



PENNSYLVANIA STATE ASSOCIATION OF BOROUGHHS

PA House of Representatives Finance Committee

ACT 32 of 2008

Local Earned Income Tax Public Hearing

October 6, 2015

**Edward C. Troxell
Director, PSAB Government Affairs**

2941 North Front Street, Harrisburg, PA 17110

800-232-7722, Ext. 1021 | Fax 717-236-8289

Etxorell @boroughs.org

Act 32 of 2008: Consolidated Local Earned Income Tax Collection

Good Morning and thank you for inviting PSAB to participate in this hearing regarding Act 32 of 2008 which implemented a county-based consolidated system for local earned income tax collection and redistribution. It has been over 7 years since PSAB assisted in the passage of this legislation and since that time we have seen the impact of the Act from a variety of perspectives in municipalities throughout the commonwealth. When PSAB first entered the discussion on the creation of such a system we had concerns on the implementation of such a collection/redistribution system. Would boroughs lose the ability to manage one of their core revenue streams they relied upon? Would they maintain the access to information related to these collections which had served them in their fiduciary responsibility? Would boroughs retain the appropriate representation for their communities within the new broader county-wide context? What measures of accountability would be enacted and who would ultimately be impacted. Lastly, while the claims of capturing hundreds of millions of tax dollars sounded enticing, would that hold true?

These were some of the concerns for PSAB and its membership, and that is why we are here this morning. In general, for an overwhelming majority of PA's borough communities, the Local Earned Income Tax is the largest source of revenue wherein our local government services are funded. Therefore, PSAB sought to insure that any system which would lessen the degree of autonomy in the collection and distribution of these revenues would be a system structured with a foundational level of strict accountability, access and responsiveness. If PSAB were to assign its borough members to such a system we were committed to protecting our member interests, concerns and futures as the Act was implemented. The claims of increased revenue collections through enhanced capture methods needed to be coupled with the powers to reverse course should the act fail. In the end, PSAB was supportive of SB1063 which was the legislation ultimately leading to Act 32 of 2008.

Now, over 7 years later, the collection and redistribution of Local Earned Income taxes fall under the Act 32 regime. Included in the Act was the stipulation that "before 2017, the Legislative Budget and Finance Committee shall conduct an audit and evaluation of the impact of this chapter and consolidated collection of local income taxes."¹ This morning, PSAB would offer its commentary and suggested alterations to the House Finance Committee in hopes of securing the law's future efficacy. We trust these observations will assist the LB&FC as well. In order to present our suggestions PSAB will examine the scope of practices which Act 32 places on the following entities:

- 1. The municipalities functioning under Act 32.**
- 2. The Tax Collection Committees and the Tax Officers created and organized through Act 32.**
- 3. The role of the Pa Department of Community and Economic Development created within Act 32.**
- 4. Impacts of Act 32 on private employers and employees.**

In our discussion of how municipalities and school districts operate within an Act 32 tax collection system supported by DCED, we hope to illustrate ways to enhance the function of the system. Our observations on how tax collection committees and their tax officers manage under an Act 32

¹ Section 517. Audit and evaluation. (a) General rule

system, we believe, will result in showing common sense changes helpful to private employers and their employees as well. To begin, we will examine those municipalities functioning under Act 32.

Municipalities

Any system which consolidates a service that provides for a vital source of revenue to those involved must insure a levelling dynamic amongst its participants. This equality among entities consolidating collections under Act 32 is paramount, a failure in this area will tend to isolate members of the system, hinder collaboration and degrade accountability. A primary contributor to this dynamic is the ***weighted voting representation*** under Section 505(c)(2). While this guides the first meeting of the tax collection committee during its organization, it has unfortunately added to a common misunderstanding that those with higher weightings retain that influence on a permanent basis within the TCC. PSAB understands that while the following Section 505(c)(3), mandates the recalculation of TCC weighting annually, it does not always occur. The weighting dynamic under Act 32 has always been an issue for PSAB membership, while it's understood as an organizational mechanism in the law that an individual TCC can jettison through agreed to by-laws, unfortunately this does not always occur.

Overall, from the *fiscal perspective* Act 32 is working generally well for our borough communities. What we do hear more of a clamor for is the combining of the EIT and LST collections under one agency/officer thereby concentrating these two important revenue streams along with the respective data. A final comment as PSAB has spoken with select municipalities which levy a business privilege tax, it appears that those communities that have a BPT, maintain an office which acts as a helpful repository of employer information within the borough.

Tax Collection Committees and Tax Officers

The Tax Collection Committee (TCC) and their respective Tax Officers (TO) are really where the need of improvements lie, this is not to besmirch the TCC/TO under the current structure of Act 32. However, as in any newly enacted body of law dealing with such important revenues, the nuances resulting from the law change should be addressed.

An effective TCC is really only as effective as the leadership of its board and the TO it selects to administer the law. If the members of the TCC feel "out of touch" with the TO they should amend their by-laws as needed to insure collaboration and access. ***All enacted TCC by-laws*** throughout the commonwealth should be posted on DCED's Act 32 website. The more exposure TCC's have to these documents the easier it will be to develop a best practices catalogue and promote a more uniform and efficient body of by-laws for future selection. Also provided on DCED's website should be the annual audits of the TCC outlined under Section 505(h)(1,2) while under sub (2) there is not mandate to post the audit/report on its website, PSAB senses this should be a best management practice as well as a right-to-know resource.

Finally, under appeals and mediation Sections 505(j)(k), these passages of the act are yet to be widely exercised. Appeals boards are a sensible mechanism which each member of a TCC should be familiar with and aware of the role they play. An ***appeals board***, operating as a courtesy of the TCC, helps to clarify, educate and defend if necessary, the actions taken by the committee. It is also a reasonable effort to pursue the ***establishment of joint appeals boards*** with TCC's seeking to do the same. There should be more focus placed upon the creation of these boards and especially the multi-TCC type.

Additionally under the mediation and appeals of tax collector actions (k), there should be a raised awareness of these guidelines to members of the TCC. Mandatory mediation, triggered by a deviation of taxes received in the previous year, protects member municipalities and school districts of the TCC and enable parties to address significant revenue flow changes. PSAB stresses the need for a heightened awareness of this measure to identify any weaknesses which may result from the practices of the TCC's tax officer. In order to forestall the likelihood of mediation, PSAB would request the construction of a *system of oversight* which uses the monthly reporting requirements in Section 509 (b) to serve as a basis to *identify trends that may trigger mediation* within the TCC.

Pa Department of Community and Economic Development

Under Section 508 of the act, DCED is given additional powers in order to create temporary and interim regulations, PSAB is grateful as these have been achieved and the department has been helpful regarding these measures. We do realize that the department will be a major resource for compliance and education on the act. We trust that any mandatory continuing education requirements will not be stifled by outside interests that have in the past done so with other elected tax collection services. We further note that while many of our observations have led to comments that would involve and encumber the resources of DCED, PSAB is eager to work with the department in a supportive role to achieve these alterations.

Private employers and employees

While PSAB represents boroughs we have learned from many of our members that private employers seeking details on the EIT often call their municipal offices for information or details. These private employers have shared that often employees that are unaware of their proper address make it difficult to obtain the correct PSD code. Many of these employers use a third party payroll provider which can only use this misinformation leading to inaccurate collection. Some of the employers have suggested to our borough staff that the US Census Bureau American Fact Finder² advanced search site yields more helpful address information than the conventional municipal statistics tax reporting site. In all, it is clear that providing *correct PSD coding* which is understood and easily obtained by the general public is a paramount goal for effective local earned income tax collection and redistribution.

In Summary

As mentioned earlier, PSAB supported the creation of a consolidated collection of local earned income taxes in order to redistribute those revenues accurately. The association believes that Act 32 does this generally well, however our observations lead us to believe there are still changes to be instituted in the Act 32 system that will make it even more effective. More robust reporting, creating an accessible, timely archive for these reports, raising accountability standards and accurate coding make for better collections. While *Moody's March 2015 Sector IN-Depth* report identifies earned income taxes representing about 20% of municipal revenues, PSAB seeks to continue to capture that existing figure and more with sensible improvements to our Act 32 tax collection system.

² <http://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t#none>