

**SENATE APPROPRIATIONS COMMITTEE  
FISCAL NOTE**

**BILL NO.** House Bill 866

**PRINTER NO.** 972

**AMOUNT**

No Fiscal Impact  
See Fiscal Impact

**FUND**

General Fund  
Local Funds

**DATE INTRODUCED**

March 16, 2017

**PRIME SPONSOR**

Representative Dunbar

**DESCRIPTION AND PURPOSE OF BILL**

House Bill 866 amends the Local Tax Enabling Act (Act 511 of 1965), which includes comprehensive changes made by Act 32 of 2008, to make the consolidated collection of local income taxes and delinquent taxes more uniform across the Commonwealth.

The legislation amends section 301 of the act to add definitions for “contingent fee audit” and “private collection agency”. The legislation further amends section 303 of the act (relating to payroll tax) to prohibit the collection of delinquent taxes through contingent fee audits by a private collection agency.

Section 317(d) of Act 511 is amended to require credits against tax liability for the payment of any tax on income to any state or to any political subdivision thereof by residents thereof, if residents of the political subdivision in Pennsylvania receive similar credits on income imposed by the other state or political subdivision. Under current law, the granting of such credit is at the discretion of the Pennsylvania political subdivision imposing the tax.

House Bill 866 provides for uniform domicile requirements such that an individual who does not meet the domicile requirements of the Tax Reform Code of 1971 shall be deemed to not meet the domicile requirements for local tax purposes.

The legislation amends section 501 of the act by amending the definition of “earned income” to provide that tax districts are to collect and remit all earned income taxes, whether authorized by Act 511 or other Commonwealth law, and are to provide tax credits based on all EIT revenues collected accordingly.

The existing definitions of “nonresident” and “nonresident tax” contained in section 501 are amended as a means to clarify withholding tax rates for employees who are on temporary assignment in various taxing jurisdictions. The term “taxpayer” is also amended so that it does not include a person or business with no taxable income. Such person or business shall not be required to file a tax return or pay an income tax under Act 511.

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The legislation provides "safe harbor" provisions, meaning a taxpayer will have been deemed to meet the declaration and payment provisions regarding estimated payments if they make four timely estimated payments in one of the following two ways:

- Make four payments equal to 100% of the prior year's taxes, less any earned income tax withheld for the current year; or
- Make four payments equal to 90% of the current year's taxes, less any earned income tax withheld for the current year.

House Bill 866 limits the duties of a tax collection committee so that no additional forms, policies or procedures may be adopted other than those promulgated by the Department of Community and Economic Development (DCED). Furthermore, beginning January 1, 2020, no political subdivision, tax collection committee or tax officer may use any form other than that which is promulgated by DCED unless, for religious reasons, DCED expressly grants an exception.

Section 505(h) of the act is amended so that audits of taxes received and disbursed shall be conducted on a calendar year basis, and an examination conducted on any other basis will not be accepted by DCED.

Additionally, House Bill 866 adds provisions to give DCED oversight authority of all tax collection committees, tax collectors and tax collection offices, including the power to do the following:

- Provide the public with a method to report tax collection issues; and
- Ensure that all ordinances, rules, regulations and forms adopted in the collection of the earned income and net profits taxes are those promulgated by DCED.

The legislation clarifies withholding tax rates for employees on a temporary job assignment. In such cases, the employer shall withhold and remit the following taxes:

- For employees working for less than 90 consecutive days at a job location, the greater of the employee's resident tax or the employee's nonresident tax based on the location of the permanent home office of the employer.
- For employees working for 90 or more consecutive days at a job location, the greater of the employee's resident tax or the employee's nonresident tax based on the job location.
- Employees working in the City of Philadelphia are exempt from these provisions to the extent that they are subject to the Sterling Act.

House Bill 866 makes technical changes regarding reporting requirements of employers. The legislation also provides that a tax collector or officer may abate any penalty imposed under any provision of this act.

This act shall take effect in 60 days.

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### **FISCAL IMPACT:**

Enactment of this legislation will have no adverse fiscal impact on Commonwealth funds. Act 32 of 2008 consolidated the local tax collection process and placed the duties and responsibilities on DCED to promulgate uniform regulations, forms and procedures throughout the Commonwealth.

The Governor's Budget Office indicates that DCED will need additional personnel and funding to carry out the required duties of the legislation, but it did not provide further detail with regard to a specific cost. However, considering DCED's experience and responsibilities regarding the implementation and administration of Act 32 of 2008, it is assumed that any changes in duties or responsibilities made in this legislation can be accommodated within current funding levels of the department. Furthermore, the requirement that no tax forms be used other than those promulgated by the department does not take effect until January 1, 2020.

House Bill 866 could result in the loss of revenues to municipalities and school districts to the extent that local taxing jurisdictions will be required to provide credits for out-of-state tax payments against the earned income tax liability derived from "add-on" rates (e.g. occupation tax conversions). Revenue losses would be limited to only those taxing jurisdictions where tax credits are currently limited to a base rate (e.g. 1%) or for additional assessments under Act 24 of 2001 or Act 130 of 2008. In addition, it would only apply to taxpayers who live in a taxing jurisdiction with an additional earned income tax assessment and work in a location that has a greater than 1% nonresident tax rate or in a non-reciprocal state that has a greater than 3.07% tax rate.