but not be limited to, consideration of all of the
14 following:

15 (i) Historic rate and revenue provided by taxes
16 currently levied, assessed and collected by the county.

17 (ii) The percentage of total revenues provided by
18 taxes currently levied, assessed and collected.

19 (iii) The age, income, employment and property use
20 characteristics of the existing tax base.

21 (iv) The projected revenues of any taxes currently
22 levied, assessed and collected.

23 (v) The projected revenues of any taxes referred to
24 in this paragraph not currently levied, assessed and
25 collected by the county.

26 (4) Within 120 days of its appointment, the local tax
27 study commission shall make a nonbinding recommendation to
28 the governing body of the appropriate tax or combination of
29 taxes, identified in paragraph (3), to be levied, assessed
30 and collected commencing the next fiscal year. Upon

1 appointment of the commission and except as provided for in
2 paragraph (5), no tax may be levied, assessed or collected
3 for the next fiscal year until receipt of the recommendation
4 of the local tax study commission. No later than 30 days
5 prior to the commencement of the next fiscal year, the
6 governing body shall accept or reject the recommendation of
7 the local tax study commission or adopt any other appropriate
8 tax or combination of taxes for the county commencing the
9 next fiscal year as provided by law.

10 (5) If the local tax study commission fails to make a
11 nonbinding recommendation within 120 days of its appointment,
12 the governing body shall discharge the appointed local tax
13 study commission and appoint itself as the local tax study
14 commission. No later than 30 days prior to the commencement
15 of the next fiscal year, the governing body shall adopt the
16 appropriate tax or combination of taxes for the county
17 commencing the next fiscal year as provided by law.

18 (6) The local tax study commission shall publish or
19 cause to be published, within 30 days of making its
20 recommendation, a final report of its activities and
21 recommendations and shall deliver the final report to the
22 chief clerk of the county who shall supply copies to any
23 interested persons upon request.

24 (7) Receipts are required for all reimbursable expenses.

25 (8) All the records, receipts, tapes, minutes of
26 meetings and written discussions of the local tax study
27 commission shall, upon its discharge, be turned over to the
28 chief clerk of the county for permanent safekeeping. The
29 chief clerk shall make such materials available for public
30 inspection at any time during regular business hours.

1 (9) The local tax study commission shall be discharged
2 upon the filing of its final report.

3 (b) Three-year review.--

4 (1) A county that levies, assesses and collects or
5 provides for the levy, assessment or collection of any tax,
6 after having received the recommendations of a local tax
7 study commission and acted, shall continue to levy, assess
8 and collect the same tax or combination of taxes for the next
9 three fiscal years.

10 (2) Nothing in this act shall be construed to preclude
11 the governing body from changing or altering the rates of any
12 such tax or combination of taxes if it deems necessary.

13 (3) Before the third fiscal year following the county
14 action on the recommendations of a local tax study commission
15 and every third fiscal year thereafter, the governing body
16 may appoint a local tax study commission in the manner
17 provided in subsection (a). The local tax study commission
18 appointed under this subsection shall be charged with all of
19 the same powers and duties provided for the local tax study
20 commission under subsection (a).

21 (4) In the event the county does not appoint a local tax
22 study commission under this subsection after having
23 previously acted on the recommendations of a local tax study
24 commission, the county shall continue to levy, assess and
25 collect the same tax or combination of taxes for the next
26 three fiscal years.

27 SUBCHAPTER B

28 COUNTY SALES AND USE TAX

29 Section 311. Construction.

30 The tax imposed by the governing body under this subchapter

1 shall be in addition to any tax imposed by the Commonwealth
2 under Article II of the Tax Reform Code. Except for the
3 differing situs provisions under section 313 (relating to
4 situs), the provisions of Article II of the Tax Reform Code
5 shall apply to the tax.

6 Section 312. Imposition.

7 (a) Sales.--The governing body may levy and assess upon each
8 separate sale at retail of tangible personal property or
9 services, as defined in Article II of the Tax Reform Code,
10 within the boundaries of the county, a tax on the purchase
11 price. The tax shall be collected by the vendor from the
12 purchaser and shall be paid over to the Commonwealth as provided
13 in this subchapter.

14 (b) Use.--In any county within which the tax authorized in
15 subsection (a) is imposed, there shall be levied, assessed and
16 collected upon the use, within the county, of tangible personal
17 property purchased at retail, and on services purchased at
18 retail, as defined in Article II of the Tax Reform Code, a tax
19 on the purchase price. The tax shall be paid over to the
20 Commonwealth by the person who makes the use. The use tax
21 imposed under this subchapter shall not be paid over to the
22 Commonwealth by any person who has paid the tax imposed by
23 subsection (a) or has paid the tax imposed by this subsection to
24 the vendor with respect to the use.

25 (c) Occupancy.--In any county within which a tax authorized
26 by subsection (a) is imposed, there shall be levied, assessed
27 and collected an excise tax on the rent upon every occupancy of
28 a room or rooms in a hotel in the county. The tax shall be
29 collected by the operator or owner from the occupant and paid
30 over to the Commonwealth.

(d) Rate and uniformity.--

(1) The tax authorized by subsections (a), (b) and (c) shall be imposed at a rate of 1%.

(2) The tax imposed by subsections (a), (b) and (c) shall be uniform.

(e) Computation.--The tax imposed under this section shall be computed in the manner set forth in section 503(e)(2) of the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.

Section 313. Situs.

The situs of sales at retail or uses, including leases, of motor vehicles, aircraft, motorcraft and utility services shall be determined in the manner specified by section 504 of the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.

Section 314. Licenses.

A license for the collection of the tax imposed by this subchapter shall be issued in the same manner as is provided for in section 505 of the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class. Licensees shall be entitled to the same discount as provided in section 227 of the Tax Reform Code.

Section 315. Rules and regulations; collection costs.

(a) Regulations.--Rules and regulations shall be applicable to the taxes imposed under section 312 (relating to imposition) in the same manner as is provided for in section 506(1) and (2) of the act of June 5, 1991 (P.L.9, No.6), known as the

1 Pennsylvania Intergovernmental Cooperation Authority Act for
2 Cities of the First Class.

3 (b) Administrative costs.--The department, to cover its
4 costs of administration, shall be entitled to retain a sum equal
5 to 1% of the revenues collected under this subchapter for its
6 administrative costs. When the annual operating budget for the
7 department is submitted to the General Assembly, the department
8 shall also submit to the chairman and minority chairman of the
9 Appropriations Committee of the Senate and to the chairman and
10 minority chairman of the Appropriations Committee of the House
11 of Representatives the actual sums retained for costs of
12 collection in the preceding fiscal year, together with all
13 supporting details.

14 Section 316. Procedure and administration.

15 (a) Ordinance.--A county desiring to impose the tax
16 authorized by section 312 (relating to imposition) shall give at
17 least 60 days' written notice to every municipality and school
18 district located in the county of its intent to impose the tax
19 and shall adopt an ordinance after the expiration of 60 days
20 after the date of the notice. The notice and an ordinance shall
21 state the tax rate and refer to this subchapter. The ordinance
22 shall authorize the imposition of all taxes provided for in
23 section 312. Prior to adopting an ordinance imposing the tax
24 authorized by section 312, the governing body shall give public
25 notice of its intent to adopt the ordinance in the manner
26 provided by section 4 of the Local Tax Enabling Act and shall
27 conduct at least one public hearing regarding the proposed
28 adoption of the ordinance.

29 (b) Notification to department.--A certified copy of the
30 county ordinance shall be delivered to the department by

1 September 1 of the year prior to the effective date of the
2 ordinance. The county ordinance shall become effective on the
3 January 1 following at least four months after the date of
4 enactment of the county ordinance.

5 (c) Delivery of repeal ordinance.--A certified copy of a
6 repeal ordinance shall be delivered to the department at least
7 30 days prior to the effective date of the repeal.

8 Section 317. County sales and use tax funds.

9 There is hereby established for each county levying the tax
10 under section 312 (relating to imposition) the (proper name)
11 County Sales and Use Tax Fund. The State Treasurer shall be
12 custodian of each such fund which shall be subject to the
13 provisions of law applicable to funds listed in section 302 of
14 the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal
15 Code. Taxes imposed under section 312 shall be received by the
16 department and paid to the State Treasurer and, along with
17 interest and penalties, less any collection costs allowed under
18 this subchapter and any refunds and credits paid, shall be
19 credited to the respective fund not less frequently than every
20 two weeks. During any period prior to the credit of moneys to
21 each such fund, interest earned on moneys received by the
22 department and paid to the State Treasurer under this subchapter
23 shall be deposited into the respective fund. All moneys in each
24 such fund, including, but not limited to, moneys credited to
25 that fund under this section, prior year encumbrances and the
26 interest earned thereon, shall not lapse or be transferred to
27 any other fund, but shall remain in that fund. Pending their
28 disbursement, moneys received on behalf of or deposited into
29 each such fund shall be invested or reinvested as are other
30 moneys in the custody of the State Treasurer in the manner

1 provided by law. All earnings received from the investment or
2 reinvestment of the moneys shall be credited to the respective
3 funds.

4 Section 318. Disbursements.

5 (a) General rule.--On or before the tenth day of every
6 month, the State Treasurer shall make the disbursements on
7 behalf of the county imposing the tax out of the moneys which
8 are, as of the last day of the previous month, contained in the
9 respective county sales and use tax fund.

10 (b) Disbursement to counties.--

11 (1) The State Treasurer shall disburse to a county
12 imposing the tax authorized under section 312 (relating to
13 imposition) an amount of money equal to 50% of the tax
14 collected in that county and remitted to the department and
15 deposited in the respective county sales and use tax fund.

16 (2) An amount of money equal to the remaining 50% of the
17 tax collected in that county shall be allocated to all of the
18 municipalities and school districts within that county as
19 follows:

20 (i) Twenty-five percent shall be allocated to all
21 municipalities within the county. Each municipality shall
22 be allocated a portion as computed under section 320(a)
23 (relating to allocations and qualifications).

24 (ii) Twenty-five percent shall be allocated to all
25 school districts within the county. Each school district
26 shall be allocated a portion as computed under section
27 320(b).

28 (3) The State Treasurer shall disburse to a county, in
29 addition to its share under paragraph (1), an amount of money
30 equal to the allocations to nonqualified municipalities and

1 school districts within the county.

2 (4) The county shall deposit the revenue from the
3 respective county sales and use tax fund into the county
4 general fund for disposition as provided under section 701(a)
5 (relating to sales tax revenues).

6 (c) Disbursement to municipalities.--The State Treasurer
7 shall, at the same time, disburse to the qualified
8 municipalities an amount of money equal to their allocations
9 under paragraph (2)(i). Each municipality's portion shall be
10 deposited in the municipal general fund for disposition as
11 provided in section 701(b).

12 (d) Disbursement to school districts.--The State Treasurer
13 shall, at the same time, disburse to the qualified school
14 districts an amount of money equal to their allocations under
15 paragraph (2)(ii). Each school district's portion shall be
16 deposited in the school district's general fund for disposition
17 as provided in section 701(b).

18 (e) Penalty.--If disbursements are not made on or before the
19 tenth day of each month, a 5% penalty shall be added thereto
20 plus an additional 1% late charge per month delayed.

21 Section 319. Adoption of municipal ordinances and school
22 district petitions.

23 (a) General rule.--No municipality may receive a
24 disbursement under section 318(c) (relating to disbursements)
25 and no school district may receive a disbursement under section
26 318(d) unless one of the following applies:

27 (1) Prior to enactment of the county ordinance, it
28 adopts a municipal ordinance or a school district petition
29 containing the statement:

30 We strongly urge the county to enact a county sales

1 and use tax and intend to accept disbursements of the
2 sales and use taxes collected.

3 A municipality which does not enact an ordinance and a school
4 district which does not enact a petition in compliance with
5 this paragraph may not receive any distribution from funds
6 collected during the first 24 months immediately following
7 the initial date of imposition of the tax.

8 (2) Prior to October 1 of any year after the enactment
9 of the county resolution, it adopts a municipal ordinance or
10 a school district petition containing the statement:

11 We support the enactment by the county of the county
12 sales and use tax and strongly urge its continuation
13 and intend to accept disbursements of the sales and
14 use taxes collected.

15 (b) Delivery.--A certified copy of the municipal ordinance
16 or the school district petition shall be delivered to the county
17 commissioners on or before the enactment of the county
18 resolution or October 15 of any year thereafter, as the case may
19 be.

20 Section 320. Allocations and qualifications.

21 (a) Allocations to municipalities.--The State Treasurer
22 shall compute allocations to municipalities in the following
23 manner:

24 (1) Fifty percent of the money allocated to
25 municipalities shall be pursuant to a format in which the
26 total allocation to municipalities multiplied by the ratio of
27 weighted tax revenues of the municipality divided by the sum
28 of the weighted tax revenues of all municipalities located in
29 the county.

30 (2) Fifty percent of the money allocated to

1 municipalities shall be returned to the municipality of
2 origin of the sales tax revenue.

3 (b) Allocations to school districts.--Each school district
4 shall be allocated a portion of the total allocation to school
5 districts which is equal to the total allocation to school
6 districts multiplied by the ratio of average daily membership of
7 the school district divided by the sum of the average daily
8 membership of all school districts in the county.

9 (c) Qualifications.--Municipalities and school districts
10 qualified to receive disbursements under section 318(c) or (d)
11 (relating to disbursements) are municipalities and school
12 districts located within the county, which:

13 (1) adopt in a timely fashion, the ordinance or petition
14 required under section 319 (relating to adoption of municipal
15 ordinances and school district petitions); and

16 (2) adopt the necessary ordinances or, in the case of
17 school districts, take the legally necessary action and
18 impose the taxes authorized under this act.

19 (d) Calculation of weighted tax revenues.--Calculations of
20 weighted tax revenues shall be made by the Department of
21 Community and Economic Development or any successor agency and
22 certified to the State Treasurer based upon information reported
23 to the Department of Community and Economic Development any
24 successor agency, subject to review, verification and approval
25 by the Department of Community and Economic Development or any
26 successor agency.

27 (e) Definitions.--As used in this section, the following
28 words and phrases shall have the meanings given to them in this
29 subsection:

30 "Average daily membership." As defined by the act of March

1 10, 1949 (P.L.30, No.14), known as the Public School Code of
2 1949.

3 "Weighted tax revenues." Total tax revenues from all sources
4 of a municipality divided by the ratio of its per capita market
5 value to the per capita market value of its county.

6 "Per capita market value." The total market value of all
7 real property divided by population as determined by the most
8 recent decennial census.

9 SUBCHAPTER C

10 PERSONAL INCOME TAX

11 Section 321. Construction.

12 The tax imposed by the governing body under this subchapter
13 shall be in addition to any tax imposed by the Commonwealth
14 under Article III of the Tax Reform Code. Except for the
15 differing provisions under sections 501 (relating to credits),
16 502 (relating to low-income tax provisions) and 503 (relating to
17 regulations), the provisions of Article III of the Tax Reform
18 Code shall apply to the tax.

19 Section 322. Personal income tax.

20 In lieu of imposing the tax under section 312 (relating to
21 imposition), each county shall have the power and may levy,
22 assess and collect a tax on the personal income of resident
23 taxpayers of the county up to a maximum rate of 0.5%, in
24 increments of 0.25%. A county which imposes a tax under this
25 section may not impose any tax under section 312.

26 Section 323. Collections.

27 A county may either collect the tax imposed under section 322
28 (relating to personal income tax) or may enter into an agreement
29 with the department for collection of the tax.

30 Section 324. Rules and regulations; collection costs.

1 (a) Regulations.--Rules and regulations shall be applicable
2 to the taxes imposed under section 322 (relating to personal
3 income tax) in the same manner as is provided for in Article III
4 of the Tax Reform Code.

5 (b) Administrative costs.--The department, to cover its
6 costs of administration under this act, may retain a sum equal
7 to 1% of the revenues collected under this subchapter for those
8 administrative costs. When the annual operating budget for the
9 department is submitted to the General Assembly, the department
10 shall also submit to the chairman and minority chairman of the
11 Appropriations Committee of the Senate and to the chairman and
12 minority chairman of the Appropriations Committee of the House
13 of Representatives the actual sums retained for costs of
14 collection under this act in the preceding fiscal year, together
15 with all supporting details.

16 Section 325. Procedure and administration.

17 (a) Ordinance.--The governing body, in order to impose the
18 tax authorized by section 322 (relating to personal income tax),
19 shall adopt an ordinance which shall refer to this subchapter.
20 Prior to adopting an ordinance imposing the tax authorized by
21 section 322, the respective governing body shall give public
22 notice of its intent to adopt the ordinance in the manner
23 provided by section 4 of the Local Tax Enabling Act and shall
24 conduct at least one public hearing regarding the proposed
25 adoption of the ordinance.

26 (b) Delivery.--A certified copy of the ordinance imposing
27 the tax shall be delivered to the department no later than 90
28 days prior to the effective date of the ordinance.

29 (c) Delivery of repeal ordinance.--A certified copy of a
30 repeal ordinance shall be delivered to the department at least

1 30 days prior to the effective date of the repeal.

2 Section 326. Local personal income tax funds.

3 There is hereby established for each county levying the tax
4 under section 322 (relating to personal income tax) the (proper
5 name) Personal Income Tax Fund. The State Treasurer shall be
6 custodian of each such fund which shall be subject to the
7 provisions of law applicable to funds listed in section 302 of
8 the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal
9 Code. Taxes imposed under section 322 shall be received by the
10 department and paid to the State Treasurer and, along with
11 interest and penalties, less any collection costs allowed under
12 this subchapter and any refunds and credits paid, shall be
13 credited to the respective funds not less frequently than every
14 two weeks. During any period prior to the credit of moneys to
15 each such fund, interest earned on moneys received by the
16 department and paid to the State Treasurer under this subchapter
17 shall be deposited into that fund. All moneys in each such fund,
18 including, but not limited to, moneys credited to that fund
19 under this section, prior year encumbrances and the interest
20 earned thereon, shall not lapse or be transferred to any other
21 fund, but shall remain in that fund. Pending their disbursement,
22 moneys received on behalf of or deposited into each such fund
23 shall be invested or reinvested as are other moneys in the
24 custody of the State Treasurer in the manner provided by law.
25 All earnings received from the investment or reinvestment of the
26 moneys shall be credited to the respective funds.

27 Section 327. Disbursements.

28 On or before the April 10, July 10, October 10 and the next
29 succeeding January 10, the State Treasurer shall make the
30 disbursements to each county imposing the tax out of the moneys

1 which are, as of the last day of the previous month, contained
2 in the respective personal income tax funds. If disbursements
3 are not made on or before the dates listed in this section, a 5%
4 penalty shall be added thereto, plus a 1% late charge per month
5 delayed. This section shall only apply to a county which imposes
6 a tax under section 322 (relating to personal income tax).

7 SUBCHAPTER D

8 EARNED INCOME AND NET PROFITS TAX

9 Section 331. Earned income and net profits tax.

10 In lieu of imposing the tax under section 312 (relating to
11 imposition), each county shall have the power and may levy,
12 assess and collect a tax on the earned income and net profits of
13 resident taxpayers of the county up to a maximum rate of 0.5% in
14 increments of 0.25% of 1%. A county which imposes a tax under
15 this paragraph may not impose a tax under section 322 (relating
16 to personal income tax).

17 Section 332. Collections.

18 A county imposing a tax under section 331 (relating to earned
19 income and net profits tax) shall designate the tax officer who
20 is appointed under section 10 of the Local Tax Enabling Act, or
21 otherwise by law, as the collector of the earned income and net
22 profits tax. In the performance of the tax collection duties
23 under this subchapter, the designated tax officer shall have all
24 the same powers, rights, responsibilities and duties for the
25 collection of the taxes which may be imposed under the Local Tax
26 Enabling Act or as otherwise provided by law.

27 Section 333. Rules and regulations.

28 Taxes imposed under section 331 (relating to earned income
29 and net profits tax) will be subject to the rules and
30 regulations pursuant to section 13 of the Local Tax Enabling

1 Act.

2 Section 334. Procedure and administration.

3 The governing body, in order to impose the tax authorized by
4 section 331 (relating to earned income and net profits tax),
5 shall adopt an ordinance which shall refer to this subchapter.
6 Prior to adopting an ordinance imposing the tax authorized by
7 section 331, the governing body shall give public notice of its
8 intent to adopt the ordinance in the manner provided by section
9 4 of the Local Tax Enabling Act, and shall conduct at least one
10 public hearing regarding the proposed adoption of the ordinance.

11 CHAPTER 5

12 CREDITS, EXEMPTIONS AND DEFERRALS

13 Section 501. Credits.

14 The provisions of section 14 of the Local Tax Enabling Act
15 shall be used to determine any credits under the provisions of
16 this act for any tax imposed under section 322 (relating to
17 personal income tax).

18 Section 502. Low-income tax provisions.

19 The provisions of section 304 of the Tax Reform Code shall be
20 applied by any county which levies a tax under section 322
21 (relating to personal income tax) to any qualified individual.

22 Section 503. Regulations.

23 Each county may adopt regulations for the processing of
24 claims under sections 501 (relating to credits) and 502
25 (relating to low-income tax provisions).

26 CHAPTER 7

27 DISPOSITION OF TAX REVENUES

28 Section 701. Sales tax revenues.

29 (a) Counties.--One hundred percent of any additional
30 revenues received by a county from the sales and use tax shall

1 be used to offset the revenues lost as a result of the
2 prohibition against imposition of the taxes enumerated in
3 section 301(b) (relating to general tax authorization) and then
4 to reduce the county real property tax by means of a homestead
5 exclusion.

6 (b) Municipalities and school districts.--

7 (1) One hundred percent of any additional revenues shall
8 be used to reduce the taxes listed in paragraph (2) and then
9 to reduce the real property tax by means of a homestead
10 exclusion.

11 (2) The taxes which shall be reduced under this
12 subsection are as follows:

13 (i) A tax based upon a flat rate or on a millage
14 rate on an assessed valuation of a particular trade,
15 occupation or profession, commonly known as an occupation
16 tax.

17 (ii) A tax at a set or flat rate upon persons
18 employed within the taxing district, commonly known as an
19 occupational privilege tax.

20 (iii) A per capita, poll, residence or similar head
21 tax.

22 Section 702. Personal income tax revenues.

23 One hundred percent of any additional revenues from the
24 personal income tax shall be used to offset the lost revenues
25 from the taxes prohibited under section 301(b) (relating to
26 general tax authorization) and then to reduce the county real
27 property tax by means of a homestead exclusion.

28 Section 703. Revenue limitation exceptions.

29 The limitations relating to the reduction or elimination of
30 taxes in sections 701 (relating to sales tax revenues) and 702

(relating to personal income tax revenues) may be waived, but only to the degree necessary, in the following cases:

(1) If an increase in local expenditures is necessary to respond to or recover from an emergency or disaster declared by the Governor.

(2) If the political subdivision is required to implement a court decision.

(3) To pay interest and principal on any indebtedness incurred under the provisions of 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing).

(4) To pay increases in pension fund requirements which are in excess of the annual average increase over the immediately preceding five fiscal years.

(5) To respond to a county declared to be distressed under the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act.

(6) To increase revenues when actual revenues decline from the immediately preceding year, but only to the extent of the revenue decline.

(7) If the increase does not exceed the limitations on millage rates for real property under the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, or the act of August 9, 1955 (P.L.323, No.1307), known as The County Code.

(8) To respond to a Federal or State statute, regulation or order adding to or significantly altering responsibilities and duties or requiring expenditure of funds to the extent not funded by the Federal or State Government. This provision shall apply only to a Federal or State statute, regulation or order taking effect after the effective date of this act.

1 (9) To increase revenue equal to the percentage increase
2 in the Statewide average weekly wage from the immediately
3 preceding year or 5%, whichever is less.

4 CHAPTER 9

5 REGISTER FOR CERTAIN TAXES

6 Section 901. Definitions.

7 The following words and phrases when used in this chapter
8 shall have the meanings given to them in this section unless the
9 context clearly indicates otherwise:

10 "Department." The Department of Community and Economic
11 Development of the Commonwealth or any successor agency.

12 Section 902. Register for taxes under this act.

13 (a) General rule.--The department shall have available an
14 official continuing register supplemented annually of all sales
15 and use, personal income and earned income and net profits taxes
16 levied under this act.

17 (b) Contents of register.--The register and its supplements
18 shall list:

19 (1) The counties levying a personal income tax, sales
20 and use tax or earned income and net profits tax.

21 (2) The rate of tax as stated in the ordinance levying
22 the tax.

23 (3) The rate on taxpayers.

24 (4) The name and address of the tax officer responsible
25 for administering the collection of the tax and from whom
26 information, forms for reporting and copies of rules and
27 regulations are available.

28 Section 903. Information for register.

29 The chief clerk or secretary of each county shall furnish
30 information for the register to the department in such manner

1 and on such forms as the department may prescribe by certified
2 mail no later than May 31 of each year to show new tax
3 enactments, repeals and changes. Failure of the county to comply
4 with this date for filing may result in the omission of the tax
5 levy from the register for that year. Failure of the department
6 to receive information of taxes continued without change may be
7 construed by the department to mean that the information
8 contained in the previous register remains in force.

9 Section 904. Availability and effective period of register.

10 The department shall have the register, with such annual
11 supplements as may be required by new tax enactments, repeals or
12 changes, available upon request no later than July 1 of each
13 year. The effective period for each register shall be from July
14 1 of the year in which it is issued to June 30 of the following
15 year.

16 Section 905. Effect of nonfiling.

17 Employers shall not be required by any ordinance to withhold
18 from the compensation of their employees any personal income tax
19 imposed under the provisions of this act which is not listed in
20 the register or to make reports of compensation in connection
21 with taxes not so listed. If the register is not available by
22 July 1, the register of the previous year shall continue
23 temporarily in effect for an additional period of not more than
24 one year.

25 Section 906. Effect of chapter on liability of taxpayer.

26 The provisions of this chapter shall not affect the liability
27 of any taxpayer for taxes lawfully imposed under this act.

28 CHAPTER 13

29 MISCELLANEOUS PROVISIONS

30 Section 1301. Effective date.

1 This act shall take effect January 1, 2005, or immediately,
2 whichever occurs later.