
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, YOUNGBLOOD, PALLONE AND BELFANTI,
FEBRUARY 7, 2001

SENATOR EARL, FINANCE, IN SENATE, AS AMENDED, JUNE 11, 2001

AN ACT

1 Providing for optional occupation tax replacement; AND MAKING A <—
2 REPEAL.

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

5 Section 1. Short title.

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

8 Section 2. Definitions.

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

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

15 "Election officials." The county board of elections of a

1 county.

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

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

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

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

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

24 Section 4. Earned income tax rate limits.

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

1 calculated under subsection (b).

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

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

11 (2) The rate at which the earned income tax was collected
12 by the political subdivision for the fiscal year ending
13 immediately prior to the date of the referendum under section
14 7.

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

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

28 Section 5. Occupation tax prohibited.

29 For the first fiscal year beginning after approval of the
30 referendum required under section 7 and each fiscal year

1 thereafter, a political subdivision is prohibited from levying,
2 assessing or collecting an occupation tax. This section shall
3 not apply to the collection of delinquent occupation taxes.

4 Section 6. Resolution required.

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

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

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

17 Section 7. Binding referendum.

18 (a) Referendum to be held.--A political subdivision may
19 increase the maximum rate of the earned income tax only by
20 obtaining the approval of the electorate of the affected
21 political subdivision in a public referendum at the general or
22 municipal election preceding the fiscal year when the maximum
23 rate of the earned income tax will be increased. The election
24 officials shall cause a question to be placed on the ballot at
25 the first general or municipal election occurring at least 90
26 days after their receipt of the resolution required in section
27 6.

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

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

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

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

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

20 SECTION 8. REPEAL. ←

21 THE LAST SENTENCE OF 53 PA.C.S. § 8711 IS REPEALED.

22 Section 9. Applicability. ←

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

25 Section 10. Effective date. ←

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