

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 831

Session of
1977

INTRODUCED BY STUBAN, ZITTERMAN, SHUMAN, JONES, GATSKI,
ARMSTRONG, ZELLER AND CIMINI, MARCH 30, 1977

REFERRED TO COMMITTEE ON FINANCE, MARCH 30, 1977

AN ACT

1 Amending the act of December 31, 1965 (P.L.1257, No.511),
2 entitled "An act empowering cities of the second class,
3 cities of the second class A, cities of the third class,
4 boroughs, towns, townships of the first class, townships of
5 the second class, school districts of the second class,
6 school districts of the third class and school districts of
7 the fourth class including independent school districts, to
8 levy, assess, collect or to provide for the levying,
9 assessment and collection of certain taxes subject to maximum
10 limitations for general revenue purposes; authorizing the
11 establishment of bureaus and the appointment and compensation
12 of officers, agencies and employes to assess and collect such
13 taxes; providing for joint collection of certain taxes,
14 prescribing certain definitions and other provisions for
15 taxes levied and assessed upon earned income, providing for
16 annual audits and for collection of delinquent taxes, and
17 permitting and requiring penalties to be imposed and
18 enforced, including penalties for disclosure of confidential
19 information, providing an appeal from the ordinance or
20 resolution levying such taxes to the court of quarter
21 sessions and to the Supreme Court and Superior Court,"
22 prohibiting the levying, assessing or collecting of any tax
23 on occupations.

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 Section 1. The introductory paragraph of section 2, act of
27 December 31, 1965 (P.L.1257, No.511), known as "The Local Tax
28 Enabling Act," amended December 13, 1974 (P.L.941, No.310), is

1 amended and a clause is added to read:

2 Section 2. Delegation of Taxing Powers and Restrictions

3 Thereon.--The duly constituted authorities of the following
4 political subdivisions, cities of the second class, cities of
5 the second class A, cities of the third class, boroughs, towns,
6 townships of the first class, townships of the second class,
7 school districts of the second class, school districts of the
8 third class, and school districts of the fourth class, in all
9 cases including independent school districts, may, in their
10 discretion, by ordinance or resolution, for general revenue
11 purposes, levy, assess and collect or provide for the levying,
12 assessment and collection of such taxes as they shall determine
13 on persons, transactions, [occupations,] privileges, subjects
14 and personal property within the limits of such political
15 subdivisions, and upon the transfer of real property, or of any
16 interest in real property, situate within the political
17 subdivision levying and assessing the tax, regardless of where
18 the instruments making the transfers are made, executed or
19 delivered or where the actual settlements on such transfer take
20 place. The taxing authority may provide that the transferee
21 shall remain liable for any unpaid realty transfer taxes imposed
22 by virtue of this act. Each local taxing authority may, by
23 ordinance or resolution, exempt any person whose total income
24 from all sources is less than three thousand two hundred dollars
25 (\$3,200) per annum from the per capita or similar head tax,
26 [occupation tax] and occupational privilege tax, or any portion
27 thereof, and may adopt regulations for the processing of claims
28 for exemptions. Such local authorities shall not have authority
29 by virtue of this act:

30 * * *

1 (8.1) To levy, assess or collect any tax on occupations
2 whether using a flat rate or a millage or percentage of any
3 value placed on various occupations as a basis for such tax.

4 * * *

5 Section 2. Clause (7) of section 8 of the act is repealed.

6 Section 3. Section 19 of the act, amended August 6, 1971
7 (P.L.279, No.71), is amended to read:

8 Section 19. Collection of Delinquent Per Capita

9 [Occupation,] Occupational Privilege and Earned Income Taxes

10 from Employers, etc.--The tax collector shall demand, receive

11 and collect from all corporations, political subdivisions,

12 associations, companies, firms or individuals, employing persons

13 owing delinquent per capita, or [occupation,] occupational

14 privilege and earned income taxes, or whose wife owes delinquent

15 per capita, [occupation,] occupational privilege and earned

16 income taxes, or having in possession unpaid commissions or

17 earnings belonging to any person or persons owing delinquent per

18 capita, [occupation,] occupational privilege and earned income

19 taxes, or whose wife owes delinquent per capita, [occupation,]

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

1 Section 4. Section 20 of the act is amended to read:
2 Section 20. Collection of Delinquent Per Capita,
3 [Occupation,] Occupational Privilege and Earned Income Taxes
4 from the Commonwealth.--Upon presentation of a written notice
5 and demand under oath or affirmation, to the State Treasurer or
6 any other fiscal officer of the State, or its boards,
7 authorities, agencies or commissions, it shall be the duty of
8 the treasurer or officer to deduct from the wages then owing, or
9 that shall within sixty days thereafter become due to any
10 employee, a sum sufficient to pay the respective amount of the
11 delinquent per capita, [occupation,] occupational privilege and
12 earned income taxes and costs shown on the written notice. The
13 same shall be paid to the tax collector of the taxing district
14 in which said delinquent tax was levied within sixty days after
15 such notice shall have been given.