
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1322 Session of
2021

INTRODUCED BY STURLA, MERSKI AND SANCHEZ, MAY 6, 2021

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MAY 6, 2021

AN ACT

1 Authorizing counties to impose sales and use taxes; providing
2 for the levying, assessment and collection of taxes and for
3 the powers and duties of the Department of Community and
4 Economic Development, the Department of Revenue and the State
5 Treasurer; and establishing the County Sales and Use Tax
6 Fund.

7 TABLE OF CONTENTS

8 Chapter 1. General Provisions

9 Section 101. Short title.

10 Section 102. Scope.

11 Section 103. Definitions.

12 Section 104. Preemption.

13 Section 105. Rates of taxation in home rule counties.

14 Chapter 3. Subjects of Taxation

15 Subchapter A. Tax Authorization

16 Section 301. General tax authorization.

17 Section 302. Continuity of tax.

18 Section 303. Election to participate under act.

19 Section 304. Municipal initiative and qualification.

20 Subchapter B. County Sales, Use and Occupancy Tax

1 Section 311. Imposition of tax.
2 Section 312. Situs.
3 Section 313. Licenses.
4 Section 314. Rules and regulations and collection costs.
5 Section 315. Procedure.
6 Section 316. County Sales and Use Tax Fund.
7 Section 317. Disbursements.
8 Section 318. Allocations.
9 Chapter 5. Disposition of Tax Revenues
10 Section 501. Sales and use tax revenues.
11 Chapter 21. Miscellaneous Provisions
12 Section 2101. Construction.
13 Section 2102. Effective date.
14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:
16
17 CHAPTER 1
18 GENERAL PROVISIONS
19 Section 101. Short title.
20 This act shall be known and may be cited as the Optional
21 Sales Tax or Property Tax Relief and Municipal Assistance Act.
22 Section 102. Scope.
23 It is the intent of this act to confer upon each county the
24 power to levy, assess and collect taxes upon the subjects of
25 taxation specified in this act.
26 Section 103. Definitions.
27 The following words and phrases when used in this act shall
28 have the meanings given to them in this section unless the
29 context clearly indicates otherwise:
30 "Board of county commissioners." The term includes the
31 successor in function to the board of county commissioners in a

1 county that has adopted a home rule charter under the provisions
2 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional
3 plan government). The term does not include the city council of
4 a city of the first class or the county council of a county of
5 the second class.

6 "County." A county-level municipality within this
7 Commonwealth. The term includes a county that has adopted a home
8 rule charter or optional plan of government under the provisions
9 of 53 Pa.C.S. Pt. III Subpt. E. The term does not include a
10 county of the first class or a county of the second class.

11 "Department." The Department of Revenue of the Commonwealth.

12 "Fund." The County Sales, Use and Occupancy Tax Fund
13 established under section 316.

14 "Homestead." As defined in 53 Pa.C.S. § 8401 (relating to
15 definitions).

16 "Local Tax Enabling Act." The act of December 31, 1965
17 (P.L.1257, No.511), known as The Local Tax Enabling Act.

18 "Municipality." A city of the second class A, city of the
19 third class, borough, incorporated town, township of the first
20 class, township of the second class, home rule municipality,
21 optional plan municipality, optional form municipality or
22 similar general purpose unit of government that may after the
23 effective date of this section be established by statute. The
24 term includes a municipality that is located entirely or
25 partially in the county. The term does not include a city of the
26 first class, a city of the second class or a municipality
27 located in a county of the second class.

28 "Nonqualified municipality." A municipality that is not
29 qualified under section 304 to receive disbursements under
30 section 317.

1 "PICAA." The act of June 5, 1991 (P.L.9, No.6), known as the
2 Pennsylvania Intergovernmental Cooperation Authority Act for
3 Cities of the First Class.

4 "Population." The number of individuals residing in an area
5 as determined in the most recent Federal decennial census.

6 "Qualified municipality." A municipality that is qualified
7 under section 304 to receive disbursements under section 317.

8 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),
9 known as the Tax Reform Code of 1971.

10 Section 104. Preemption.

11 An act of the General Assembly in effect prior to or after
12 the effective date of this section may not be deemed to vacate
13 or preempt any ordinance passed or adopted under the authority
14 of this act or any other act providing authority for the
15 imposition of a tax by a county, unless the act of the General
16 Assembly expressly vacates or preempts the authority to pass or
17 adopt the ordinance.

18 Section 105. Rates of taxation in home rule counties.

19 A county that has adopted a home rule charter or optional
20 plan of government under the provisions of 53 Pa.C.S. Pt. III
21 Subpt. E (relating to home rule and optional plan government)
22 may not fix the rate of taxation for the subjects of taxation
23 authorized under Chapter 3 in excess of the rates fixed in
24 Chapter 3.

25 CHAPTER 3

26 SUBJECTS OF TAXATION

27 SUBCHAPTER A

28 TAX AUTHORIZATION

29 Section 301. General tax authorization.

30 Subject to the provisions of this act, a board of county

1 commissioners shall have the power and may by ordinance levy and
2 assess or provide for the levying and assessment of taxes on the
3 sale or use of tangible personal property and services at a rate
4 of 1% within the geographical limits of the county.

5 Section 302. Continuity of tax.

6 A tax levied under this act shall continue in force on a
7 fiscal year basis without annual reenactment until the tax is
8 subsequently repealed.

9 Section 303. Election to participate under act.

10 A board of county commissioners may elect to participate
11 under this act by adopting an ordinance imposing the tax under
12 the procedures set forth in section 315.

13 Section 304. Municipal initiative and qualification.

14 (a) Initial year of implementation.--

15 (1) The governing body of a municipality desiring to
16 qualify for disbursements under section 317 beginning in the
17 first fiscal year following the effective date of this
18 section shall, on or before November 30 of that year, must:

19 (i) Adopt a resolution containing the following
20 statement:

21 We strongly support the county's enactment of a
22 1% county sales and use tax as allowed by the
23 Optional Sales Tax for Property Tax Relief and
24 Municipal Assistance Act and intend to accept
25 disbursements of the sales and use tax collected.

26 (ii) Deliver a certified copy of the resolution to
27 the board of county commissioners for the county in which
28 the municipality is located. If the municipality is
29 located in more than one county, the governing body shall
30 deliver a certified copy to the board of county

1 commissioners for each county where the municipality is
2 located.

3 (2) Within 30 days following receipt of certified
4 resolutions from municipalities whose combined population
5 represents at least 66.67% of the population of the county,
6 commence the procedures under section 315 for imposing the
7 tax under section 311. The written notice to municipalities
8 under section 315(a) must be made 15 days prior to adoption
9 of the ordinance. The population of a municipality that is
10 located in more than one county shall be determined
11 separately for each county where the municipality is located
12 on the basis of the municipality's population within each
13 county.

14 (3) Impose the tax 90 days following the adoption of the
15 ordinance.

16 (a.1) Disqualification.--A municipality located in a county
17 where the tax is imposed during the first fiscal year following
18 the effective date of this section whose governing body does not
19 adopt and deliver to the board of county commissioners a
20 resolution under paragraph (1) shall not be qualified to receive
21 disbursements under section 317 for the first three fiscal years
22 following the effective date of this section.

23 (b) Implementation in subsequent years.--

24 (1) A municipality located in a county where the tax is
25 not imposed in the first fiscal year following the effective
26 date of this section desiring to qualify for disbursements
27 under section 317 shall follow the procedures under
28 subsection (a), except with respect to adoption by November
29 30 of that year, prior to the enactment by the county of an
30 ordinance under section 315 in any subsequent fiscal year. In

1 that event, the municipality shall be qualified to receive
2 disbursements under section 317 for all subsequent fiscal
3 years that the tax is in effect. The requirements of
4 subsection (a) (1) must be met by June 30 for the imposition
5 of the tax by the county for the subsequent fiscal year.

6 (2) A municipality located in a county in which the tax
7 has been imposed and that has not followed the procedures
8 under subsection (a) (1) or paragraph (1) may only qualify for
9 disbursements under section 317 in the fourth or any
10 subsequent fiscal year following imposition of the tax, and
11 for all fiscal years thereafter, if it does all of the
12 following by September 1 of the fiscal year prior to the
13 first fiscal year in which the municipality will be qualified
14 to receive disbursement:

15 (i) Adopts a resolution containing the following
16 statement:

17 We support the enactment by the county of the county
18 1% sales and use tax as allowed by the Optional Sales
19 Tax for Property Tax Relief and Municipal Assistance
20 Act, strongly urge its continuation and intend to
21 accept disbursements of the sales and use tax
22 collected.

23 (ii) Delivers a certified copy of the resolution to
24 the board of county commissioners in which the
25 municipality is located. If the municipality is located
26 in more than one county, the governing body shall deliver
27 a certified copy to the board of county commissioners for
28 each county where the municipality is located.

29 (c) No limitation on counties.--Nothing in this section may
30 prohibit a board of county commissioners from electing to

1 participate under this act under the procedures set forth in
2 section 315 without having received certified resolutions from
3 municipalities under subsection (a) or (b).

4 SUBCHAPTER B

5 COUNTY SALES, USE AND OCCUPANCY TAX

6 Section 311. Imposition of tax.

7 (a) Sales.--

8 (1) The board of county commissioners may levy and
9 assess upon each separate sale at retail of tangible personal
10 property or services, subject to tax imposed under section
11 202 of the Tax Reform Code, within the boundaries of the
12 county, a tax on the purchase price.

13 (2) The tax shall be collected by the vendor from the
14 purchaser and shall be paid over to the Commonwealth as
15 provided in this subchapter.

16 (b) Use.--The following apply:

17 (1) In any county within which the tax authorized in
18 subsection (a) is imposed, there shall be levied, assessed
19 and collected upon the use within the county of tangible
20 personal property and on services purchased at retail, as
21 subject to tax imposed under section 202 of the Tax Reform
22 Code, a tax on the purchase price.

23 (2) The tax shall be paid over to the Commonwealth by
24 the person that makes the use.

25 (3) The use tax imposed under this subchapter shall not
26 be paid over to the Commonwealth by any person that has paid
27 the tax imposed under subsection (a) or has paid the tax
28 imposed by this subsection to the vendor with respect to the
29 use.

30 Section 312. Situs.

1 The situs of sales at retail or uses shall be determined in
2 the manner specified by section 504 of PICAA and by Article II-A
3 of the Tax Reform Code.

4 Section 313. Licenses.

5 The license issued under Article II of the Tax Reform Code or
6 a separate license for the collection of the tax imposed by this
7 subchapter may be issued by the department in the same manner as
8 is provided for in section 505 of PICAA. Licensees shall be
9 entitled to the same discount as provided in section 227 of the
10 Tax Reform Code.

11 Section 314. Rules and regulations and collection costs.

12 (a) Regulations.--The rules and regulations promulgated
13 under section 270 of the Tax Reform Code shall apply to the
14 taxes imposed under section 311 as those rules and regulations
15 are consistent with section 311.

16 (b) Administration and costs.--

17 (1) The department shall administer and enforce the
18 provisions of this subchapter and may promulgate and enforce
19 regulations consistent with the provisions of this
20 subchapter. The department may prescribe the extent to which
21 a regulation shall be applied without retroactive effect.

22 (2) To cover costs of administration, the department,
23 the Treasury Department and the Department of Community and
24 Economic Development shall be entitled to retain a sum equal
25 to costs of collection, but no more than 1% and 0.5%,
26 respectively, of the revenues collected under this
27 subchapter. The department shall inform the counties
28 participating under this act in writing monthly of the sum
29 retained and the costs of collection reimbursed. When the
30 annual operating budgets for the department and the Treasury

1 Department are submitted to the General Assembly, each agency
2 shall also submit to the chairperson and minority chairperson
3 of the Appropriations Committee of the Senate and to the
4 chairperson and minority chairperson of the Appropriations
5 Committee of the House of Representatives the actual sums
6 retained for costs of collection in the preceding fiscal
7 year, together with all supporting details.

8 Section 315. Procedure.

9 (a) Ordinance.--

10 (1) A county desiring to impose the tax authorized by
11 section 311 shall give at least 45 days' written notice to
12 each municipality in the county of its intent to impose the
13 tax. The notice and ordinance shall state the tax rate and
14 refer to this subchapter. The ordinance shall authorize the
15 imposition of the tax on all subjects provided for in section
16 311.

17 (2) Prior to adopting an ordinance imposing the tax
18 under section 311, the board of county commissioners shall
19 give public notice of its intent to adopt the ordinance in
20 the manner provided in section 306 of the Local Tax Enabling
21 Act and shall conduct at least one public hearing regarding
22 the proposed adoption of the ordinance.

23 (3) The board of county commissioners may waive the
24 requirement for a public hearing if the ordinance will be
25 adopted under the provisions of section 304.

26 (4) Except as provided in paragraph (5), an ordinance
27 adopted under this section shall be adopted by September 1
28 and the tax shall be imposed as of January 1 of the following
29 fiscal year.

30 (5) Notwithstanding paragraph (4), a county desiring to

1 impose the tax in the first fiscal year following the
2 effective date of this section may adopt an ordinance under
3 this section by November 30 of that year. If this paragraph
4 applies, the tax shall be imposed as of the date occurring 90
5 days following the adoption of the ordinance.

6 (b) Notification to department.--Certified copies of the
7 county ordinance shall be delivered to the department and the
8 municipalities within 15 days following adoption of the
9 ordinance.

10 (c) Repeal.--

11 (1) Not earlier than the end of the fifth fiscal year
12 following imposition of the tax authorized under section 311,
13 a county may repeal the tax. In that event, the county shall
14 give at least 30 days' written notice to every municipality
15 located in the county of its intent to repeal the tax. The
16 ordinance shall authorize the repeal of the tax on all
17 subjects provided for in section 311 if municipalities
18 representing more than 50% of the population benefiting from
19 the tax petition the county to do so.

20 (2) Prior to adopting an ordinance repealing the tax
21 imposed under section 311, the board of county commissioners
22 shall give public notice of its intent to repeal the
23 ordinance in the manner provided in section 306 of the Local
24 Tax Enabling Act for the adoption of ordinances and shall
25 conduct at least one public hearing regarding the proposed
26 repeal of the ordinance.

27 (d) Delivery of repeal ordinance.--The board of county
28 commissioners shall deliver certified copies of a repeal
29 ordinance to the department and the municipalities within the
30 county by September 1 of the year prior to the effective date of

1 the repeal.

2 Section 316. County Sales and Use Tax Fund.

3 (a) Fund established in State Treasury.--There is
4 established in the State Treasury a County Sales, Use and
5 Occupancy Tax Fund. The State Treasurer shall be custodian of
6 the fund which shall be subject to the provisions of law
7 applicable to funds listed in section 302 of the act of April 9,
8 1929 (P.L.343, No.176), known as The Fiscal Code. Subaccounts
9 shall be established within the fund for each county
10 participating under this act.

11 (b) Deposits.--

12 (1) The tax imposed under section 311 shall be received
13 by the department and paid to the State Treasurer and, along
14 with interest and penalties, less any collection costs
15 allowed under this subchapter and any refunds and credits
16 paid, shall be credited to the respective counties'
17 subaccounts not less frequently than every two weeks.

18 (2) During any period prior to the credit of money to
19 each subaccount, interest earned on money received by the
20 department and paid to the State Treasurer under this
21 subchapter shall be credited to the respective subaccount.

22 (c) Lapsing and interfund transfers prohibited.--All money
23 in the fund and credited to the subaccounts, including, but not
24 limited to, money credited to the subaccounts under this
25 section, prior year encumbrances and the interest earned
26 thereon, shall not lapse nor be transferred to any other fund or
27 subaccount, but shall remain in the fund and be credited to the
28 respective subaccounts as provided under this chapter.

29 (d) Investment.--Pending disbursement, money received on
30 behalf of or deposited into the fund shall be invested or

1 reinvested as is other money in the custody of the State
2 Treasurer in the manner provided by law. All earnings received
3 from the investment or reinvestment of the money shall be
4 credited to the fund.

5 Section 317. Disbursements.

6 (a) General rule.--On or before the 10th business day
7 following receipt from the department of the necessary
8 calculations, the State Treasurer shall make disbursements as
9 provided under this section.

10 (b) Disbursement to counties.--The State Treasurer shall
11 disburse to a county an amount of money equal to the amount
12 allocated under section 318 to all of the nonqualified
13 municipalities. The money shall be deposited into the county
14 general fund for disposition as provided under section 501(a).

15 (c) Disbursement to municipalities.-- Ninety-Nine percent of
16 the tax deposited into the fund shall be disbursed to each
17 qualified municipality in the amounts allocated under section
18 318(a). The money disbursed shall be deposited into the
19 municipal general fund for disposition as provided under section
20 501(b).

21 (d) Disbursement to counties.--The remaining 1% of the tax
22 deposited into the fund shall be disbursed to each county for
23 administration.

24 Section 318. Allocations.

25 (a) Allocations to municipalities.--The county shall compute
26 allocations of the sums to be disbursed to municipalities under
27 section 317(b) in the following manner:

28 (1) Money distributed shall be allocated based on the
29 revenue that would have been generated from local municipal
30 taxes by tax-exempt properties if they were taxable in each

1 municipality located in the county. For municipalities
2 located in more than one county, the weighted tax revenues
3 for the county shall be prorated based upon the population of
4 the municipality in each county divided by the total
5 population of the municipality.

6 (2) Any money that exceed the calculated payments to
7 municipalities shall go to the county general fund.

8 (b) Calculation of tax-exempt revenues.--Calculations of
9 tax-exempt revenues shall be made by the county. These
10 calculations shall be submitted to the Department of Community
11 and Economic Development and certified by the department based
12 upon information reported to the Department of Community and
13 Economic Development, subject to review, verification and
14 approval by the Department of Community and Economic
15 Development.

16 CHAPTER 5

17 DISPOSITION OF TAX REVENUES

18 Section 501. Sales and use tax revenues.

19 (a) Counties.--All of the revenues estimated to be received
20 by a county from the tax in a fiscal year shall be expended by
21 the county to maintain core services.

22 (b) Municipalities.--All of the revenues estimated to be
23 received by a qualified municipality from the tax in a fiscal
24 year must be expended by the municipality as follows:

25 (1) If a municipality's pension plan is a moderately or
26 severely distressed municipal pension system under the act of
27 December 18, 1984 (P.L.1005, No.205), known as the Municipal
28 Pension Plan Funding Standard and Recovery Act, revenues
29 received in a fiscal year shall first be used to pay in full
30 the municipality's minimum municipal obligation under the

1 Municipal Pension Plan Funding Standard and Recovery Act.
2 Remaining revenues received shall be used to maintain core
3 services.

4 (2) If a qualified municipality's pension plan is a
5 minimally distressed municipal pension system under the
6 Municipal Pension Plan Funding Standard and Recovery Act,
7 revenues received in a fiscal year shall be used to maintain
8 core services.

9 (3) If a municipality does not have a minimally,
10 moderately or severely distressed pension system under the
11 Municipal Pension Plan Funding Standard and Recovery Act,
12 revenues received by a qualified municipality shall be used
13 to maintain core services.

14 (d) Definitions.--As used in this section, the following
15 words and phrases shall have the meanings given to them in this
16 subsection unless the context clearly indicates otherwise:

17 "Core services." The term includes:

- 18 (1) Police services.
- 19 (2) Fire services.
- 20 (3) Public works.
- 21 (4) Public health and welfare services.
- 22 (5) Housing.
- 23 (6) Code enforcement.

24 CHAPTER 21

25 MISCELLANEOUS PROVISIONS

26 Section 2101. Construction.

27 The tax imposed by the board of county commissioners under
28 Subchapter B shall be in addition to any tax imposed by the
29 Commonwealth under Article II of the Tax Reform Code. Except for
30 the differing situs provisions under section 312, the provisions

1 of Article II of the Tax Reform Code shall apply to the tax.
2 Section 2102. Effective date.
3 This act shall take effect immediately.