

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 550 Session of 2001

INTRODUCED BY HERMAN, BENNINGHOFF, ARMSTRONG, FEESE, FICHTER, McNAUGHTON, HANNA, BARRAR, BASTIAN, CALTAGIRONE, CLYMER, COY, EGOLF, FAIRCHILD, HORSEY, MAITLAND, McILHATTAN, NAILOR, PHILLIPS, READSHAW, RUBLEY, SAYLOR, SCHULER, STEELMAN, STERN, E. Z. TAYLOR, TIGUE, WILT AND YOUNGBLOOD, FEBRUARY 7, 2001

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 13, 2001

AN ACT

1 Providing for optional occupation tax replacement.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Optional
6 Occupation Tax Elimination Act.

7 Section 2. Definitions.

8 The following words and phrases when used in this act shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Earned income tax." A tax on earned income and net profits
12 levied under section 13 of the act of December 31, 1965
13 (P.L.1257, No.511), known as The Local Tax Enabling Act.

14 "ELECTION OFFICIALS." THE COUNTY BOARD OF ELECTIONS OF A
15 COUNTY.

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1 "Governing body." A city council, borough council,
2 incorporated town council, board of township commissioners,
3 board of township supervisors, a governing council of a home
4 rule municipality or optional plan municipality, a governing
5 council of any similar general purpose unit of government which
6 may hereafter be created by statute or a board of school
7 directors of a school district.

8 "Occupation tax." A tax based upon an assessed valuation of
9 a particular trade, occupation or profession. The term includes
10 a tax imposed on a flat rate on all trades, occupations or
11 professions. The term does not include a tax upon persons
12 employed in a taxing district, commonly known as an occupational
13 privilege tax.

14 "Political subdivision." Any city, borough, incorporated
15 town, township or school district.

16 "The Local Tax Enabling Act." The act of December 31, 1965
17 (P.L.1257, No.511), known as The Local Tax Enabling Act.
18 Section 3. Occupation tax replacement generally.

19 A political subdivision that levies an occupation tax may
20 replace the revenues provided by the occupation tax by
21 increasing the rate of the earned income tax as provided in this
22 act.

23 Section 4. Earned income tax rate limits.

24 (a) Earned income tax rate limits.--For the first fiscal
25 year beginning after approval of the referendum under section 7,
26 and each fiscal year thereafter, the governing body of a
27 political subdivision using the procedures authorized by this
28 act shall be authorized to impose the earned income tax at a
29 rate not exceeding the maximum earned income tax rate as
30 calculated under subsection (b).

1 (b) Calculation of maximum earned income tax rate.--The
2 maximum earned income tax rate shall be determined by taking the
3 sum of the rates calculated under paragraphs (1) and (2):

4 (1) The rate of the earned income tax that would have
5 resulted in the collection by the political subdivision of an
6 amount equal to the amount collected from the occupation tax.
7 This calculation shall be made using actual revenue
8 collections for the fiscal year ending immediately prior to
9 the date of the referendum under section 7.

10 (2) The rate at which the earned income tax was collected
11 by the political subdivision for the fiscal year ending
12 immediately prior to the date of the referendum under section
13 7.

14 The maximum rate of the earned income tax calculated under this
15 subsection shall not be subject to the limits on the earned
16 income tax specified in section 8(3) of The Local Tax Enabling
17 Act.

18 (c) Other rates of taxation.--If a municipality or school
19 district, both of which impose an earned income tax on the same
20 individual under The Local Tax Enabling Act and both of which
21 are limited to or have agreed upon a division of the tax rate in
22 accordance with section 8(3) of The Local Tax Enabling Act,
23 receives voter approval under section 7 and opts to increase the
24 rate of earned income tax in excess of that limit or agreement,
25 then the municipality or school district which does not receive
26 voter approval shall remain subject to that limit or agreement.
27 Section 5. Occupation tax prohibited.

28 For the first fiscal year beginning after approval of the
29 referendum required under section 7 and each fiscal year
30 thereafter, a political subdivision is prohibited from levying,

1 assessing or collecting an occupation tax. This section shall
2 not apply to the collection of delinquent occupation taxes.
3 Section 6. Resolution required.

4 The governing body may seek authority to increase the maximum
5 limits of the earned income tax by adopting a resolution to
6 place a referendum on the ballot pursuant to section 7. The
7 governing body shall transmit a copy of the resolution to the
8 appropriate election officials. Prior to approving the
9 resolution the governing body shall:

10 (1) Give public notice of its intent to adopt the
11 resolution in the manner provided by section 4 of The Local
12 Tax Enabling Act.

13 (2) Conduct at least one public hearing regarding
14 eliminating the occupation tax and increasing the maximum
15 rate of the earned income tax.

16 Section 7. Binding referendum.

17 (a) Referendum to be held.--A political subdivision may
18 increase the maximum rate of the earned income tax only by
19 obtaining the approval of the electorate of the affected
20 political subdivision in a public referendum at the general or
21 municipal election preceding the fiscal year when the maximum
22 rate of the earned income tax will be increased. The election
23 officials shall cause a question to be placed on the ballot at
24 the first general or municipal election occurring at least 90
25 days after their receipt of the resolution required in section
26 6.

27 (b) Contents of question.--The referendum question must
28 state the maximum rate of the earned income tax calculated under
29 section 4 and that the additional revenue generated by an
30 increase in the earned income tax will be used to eliminate the

1 occupation tax. The question shall be in clear language that is
2 readily understandable by a layperson. For the purpose of
3 illustration, a referendum question may be framed as follows:

4 Do you favor increasing the rate of the earned income tax
5 to a maximum of X%, with the requirement that the
6 increase be used to eliminate the occupation tax?

7 (c) Vote.--If a majority of the electors voting on the
8 question vote "yes," then the governing body shall be authorized
9 to implement an increase in the earned income tax pursuant to
10 section 4 and shall be required to eliminate the occupation tax
11 as required by section 5. If a majority of the electors voting
12 on the question vote "no," the governing body shall have no
13 authority to increase the rate of the earned income tax above
14 the maximum rate otherwise provided by law.

15 (d) Voting proceedings.--Proceedings under this section
16 shall be in accordance with the provisions of the act of June 3,
17 1937 (P.L.1333, No.320), known as the Pennsylvania Election
18 Code.

19 Section 8. Applicability.

20 This act shall apply to political subdivisions which levy an
21 occupation tax on the date of enactment of this act.

22 Section 9. Effective date.

23 This act shall take effect July 1, 2001, or in 90 days,
24 whichever is later.