

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1185 Session of
2001

INTRODUCED BY GERLACH AND WAUGH, OCTOBER 29, 2001

REFERRED TO FINANCE, OCTOBER 29, 2001

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, further providing for the imposition
3 of an earned income and net profits tax; increasing the rate
4 of earned income and net profits tax; authorizing
5 participating school districts power to impose a personal
6 income tax; and requiring mandatory referendum questions by
7 all school districts.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Sections 8701(a) and 8702 of Title 53 of the
11 Pennsylvania Consolidated Statutes are amended to read:

12 § 8701. General tax authorization.

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

1 either an earned income and net profits tax or a personal income
2 tax, but under no circumstance shall a school district have the
3 power under this chapter to levy both the earned income and net
4 profits tax and a personal income tax.

5 * * *

6 § 8702. Continuity of tax.

7 The earned income and net profits tax or the personal income
8 tax levied under the provisions of this chapter shall continue
9 in force on a fiscal year basis without annual reenactment
10 unless the rate of tax is increased or the tax is subsequently
11 repealed.

12 Section 2. Section 8703(a) and (b) of Title 53 are amended
13 and the section is amended by adding a subsection to read:

14 § 8703. Adoption of referendum.

15 (a) General rule.--

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

19 (2) Any governing body after making an election to levy
20 an earned income and net profits tax or a personal income tax
21 under this chapter may, after a period of at least three full
22 fiscal years, elect under the provisions of subsection (c) to
23 levy, assess and collect the taxes prohibited by section
24 8701(b) (relating to general tax authorization) to the extent
25 otherwise provided by law. If the electorate approves such
26 referendum, the governing body shall lose the authority to
27 continue to levy an earned income and net profits tax or a
28 personal income tax authorized under this chapter.

29 (b) Public referendum requirements.--Subject to the notice
30 and public hearing requirements of section 8716 (relating to

1 procedure and administration), a governing body may levy the
2 earned income and net profits tax or a personal income tax under
3 this chapter only by obtaining the approval of the electorate of
4 the affected school district in a public referendum at only the
5 municipal election preceding the fiscal year when the earned
6 income and net profits tax or a personal income tax will be
7 initially imposed. The referendum question must state the
8 initial rate of the proposed earned income and net profits tax
9 or a personal income tax, the reason for the tax and the amount
10 of proposed budgeted revenue growth, if any, in the first fiscal
11 year following adoption of the referendum, expressed as a
12 percent increase over the prior year's budgeted revenue. Any
13 increase in budgeted revenue between the first fiscal year
14 following adoption of the referendum and the prior year's
15 budgeted revenue shall not exceed the annual percent change in
16 the Statewide average weekly wage. The question shall be in
17 clear language that is readily understandable by a layperson.
18 For the purpose of illustration, a referendum question may be
19 framed as follows:

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

26 A nonlegal interpretative statement must accompany the question
27 in accordance with section 201.1 of the act of June 3, 1937
28 (P.L.1333, No.320), known as the Pennsylvania Election Code,
29 that includes the following: the initial rate of the earned
30 income and net profits tax or a personal income tax and the

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

27 * * *

28 (d.1) Mandatory referendum question.--Any governing body of
29 a school district which has not submitted the referendum
30 question set forth in subsection (b) to the electors of the

1 school district on or before January 1, 2002, shall submit to
2 the electorate in the November election of 2002, the referendum
3 question set forth in subsection (b).

4 * * *

5 Section 3. The heading of Subchapter B of Chapter 87 is
6 amended to read:

7 SUBCHAPTER B

8 [EARNED INCOME AND NET PROFITS TAX]

9 AUTHORIZED TAXES UNDER CHAPTER

10 Section 4. Sections 8711, 8712, 8713, 8714, 8715, 8716,
11 8717, 8912 and 8915 of Title 53 are amended to read:

12 § 8711. [Earned income and net profits tax] Taxes authorized
13 under chapter.

14 (a) General rule.--A school district shall have the power to
15 levy, assess and collect a tax authorized under either
16 subsection (b) or (c), but shall not have any power to levy,
17 assess and collect both taxes.

18 (b) Earned income and net profits tax.--A school district
19 shall have the power to levy, assess and collect a tax on the
20 earned income and net profits of resident individuals of the
21 school district up to a maximum rate of [1.5%] 2.5%. The earned
22 income and net profits tax may be levied by the school district
23 at a rate of 1.0%, 1.25% [or], 1.5%, 1.75%, 2.0%, 2.25% or 2.5%.

24 (c) Personal income tax.--A school district shall have the
25 power to levy, assess and collect a tax on the personal income
26 of resident individuals of the school district on the same
27 classes of income as are subject to tax under Article III of the
28 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
29 of 1971, up to a maximum rate of 2.5%. The personal income tax
30 may be levied by the school district at a rate of 1.0%, 1.25%,

1 1.5%, 1.75%, 2.0%, 2.25% or 2.5%.

2 § 8712. Collections.

3 (a) General rule.--Any school district imposing a tax under
4 section 8711 (relating to [earned income and net profits tax]
5 taxes authorized under chapter) shall designate the tax officer
6 who is appointed under section 10 of the Local Tax Enabling Act,
7 or otherwise by law, as the collector of the earned income and
8 net profits tax and may designate that tax officer as the
9 collector of the personal income tax. In the performance of the
10 tax collection duties under this subchapter, the designated tax
11 officer shall have all the same powers, rights, responsibilities
12 and duties for the collection of the taxes which may be imposed
13 under the Local Tax Enabling Act, Subchapter C of Chapter 84
14 (relating to local taxpayers bill of rights) or as otherwise
15 provided by law.

16 (b) Collection of personal income tax by Commonwealth.--

17 (1) A school district imposing a tax upon personal
18 income under the authority of this subchapter may enter into
19 an agreement with the Department of Revenue for the
20 collection of that personal income tax by the department in
21 conjunction with the collection of any tax on personal income
22 imposed by the Commonwealth under the authority of the act of
23 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
24 1971.

25 (2) The agreement may not include any provisions
26 regarding enforcement. The agreement and any renewal shall be
27 executed at least six months prior to the date for the
28 collection of the tax; shall have a duration of at least
29 three years; and, after expiration, shall not be reinstituted
30 for a period of three years. The agreement authorized by this

1 subsection shall contain a provision appointing the
2 department as the tax officer within the meaning of this
3 subchapter.

4 (3) The department, by regulation, shall establish the
5 procedures for collecting that tax and paying the full amount
6 collected over to the school district.

7 § 8713. Credits.

8 (a) General rule.--The provisions of section 14 of the Local
9 Tax Enabling Act shall be used to determine any credits under
10 the provisions of this chapter for any taxes imposed under
11 section 8711 (relating to [earned income and net profits tax]
12 taxes authorized under chapter).

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

1 nonresident taxpayer in the city of the first class or the
2 school district in which the taxpayer resides for the purpose of
3 making additional tax reductions in the same manner as section
4 8717 (relating to disposition of earned income and net profits
5 tax revenue). Should any court of competent jurisdiction
6 determine that this subsection is unconstitutional, the
7 provisions of this subsection shall be void and no credit shall
8 be expanded or extended in any way by any court.

9 § 8714. [Earned income and net profits tax exemption]

10 Exemptions.

11 A school district that imposes an [earned income and net
12 profits] authorized tax under this chapter may exempt from the
13 payment of that tax any person whose total income from all
14 sources is less than \$7,500.

15 § 8715. Rules and regulations.

16 (a) General rule.--Taxes imposed under section [8711
17 (relating to earned income and net profits tax)] 8711(b)
18 (relating to taxes authorized under chapter) will be subject to
19 all regulations adopted under section 13 of the Local Tax
20 Enabling Act. A school district may adopt regulations for the
21 processing of claims for credits or exemptions under sections
22 8713 (relating to credits) and 8714 (relating to [earned income
23 and net profits tax exemption].) exemptions).

24 (b) Personal income tax.--Rules and regulations promulgated
25 by the Department of Revenue for personal income tax shall apply
26 to any personal income tax imposed by a school district under
27 this subchapter.

28 § 8716. Procedure and administration.

29 In order to levy the tax under section 8711 (relating to
30 [earned income and net profits tax] taxes authorized under

1 chapter), the governing body shall adopt a resolution which
2 shall refer to this subchapter prior to placing a question on
3 the ballot under section 8703 (relating to adoption of
4 referendum). Prior to adopting a resolution imposing the tax
5 authorized by section 8711, the governing body shall give public
6 notice of its intent to adopt the resolution in the manner
7 provided by section 4 of the Local Tax Enabling Act and shall
8 conduct at least one public hearing regarding the proposed
9 adoption of the resolution.

10 § 8717. Disposition of earned income and net profits tax
11 revenue.

12 The disposition of revenue from [an earned income and net
13 profits tax] any tax imposed under this subchapter or an
14 increase in the rate of [an earned income and net profits tax]
15 any tax imposed by school districts under the authority of this
16 chapter shall occur in the following manner:

17 (1) For the fiscal year of implementation of a newly
18 imposed income tax, all [earned income and net profits] tax
19 revenue received by a school district shall be used first to
20 offset any lost revenue to the school district from the taxes
21 prohibited under section 8701(b) (relating to general tax
22 authorization) in an amount equal to the revenue collected
23 from the prohibited taxes in section 8701(b) in the preceding
24 fiscal year; second, to provide for an increase in budgeted
25 revenues over the preceding fiscal year in accordance with
26 the amount specified in the referendum question approved by
27 the voters under section 8703 (relating to adoption of
28 referendum); and third, to reduce the school district real
29 property tax in the following order:

30 (i) By means of an exclusion for homestead property

1 pursuant to section 8583 (relating to exclusion for
2 homestead property).

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

7 (2) For the fiscal year of implementation of an increase
8 in the rate of the existing [earned income and net profits]
9 tax imposed under this chapter, all revenue received by a
10 school district directly attributable to the increased rate
11 shall be used to reduce the school district real property tax
12 in the following order:

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

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

18 § 8912. Register for taxes.

19 (a) General rule.--The department shall maintain an official
20 continuing register supplemented annually of all local [earned
21 income and net profits] taxes levied under Chapter 87 (relating
22 to other subjects of taxation).

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

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

26 (2) The rate of tax as stated in the resolution levying
27 the tax.

28 (3) The rate on taxpayers.

29 (4) The name and address of the official responsible for
30 administering the collection of the tax and from whom

1 information, forms and copies of regulations are available.

2 § 8915. Effect of nonfiling.

3 Employers shall not be required by any ordinance to withhold
4 from the compensation of their employees any local [earned
5 income and net profits] tax imposed under Chapter 87 (relating
6 to other subjects of taxation) which is not listed in the
7 register or to make reports of compensation in connection with
8 taxes not so listed. If the register is not available by August
9 15, the register of the previous year shall continue to be
10 effective for an additional period of not more than one year.

11 Section 5. This act shall take effect December 1, 2001.