
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1142 Session of
2004

INTRODUCED BY ERICKSON, PIPPY, PILEGGI, WOZNIAK AND CORMAN,
MAY 26, 2004

REFERRED TO FINANCE, MAY 26, 2004

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 or a court of
20 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, a political
3 subdivision may by resolution levy, assess and collect or
4 provide for the levying, assessment and collection of the earned
5 income and net profits tax or the personal income tax. A
6 political subdivision may levy either an earned income and net
7 profits tax or a personal income tax, but under no circumstance
8 may a political subdivision levy both the earned income and net
9 profits tax and a personal income tax.

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

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

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

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

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

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

29 (6) Except for taxes permitted under 53 Pa.C.S. §
30 8402(b), (c), (d), (e) and (f) (relating to scope and

1 limitations), any other tax authorized or permitted under the
2 Local Tax Enabling Act.

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

5 Section 4. Continuity of tax.

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9 increased or the tax is subsequently repealed.

10 Section 5. Adoption of referendum.

11 (a) Question.--Subject to the notice and public hearing
12 requirements of section 11, a governing body may levy the earned
13 income and net profits tax or a personal income tax only by
14 obtaining the approval of the electorate of the affected
15 political subdivision in a public referendum at only the
16 municipal election preceding the fiscal year when the earned
17 income and net profits tax or personal income tax will be
18 initially imposed. The referendum question must state the
19 initial rate of the proposed earned income and net profits tax
20 or personal income tax; the reason for the tax; and the amount
21 of proposed budgeted revenue growth, if any, in the first fiscal
22 year following adoption of the referendum, expressed as a
23 percent increase over the prior year's budgeted revenue. Any
24 increase in budgeted revenue between the first fiscal year
25 following adoption of the referendum and the prior year's
26 budgeted revenue shall not be more than the annual percent
27 change in the Statewide average weekly wage. The question shall
28 be in clear language that is readily understandable by a
29 layperson. For the purpose of illustration, a referendum
30 question may be framed as follows:

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

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

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

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

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

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

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

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

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

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

28 Section 6. Taxes authorized.

29 (a) General rule.--A political subdivision may levy, assess
30 and collect a tax authorized under either subsection (b) or (c),

1 but may not levy, assess and collect both taxes.

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

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

15 Section 7. Collections.

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

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

27 (1) A political subdivision imposing a tax upon personal
28 income may enter into an agreement with the department for
29 the collection of that personal income tax by the department
30 in conjunction with the collection of any tax on personal

1 income imposed by the Commonwealth under the Tax Reform Code.

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

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

13 Section 8. Credits.

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

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

30 Section 9. Exemptions.

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

4 Section 10. Regulations.

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

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

14 Section 11. Procedure and administration.

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

23 Section 12. Disposition of earned income and net profits tax
24 revenue or personal income tax revenue.

25 The disposition of revenue from any tax imposed under this
26 act or an increase in the rate of any tax imposed by political
27 subdivisions under this act shall occur in the following manner:

- 28 (1) For the fiscal year of implementation of a newly
29 imposed income tax, all tax revenue received by a political
30 subdivision shall be used:

1 (i) First, to offset any lost revenue to the
2 political subdivision from the taxes prohibited under
3 section 3(b) in an amount equal to the revenue collected
4 from the taxes prohibited by section 3(b) in the
5 preceding fiscal year.

6 (ii) Second, to provide for an increase in budgeted
7 revenues over the preceding fiscal year in accordance
8 with the amount specified in the referendum question
9 approved by the voters under section 5.

10 (iii) Third, to reduce the political subdivision
11 real property tax by means of a reduction in the millage
12 rate.

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

19 Section 30. Effective date.

20 This act shall take effect in 60 days.