

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2937 Session of  
2004

INTRODUCED BY PETRI, CAPPELLI, CORRIGAN, CRAHALLA, GOODMAN,  
McILHATTAN, MILLARD, PICKETT, SCAVELLO, E. Z. TAYLOR, TIGUE  
AND WATSON, OCTOBER 21, 2004

REFERRED TO COMMITTEE ON FINANCE, OCTOBER 21, 2004

AN ACT

1 Amending the act of June 22, 2001 (P.L.374, No.24), entitled, as  
2 amended, "An act providing for optional occupation tax  
3 replacement," further providing for earned income tax rate  
4 limits; and requiring referendum under certain circumstances.

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

7 Section 1. Section 4(b) of the act of June 22, 2001  
8 (P.L.374, No.24), known as the Optional Occupation Tax  
9 Elimination Act, amended June 29, 2002 (P.L.642, No.96), is  
10 amended to read:

11 Section 4. Earned income tax rate limits.

12 \* \* \*

13 (b) Calculation of maximum earned income tax rate.--The  
14 maximum earned income tax rate shall be determined by taking the  
15 sum of the rates calculated under paragraphs (1) and (2) and  
16 limited by paragraph (3):

17 (1) The rate of the earned income tax that would have  
18 resulted in the collection by the political subdivision of an

1 amount equal to the amount collected from the occupation tax.  
2 The calculation by a school district under this paragraph  
3 shall be made using the average of the actual revenue  
4 collections for the [fiscal year ending in 2002.] two fiscal  
5 years immediately prior to the date of the referendum under  
6 section 7. The calculation by a municipality under this  
7 paragraph shall be made using the average of the actual  
8 revenue collections for the [calendar year ending December  
9 31, 2001.] two calendar years immediately prior to the date  
10 of the referendum under section 7.

11 (2) The rate at which the earned income tax was  
12 collected by a school district for the fiscal year [ending in  
13 2002] immediately prior to the date of the referendum under  
14 section 7 or the rate at which the earned income tax was  
15 collected by a municipality for the calendar year [ending  
16 December 31, 2001.] immediately prior to the date of the  
17 referendum under section 7.

18 (3) The tax rate determined under paragraphs (1) and (2)  
19 shall be rounded off to the nearest increment of ten  
20 hundredths of one percent.

21 The maximum rate of the earned income tax calculated under this  
22 subsection shall not be subject to the limits on the earned  
23 income tax specified in section 8(3) of The Local Tax Enabling  
24 Act.

25 \* \* \*

26 Section 2. The act is amended by adding a section to read:  
27 Section 7.1. Referendum required.

28 (a) Question authorized.--In the case of any political  
29 subdivision which levies the occupation tax on July 1, 2005, the  
30 appropriate county board of elections shall prepare a ballot

question on whether to eliminate the occupation tax and obtain replacement revenue by an increase in the earned income tax.

(b) Replacement revenue.--

(1) Representatives of the county board of elections shall contact the governing body of the political subdivision to calculate the additional amount of earned income tax necessary to replace the revenue generated by the occupation tax as provided in section 4.

(2) If the governing body fails to provide the information in a timely manner, representatives of the county board of elections shall calculate the rate of the earned income tax as provided in section 4.

(c) Ballot question.--The county board of elections shall place the question on the ballot at the municipal election held in November 2005.

(d) Contents of question.--The referendum question must state the maximum rate of the earned income tax calculated under section 4 and that the additional revenue generated by an increase in the earned income tax will be used to eliminate the occupation tax. The question shall be in clear language that is readily understandable by a layperson. For the purpose of illustration, a referendum question may be framed as follows:

Do you favor increasing the rate of the earned income tax to a maximum of X% with the requirement that the increase be used to eliminate the occupation tax?

(e) Vote.--

(1) If a majority of the electors voting on the question vote "yes," then the governing body shall be authorized to implement an increase in the earned income tax pursuant to section 4 and shall be required to eliminate the occupation

1 tax as required by section 5.

2 (2) If a majority of the electors voting on the question  
3 vote "no," the governing body shall have no authority to  
4 increase the rate of the earned income tax above the maximum  
5 rate otherwise provided by law.

6 (f) Voting proceedings.--Proceedings under this section  
7 shall be in accordance with the provisions of the act of June 3,  
8 1937 (P.L.1333, No.320), known as the Pennsylvania Election  
9 Code.

10 (g) Public notice.--

11 (1) Prior to the consideration of a ballot question  
12 under this section, the county board of elections shall give  
13 notice of the pending ballot question. The notice shall be  
14 given in addition to all other notices required by law and  
15 shall set forth the substantial nature of the tax to be  
16 imposed, the reason which, in the judgment of the governing  
17 body of the political subdivision, necessitates the  
18 imposition of the tax, and the amount of revenue estimated to  
19 be derived from the tax and the tax to be repealed.

20 (2) Publication of the notice shall be made by  
21 advertisement once a week for three weeks in a newspaper of  
22 general circulation within the political subdivision if there  
23 is such newspaper, and if there is not, then the publication  
24 shall be made in a newspaper of general circulation within  
25 the county in which the advertising political subdivision is  
26 located.

27 Section 3. This act shall take effect in 60 days.