

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 834 Session of
1999

INTRODUCED BY SAYLOR, DEMPSEY, FAIRCHILD, MASLAND, NAILOR,
ARMSTRONG, BARRAR, FORCIER, HANNA, HENNESSEY, HERSHEY,
HUTCHINSON, MARSICO, ORIE, PESCI, RUBLEY, STEELMAN, STEIL,
STEVENSON, SURRA, TIGUE AND TULLI, MARCH 10, 1999

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 10, 1999

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, further providing for taxation by
3 school districts.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Sections 8701, 8702, 8703(a), (b) and (d),
7 8704(a), 8705(e), 8711, 8712, 8713, 8714, 8715, 8716, 8717, 8912
8 and 8915 of Title 53 of the Pennsylvania Consolidated Statutes
9 are amended to read:

10 § 8701. General tax authorization.

11 (a) General rule.--Subject to sections 8703 (relating to
12 adoption of referendum) and 8704 (relating to public referendum
13 requirements for increasing property taxes previously reduced)
14 and except as provided in subsection (b), each school district
15 shall have the power and may by resolution levy, assess and
16 collect or provide for the levying, assessment and collection of
17 the earned income and net profits tax or a personal income tax

1 in accordance with the act of March 4, 1971 (P.L.6, No.2), known
2 as the Tax Reform Code of 1971, under this chapter.

3 (b) Exclusions.--No school district which levies an earned
4 income and net profits tax or a personal income tax authorized
5 by this chapter shall have any power or authority to levy,
6 assess or collect:

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

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

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

14 (4) The earned income and net profits tax levied under
15 the Local Tax Enabling Act.

16 (5) An earned income tax under the act of August 24,
17 1961 (P.L.1135, No.508), referred to as the First Class A
18 School District Earned Income Tax Act, or under the
19 additional authority in section 652.1(a)(2) of the act of
20 March 10, 1949 (P.L.30, No.14), known as the Public School
21 Code of 1949.

22 (6) Any tax under section 652.1(a)(4) of the Public
23 School Code of 1949 except as it pertains to real estate
24 transfer taxes.

25 (7) Except for taxes permitted under section 8402(b)
26 (relating to scope and limitations), (c), (d), (e) and (f),
27 any other tax authorized or permitted under the Local Tax
28 Enabling Act.

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

1 § 8702. Continuity of tax.

2 The earned income and net profits tax or the personal income
3 tax levied under the provisions of this chapter shall continue
4 in force on a fiscal year basis without annual reenactment
5 unless the rate of tax is increased or the tax is subsequently
6 repealed.

7 § 8703. Adoption of referendum.

8 (a) General rule.--

9 (1) In order to levy an earned income and net profits
10 tax or a personal income tax under this chapter, a governing
11 body shall use the procedures set forth in subsection (b).

12 (2) Any governing body after making an election to levy
13 an earned income and net profits tax or a personal income tax
14 under this chapter may, after a period of at least three full
15 fiscal years, elect under the provisions of subsection (c) to
16 levy, assess and collect the taxes prohibited by section
17 8701(b) (relating to general tax authorization) to the extent
18 otherwise provided by law. If the electorate approves such
19 referendum, the governing body shall lose the authority to
20 continue to levy an earned income and net profits tax or
21 personal income tax authorized under this chapter.

22 (b) Public referendum requirements.--Subject to the notice
23 and public hearing requirements of section 8716 (relating to
24 procedure and administration), a governing body may levy the
25 earned income and net profits tax or personal income tax under
26 this chapter only by obtaining the approval of the electorate of
27 the affected school district in a public referendum at only the
28 municipal election preceding the fiscal year when the earned
29 income and net profits tax or personal income tax will be
30 initially imposed. The referendum question must state the

1 initial rate of the proposed earned income and net profits tax
2 or personal income tax, the reason for the tax and the amount of
3 proposed budgeted revenue growth, if any, in the first fiscal
4 year following adoption of the referendum, expressed as a
5 percent increase over the prior year's budgeted revenue. Any
6 increase in budgeted revenue between the first fiscal year
7 following adoption of the referendum and the prior year's
8 budgeted revenue shall not exceed the annual percent change in
9 the Statewide average weekly wage. The question shall be in
10 clear language that is readily understandable by a layperson.
11 For the purpose of illustration, a referendum question may be
12 framed as follows:

13 Do you favor the imposition of an earned income and net
14 profits tax or personal income tax of X% to be used to
15 replace (names of local taxes to be repealed), reduce
16 real property taxes by X% by means of a homestead
17 exclusion and provide for a one-time revenue increase of
18 X% over the preceding fiscal year?

19 A nonlegal interpretative statement must accompany the question
20 in accordance with section 201.1 of the act of June 3, 1937
21 (P.L.1333, No.320), known as the Pennsylvania Election Code,
22 that includes the following: the initial rate of the earned
23 income and net profits tax or personal income tax and the
24 maximum allowable rate of the earned income and net profits tax
25 or personal income tax imposed under this chapter; the estimated
26 revenues to be derived from the initial rate of the earned
27 income and net profits tax or personal income tax imposed under
28 this chapter; the amount of proposed revenue growth, if any, in
29 the first fiscal year following adoption of the referendum; the
30 estimated reduction in real property taxes and the elimination

1 of certain existing taxes under this chapter; the identification
2 of the existing taxes to be eliminated under this chapter; the
3 method to be used to reduce real property taxes; the class or
4 classes of real property for which real property taxes would be
5 reduced; and the estimated amount of real property tax reduction
6 by class, expressed as an average percent reduction by class.
7 Any governing body which uses the procedures under this section
8 shall not be subject to the provisions of section 8704 (relating
9 to public referendum requirements for increasing property taxes
10 previously reduced) for any future increases in the earned
11 income and net profits tax or personal income tax rates
12 authorized under this chapter. Any future real property tax rate
13 increases are subject to the provisions of section 8704. If the
14 ballot question fails to receive a majority vote pursuant to
15 this section, approval of the electorate under section 8704
16 shall not be required to increase the rate of any tax which the
17 governing body of the affected school district is authorized to
18 levy and increase pursuant to any other act.

19 * * *

20 (d) Public requirements to initiate referendum.--

21 (1) If the governing body of a school district fails to
22 place a referendum question on the ballot within two years
23 after the effective date of this chapter, the electors of the
24 school district may:

25 (i) Circulate a petition which, if signed by
26 electors comprising 2% of the number of electors voting
27 for the office of Governor in the last gubernatorial
28 election in the school district and filed with the
29 election officials and submitted to the governing body
30 thereof, shall require the governing body to establish a

1 local tax study commission. The provisions under
2 paragraph (2)(v), (vi), (vii), (viii) (ix) and (x) shall
3 not apply to this subparagraph.

4 (ii) If the local tax study commission makes a
5 recommendation to levy the earned income and net profits
6 tax or personal income tax under this chapter and the
7 governing body fails to place the recommendation or other
8 alternative of the governing body authorized under this
9 chapter on the ballot in accordance with this chapter at
10 the next municipal election occurring at least 90 days
11 after the submission of the recommendation to the
12 governing body, a petition under this paragraph may be
13 circulated. If the petition is signed by the electors
14 comprising 5% of the number of electors voting for the
15 office of Governor in the last gubernatorial election in
16 the school district and filed with election officials at
17 least 90 days prior to the next municipal election, the
18 petition shall compel the election officials to place the
19 recommendation upon the ballot at the next municipal
20 election occurring at least 90 days after the filing of
21 the petition.

22 (2) The following requirements shall apply to the
23 process under paragraph (1):

24 (i) The name and street address of each elector
25 signing the petition and of the person filing the
26 petition shall be clearly stated on the petition. The
27 petition shall include an affidavit of the circulator
28 that he or she is a qualified elector of the school
29 district referred to in the petition; that the signers
30 signed with full knowledge of the contents of the

1 petition; that the signers' residences are correctly
2 stated; and that, to the best of the circulator's
3 knowledge and belief, the signers are qualified electors.

4 (ii) The election officials shall, within ten days
5 after filing, review the petition as to the number and
6 qualifications of signers. If the petition appears to be
7 defective, the election officials shall immediately
8 notify the person filing the petition of the defect and
9 may reject the petition if warranted.

10 (iii) The petition as submitted to the election
11 officials, along with the list of signatories, shall be
12 open to public inspection in the office of the election
13 officials.

14 (iv) If the election officials find that the
15 petition as submitted is in proper order, they shall send
16 copies of the petition without signatures thereon to the
17 governing body involved.

18 (v) The procedure for the referendum shall be
19 governed by the act of June 3, 1937 (P.L.1333, No.320),
20 known as the Pennsylvania Election Code.

21 (vi) If the election officials find the petition
22 meets the requirements of this chapter, they shall place
23 the proposal on the ballot in a manner fairly
24 representing the content of the petition for decision by
25 referendum at the proper election.

26 (vii) The election officials shall certify the date
27 for the referendum and shall notify the governing body at
28 least 30 days prior to such date.

29 (viii) At least 30 days' notice of the referendum
30 shall be given by proclamation of the governing body. A

1 copy of the proclamation shall be posted at each polling
2 place on the day of the election and shall be published
3 once in at least one newspaper of general circulation
4 which is distributed within the school district during
5 the 30-day period prior to the election.

6 (ix) Approval of a referendum shall be by majority
7 vote of those voting in the school district involved.

8 (x) The election officials shall certify the results
9 of the referendum to the governing body.

10 * * *

11 § 8704. Public referendum requirements for increasing property
12 taxes previously reduced.

13 (a) General rule.--Except as provided in subsections (c) and
14 (d), a governing body that elects to levy an earned income and
15 net profits tax or personal income tax under this chapter
16 pursuant to section 8703(a) (relating to adoption of referendum)
17 shall not increase the rate of its tax on real property without
18 first obtaining the approval of the electorate of the affected
19 school district in a referendum at the primary election
20 immediately preceding the fiscal year of the proposed tax
21 increase.

22 * * *

23 § 8705. Local tax study commission.

24 * * *

25 (e) Recommendation.--Within 90 days of its appointment, the
26 local tax study commission shall make a nonbinding
27 recommendation to the governing body regarding the imposition of
28 an earned income and net profits tax or personal income tax to
29 be levied, assessed and collected commencing the next fiscal
30 year. Except as provided in subsection (f), if the governing

1 body appoints a commission, the earned income and net profits
2 tax or personal income tax authorized under this chapter may not
3 be levied, assessed or collected until receipt of the
4 recommendation. No later than 90 days prior to the next
5 municipal election occurring at least 150 days after the
6 submission of the recommendation, the governing body shall
7 accept or reject the recommendation of the local tax study
8 commission or adopt an alternative proposal authorized under
9 this chapter.

10 * * *

11 § 8711. Earned income and net profits tax or personal income
12 tax.

13 A school district shall have the power to levy, assess and
14 collect a tax on the earned income and net profits or personal
15 income tax of resident individuals of the school district up to
16 a maximum rate of 1.5%. The earned income and net profits tax or
17 personal income tax may be levied by the school district at a
18 rate of 1.0%, 1.25% or 1.5%.

19 § 8712. Collections.

20 Any school district imposing a tax under section 8711
21 (relating to earned income and net profits tax or personal
22 income tax) shall designate the tax officer who is appointed
23 under section 10 of the Local Tax Enabling Act, or otherwise by
24 law, as the collector of the earned income and net profits tax
25 or personal income tax. In the performance of the tax collection
26 duties under this subchapter, the designated tax officer shall
27 have all the same powers, rights, responsibilities and duties
28 for the collection of the taxes which may be imposed under the
29 Local Tax Enabling Act, Subchapter C of Chapter 84 (relating to
30 local taxpayers bill of rights) or as otherwise provided by law.

1 § 8713. Credits.

2 (a) General rule.--The provisions of section 14 of the Local
3 Tax Enabling Act shall be used to determine any credits under
4 the provisions of this chapter for any taxes imposed under
5 section 8711 (relating to earned income and net profits tax or
6 personal income tax).

7 (b) State tax credit.--A credit against personal income tax
8 due to the Commonwealth under section 302 of the Tax Reform Code
9 shall be granted to all nonresidents of a city of the first
10 class who are subject to a tax imposed by a city of the first
11 class pursuant to the act of August 5, 1932 (Sp.Sess., P.L.45,
12 No.45), referred to as the Sterling Act. The credit shall equal
13 0.2756% of salaries, wages, commissions, compensation or other
14 income received for work done or services performed within a
15 city of the first class. The Secretary of Revenue shall
16 promulgate such regulations and forms as are necessary to
17 implement the provisions of this subsection. This section shall
18 only apply to residents of school districts which impose the tax
19 under this subchapter. A governing body of a school district in
20 a county of the second class A shall, and a governing body of a
21 school district in a county of the third class may, include in
22 the referendum question under section 8703 (relating to adoption
23 of referendum) language asking whether the credit against the
24 personal income tax in this subsection should be provided to the
25 nonresident taxpayer in the city of the first class or the
26 school district in which the taxpayer resides for the purpose of
27 making additional tax reductions in the same manner as section
28 8717 (relating to disposition of earned income and net profits
29 tax or personal income tax revenue). Should any court of
30 competent jurisdiction determine that this subsection is

1 unconstitutional, the provisions of this subsection shall be
2 void and no credit shall be expanded or extended in any way by
3 any court.

4 § 8714. Earned income and net profits tax or personal income
5 tax exemption.

6 A school district that imposes an earned income and net
7 profits tax or personal income tax under this chapter may exempt
8 from the payment of that tax any person whose total income from
9 all sources is less than \$7,500.

10 § 8715. Rules and regulations.

11 Taxes imposed under section 8711 (relating to earned income
12 and net profits tax or personal income tax) will be subject to
13 all regulations adopted under section 13 of the Local Tax
14 Enabling Act. A school district may adopt regulations for the
15 processing of claims for credits or exemptions under sections
16 8713 (relating to credits) and 8714 (relating to earned income
17 and net profits tax or personal income tax exemption).

18 § 8716. Procedure and administration.

19 In order to levy the tax under section 8711 (relating to
20 earned income and net profits tax or personal income tax), the
21 governing body shall adopt a resolution which shall refer to
22 this subchapter prior to placing a question on the ballot under
23 section 8703 (relating to adoption of referendum). Prior to
24 adopting a resolution imposing the tax authorized by section
25 8711, the governing body shall give public notice of its intent
26 to adopt the resolution in the manner provided by section 4 of
27 the Local Tax Enabling Act and shall conduct at least one public
28 hearing regarding the proposed adoption of the resolution.

29 § 8717. Disposition of earned income and net profits tax or
30 personal income tax revenue.

1 The disposition of revenue from an earned income and net
2 profits tax or personal income tax or an increase in the rate of
3 an earned income and net profits tax or personal income tax
4 imposed by school districts under the authority of this chapter
5 shall occur in the following manner:

6 (1) For the fiscal year of implementation of a newly
7 imposed income tax or personal income tax, all earned income
8 and net profits tax or personal income tax revenue received
9 by a school district shall be used first to offset any lost
10 revenue to the school district from the taxes prohibited
11 under section 8701(b) (relating to general tax authorization)
12 in an amount equal to the revenue collected from the
13 prohibited taxes in section 8701(b) in the preceding fiscal
14 year; second, to provide for an increase in budgeted revenues
15 over the preceding fiscal year in accordance with the amount
16 specified in the referendum question approved by the voters
17 under section 8703 (relating to adoption of referendum); and
18 third, to reduce the school district real property tax in the
19 following order:

20 (i) By means of an exclusion for homestead property
21 pursuant to section 8583 (relating to exclusion for
22 homestead property).

23 (ii) By means of a reduction in the millage rate
24 after the limit on the exclusion for homestead property
25 has been reached under section 8586 (relating to
26 limitations).

27 (2) For the fiscal year of implementation of an increase
28 in the rate of the existing earned income and net profits tax
29 or personal income tax imposed under this chapter, all
30 revenue received by a school district directly attributable

1 to the increased rate shall be used to reduce the school
2 district real property tax in the following order:

3 (i) By means of an exclusion for homestead property
4 pursuant to section 8583.

5 (ii) By means of a reduction in the millage rate
6 after the limit on the exclusion for homestead property
7 has been reached under section 8586.

8 § 8912. Register for taxes.

9 (a) General rule.--The department shall maintain an official
10 continuing register supplemented annually of all local earned
11 income and net profits taxes or personal income tax levied under
12 Chapter 87 (relating to other subjects of taxation).

13 (b) Contents of register.--The register shall list:

14 (1) The school districts levying local earned income and
15 net profits tax or personal income tax.

16 (2) The rate of tax as stated in the resolution levying
17 the tax.

18 (3) The rate on taxpayers.

19 (4) The name and address of the official responsible for
20 administering the collection of the tax and from whom
21 information, forms and copies of regulations are available.

22 § 8915. Effect of nonfiling.

23 Employers shall not be required by any ordinance to withhold
24 from the compensation of their employees any local earned income
25 and net profits tax or personal income tax imposed under Chapter
26 87 (relating to other subjects of taxation) which is not listed
27 in the register or to make reports of compensation in connection
28 with taxes not so listed. If the register is not available by
29 August 15, the register of the previous year shall continue to
30 be effective for an additional period of not more than one year.

1 Section 2. This act shall take effect in 60 days.