
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

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 20, 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) AND <—
5 LIMITED BY PARAGRAPH (3):

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

12 (2) The rate at which the earned income tax was collected
13 by the political subdivision for the fiscal year ending
14 immediately prior to the date of the referendum under section
15 7.

16 (3) THE TAX RATE DETERMINED UNDER PARAGRAPHS (1) AND (2) <—
17 SHALL BE ROUNDED OFF TO THE NEAREST INCREMENT OF FIVE
18 HUNDREDTHS OF ONE PERCENT. <—

19 The maximum rate of the earned income tax calculated under this
20 subsection shall not be subject to the limits on the earned
21 income tax specified in section 8(3) of The Local Tax Enabling
22 Act.

23 (c) Other rates of taxation.--If a municipality or school
24 district, both of which impose an earned income tax on the same
25 individual under The Local Tax Enabling Act and both of which
26 are limited to or have agreed upon a division of the tax rate in
27 accordance with section 8(3) of The Local Tax Enabling Act, AND <—
28 THE SCHOOL DISTRICT receives voter approval under section 7 and
29 opts to increase the rate of earned income tax in excess of that
30 limit or agreement, then the municipality ~~or school district~~ <—

1 ~~which does not receive voter approval~~ shall remain subject to
2 that limit or agreement.

3 Section 5. Occupation tax prohibited.

4 For the first fiscal year beginning after approval of the
5 referendum required under section 7 and each fiscal year
6 thereafter, a political subdivision is prohibited from levying,
7 assessing or collecting an occupation tax. This section shall
8 not apply to the collection of delinquent occupation taxes.

9 Section 6. Resolution required.

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

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

19 (2) Conduct at least one public hearing regarding
20 eliminating the occupation tax and increasing the maximum
21 rate of the earned income tax.

22 Section 7. Binding referendum.

23 (a) Referendum to be held.--A political subdivision may
24 increase the maximum rate of the earned income tax only by
25 obtaining the approval of the electorate of the affected
26 political subdivision in a public referendum at the general or
27 municipal election preceding the fiscal year when the maximum
28 rate of the earned income tax will be increased. The election
29 officials shall cause a question to be placed on the ballot at
30 the first general or municipal election occurring at least 90

1 days after their receipt of the resolution required in section
2 6.

3 (b) Contents of question.--The referendum question must
4 state the maximum rate of the earned income tax calculated under
5 section 4 and that the additional revenue generated by an
6 increase in the earned income tax will be used to eliminate the
7 occupation tax. The question shall be in clear language that is
8 readily understandable by a layperson. For the purpose of
9 illustration, a referendum question may be framed as follows:

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

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

21 (d) Voting proceedings.--Proceedings under this section
22 shall be in accordance with the provisions of the act of June 3,
23 1937 (P.L.1333, No.320), known as the Pennsylvania Election
24 Code.

25 ~~SECTION 8. REPEAL.~~ <—

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

27 Section ~~8-9~~ 8. Applicability. <—

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

30 Section ~~9-10~~ 9. Effective date. <—

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

<—

3 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.

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