

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 871

Session of
1981

INTRODUCED BY DOMBROWSKI, PRATT, KUKOVICH, BOWSER, CAPPABIANCA,
COLE, DeMEDIO, HOEFFEL, KOWALYSHYN, COCHRAN, CALTAGIRONE AND
MORRIS, MARCH 16, 1981

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 16, 1981

AN ACT

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

28 The General Assembly of the Commonwealth of Pennsylvania

29 hereby enacts as follows:

30 Section 1. Section 2, act of December 31, 1965 (P.L.1257,

1 No.511), known as "The Local Tax Enabling Act," amended December
2 21, 1967 (P.L.878, No.391), July 1, 1978 (P.L.592, No.113) and
3 October 25, 1979 (P.L.233, No.74), is amended to read:

4 Section 2. Delegation of Taxing Powers and Restrictions
5 Thereon.--The duly constituted authorities of the following
6 political subdivisions, cities of the second class, cities of
7 the second class A, cities of the third class, boroughs, towns,
8 townships of the first class, townships of the second class,
9 school districts of the second class, school districts of the
10 third class, and school districts of the fourth class, in all
11 cases including independent school districts, may, in their
12 discretion, by ordinance or resolution, for general revenue
13 purposes, levy, assess and collect or provide for the levying,
14 assessment and collection of such taxes as they shall determine
15 on persons, transactions, [occupations,] privileges, subjects
16 and personal property within the limits of such political
17 subdivisions, and upon the transfer of real property, or of any
18 interest in real property, situate within the political
19 subdivision levying and assessing the tax, regardless of where
20 the instruments making the transfers are made, executed or
21 delivered or where the actual settlements on such transfer take
22 place. The taxing authority may provide that the transferee
23 shall remain liable for any unpaid realty transfer taxes imposed
24 by virtue of this act. Each local taxing authority may, by
25 ordinance or resolution, exempt any person whose total income
26 from all sources is less than [three thousand two hundred
27 dollars (\$3,200)] five thousand dollars (\$5,000) per annum from
28 the per capita or similar head tax, [occupation tax and]
29 occupational privilege tax, or earned income tax, or any portion
30 thereof, and may adopt regulations for the processing of claims

1 for exemptions. Such local authorities shall not have authority
2 by virtue of this act:

3 (1) To levy, assess and collect or provide for the levying,
4 assessment and collection of any tax on the transfer of real
5 property when the transfer is by will or mortgage or the
6 intestate laws of this Commonwealth or on a transfer by the
7 owner of previously occupied residential premises to a builder
8 of new residential premises when such previously occupied
9 residential premises is taken in trade by such builder as part
10 of the consideration from the purchaser of a new previously
11 unoccupied single family residential premises or on a transfer
12 between corporations operating housing projects pursuant to the
13 housing and redevelopment assistance law and the shareholders
14 thereof, or on a transfer between nonprofit industrial
15 development agencies and industrial corporations purchasing from
16 them, or on transfer to nonprofit industrial development
17 agencies, or on a transfer between husband and wife, or on a
18 transfer between persons who were previously husband and wife
19 but who have since been divorced; provided such transfer is made
20 within three months of the date of the granting of the final
21 decree in divorce and the property or interest therein, subject
22 to such transfer, was acquired by the husband and wife, or
23 husband or wife, prior to the granting of the final decree in
24 divorce, or on a transfer between parent and child or the spouse
25 of such a child, or between parent and trustee for the benefit
26 of a child or the spouse of such child, by and between a
27 principal and straw party for the purpose of placing a mortgage
28 or ground rent upon the premises, or on a correctional deed
29 without consideration, or on a transfer to the United States,
30 the Commonwealth of Pennsylvania, or to any of their

1 instrumentalities, agencies or political subdivisions, by gift,
2 dedication or deed in lieu of condemnation, or deed of
3 confirmation in connection with condemnation proceedings, or
4 reconveyance by the condemning body of the property condemned to
5 the owner of record at the time of condemnation which
6 reconveyance may include property line adjustments provided said
7 reconveyance is made within one year from the date of
8 condemnation, leases, or on a conveyance to a trustee under a
9 recorded trust agreement for the express purpose of holding
10 title in trust as security for a debt contracted at the time of
11 the conveyance under which the trustee is not the lender and
12 requiring the trustee to make reconveyance to the grantor-
13 borrower upon the repayment of the debt, or in any sheriff sale
14 instituted by a mortgagee in which the purchaser of said sheriff
15 sale is the mortgagee who instituted said sale, or on a
16 privilege, transaction, subject, occupation or personal property
17 which is now or does hereafter become subject to a State tax or
18 license fee;

19 (2) To levy, assess or collect a tax on the gross receipts
20 from utility service of any person or company whose rates and
21 services are fixed and regulated by the Pennsylvania Public
22 Utility Commission or on any public utility services rendered by
23 any such person or company or on any privilege or transaction
24 involving the rendering of any such public utility service;

25 (3) Except on sales of admission to places of amusement or
26 on sales or other transfers of title or possession of property,
27 to levy, assess or collect a tax on the privilege of employing
28 such tangible property as is now or does hereafter become
29 subject to a State tax; and for the purposes of this clause,
30 real property rented for camping purposes shall not be

1 considered a place of amusement.

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

22 (5) To levy, assess or collect a tax on salaries, wages,
23 commissions, compensation and earned income of nonresidents of
24 the political subdivisions: Provided, That this limitation (5)
25 shall apply only to school districts of the second, third and
26 fourth classes;

27 (6) To levy, assess or collect a tax on personal property
28 subject to taxation by counties or on personal property owned by
29 persons, associations and corporations specifically exempted by
30 law from taxation under the county personal property tax law:

1 Provided, That this limitation (6) shall not apply to cities of
2 the second class;

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

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

12 (9) To levy, assess or collect any tax on individuals for
13 the privilege of engaging in an occupation (occupational
14 privilege tax) except that such a tax may be levied, assessed
15 and collected only by the [political subdivision] municipal
16 corporation of the taxpayer's place of employment.

17 Payment of any occupational privilege tax to any [political
18 subdivision] municipal corporation by any person pursuant to an
19 ordinance or resolution passed or adopted under the authority of
20 this act shall be limited to [ten dollars (\$10)] twenty-five
21 dollars (\$25) on each person for each calendar year.

22 The situs of such tax shall be the place of employment, but,
23 in the event a person is engaged in more than one occupation, or
24 an occupation which requires his working in more than one
25 [political subdivision] municipal corporation during the
26 calendar year, the priority of claim to collect such
27 occupational privilege tax shall be in the following order:
28 first, the [political subdivision] municipal corporation in
29 which a person maintains his principal office or is principally
30 employed; second, the [political subdivision] municipal

1 corporation in which the person resides and works, if such a tax
2 is levied by that [political subdivision] municipal corporation;
3 third, the [political subdivision] municipal corporation in
4 which a person is employed and which imposes the tax nearest in
5 miles to the person's home. The place of employment shall be
6 determined as of the day the taxpayer first becomes subject to
7 the tax during the calendar year.

8 It is the intent of this provision that no person shall pay
9 more than [ten dollars (\$10)] twenty-five dollars (\$25) in any
10 calendar year as an occupational privilege tax irrespective of
11 the number of [political subdivisions] municipal corporations
12 within which such person may be employed within any given
13 calendar year.

14 In case of dispute, a tax receipt of the taxing authority for
15 that calendar year declaring that the taxpayer has made prior
16 payment which constitutes prima facie certification of payment
17 to all other political subdivisions.

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

21 (11) To levy, assess or collect any tax on occupations using
22 a millage or percentage of any value placed on occupations as a
23 basis for such tax.

24 Section 2. Section 8 of the act, paragraph added December
25 27, 1967 (P.L.894, No.404), is amended to read:

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

30 (1) Per capita, poll or other similar head taxes, ten

1 dollars (\$10).

2 (2) On each dollar of the whole volume of business
3 transacted by wholesale dealers in goods, wares and merchandise,
4 one mill, by retail dealers in goods, wares and merchandise and
5 by proprietors of restaurants or other places where food, drink
6 and refreshments are served, one and one-half mills; except in
7 cities of the second class, where rates shall not exceed one
8 mill on wholesale dealers and two mills on retail dealers and
9 proprietors. No such tax shall be levied on the dollar volume of
10 business transacted by wholesale and retail dealers derived from
11 the resale of goods, wares and merchandise, taken by any dealer
12 as a trade-in or as part payment for other goods, wares and
13 merchandise, except to the extent that the resale price exceeds
14 the trade-in allowance.

15 (3) On wages, salaries, commissions and other earned income
16 of individuals, [one percent] up to one percent for municipal
17 corporations and up to two percent for school districts:
18 Provided, however, That political subdivisions may not increase
19 their tax rate above the rate levied in the prior year more than
20 the amount calculated as necessary to replace revenues lost
21 under amendments made by this act and the residential portion of
22 any reduction in budgeted real property taxes.

23 (4) On retail sales involving the transfer of title or
24 possession of tangible personal property, two percent.

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

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

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

(8) Occupational privilege taxes, [ten dollars (\$10)]

twenty-five dollars (\$25).

[Except as otherwise provided in this act, at any time two political subdivisions shall impose any one of the above taxes on the same person, subject, business, transaction or privilege, located within both such political subdivisions, during the same year or part of the same year, under the authority of this act then the tax levied by a political subdivision under the authority of this act shall, during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate, as above limited, and such one-half rate shall become effective by virtue of the requirements of this act from the day such duplication becomes effective without any action on the part of the political subdivision imposing the tax under the authority of this act. When any one of the above taxes has been levied under the provisions of this act by one political subdivision and a subsequent levy is made either for the first time or is revived after a lapse of time by another political subdivision on the same person, subject, business, transaction or privilege at a rate that would make the combined levies exceed the limit allowed by this subdivision, the tax of the second political subdivision shall not become effective until the end of the fiscal year for which the prior tax was levied, unless:

(1) Notice indicating its intention to make such levy is given to the first taxing body by the second taxing body as follows: (i) when the notice is given to a school district it shall be given at least forty-five days prior to the last day fixed by law for the levy of its school taxes; (ii) when given to any other political subdivision it shall be prior to the

1 first day of January immediately preceding, or if a last day for
2 the adoption of the budget is fixed by law, at least forty-five
3 days prior to such last day; or

4 (2) Unless the first taxing body shall indicate by
5 appropriate resolution its desire to waive notice requirements
6 in which case the levy of the second taxing body shall become
7 effective on such date as may be agreed upon by the two taxing
8 bodies.]

9 (9) The rate of tax imposed on any privilege, act or
10 transaction of manufacturers combined with any additional
11 mercantile tax authorized in clause (2) of this section and
12 enacted after the effective date of this act shall not exceed an
13 amount calculated as necessary to replace the non-residential
14 portion of any reduction in budgeted real property taxes.

15 It is the intent and purpose of this [provision] section to
16 limit rates of taxes referred to in this section so that the
17 entire burden of one tax on a person, subject, business,
18 transaction or privilege shall not exceed the limitations
19 prescribed in this section.[: Provided, however, That any two
20 political subdivisions which impose any one of the above taxes,
21 on the same person, subject, business, transaction or privilege
22 during the same year or part of the same year may agree among
23 themselves that, instead of limiting their respective rates to
24 one-half of the maximum rate herein provided, they will impose
25 respectively different rates, the total of which shall not
26 exceed the maximum rate as above permitted.

27 Notwithstanding the provisions of this section, any city of
28 the second class A may enact a tax upon wages, salaries,
29 commissions and other earned income of individuals resident
30 therein, not exceeding one percent, even though a school

1 district levies a similar tax on the same person provided that
2 the aggregate of both taxes does not exceed two percent.]

3 Section 3. Subsection (a) of section 17 of the act is
4 amended to read:

5 Section 17. Tax Limitations.--(a) Over-all Limit of Tax
6 Revenues.--The aggregate amount of all taxes imposed by any
7 political subdivision under this section and in effect during
8 any fiscal year shall not exceed an amount equal to the product
9 obtained by multiplying the latest total market valuation of
10 real estate in such political subdivision, as determined by the
11 board for the assessment and revision of taxes or any similar
12 board established by the assessment laws which determines market
13 values of real estate within the political subdivision, by
14 [twelve] eighteen mills. In school districts of the second
15 class, third class and fourth class and in any political
16 subdivision within a county where no market values of real
17 estate have been determined by the board for the assessment and
18 revision of taxes, or any similar board, the aggregate amount of
19 all taxes imposed under this section and in effect during any
20 fiscal year shall not exceed an amount equal to the product
21 obtained by multiplying the latest total market valuation of
22 real estate in such school district, or other political
23 subdivision, as certified by the State Tax Equalization Board,
24 by [twelve] eighteen mills. In school districts of the third and
25 fourth class, taxes imposed on sales involving the transfer of
26 real property shall not be included in computing the aggregate
27 amount of taxes for any fiscal year in which one hundred or more
28 new homes or other major improvements on real estate were
29 constructed in the school district.

30 The aggregate amount of all taxes imposed by any independent

1 school district under this section during any fiscal year shall
2 not exceed an amount equal to the product obtained by
3 multiplying the latest total valuation of real estate in such
4 district by fifteen mills.

5 * * *

6 Section 4. This act shall take effect immediately and shall
7 apply at the beginning of the political subdivision's next
8 fiscal year following the effective date of this act.