
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 139 Session of
2005

INTRODUCED BY ERICKSON, CORMAN, D. WHITE, PILEGGI AND BOSCOLA,
FEBRUARY 1, 2005

REFERRED TO FINANCE, FEBRUARY 1, 2005

AN ACT

1 Providing options, subject to voter approval, for political
2 subdivisions to impose taxes on earned income and net profits
3 and personal income.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Local Tax
8 Choice Act.

9 Section 2. Definitions.

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

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

14 "Earned income." As defined in section 13 of the act of
15 December 31, 1965 (P.L.1257, No.511), known as The Local Tax
16 Enabling Act.

17 "Election officials." The county board of elections of a
18 county.

1 "Governing body." Any city council, borough council,
2 incorporated town council, board of township commissioners,
3 board of township supervisors, board of school directors,
4 governing council of a home rule municipality or optional plan
5 municipality, or governing council of a similar general purpose
6 unit of government which may be created by statute after the
7 effective date of this section.

8 "Income tax." A tax on earned income and net profits or a
9 tax on personal income imposed pursuant to this act.

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

12 "Net profits." As defined in section 13 of the act of
13 December 31, 1965 (P.L.1257, No.511), known as The Local Tax
14 Enabling Act.

15 "Personal income." Income enumerated in section 303 of the
16 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
17 of 1971, as returned to and ascertained by the Department of
18 Revenue, subject, however, to any correction for fraud, evasion
19 or error as finally determined by the Department of Revenue or a
20 court of competent jurisdiction.

21 "Political subdivision." Any city, borough, incorporated
22 town, township or school district.

23 "Resident individual." An individual who is domiciled in a
24 political subdivision.

25 "Statewide average weekly wage." That amount determined
26 annually for each calendar year by the Department of Labor and
27 Industry under section 105.1 of the act of June 2, 1915
28 (P.L.736, No.338), known as the Workers' Compensation Act.

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

1 Section 3. General tax authorization.

2 (a) General rule.--Subject to section 5 (relating to
3 adoption of referendum), a political subdivision may by
4 resolution levy, assess and collect or provide for the levying,
5 assessment and collection of the earned income and net profits
6 tax or the personal income tax. A political subdivision may levy
7 either an earned income and net profits tax or a personal income
8 tax, but under no circumstance may a political subdivision levy
9 both the earned income and net profits tax and a personal income
10 tax.

11 (b) Exclusions.--No political subdivision which levies an
12 earned income and net profits tax or a personal income tax may
13 levy, assess or collect any of the following:

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

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

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

21 (4) An earned income tax under the act of August 24,
22 1961 (P.L.1135, No.508), referred to as the First Class A
23 School District Earned Income Tax Act, or under the
24 additional authority in section 652.1(a)(2) of the act of
25 March 10, 1949 (P.L.30, No.14), known as the Public School
26 Code of 1949.

27 (5) Any tax under section 652.1(a)(4) of the Public
28 School Code of 1949 except as it pertains to real estate
29 transfer taxes.

30 (6) Except for taxes permitted under 53 Pa.C.S. §

8402(b), (c), (d), (e) and (f) (relating to scope and limitations), any other tax authorized or permitted under the Local Tax Enabling Act.

(c) Delinquent taxes.--The provisions of subsection (b) shall not apply to collection of delinquent taxes.

Section 4. Continuity of tax.

The earned income and net profits tax or the personal income tax levied under this act shall continue in force on a fiscal year basis without annual reenactment unless the rate of tax is increased or the tax is subsequently repealed.

Section 5. Adoption of referendum.

(a) Question.--Subject to the notice and public hearing requirements of section 11 (relating to procedure and administration), a governing body may levy the earned income and net profits tax or a personal income tax only by obtaining the approval of the electorate of the affected political subdivision in a public referendum at only the municipal election preceding the fiscal year when the earned income and net profits tax or personal income tax will be initially imposed. The referendum question must state the initial rate of the proposed earned income and net profits tax or personal income tax; the reason for the tax; and the amount of proposed budgeted revenue growth, if any, in the first fiscal year following adoption of the referendum, expressed as a percent increase over the prior year's budgeted revenue. Any increase in budgeted revenue between the first fiscal year following adoption of the referendum and the prior year's budgeted revenue shall not be more than the annual percent change in the Statewide average weekly wage. The question shall be in clear language that is readily understandable by a layperson. For the purpose of

1 illustration, a referendum question may be framed as follows:

2 Do you favor the imposition of an earned income and net
3 profits tax or a personal income tax of X% to be used to
4 replace (names of local taxes to be repealed), reduce real
5 property taxes by X% and provide for a one-time revenue
6 increase of X% over the preceding fiscal year?

7 (b) Analysis.--A nonlegal interpretative statement must
8 accompany the question in accordance with section 201.1 of the
9 act of June 3, 1937 (P.L.1333, No.320), known as the
10 Pennsylvania Election Code, that includes the following:

11 (1) The initial rate of the earned income and net
12 profits tax or personal income tax and the maximum allowable
13 rate of the earned income and net profits tax or personal
14 income tax imposed.

15 (2) The estimated revenues to be derived from the
16 initial rate of the earned income and net profits or personal
17 income tax imposed.

18 (3) The amount of proposed revenue growth, if any, in
19 the first fiscal year following adoption of the referendum.

20 (4) The estimated reduction in real property taxes and
21 the elimination of certain existing taxes.

22 (5) The identification of the existing taxes to be
23 eliminated.

24 (6) The method to be used to reduce real property taxes.

25 (7) The class or classes of real property for which real
26 property taxes would be reduced.

27 (8) The estimated amount of real property tax reduction
28 by class, expressed as an average percent reduction by class.

29 Section 6. Taxes authorized.

30 (a) General rule.--A political subdivision may levy, assess

1 and collect a tax authorized under either subsection (b) or (c),
2 but may not levy, assess and collect both taxes.

3 (b) Earned income and net profits tax.--A political
4 subdivision may levy, assess and collect a tax on the earned
5 income and net profits of resident individuals of the political
6 subdivision up to a maximum rate of 2.5%. The earned income and
7 net profits tax may be levied by the political subdivision at a
8 rate of 1%, 1.25%, 1.5%, 1.75%, 2%, 2.25% or 2.5%.

9 (c) Personal income tax.--A political subdivision may levy,
10 assess and collect a tax on the personal income of resident
11 individuals of the political subdivision on the same classes of
12 income as are subject to tax under Article III of the Tax Reform
13 Code, up to a maximum rate of 2.5%. The personal income tax may
14 be levied by the political subdivision at a rate of 1%, 1.25%,
15 1.5%, 1.75%, 2%, 2.25% or 2.5%.

16 Section 7. Collections.

17 (a) General rule.--A political subdivision imposing a tax
18 under section 6 (relating to taxes authorized) shall designate
19 the tax officer who is appointed under section 10 of the Local
20 Tax Enabling Act, or otherwise by law, as the collector of the
21 earned income and net profits tax and may designate that tax
22 officer as the collector of the personal income tax. In the
23 performance of the tax collection duties, the designated tax
24 officer shall have the same powers, rights, responsibilities and
25 duties for the collection of the taxes which may be imposed
26 under the Local Tax Enabling Act or as otherwise provided by
27 law.

28 (b) Collection of personal income tax by Commonwealth.--

29 (1) A political subdivision imposing a tax upon personal
30 income may enter into an agreement with the department for

1 the collection of that personal income tax by the department
2 in conjunction with the collection of any tax on personal
3 income imposed by the Commonwealth under the Tax Reform Code.

4 (2) The agreement may not include any provisions
5 regarding enforcement. The agreement and any renewal shall be
6 executed at least six months prior to the date for the
7 collection of the tax; shall have a duration of at least
8 three years; and, after expiration, shall not be reinstituted
9 for a period of three years. The agreement authorized by this
10 paragraph shall contain a provision appointing the department
11 as the tax officer within the meaning of this act.

12 (3) The department, by regulation, shall establish the
13 procedures for collecting the tax and paying the full amount
14 collected to the political subdivision.

15 Section 8. Credits.

16 (a) General rule.--Section 14 of the Local Tax Enabling Act
17 shall be used to determine any credits for any taxes imposed
18 under section 6 (relating to taxes authorized).

19 (b) State tax credit.--A credit against personal income tax
20 due to the Commonwealth under section 302 of the Tax Reform Code
21 shall be granted to all nonresidents of a city of the first
22 class who are subject to a tax imposed by a city of the first
23 class pursuant to the act of August 5, 1932 (Sp.Sess., P.L.45,
24 No.45), referred to as the Sterling Act. The credit shall equal
25 0.2756% of salaries, wages, commissions, compensation or other
26 income received for work done or services performed within a
27 city of the first class. The Secretary of Revenue shall
28 promulgate regulations and forms necessary to implement the
29 provisions of this subsection. This section shall only apply to
30 residents of political subdivisions which impose the tax under

1 this act.

2 Section 9. Exemptions.

3 A political subdivision which imposes an authorized tax under
4 this act may exempt from the payment of that tax any person
5 whose total income from all sources is less than \$7,500.

6 Section 10. Regulations.

7 (a) General rule.--Taxes imposed under section 6(b)
8 (relating to taxes authorized) shall be subject to regulations
9 adopted under section 13 of the Local Tax Enabling Act. A
10 political subdivision may adopt regulations for the processing
11 of claims for credits or exemptions under sections 8 (relating
12 to credits) and 9 (relating to exemptions).

13 (b) Personal income tax.--Regulations promulgated by the
14 department for personal income tax shall apply to any personal
15 income tax imposed by a political subdivision pursuant to this
16 act.

17 Section 11. Procedure and administration.

18 In order to levy the tax under section 6 (relating to taxes
19 authorized), the governing body must adopt a resolution which
20 must refer to this act prior to placing a question on the ballot
21 under section 5 (relating to adoption of referendum). Prior to
22 adopting a resolution imposing the tax authorized by section 6,
23 the governing body must give public notice of its intent to
24 adopt the resolution in the manner provided by section 4 of the
25 Local Tax Enabling Act and must conduct at least one public
26 hearing regarding the proposed adoption of the resolution.

27 Section 12. Disposition of earned income and net profits tax
28 revenue or personal income tax revenue.

29 The disposition of revenue from any tax imposed under this
30 act or an increase in the rate of any tax imposed by political

1 subdivisions under this act shall occur in the following manner:

2 (1) For the fiscal year of implementation of a newly
3 imposed income tax, all tax revenue received by a political
4 subdivision shall be used:

5 (i) First, to offset any lost revenue to the
6 political subdivision from the taxes prohibited under
7 section 3(b) (relating to general tax authorization) in
8 an amount equal to the revenue collected from the taxes
9 prohibited by section 3(b) in the preceding fiscal year.

10 (ii) Second, to provide for an increase in budgeted
11 revenues over the preceding fiscal year in accordance
12 with the amount specified in the referendum question
13 approved by the voters under section 5 (relating to
14 adoption of referendum).

15 (iii) Third, to reduce the political subdivision
16 real property tax by means of a reduction in the millage
17 rate.

18 (2) For the fiscal year of implementation of an increase
19 in the rate of the existing tax imposed under this act, all
20 revenue received by a political subdivision directly
21 attributable to the increased rate shall be used to reduce
22 the political subdivision real property tax by means of a
23 reduction in the millage rate.

24 Section 30. Effective date.

25 This act shall take effect in 60 days.