

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1366

Session of
1983

INTRODUCED BY BROUJOS, MOWERY, COLE, KUKOVICH, D. R. WRIGHT,
COHEN, SHOWERS, FRYER, NAHILL, COY, CALTAGIRONE, BATTISTO,
VAN HORNE, SCHEETZ, FEE, ALDERETTE, LEVI AND KENNEDY,
JULY 14, 1983

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, SEPTEMBER 26, 1984

AN ACT

1 Amending the act of December 31, 1965 (P.L.1257, No.511),
2 entitled "An act empowering cities of the second class,
3 cities of the second class A, cities of the third class,
4 boroughs, towns, townships of the first class, townships of
5 the second class, school districts of the second class,
6 school districts of the third class and school districts of
7 the fourth class including independent school districts, to
8 levy, assess, collect or to provide for the levying,
9 assessment and collection of certain taxes subject to maximum
10 limitations for general revenue purposes; authorizing the
11 establishment of bureaus and the appointment and compensation
12 of officers, agencies and employes to assess and collect such
13 taxes; providing for joint collection of certain taxes,
14 prescribing certain definitions and other provisions for
15 taxes levied and assessed upon earned income, providing for
16 annual audits and for collection of delinquent taxes, and
17 permitting and requiring penalties to be imposed and
18 enforced, including penalties for disclosure of confidential
19 information, providing an appeal from the ordinance or
20 resolution levying such taxes to the court of quarter
21 sessions and to the Supreme Court and Superior Court,"
22 eliminating the occupation tax; AND MAKING REPEALS. <—

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. The introductory paragraph and clause (4) of
26 section 2 of the act of December 31, 1965 (P.L.1257, No.511),

1 known as The Local Tax Enabling Act, the introductory paragraph
2 amended November 26, 1982 (P.L.763, No.217), is amended to read:

3 Section 2. Delegation of Taxing Powers and Restrictions

4 Thereon.--The duly constituted authorities of the following
5 political subdivisions, cities of the second class, cities of
6 the second class A, cities of the third class, boroughs, towns,
7 townships of the first class, townships of the second class,
8 school districts of the second class, school districts of the
9 third class, and school districts of the fourth class, in all
10 cases including independent school districts, may, in their
11 discretion, by ordinance or resolution, for general revenue
12 purposes, levy, assess and collect or provide for the levying,
13 assessment and collection of such taxes as they shall determine
14 on persons, transactions, [occupations,] privileges, subjects
15 and personal property within the limits of such political
16 subdivisions, and upon the transfer of real property, or of any
17 interest in real property, situate within the political
18 subdivision levying and assessing the tax, regardless of where
19 the instruments making the transfers are made, executed or
20 delivered or where the actual settlements on such transfer take
21 place. The taxing authority may provide that the transferee
22 shall remain liable for any unpaid realty transfer taxes imposed
23 by virtue of this act. Each local taxing authority may, by
24 ordinance or resolution, exempt any person whose total income
25 from all sources is less than five thousand dollars (\$5,000) per
26 annum from the per capita or similar head tax, [occupation tax <—
27 and] occupational privilege tax, or earned income tax, or any <—
28 portion thereof, and may adopt regulations for the processing of
29 claims for exemptions. Such local authorities shall not have
30 authority by virtue of this act:

1 * * *

2 (4) To levy, assess and collect a tax on goods and articles
3 manufactured in such political subdivision or on the by-products
4 of manufacture, or on minerals, timber, natural resources and
5 farm products produced in such political subdivision or on the
6 preparation or processing thereof for use or market, or on any
7 privilege, act or transaction related to the business of
8 manufacturing, the production, preparation or processing of
9 minerals, timber and natural resources, or farm products, by
10 manufacturers, by producers and by farmers with respect to the
11 goods, articles and products of their own manufacture,
12 production or growth, or on any privilege, act or transaction
13 relating to the business of processing by-products of
14 manufacture, or on the transportation, loading, unloading or
15 dumping or storage of such goods, articles, products or by-
16 products; except that local authorities may levy, assess and
17 collect taxes on the [occupation,] occupational privilege, per
18 capita and earned income or net profits of natural persons
19 engaged in the above activities whether doing business as
20 individual proprietorship or as members of partnerships or other
21 associations;

22 * * *

23 Section 2. The act is amended by adding a section to read:

24 Section 7.1. Filing Certificate When Tax is Raised Above
25 Statutory Limits.--Any ~~school board~~ TAXING AUTHORITY which had <—
26 imposed an occupation tax for the tax year during which the
27 occupation tax was repealed and which is required, as a result
28 of the loss of projected revenues occurring from the elimination
29 of the occupation tax, to increase millage on real estate or
30 increase the percentage of tax on earned income, or both, above

1 statutory limitations, may increase millage on real estate or
2 increase the percentage of tax on earned income, or both, to
3 provide sufficient estimated revenue in an amount which shall
4 equal the revenue estimated for the tax year prior to the first
5 tax year after the effective date of elimination of the
6 occupation tax plus one upward adjustment of five percent of
7 such estimated revenue for any tax year subsequent to the year
8 during which the occupation tax was repealed.

9 In the event any real estate millage or percentage of earned
10 income is increased above the maximum limits permitted by
11 statute, the ~~secretary of the school board~~ TAXING AUTHORITY <—
12 shall file within fifteen days of the increase a certificate
13 with the Department of Community Affairs setting forth the
14 justification for the increase. This certificate shall be filed
15 in addition to the copy of the tax resolution as required by
16 section 7.

17 ~~Section 3. Section 8(7) of the act is amended to read:~~ <—

18 ~~Section 8. Limitations on Rates of Specific Taxes. No taxes~~
19 ~~levied under the provisions of this act shall be levied by any~~
20 ~~political subdivision on the following subjects exceeding the~~
21 ~~rates specified in this section:~~

22 ~~* * *~~

23 ~~{(7) Flat rate occupation taxes not using a millage or~~
24 ~~percentage as a basis, ten dollars (\$10).}~~

25 ~~* * *~~

26 SECTION 3. SECTION 9 OF THE ACT, AMENDED DECEMBER 12, 1968 <—
27 (P.L.1203, NO.377), IS AMENDED TO READ:

28 SECTION 9. REGISTER FOR EARNED INCOME AND OCCUPATIONAL
29 PRIVILEGE TAXES.--IT SHALL BE THE DUTY OF THE DEPARTMENT OF
30 COMMUNITY AFFAIRS TO HAVE AVAILABLE AN OFFICIAL CONTINUING

1 REGISTER SUPPLEMENTED ANNUALLY OF ALL EARNED INCOME AND
2 OCCUPATIONAL PRIVILEGE TAXES LEVIED UNDER AUTHORITY OF THIS ACT.
3 THE REGISTER AND ITS SUPPLEMENTS, HEREINAFTER REFERRED TO AS THE
4 REGISTER, SHALL LIST SUCH JURISDICTIONS LEVYING EARNED INCOME
5 AND/OR OCCUPATIONAL PRIVILEGE TAXES, THE RATE OF THE TAX AS
6 STATED IN THE TAX LEVYING ORDINANCE OR RESOLUTION, AND THE
7 EFFECTIVE RATE ON RESIDENT AND NONRESIDENT TAXPAYERS, IF
8 DIFFERENT FROM THE STATED RATE BECAUSE OF A COTERMINOUS LEVY,
9 THE NAME AND ADDRESS OF THE OFFICER RESPONSIBLE FOR
10 ADMINISTERING THE COLLECTION OF THE TAX AND FROM WHOM
11 INFORMATION, FORMS FOR REPORTING AND COPIES OF RULES AND
12 REGULATIONS ARE AVAILABLE. WITH EACH JURISDICTION LISTED, ALL
13 JURISDICTIONS MAKING COTERMINOUS LEVIES SHALL ALSO BE NOTED AND
14 THEIR TAX RATES SHOWN.

15 INFORMATION FOR THE REGISTER SHALL BE FURNISHED BY THE
16 SECRETARY OF EACH TAXING BODY TO THE DEPARTMENT OF COMMUNITY
17 AFFAIRS IN SUCH MANNER AND ON SUCH FORMS AS THE DEPARTMENT OF
18 COMMUNITY AFFAIRS MAY PRESCRIBE. THE INFORMATION MUST BE
19 RECEIVED BY THE DEPARTMENT OF COMMUNITY AFFAIRS BY CERTIFIED
20 MAIL NOT LATER THAN MAY 31 OF EACH YEAR TO SHOW NEW TAX
21 ENACTMENTS, REPEALS AND CHANGES. FAILURE TO COMPLY WITH THIS
22 DATE FOR FILING MAY RESULT IN THE OMISSION OF THE LEVY FROM THE
23 REGISTER FOR THAT YEAR. FAILURE OF THE DEPARTMENT OF COMMUNITY
24 AFFAIRS TO RECEIVE INFORMATION OF TAXES CONTINUED WITHOUT CHANGE
25 MAY BE CONSTRUED BY THE DEPARTMENT TO MEAN THAT THE INFORMATION
26 CONTAINED IN THE PREVIOUS REGISTER REMAINS IN FORCE.

27 THE DEPARTMENT OF COMMUNITY AFFAIRS SHALL HAVE THE REGISTER
28 WITH SUCH ANNUAL SUPPLEMENTS AS MAY BE REQUIRED BY NEW TAX
29 ENACTMENTS, REPEALS OR CHANGES AVAILABLE UPON REQUEST NOT LATER
30 THAN JULY 1 OF EACH YEAR. THE EFFECTIVE PERIOD FOR EACH REGISTER

1 SHALL BE FROM JULY 1 OF THE YEAR IN WHICH IT IS ISSUED TO JUNE
2 30 OF THE FOLLOWING YEAR.

3 EMPLOYERS SHALL NOT BE REQUIRED BY ANY LOCAL ORDINANCE TO
4 WITHHOLD FROM THE WAGES, SALARIES, COMMISSIONS OR OTHER
5 COMPENSATION OF THEIR EMPLOYEES ANY TAX IMPOSED UNDER THE
6 PROVISIONS OF THIS ACT, WHICH IS NOT LISTED IN THE REGISTER, OR
7 MAKE REPORTS OF WAGES, SALARIES, COMMISSIONS OR OTHER
8 COMPENSATION IN CONNECTION WITH TAXES NOT SO LISTED: PROVIDED,
9 THAT IF THE REGISTER IS NOT AVAILABLE BY JULY 1, THE REGISTER OF
10 THE PREVIOUS YEAR SHALL CONTINUE TEMPORARILY IN EFFECT FOR AN
11 ADDITIONAL PERIOD NOT TO EXCEED ONE YEAR. THE PROVISIONS OF THIS
12 SECTION SHALL NOT AFFECT THE LIABILITY OF ANY TAXPAYER FOR TAXES
13 LAWFULLY IMPOSED UNDER THIS ACT.

14 ORDINANCES OR RESOLUTIONS IMPOSING EARNED INCOME OR
15 OCCUPATIONAL PRIVILEGE TAXES UNDER AUTHORITY OF THIS ACT MAY
16 CONTAIN PROVISIONS REQUIRING EMPLOYERS DOING BUSINESS WITHIN THE
17 JURISDICTION OF THE POLITICAL SUBDIVISION IMPOSING THE TAX TO
18 WITHHOLD THE TAX FROM THE COMPENSATION OF THOSE OF THEIR
19 EMPLOYEES WHO ARE SUBJECT TO THE TAX: PROVIDED, THAT NO EMPLOYER
20 SHALL BE HELD LIABLE FOR FAILURE TO WITHHOLD EARNED INCOME TAXES
21 OR FOR THE PAYMENT OF SUCH WITHHELD TAX MONEY TO A POLITICAL
22 SUBDIVISION OTHER THAN THE POLITICAL SUBDIVISION ENTITLED TO
23 RECEIVE SUCH MONEY IF SUCH FAILURE TO WITHHOLD OR SUCH INCORRECT
24 TRANSMITTAL OF WITHHELD TAXES ARISES FROM INCORRECT INFORMATION
25 AS TO THE EMPLOYEE'S PLACE OF RESIDENCE SUBMITTED BY THE EMPLOYEE:
26 AND PROVIDED FURTHER, THAT EMPLOYERS SHALL NOT BE REQUIRED BY
27 ANY LOCAL ORDINANCE TO WITHHOLD FROM COMPENSATION FOR ANY ONE OF
28 THEIR EMPLOYEES FOR THE OCCUPATIONAL PRIVILEGE TAX MORE THAN ONE
29 TIME IN ANY FISCAL PERIOD: AND PROVIDED FURTHER, THAT THE
30 OCCUPATIONAL PRIVILEGE TAX SHALL BE APPLICABLE TO EMPLOYMENT IN

1 THE PERIOD BEGINNING JANUARY 1, OF THE CURRENT YEAR AND ENDING
2 DECEMBER 31 OF THE CURRENT YEAR, EXCEPT THAT TAXES IMPOSED FOR
3 THE FIRST TIME SHALL BECOME EFFECTIVE FROM THE DATE SPECIFIED IN
4 THE ORDINANCE OR RESOLUTION, AND THE TAX SHALL CONTINUE IN FORCE
5 ON A CALENDAR YEAR BASIS.

6 NOTWITHSTANDING THE FOREGOING, NO EMPLOYER SHALL BE REQUIRED
7 TO WITHHOLD EARNED INCOME OR NET PROFIT TAX FROM THE WAGES,
8 SALARIES, COMMISSIONS OR OTHER COMPENSATION OF ANY EMPLOYEE AT A
9 RATE THAT IS MORE THAN ONE PERCENT OF HIS WAGES, SALARIES,
10 COMMISSIONS OR OTHER COMPENSATION, OR THAT IS MORE THAN THE
11 PERCENTAGE BEING WITHHELD AS OF THE EFFECTIVE DATE OF THIS ACT,
12 WHICHEVER IS GREATER.

13 Section 4. Section 19 of the act, amended October 4, 1978
14 (P.L.930, No.177), is amended to read:

15 Section 19. Collection of Delinquent Per Capita,
16 [Occupation,] Occupational Privilege and Earned Income Taxes
17 from Employers, etc.--The tax collector shall demand, receive
18 and collect from all corporations, political subdivisions,
19 associations, companies, firms or individuals, employing persons
20 owing delinquent per capita, [or occupation,] occupational
21 privilege and earned income taxes, or whose spouse owes
22 delinquent per capita, [occupation,] occupational privilege and
23 earned income taxes, or having in possession unpaid commissions
24 or earnings belonging to any person or persons owing delinquent
25 per capita, [occupation,] occupational privilege and earned
26 income taxes, or whose spouse owes delinquent per capita,
27 [occupation,] occupational privilege and earned income taxes,
28 upon the presentation of a written notice and demand certifying
29 that the information contained therein is true and correct and
30 containing the name of the taxable or the spouse thereof and the

1 amount of tax due. Upon the presentation of such written notice
2 and demand, it shall be the duty of any such corporation,
3 political subdivision, association, company, firm or individual
4 to deduct from the wages, commissions or earnings of such
5 individual employees, then owing or that shall within sixty days
6 thereafter become due, or from any unpaid commissions or
7 earnings of any such taxable in its or his possession, or that
8 shall within sixty days thereafter come into its or his
9 possession, a sum sufficient to pay the respective amount of the
10 delinquent per capita, occupation, occupational privilege and
11 earned income taxes and costs, shown upon the written notice or
12 demand, and to pay the same to the tax collector of the taxing
13 district in which such delinquent tax was levied within sixty
14 days after such notice shall have been given. No more than ten
15 percent of the wages, commissions or earnings of the delinquent
16 taxpayer or spouse thereof may be deducted at any one time for
17 delinquent per capita, [occupation,] occupational privilege and
18 earned income taxes and costs. Such corporation, political
19 subdivision, association, firm or individual shall be entitled
20 to deduct from the moneys collected from each employe the costs
21 incurred from the extra bookkeeping necessary to record such
22 transactions, not exceeding two percent of the amount of money
23 so collected and paid over to the tax collector. Upon the
24 failure of any such corporation, political subdivision,
25 association, company, firm or individual to deduct the amount of
26 such taxes or to pay the same over to the tax collector, less
27 the cost of bookkeeping involved in such transaction, as herein
28 provided, within the time hereby required, such corporation,
29 political subdivision, association, company, firm or individual
30 shall forfeit and pay the amount of such tax for each such

1 taxable whose taxes are not withheld and paid over, or that are
2 withheld and not paid over together with a penalty of ten
3 percent added thereto, to be recovered by an action of assumpsit
4 in a suit to be instituted by the tax collector, or by the
5 proper authorities of the taxing district, as debts of like
6 amount are now by law recoverable, except that such person shall
7 not have the benefit of any stay of execution or exemption law.
8 The tax collector shall not proceed against a spouse or his
9 employer until he has pursued collection remedies against the
10 delinquent taxpayer and his employer under this section.

11 Section 5. Section 20 of the act is amended to read:

12 Section 20. Collection of Delinquent Per Capita,
13 [Occupation,] Occupational Privilege and Earned Income Taxes
14 from the Commonwealth.--Upon presentation of a written notice
15 and demand under oath or affirmation, to the State Treasurer or
16 any other fiscal officer of the State, or its boards,
17 authorities, agencies or commissions, it shall be the duty of
18 the treasurer or officer to deduct from the wages then owing, or
19 that shall within sixty days thereafter become due to any
20 employe, a sum sufficient to pay the respective amount of the
21 delinquent per capita, [occupation,] occupational privilege and
22 earned income taxes and costs shown on the written notice. The
23 same shall be paid to the tax collector of the taxing district
24 in which said delinquent tax was levied within sixty days after
25 such notice shall have been given.

26 Section 6. Any taxing authority which imposed an occupation
27 tax for the tax year during which the occupation tax was
28 repealed and which is required, as a result of the loss of
29 projected revenues occurring from the elimination of the
30 occupation tax, to increase either the millage on real estate or

1 the percentage of earned income, or both, above any statutory
2 limitations without order of court, may increase millage on real
3 estate or increase the percentage of tax on earned income or
4 increase both, to provide sufficient estimated revenue in an
5 amount which equals the revenue estimated for the tax year prior
6 to the first tax year after the effective date of elimination of
7 the occupation tax plus 5% of such estimated revenue, for any
8 tax year subsequent to the year during which the occupation tax
9 was repealed.

10 SECTION 7. (A) THE FOLLOWING ACTS OR PARTS OF ACTS ARE <—
11 REPEALED INsofar AS THEY RELATE TO THE LEVY, ASSESSMENT AND
12 COLLECTION OF OCCUPATION TAXES ASSESSED ON A PERCENTAGE OR
13 MILLAGE BASIS:

14 SECTION 1709 OF THE ACT OF JUNE 24, 1931 (P.L.1206, NO.331),
15 REENACTED MAY 27, 1949 (P.L.1955, NO.569), KNOWN AS THE FIRST
16 CLASS TOWNSHIP CODE.

17 ACT OF JUNE 26, 1931 (P.L.1379, NO.348), ENTITLED, AS
18 AMENDED, "AN ACT CREATING IN COUNTIES OF THE SECOND A AND THIRD
19 CLASS A BOARD FOR THE ASSESSMENT AND REVISION OF TAXES;
20 PROVIDING FOR THE APPOINTMENT OF THE MEMBERS OF SUCH BOARD BY
21 THE COUNTY COMMISSIONERS; PROVIDING FOR THEIR SALARIES, PAYABLE
22 BY THE COUNTY; ABOLISHING EXISTING BOARDS; DEFINING THE POWERS
23 AND DUTIES OF SUCH BOARD; REGULATING THE ASSESSMENT OF PERSONS,
24 PROPERTY, AND OCCUPATIONS FOR COUNTY, BOROUGH, TOWN, TOWNSHIP,
25 SCHOOL, AND POOR PURPOSES; AUTHORIZING THE APPOINTMENT OF
26 SUBORDINATE ASSESSORS, A SOLICITOR, ENGINEERS, AND CLERKS;
27 PROVIDING FOR THEIR COMPENSATION, PAYABLE BY SUCH COUNTIES;
28 ABOLISHING THE OFFICE OF WARD, BOROUGH, AND TOWNSHIP ASSESSORS,
29 SO FAR AS THE MAKING OF ASSESSMENTS AND VALUATIONS FOR TAXATION
30 IS CONCERNED; AND PROVIDING FOR THE ACCEPTANCE OF THIS ACT BY

1 CITIES."

2 SECTION 905 OF THE ACT OF MAY 1, 1933 (P.L.103, NO.69),
3 REENACTED JULY 10, 1947 (P.L.1481, NO.567), KNOWN AS THE SECOND
4 CLASS TOWNSHIP CODE.

5 SECTIONS 201(B) AND 202 AND ARTICLES IV AND V OF THE ACT OF
6 MAY 22, 1933 (P.L.853, NO.155), KNOWN AS THE GENERAL COUNTY
7 ASSESSMENT LAW.

8 ACT OF JUNE 21, 1939 (P.L.626, NO.294), ENTITLED "AN ACT
9 PROVIDING FOR AND REGULATING THE ASSESSMENT AND VALUATION OF ALL
10 SUBJECTS OF TAXATION IN COUNTIES OF THE SECOND CLASS; CREATING
11 AND PRESCRIBING THE POWERS AND DUTIES OF A BOARD OF PROPERTY
12 ASSESSMENT, APPEALS AND REVIEW; IMPOSING DUTIES ON CERTAIN
13 COUNTY AND CITY OFFICERS; ABOLISHING THE BOARD FOR THE
14 ASSESSMENT AND REVISION OF TAXES IN SUCH COUNTIES; AND
15 PRESCRIBING PENALTIES."

16 SECTIONS 201(B) AND 202(D) AND ARTICLES VI AND VII OF THE ACT
17 OF MAY 21, 1943 (P.L.571, NO.254), KNOWN AS THE FOURTH TO EIGHTH
18 CLASS COUNTY ASSESSMENT LAW.

19 SECTIONS 20, 20.1 AND 21 OF THE ACT OF MAY 25, 1945
20 (P.L.1050, NO.394), KNOWN AS THE LOCAL TAX COLLECTION LAW.

21 SECTIONS 655, 656, 674, 675, 676 AND 677 OF THE ACT OF MARCH
22 10, 1949 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF
23 1949.

24 SECTION 1 OF THE ACT OF JULY 19, 1951 (P.L.1026, NO.216),
25 ENTITLED, AS AMENDED, "AN ACT AUTHORIZING POLITICAL
26 SUBDIVISIONS, OTHER THAN CITIES OF THE FIRST AND SECOND CLASSES
27 AND SCHOOL DISTRICTS OF THE FIRST CLASS AND FIRST CLASS A, TO
28 APPOINT AND PAY THE COMPENSATION OF EMPLOYEES TO MAKE AN
29 ASSESSMENT LIST OF ALL INHABITANTS OR RESIDENTS THEREOF OVER
30 EIGHTEEN YEARS OF AGE, FOR TAXATION PURPOSES."

1 SECTION 1970 OF THE ACT OF JULY 28, 1953 (P.L.723, NO.230),
2 KNOWN AS THE SECOND CLASS COUNTY CODE.

3 SECTION 1770 OF THE ACT OF AUGUST 9, 1955 (P.L.323, NO.130),
4 KNOWN AS THE COUNTY CODE.

5 SECTION 1302 OF THE ACT OF FEBRUARY 1, 1966 (1965 P.L.1656,
6 NO.581), KNOWN AS THE BOROUGH CODE.

7 (B) ALL OTHER ACTS AND PARTS OF ACTS ARE REPEALED INsofar AS
8 THEY ARE INCONSISTENT WITH THIS ACT.

9 Section 7 8. This act shall take effect immediately.

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