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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 157      Session of  
2005

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INTRODUCED BY ARMSTRONG, VANCE, GORDNER, THOMPSON, PILEGGI,  
EARLL, COSTA, KASUNIC, ORIE, LOGAN, ROBBINS, WONDERLING,  
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FEBRUARY 2, 2005

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AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,  
JUNE 6, 2006

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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 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 delegation of taxing powers and  
23 restrictions thereon; providing for local services taxes;  
24 repealing provisions relating to emergency and municipal  
25 services taxes and to continuation of occupational privilege  
26 taxes; further providing for collection of and restricted use  
27 of certain taxes; and making editorial changes.

28 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Section 2 of the act of December 31, 1965  
3 (P.L.1257, No.511), known as The Local Tax Enabling Act, amended  
4 December 1, 2004 (P.L.1729, No.222), is amended to read:

5 Section 2. Delegation of Taxing Powers and Restrictions  
6 Thereon.--The duly constituted authorities of the following  
7 political subdivisions, cities of the second class, cities of  
8 the second class A, cities of the third class, boroughs, towns,  
9 townships of the first class, townships of the second class,  
10 school districts of the second class, school districts of the  
11 third class, and school districts of the fourth class, in all  
12 cases including independent school districts, may, in their  
13 discretion, by ordinance or resolution, for general revenue  
14 purposes, levy, assess and collect or provide for the levying,  
15 assessment and collection of such taxes as they shall determine  
16 on persons, transactions, occupations, privileges, subjects and  
17 personal property within the limits of such political  
18 subdivisions, and upon the transfer of real property, or of any  
19 interest in real property, situate within the political  
20 subdivision levying and assessing the tax, regardless of where  
21 the instruments making the transfers are made, executed or  
22 delivered or where the actual settlements on such transfer take  
23 place. The taxing authority may provide that the transferee  
24 shall remain liable for any unpaid realty transfer taxes imposed  
25 by virtue of this act. Each local taxing authority may, by  
26 ordinance or resolution, exempt any person whose total income  
27 from all sources is less than twelve thousand dollars (\$12,000)  
28 per annum from the per capita or similar head tax, occupation  
29 tax [and emergency and municipal services tax], or earned income  
30 tax, or any portion thereof, and may adopt regulations for the

1 processing of claims for exemptions. Each political subdivision  
2 shall by ordinance or resolution exempt any person from the  
3 local services tax whose total income from all sources is less  
4 than twelve thousand dollars (\$12,000) for the calendar year in  
5 which the local services tax is levied, and shall adopt  
6 regulations for the processing of refund claims for a local  
7 services tax paid by any person who is eligible for the  
8 exemption. The regulations shall be consistent with 53 Pa.C.S.  
9 §§ 8425 (relating to refunds of overpayments) and 8426 (relating  
10 to interest on overpayment). The date of overpayment for a local  
11 services tax shall be the date the tax was deducted and withheld  
12 at source. Refunds made within seventy-five days of a refund  
13 request or seventy-five days after the last day the employer is  
14 required to remit the local services tax for the last quarter of  
15 the calendar year under section 9 of this act, whichever is  
16 later, shall not be subject to interest imposed under 53 Pa.C.S.  
17 § 8426. It is the intent of this section that a political  
18 subdivision or its tax officer determine eligibility for the  
19 exemption and provide refunds to exempt persons from the local  
20 services tax and that employers shall not be responsible for  
21 processing the exemption or exempting any employe from the local  
22 services tax. For purposes of this section, "income from all  
23 sources" shall mean "income" as defined in section 3 of the act  
24 of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens  
25 Rebate and Assistance Act. The Department of Community and  
26 Economic Development shall develop uniform forms to be used by  
27 political subdivisions to facilitate the refund of the tax to  
28 any person eligible for the exemption. Such local authorities  
29 shall not have authority by virtue of this act:

30 (1) To levy, assess and collect or provide for the levying,

1 assessment and collection of any tax on the transfer of real  
2 property when the transfer is by will or mortgage or the  
3 intestate laws of this Commonwealth or on a transfer by the  
4 owner of previously occupied residential premises to a builder  
5 of new residential premises when such previously occupied  
6 residential premises is taken in trade by such builder as part  
7 of the consideration from the purchaser of a new previously  
8 unoccupied single family residential premises or on a transfer  
9 between corporations operating housing projects pursuant to the  
10 housing and redevelopment assistance law and the shareholders  
11 thereof, or on a transfer between nonprofit industrial  
12 development agencies and industrial corporations purchasing from  
13 them, or on transfer to or from nonprofit industrial development  
14 agencies, or on a transfer between husband and wife, or on a  
15 transfer between persons who were previously husband and wife  
16 but who have since been divorced; provided such transfer is made  
17 within three months of the date of the granting of the final  
18 decree in divorce, or the decree of equitable distribution of  
19 marital property, whichever is later, and the property or  
20 interest therein, subject to such transfer, was acquired by the  
21 husband and wife, or husband or wife, prior to the granting of  
22 the final decree in divorce, or on a transfer between parent and  
23 child or the spouse of such a child, or between parent and  
24 trustee for the benefit of a child or the spouse of such child,  
25 or on a transfer between a grandparent and grandchild or the  
26 spouse of such grandchild, or on a transfer between brother and  
27 sister or brother and brother or sister and sister or the spouse  
28 of such brother or sister, or on a transfer to a conservancy  
29 which possesses a tax-exempt status pursuant to section  
30 501(c)(3) of the Internal Revenue Code, and which has as its

1 primary purpose the preservation of land for historic,  
2 recreational, scenic, agricultural or open space opportunities,  
3 by and between a principal and straw party for the purpose of  
4 placing a mortgage or ground rent upon the premises, or on a  
5 correctional deed without consideration, or on a transfer to the  
6 United States, the Commonwealth of Pennsylvania, or to any of  
7 their instrumentalities, agencies or political subdivisions, by  
8 gift, dedication or deed in lieu of condemnation, or deed of  
9 confirmation in connection with condemnation proceedings, or  
10 reconveyance by the condemning body of the property condemned to  
11 the owner of record at the time of condemnation which  
12 reconveyance may include property line adjustments provided said  
13 reconveyance is made within one year from the date of  
14 condemnation, leases, or on a conveyance to a trustee under a  
15 recorded trust agreement for the express purpose of holding  
16 title in trust as security for a debt contracted at the time of  
17 the conveyance under which the trustee is not the lender and  
18 requiring the trustee to make reconveyance to the grantor-  
19 borrower upon the repayment of the debt, or a transfer within a  
20 family from a sole proprietor family member to a family farm  
21 corporation, or in any sheriff sale instituted by a mortgagee in  
22 which the purchaser of said sheriff sale is the mortgagee who  
23 instituted said sale, or on a privilege, transaction, subject,  
24 occupation or personal property which is now or does hereafter  
25 become subject to a State tax or license fee;

26 (2) To levy, assess or collect a tax on the gross receipts  
27 from utility service of any person or company whose rates and  
28 services are fixed and regulated by the Pennsylvania Public  
29 Utility Commission or on any public utility services rendered by  
30 any such person or company or on any privilege or transaction

1 involving the rendering of any such public utility service;

2 (3) Except on sales of admission to places of amusement or  
3 on sales or other transfers of title or possession of property,  
4 to levy, assess or collect a tax on the privilege of employing  
5 such tangible property as is now or does hereafter become  
6 subject to a State tax; and for the purposes of this clause,  
7 real property rented for camping purposes shall not be  
8 considered a place of amusement.

9 (4) To levy, assess and collect a tax on goods and articles  
10 manufactured in such political subdivision or on the by-products  
11 of manufacture, or on minerals, timber, natural resources and  
12 farm products produced in such political subdivision or on the  
13 preparation or processing thereof for use or market, or on any  
14 privilege, act or transaction related to the business of  
15 manufacturing, the production, preparation or processing of  
16 minerals, timber and natural resources, or farm products, by  
17 manufacturers, by producers and by farmers with respect to the  
18 goods, articles and products of their own manufacture,  
19 production or growth, or on any privilege, act or transaction  
20 relating to the business of processing by-products of  
21 manufacture, or on the transportation, loading, unloading or  
22 dumping or storage of such goods, articles, products or by-  
23 products; except that local authorities may levy, assess and  
24 collect [an emergency and municipal] a local services tax and  
25 taxes on the occupation, per capita and earned income or net  
26 profits of natural persons engaged in the above activities  
27 whether doing business as individual proprietorship or as  
28 members of partnerships or other associations;

29 (5) To levy, assess or collect a tax on salaries, wages,  
30 commissions, compensation and earned income of nonresidents of

1 the political subdivisions: Provided, That this limitation (5)  
2 shall apply only to school districts of the second, third and  
3 fourth classes;

4 (6) To levy, assess or collect a tax on personal property  
5 subject to taxation by counties or on personal property owned by  
6 persons, associations and corporations specifically exempted by  
7 law from taxation under the county personal property tax law:  
8 Provided, That this limitation (6) shall not apply to cities of  
9 the second class;

10 (7) To levy, assess or collect a tax on membership in or  
11 membership dues, fees or assessment of charitable, religious,  
12 beneficial or nonprofit organizations including but not limited  
13 to sportsmens, recreational, golf and tennis clubs, girl and boy  
14 scout troops and councils;

15 (8) To levy, assess or collect any tax on a mobilehome or  
16 house trailer subject to a real property tax unless the same tax  
17 is levied, assessed and collected on other real property in the  
18 political subdivision.

19 (9) To levy, assess or collect any tax on individuals for  
20 the privilege of engaging in an occupation ([emergency and  
21 municipal] local services tax) except that such a tax may be  
22 levied, assessed and collected only by the political subdivision  
23 of the taxpayer's place of employment.

24 [Payment of any emergency and municipal services tax to any  
25 political subdivision by any person pursuant to an ordinance or  
26 resolution passed or adopted under the authority of this act  
27 shall be no less than ten dollars (\$10) nor more than fifty-two  
28 dollars (\$52) on each person for each calendar year.

29 The situs of such tax shall be the place of employment, but,  
30 in the event a person is engaged in more than one occupation, or

1 an occupation which requires his working in more than one  
2 political subdivision during the calendar year, the priority of  
3 claim to collect such emergency and municipal services tax shall  
4 be in the following order: first, the political subdivision in  
5 which a person maintains his principal office or is principally  
6 employed; second, the political subdivision in which the person  
7 resides and works, if such a tax is levied by that political  
8 subdivision; third, the political subdivision in which a person  
9 is employed and which imposes the tax nearest in miles to the  
10 person's home. The place of employment shall be determined as of  
11 the day the taxpayer first becomes subject to the tax during the  
12 calendar year.

13 It is the intent of this provision that no person shall pay  
14 more than fifty-two dollars (\$52) in any calendar year as an  
15 emergency and municipal services tax irrespective of the number  
16 of political subdivisions within which such person may be  
17 employed within any given calendar year.

18 In case of dispute, a tax receipt of the taxing authority for  
19 that calendar year declaring that the taxpayer has made prior  
20 payment which constitutes prima facie certification of payment  
21 to all other political subdivisions.] The following apply:

22 (i) For any payroll period in a calendar year, a political  
23 subdivision levying a local services tax pursuant to an  
24 ordinance or a resolution under the authority of this act shall  
25 collect no more than the pro rata share of the tax levied on a  
26 person for a calendar year determined by dividing the tax levied  
27 on a person for the calendar year by the number of payroll  
28 periods established by the employer for the calendar year. For  
29 purposes of determining the pro rata share, employers shall  
30 round down the amount of the tax collected each payroll period



1 to the nearest one-hundredth of a dollar. The local services tax  
2 shall be no more than fifty-two dollars (\$52) on each person for  
3 each calendar year, irrespective of the number of political  
4 subdivisions within which a person may be employed.

5 (ii) If a school district levied and collected an emergency  
6 and municipal services tax on the effective date of this  
7 subclause, the school district may continue to levy a local  
8 services tax in the same amount the school district collected on  
9 the effective date of this subclause, subject to the pro rata  
10 limitation based on payroll periods of subclause (i). However,  
11 if a municipality located in whole or in part within the school  
12 district subsequently levies the local services tax, the school  
13 district may only collect five dollars (\$5) on taxpayers  
14 employed within the municipality each calendar year, subject to  
15 the limitations of this clause. A school district that did not  
16 levy or collect a local AN EMERGENCY AND MUNICIPAL services tax <—  
17 on the effective date of this subclause shall be prohibited from  
18 levying a local services tax. If a school district and a  
19 municipality located in whole or in part within the school  
20 district both levy a local services tax, the school district's  
21 pro rata share of the aggregate local services taxes levied on  
22 taxpayers employed within the municipality shall be collected by  
23 the municipality or its tax officer based on pay periods, and  
24 paid to the school district on a quarterly basis within sixty  
25 days of receipt by the municipality or its tax officer. If a  
26 municipality located in whole or in part within a school  
27 district does not levy and collect the local services tax, the  
28 school district may provide for collection of the local services  
29 tax as provided in section 10 of this act.

30 (iii) No taxpayer shall be subject to the payment of the

1 local services tax by TO more than one political subdivision <—  
2 CONSISTENT WITH SUBCLAUSE (II) during each payroll period as <—  
3 established by subclause (iv).

4 (iv) The situs of the tax shall be the place of employment  
5 on the first day the taxpayer becomes subject to the tax during  
6 each payroll period in a calendar year, but, in the event a  
7 person is engaged in more than one occupation, that is,  
8 concurrent employment, or an occupation which requires the  
9 taxpayer working in more than one political subdivision during a  
10 payroll period, the priority of claim to collect the local  
11 services tax shall be in the following order: first, the  
12 political subdivision in which a person maintains the person's  
13 principal office or is principally employed; second, the  
14 political subdivision in which the person resides and works, if  
15 the tax is levied by that political subdivision; and third, the  
16 political subdivision in which a person is employed and which  
17 imposes the tax nearest in miles to the person's home.

18 (v) In the case of concurrent employment, an employer shall  
19 refrain from withholding the local services tax if the employe  
20 provides a recent pay statement from a principal employer that  
21 includes the name of the employer, the length of the pay period  
22 and the amount of the local services tax withheld, which is  
23 accompanied by a statement from the employe that the pay  
24 statement is from the employe's principal employer and the  
25 employe will notify other employers of a change in principal  
26 place of employment within two weeks of its occurrence. The  
27 Department of Community and Economic Development shall develop a  
28 uniform employe statement form.

29 (vi) Political subdivisions shall adopt regulations for the  
30 processing of refund claims for overpaid local services taxes

1 for any calendar year. The regulations shall be consistent with  
2 53 Pa.C.S. §§ 8425 and 8426. The date of overpayment for a local  
3 services tax shall be the date the tax was deducted and withheld  
4 at source. Refunds made within seventy-five days of a refund  
5 request or seventy-five days after the last day the employer is  
6 required to remit the local services tax for the last quarter of  
7 the calendar year under section 9 of this act, whichever is  
8 later, shall not be subject to interest imposed under 53 Pa.C.S.  
9 § 8426. Political subdivisions shall only provide refunds for  
10 amounts overpaid in a calendar year that exceed one dollar (\$1).

11 (vii) The Department of Community and Economic Development  
12 may provide suggested forms and technical assistance to  
13 facilitate the administration of the local services tax for  
14 political subdivisions and reduce the burden of implementation,  
15 accounting and compliance for employers and taxpayers.

16 (10) To levy, assess or collect a tax on admissions to  
17 motion picture theatres: Provided, That this limitation (10)  
18 shall not apply to cities of the second class.

19 (11) To levy, assess or collect a tax on the construction of  
20 or improvement to residential dwellings or upon the application  
21 for or issuance of permits for the construction of or  
22 improvements to residential dwellings.

23 (12) To levy, assess and collect a mercantile or business  
24 privilege tax on gross receipts or part thereof which are: (i)  
25 discounts allowed to purchasers as cash discounts for prompt  
26 payment of their bills; (ii) charges advanced by a seller for  
27 freight, delivery or other transportation for the purchaser in  
28 accordance with the terms of a contract of sale; (iii) received  
29 upon the sale of an article of personal property which was  
30 acquired by the seller as a trade-in to the extent that the

1 gross receipts in the sale of the article taken in trade does  
2 not exceed the amount of trade-in allowance made in acquiring  
3 such article; (iv) refunds, credits or allowances given to a  
4 purchaser on account of defects in goods sold or merchandise  
5 returned; (v) Pennsylvania sales tax; (vi) based on the value of  
6 exchanges or transfers between one seller and another seller who  
7 transfers property with the understanding that property of an  
8 identical description will be returned at a subsequent date;  
9 however, when sellers engaged in similar lines of business  
10 exchange property and one of them makes payment to the other in  
11 addition to the property exchanged, the additional payment  
12 received may be included in the gross receipts of the seller  
13 receiving such additional cash payments; (vii) of sellers from  
14 sales to other sellers in the same line where the seller  
15 transfers the title or possession at the same price for which  
16 the seller acquired the merchandise; or (viii) transfers between  
17 one department, branch or division of a corporation or other  
18 business entity of goods, wares and merchandise to another  
19 department, branch or division of the same corporation or  
20 business entity and which are recorded on the books to reflect  
21 such interdepartmental transactions.

22 (13) To levy, assess or collect an amusement or admissions  
23 tax on membership, membership dues, fees or assessments,  
24 donations, contributions or monetary charges of any character  
25 whatsoever paid by the general public, or a limited or selected  
26 number thereof, for such persons to enter into any place,  
27 indoors or outdoors, to engage in any activities, the  
28 predominant purpose or nature of which is exercise, fitness,  
29 health maintenance, improvement or rehabilitation, health or  
30 nutrition education, or weight control.

1       (14) Except by cities of the second class, to levy, assess  
2 or collect a tax on payroll amounts generated as a result of  
3 business activity.

4       (15) Except by cities of the second class in which a sports  
5 stadium or arena that has received public funds in connection  
6 with its construction or maintenance is located, to levy, assess  
7 and collect a publicly funded facility usage fee upon those  
8 nonresident individuals who use such facility to engage in an  
9 athletic event or otherwise render a performance for which they  
10 receive remuneration.

11       (16) To levy, assess or collect an amusement or admissions  
12 tax on the charge imposed upon a patron for the sale of  
13 admission to or for the privilege of admission to a bowling  
14 alley or bowling lane to engage in one or more games of bowling.

15       Section 2. Section 7 of the act, amended August 11, 1967  
16 (P.L.228, No.83) and October 9, 1967 (P.L.361, No.160), is  
17 amended to read:

18       Section 7. Filing of Certified Copies of Ordinances and  
19 Resolutions.--When an ordinance or a resolution is first passed  
20 or adopted by a political subdivision imposing a tax or license  
21 fee under the authority of this act, an exact printed or  
22 typewritten copy thereof, certified to by the secretary of the  
23 taxing body, shall be filed with the [Department of Community  
24 Affairs] Department of Community and Economic Development within  
25 fifteen days after the same becomes effective.

26       Any secretary or person acting as the clerk or secretary of  
27 the taxing body of any political subdivision during the meeting  
28 at which an ordinance or resolution imposing a tax or license  
29 fee is passed or adopted as herein provided who shall fail to  
30 file the certified copy or statement relative thereto with the

1 [Department of Community Affairs] Department of Community and  
2 Economic Development as herein required, shall, upon summary  
3 conviction thereof in the county in which the political  
4 subdivision is located, be sentenced to pay a fine of not less  
5 than five dollars (\$5) nor more than twenty-five dollars (\$25),  
6 and the costs of prosecution.

7 Section 3. Section 8 of the act, amended December 1, 2004  
8 (P.L.1729, No.222), is amended to read:

9 Section 8. Limitations on Rates of Specific Taxes.--No taxes  
10 levied under the provisions of this act shall be levied by any  
11 political subdivision on the following subjects exceeding the  
12 rates specified in this section:

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

15 (2) On each dollar of the whole volume of business  
16 transacted by wholesale dealers in goods, wares and merchandise,  
17 one mill, by retail dealers in goods, wares and merchandise and  
18 by proprietors of restaurants or other places where food, drink  
19 and refreshments are served, one and one-half mills; except in  
20 cities of the second class, where rates shall not exceed one  
21 mill on wholesale dealers and two mills on retail dealers and  
22 proprietors. No such tax shall be levied on the dollar volume of  
23 business transacted by wholesale and retail dealers derived from  
24 the resale of goods, wares and merchandise, taken by any dealer  
25 as a trade-in or as part payment for other goods, wares and  
26 merchandise, except to the extent that the resale price exceeds  
27 the trade-in allowance.

28 (3) On wages, salaries, commissions and other earned income  
29 of individuals, one percent.

30 (4) On retail sales involving the transfer of title or

1 possession of tangible personal property, two percent.

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

3 (6) On admissions to places of amusement, athletic events  
4 and the like, and on motion picture theatres in cities of the  
5 second class, ten percent.

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

8 (8) [Emergency and municipal] Local services taxes, fifty-  
9 two dollars (\$52).

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

14 (10) On admissions to golf courses, ten percent. The tax  
15 base upon which the tax shall be levied shall not exceed forty  
16 percent of the greens fee. The greens fee shall include all  
17 costs of admissions to the golf course.

18 (12) On payrolls, fifty-five hundredths percent.

19 Except as otherwise provided in this act, at any time two  
20 political subdivisions shall impose any one of the above taxes  
21 on the same person, subject, business, transaction or privilege,  
22 located within both such political subdivisions, during the same  
23 year or part of the same year, under the authority of this act  
24 then the tax levied by a political subdivision under the  
25 authority of this act shall, during the time such duplication of  
26 the tax exists, except as hereinafter otherwise provided, be  
27 one-half of the rate, as above limited, and such one-half rate  
28 shall become effective by virtue of the requirements of this act  
29 from the day such duplication becomes effective without any  
30 action on the part of the political subdivision imposing the tax

1 under the authority of this act. When any one of the above taxes  
2 has been levied under the provisions of this act by one  
3 political subdivision and a subsequent levy is made either for  
4 the first time or is revived after a lapse of time by another  
5 political subdivision on the same person, subject, business,  
6 transaction or privilege at a rate that would make the combined  
7 levies exceed the limit allowed by this subdivision, the tax of  
8 the second political subdivision shall not become effective  
9 until the end of the fiscal year for which the prior tax was  
10 levied, unless:

11 (1) Notice indicating its intention to make such levy is  
12 given to the first taxing body by the second taxing body as  
13 follows: (i) when the notice is given to a school district it  
14 shall be given at least forty-five days prior to the last day  
15 fixed by law for the levy of its school taxes; (ii) when given  
16 to any other political subdivision it shall be prior to the  
17 first day of January immediately preceding, or if a last day for  
18 the adoption of the budget is fixed by law, at least forty-five  
19 days prior to such last day; or

20 (2) Unless the first taxing body shall indicate by  
21 appropriate resolution its desire to waive notice requirements  
22 in which case the levy of the second taxing body shall become  
23 effective on such date as may be agreed upon by the two taxing  
24 bodies.

25 It is the intent and purpose of this provision to limit rates  
26 of taxes referred to in this section so that the entire burden  
27 of one tax on a person, subject, business, transaction or  
28 privilege shall not exceed the limitations prescribed in this  
29 section: Provided, however, That any two political subdivisions  
30 which impose any one of the above taxes, on the same person,



1 subject, business, transaction or privilege during the same year  
2 or part of the same year may agree among themselves that,  
3 instead of limiting their respective rates to one-half of the  
4 maximum rate herein provided, they will impose respectively  
5 different rates, the total of which shall not exceed the maximum  
6 rate as above permitted.

7 Notwithstanding the provisions of this section, any city of  
8 the second class A may enact a tax upon wages, salaries,  
9 commissions and other earned income of individuals resident  
10 therein, not exceeding one percent, even though a school  
11 district levies a similar tax on the same person provided that  
12 the aggregate of both taxes does not exceed two percent. [In the  
13 case of duplication of emergency and municipal services taxes by  
14 both a school district, other than a school district of the  
15 first class A, and another taxing body, the school district's  
16 share of the tax shall not exceed the amount of a tax on the  
17 privilege of engaging in an occupation collected by the school  
18 district as of the effective date of this paragraph. In the case  
19 where a school district did not levy a tax on the privilege of  
20 engaging in an occupation on the effective date of this  
21 paragraph, the school district may impose a future levy not to  
22 exceed five dollars (\$5). A school district of the first class A  
23 shall not levy, assess or collect an emergency and municipal  
24 services tax.]

25 Section 4. Section 9 of the act, amended December 12, 1968  
26 (P.L.1203, No.377), is amended to read:

27 Section 9. Register for Earned Income and [Occupational  
28 Privilege] Local Services Taxes.--It shall be the duty of the  
29 [Department of Community Affairs] Department of Community and  
30 Economic Development to have available an official continuing

1 register supplemented annually of all earned income and  
2 [occupational privilege] local services taxes levied under  
3 authority of this act. The register and its supplements,  
4 hereinafter referred to as the register, shall list such  
5 jurisdictions levying earned income [and/or occupational  
6 privilege] and local services taxes, the rate of the tax as  
7 stated in the tax levying ordinance or resolution, and the  
8 effective rate on resident and nonresident taxpayers, if  
9 different from the stated rate because of a coterminous levy,  
10 the name and address of the officer responsible for  
11 administering the collection of the tax and from whom  
12 information, forms for reporting and copies of rules and  
13 regulations are available. With each jurisdiction listed, all  
14 jurisdictions making coterminous levies shall also be noted and  
15 their tax rates shown.

16 Information for the register shall be furnished by the  
17 secretary of each taxing body to the [Department of Community  
18 Affairs] Department of Community and Economic Development in  
19 such manner and on such forms as the [Department of Community  
20 Affairs] Department of Community and Economic Development may  
21 prescribe. The information must be received by the [Department  
22 of Community Affairs] Department of Community and Economic  
23 Development by certified mail not later than May 31 of each year  
24 to show new tax enactments, repeals and changes. Failure to  
25 comply with this date for filing may result in the omission of  
26 the levy from the register for that year. Failure of the  
27 [Department of Community Affairs] Department of Community and  
28 Economic Development to receive information of taxes continued  
29 without change may be construed by the department to mean that  
30 the information contained in the previous register remains in

1 force.

2 The [Department of Community Affairs] Department of Community  
3 and Economic Development shall have the register with such  
4 annual supplements as may be required by new tax enactments,  
5 repeals or changes available upon request not later than July 1  
6 of each year. The effective period for each register shall be  
7 from July 1 of the year in which it is issued to June 30 of the  
8 following year.

9 Employers shall not be required by any local ordinance to  
10 withhold from the wages, salaries, commissions or other  
11 compensation of their employees any tax imposed under the  
12 provisions of this act, which is not listed in the register, or  
13 make reports of wages, salaries, commissions or other  
14 compensation in connection with taxes not so listed: Provided,  
15 That if the register is not available by July 1, the register of  
16 the previous year shall continue temporarily in effect for an  
17 additional period not to exceed one year. The provisions of this  
18 section shall not affect the liability of any taxpayer for taxes  
19 lawfully imposed under this act.

20 Ordinances or resolutions imposing earned income or  
21 [occupational privilege] local services taxes under authority of  
22 this act may contain provisions requiring employers doing  
23 business within the jurisdiction of the political subdivision  
24 imposing the tax to withhold the tax from the compensation of  
25 those of their employees who are subject to the tax: Provided,  
26 That no employer shall be held liable for failure to withhold  
27 earned income taxes or for the payment of such withheld tax  
28 money to a political subdivision other than the political  
29 subdivision entitled to receive such money if such failure to  
30 withhold or such incorrect transmittal of withheld taxes arises

1 from incorrect information as to the employee's place of  
2 residence submitted by the employee: And provided further, That  
3 [employers shall not be required by any local ordinance to  
4 withhold from compensation for any one of their employees for the  
5 occupational privilege tax more than one time in any fiscal  
6 period:] no employer shall be held liable for failure to  
7 withhold the local services tax or for the payment of the  
8 withheld tax money to a political subdivision if the failure to  
9 withhold taxes arises from incorrect information submitted by  
10 the employee as to the employee's place or places of employment,  
11 the employee's principal office or where the employee is  
12 principally employed: And provided further, That an employer  
13 shall not be liable for payment of the local services tax in an  
14 amount exceeding the amount withheld by the employer if the  
15 employer complies with the provisions of section 2(9) of this  
16 act and remits the amount so withheld in accordance with this  
17 section: And provided further, That the Department of Community  
18 and Economic Development may provide suggested forms and  
19 technical assistance to facilitate the administration of the  
20 local services tax for political subdivisions and reduce the  
21 burden of implementation, accounting and compliance for  
22 employers and taxpayers: And provided further, That the  
23 [occupational privilege] local services tax shall be applicable  
24 to employment in the period beginning January 1, of the current  
25 year and ending December 31 of the current year, except that  
26 taxes imposed for the first time shall become effective from  
27 [the date] JANUARY 1 OF THE YEAR specified in the ordinance or <—  
28 resolution, and the tax shall continue in force on a calendar  
29 year basis[.]: And provided further, That employers shall be  
30 required to remit the local services taxes WITHIN thirty days <—

1 after the end of each quarter of a calendar year.

2 Section 5. Section 19 of the act, amended October 4, 1978  
3 (P.L.930, No.177), is amended to read:

4 Section 19. Collection of Delinquent Per Capita, Occupation,  
5 Occupational Privilege, Emergency and Municipal Services, Local  
6 Services and Earned Income Taxes from Employers, etc.--The tax  
7 collector shall demand, receive and collect from all  
8 corporations, political subdivisions, associations, companies,  
9 firms or individuals, employing persons owing delinquent per  
10 capita, or occupation, occupational privilege, emergency and  
11 municipal services, local services and earned income taxes, or  
12 whose spouse owes delinquent per capita, occupation,  
13 occupational privilege, emergency and municipal services, local  
14 services and earned income taxes, or having in possession unpaid  
15 commissions or earnings belonging to any person or persons owing  
16 delinquent per capita, occupation, occupational privilege,  
17 emergency and municipal services, local services and earned  
18 income taxes, or whose spouse owes delinquent per capita,  
19 occupation, occupational privilege, emergency and municipal  
20 services, local services and earned income taxes, upon the  
21 presentation of a written notice and demand certifying that the  
22 information contained therein is true and correct and containing  
23 the name of the taxable or the spouse thereof and the amount of  
24 tax due. Upon the presentation of such written notice and  
25 demand, it shall be the duty of any such corporation, political  
26 subdivision, association, company, firm or individual to deduct  
27 from the wages, commissions or earnings of such individual  
28 employes, then owing or that shall within sixty days thereafter  
29 become due, or from any unpaid commissions or earnings of any  
30 such taxable in its or his possession, or that shall within

1 sixty days thereafter come into its or his possession, a sum  
2 sufficient to pay the respective amount of the delinquent per  
3 capita, occupation, occupational privilege, emergency and  
4 municipal services, local services and earned income taxes and  
5 costs, shown upon the written notice or demand, and to pay the  
6 same to the tax collector of the taxing district in which such  
7 delinquent tax was levied within sixty days after such notice  
8 shall have been given. No more than ten percent of the wages,  
9 commissions or earnings of the delinquent taxpayer or spouse  
10 thereof may be deducted at any one time for delinquent per  
11 capita, occupation, occupational privilege, emergency and  
12 municipal services, local services and earned income taxes and  
13 costs. Such corporation, political subdivision, association,  
14 firm or individual shall be entitled to deduct from the moneys  
15 collected from each employe the costs incurred from the extra  
16 bookkeeping necessary to record such transactions, not exceeding  
17 two percent of the amount of money so collected and paid over to  
18 the tax collector. Upon the failure of any such corporation,  
19 political subdivision, association, company, firm or individual  
20 to deduct the amount of such taxes or to pay the same over to  
21 the tax collector, less the cost of bookkeeping involved in such  
22 transaction, as herein provided, within the time hereby  
23 required, such corporation, political subdivision, association,  
24 company, firm or individual shall forfeit and pay the amount of  
25 such tax for each such taxable whose taxes are not withheld and  
26 paid over, or that are withheld and not paid over together with  
27 a penalty of ten percent added thereto, to be recovered by an  
28 action of assumpsit in a suit to be instituted by the tax  
29 collector, or by the proper authorities of the taxing district,  
30 as debts of like amount are now by law recoverable, except that

1 such person shall not have the benefit of any stay of execution  
2 or exemption law. The tax collector shall not proceed against a  
3 spouse or his employer until he has pursued collection remedies  
4 against the delinquent taxpayer and his employer under this  
5 section.

6 Section 6. Section 20 of the act is amended to read:

7 Section 20. Collection of Delinquent Per Capita, Occupation,  
8 Occupational Privilege, Emergency and Municipal Services, Local  
9 Services and Earned Income Taxes from the Commonwealth.--Upon  
10 presentation of a written notice and demand under oath or  
11 affirmation, to the State Treasurer or any other fiscal officer  
12 of the State, or its boards, authorities, agencies or  
13 commissions, it shall be the duty of the treasurer or officer to  
14 deduct from the wages then owing, or that shall within sixty  
15 days thereafter become due to any employe, a sum sufficient to  
16 pay the respective amount of the delinquent per capita,  
17 occupation, occupational privilege, emergency and municipal  
18 services, local services and earned income taxes and costs shown  
19 on the written notice. The same shall be paid to the tax  
20 collector of the taxing district in which said delinquent tax  
21 was levied within sixty days after such notice shall have been  
22 given.

23 Section 7. Section 22.1 of the act, added November 30, 2004  
24 (P.L.1520, No.192), is amended to read:

25 Section 22.1. Costs of Collection of Delinquent Per Capita,  
26 Occupation, Occupational Privilege, Emergency and Municipal  
27 Services, Local Services and Earned Income Taxes.--(a) A person,  
28 public employe or private agency designated by a governing body  
29 of a political subdivision to collect and administer a per  
30 capita, occupation, occupational privilege, emergency and

1 municipal services, local services or earned income tax may  
2 impose and collect the reasonable costs incurred to provide  
3 notices of delinquency or to implement similar procedures  
4 utilized to collect delinquent taxes from a taxpayer as approved  
5 by the governing body of the political subdivision. Reasonable  
6 costs collected may be retained by the person, public employe or  
7 private agency designated to collect the tax as agreed to by the  
8 governing body of the political subdivision. An itemized  
9 accounting of all costs collected shall be remitted to the  
10 political subdivision on an annual basis.

11 (b) Costs related to the collection of unpaid per capita,  
12 occupation [or], occupational privilege, emergency and municipal  
13 services or local services taxes may only be assessed, levied  
14 and collected for five years from the last day of the calendar  
15 year in which the tax was due.

16 (c) A delinquent taxpayer may not bring an action for  
17 reimbursement, refund or elimination of reasonable costs of  
18 collection assessed or imposed prior to the effective date of  
19 this section. Additional costs may not be assessed on delinquent  
20 taxes collected prior to the effective date of this section.

21 Section 8. Sections 22.4 and 22.5 of the act, added December  
22 1, 2004 (P.L.1729, No.222), are amended to read:

23 [Section 22.4. Emergency and Municipal Services Taxes.--Any  
24 reference in any act or law to an occupational privilege tax  
25 shall mean the emergency and municipal services taxes as  
26 provided for in this act.

27 Section 22.5. Restricted Use.--(a) Any municipality  
28 deriving funds from the emergency and municipal services tax may  
29 only use the funds for:

30 (1) police, fire and/or emergency services;



(2) road construction and/or maintenance; or

(3) reduction of property taxes.

(b) For the purpose of the emergency and municipal services tax, the term municipality does not include a school district.]

Section 9. The act is amended by adding a section to read:

Section 22.6. Restricted Use.--(a) Any municipality deriving funds from the local services tax shall use no less than twenty-five percent of the funds for police, fire and emergency services.

(b) For the purpose of the local services tax, the term "municipality" does not include a school district.

Section 10. Any ordinance or resolution providing for the levying, assessment or collection of a tax on individuals for the privilege of engaging in an occupation which has been enacted by a political subdivision prior to December 1, 2004, shall continue in full force and effect, without reenactment, as if such tax had been levied, assessed or collected as a local services tax under section 2(9) of the act. All references in any ordinance or resolution to a tax on the privilege of engaging in an occupation shall be deemed to be a reference to a local services tax for the purposes of the act.

Section 11. All emergency and municipal services taxes levied for the calendar year beginning on January 1, ~~2005~~ 2006, <—  
shall remain in effect for the calendar year beginning on  
January 1, ~~2005~~ 2006, and ending December 31, ~~2005~~ 2006, and are <—  
not otherwise altered.

Section 12. ~~Except as set forth in section 12.1 of this act,~~ <—  
~~the~~ THE amendment or addition of the following provisions shall <—  
apply to taxes levied for calendar year ~~2006~~ 2007 and each year <—  
thereafter:

- 1           (1) The amendment of section 2 of the act.
- 2           (2) The amendment of section 8 of the act.
- 3           (3) The amendment of section 9 of the act, except for
- 4 any editorial amendment changing the reference from the
- 5 Department of Community Affairs to the Department of
- 6 Community and Economic Development.
- 7           (4) The amendment of section 19 of the act.
- 8           (5) The amendment of section 20 of the act.
- 9           (6) The amendment of section 22.1 of the act.
- 10          (7) The amendment of section 22.4 of the act.
- 11          (8) The amendment of section 22.5 of the act.
- 12          (9) The addition of section 22.6 of the act.

13       ~~Section 12.1. The following provisions shall not apply to a~~ <—

14 ~~political subdivision which, on November 30, 2004, was imposing~~

15 ~~a tax on the privilege of engaging in an occupation:~~

- 16           ~~(1) The amendment of section 2(9) of the act.~~
- 17           ~~(2) The addition of section 22.6 of the act.~~

18       ~~Section 12.2. The amendment of the introductory paragraph of~~

19 ~~section 2 of the act shall not apply, until January 1, 2007, to~~

20 ~~a municipality which reduced its real estate property tax by at~~

21 ~~least 25% upon adoption of an ordinance pursuant to the act of~~

22 ~~December 1, 2004 (P.L.1729, No.222), entitled "An act amending~~

23 ~~the act of December 31, 1965 (P.L.1257, No.511), entitled "An~~

24 ~~act empowering cities of the second class, cities of the second~~

25 ~~class A, cities of the third class, boroughs, towns, townships~~

26 ~~of the first class, townships of the second class, school~~

27 ~~districts of the second class, school districts of the third~~

28 ~~class and school districts of the fourth class including~~

29 ~~independent school districts, to levy, assess, collect or to~~

30 ~~provide for the levying, assessment and collection of certain~~

1 ~~taxes subject to maximum limitations for general revenue~~  
2 ~~purposes; authorizing the establishment of bureaus and the~~  
3 ~~appointment and compensation of officers, agencies and employes~~  
4 ~~to assess and collect such taxes; providing for joint collection~~  
5 ~~of certain taxes, prescribing certain definitions and other~~  
6 ~~provisions for taxes levied and assessed upon earned income,~~  
7 ~~providing for annual audits and for collection of delinquent~~  
8 ~~taxes, and permitting and requiring penalties to be imposed and~~  
9 ~~enforced, including penalties for disclosure of confidential~~  
10 ~~information, providing an appeal from the ordinance or~~  
11 ~~resolution levying such taxes to the court of quarter sessions~~  
12 ~~and to the Supreme Court and Superior Court,' further providing~~  
13 ~~for delegation of taxing powers and restrictions thereon;~~  
14 ~~providing for nonresident sports facility usage fee, for parking~~  
15 ~~tax rates and for payroll taxes; further providing for~~  
16 ~~limitations on rates of specific taxes and for the appointment~~  
17 ~~of a single collector of taxes; further providing for the~~  
18 ~~applicability of petitions under the act of July 10, 1987~~  
19 ~~(P.L.246, No.47), known as the Municipalities Financial Recovery~~  
20 ~~Act; and making a repeal."~~

21 Section 13. Repeals are as follows:

22 (1) The General Assembly declares that the repeal under  
23 paragraph (2) is necessary to effectuate the amendment of  
24 section 2(9) of the act.

25 (2) Section 6 of the act of December 1, 2004 (P.L.1729,  
26 No.222), entitled "An act amending the act of December 31,  
27 1965 (P.L.1257, No.511), entitled 'An act empowering cities  
28 of the second class, cities of the second class A, cities of  
29 the third class, boroughs, towns, townships of the first  
30 class, townships of the second class, school districts of the

1 second class, school districts of the third class and school  
2 districts of the fourth class including independent school  
3 districts, to levy, assess, collect or to provide for the  
4 levying, assessment and collection of certain taxes subject  
5 to maximum limitations for general revenue purposes;  
6 authorizing the establishment of bureaus and the appointment  
7 and compensation of officers, agencies and employes to assess  
8 and collect such taxes; providing for joint collection of  
9 certain taxes, prescribing certain definitions and other  
10 provisions for taxes levied and assessed upon earned income,  
11 providing for annual audits and for collection of delinquent  
12 taxes, and permitting and requiring penalties to be imposed  
13 and enforced, including penalties for disclosure of  
14 confidential information, providing an appeal from the  
15 ordinance or resolution levying such taxes to the court of  
16 quarter sessions and to the Supreme Court and Superior  
17 Court,' further providing for delegation of taxing powers and  
18 restrictions thereon; providing for nonresident sports  
19 facility usage fee, for parking tax rates and for payroll  
20 taxes; further providing for limitations on rates of specific  
21 taxes and for the appointment of a single collector of taxes;  
22 further providing for the applicability of petitions under  
23 the act of July 10, 1987 (P.L.246, No.47), known as the  
24 Municipalities Financial Recovery Act; and making a repeal,"  
25 is repealed.  
26 Section 14. This act shall take effect immediately.