

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 455 Session of 2005

INTRODUCED BY PETRI, ARMSTRONG, CALTAGIRONE, CORRIGAN, MILLARD, PHILLIPS, SCAVELLO, STERN, E. Z. TAYLOR, TIGUE, WATSON, WILT AND PICKETT, FEBRUARY 14, 2005

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 14, 2005

AN ACT

1 Amending the act of June 22, 2001 (P.L.374, No.24), entitled, as
 2 amended, "An act providing for optional occupation tax
 3 replacement," further providing for earned income tax rate
 4 limits; and requiring referendum under certain circumstances.

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

7 Section 1. Section 4(b) of the act of June 22, 2001
 8 (P.L.374, No.24), known as the Optional Occupation Tax
 9 Elimination Act, amended June 29, 2002 (P.L.642, No.96), is
 10 amended to read:

11 Section 4. Earned income tax rate limits.

12 * * *

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

17 (1) The rate of the earned income tax that would have
 18 resulted in the collection by the political subdivision of an

1 amount equal to the amount collected from the occupation tax.
2 The calculation by a school district under this paragraph
3 shall be made using the average of the actual revenue
4 collections for the [fiscal year ending in 2002.] two fiscal
5 years immediately prior to the date of the referendum under
6 section 7. The calculation by a municipality under this
7 paragraph shall be made using the average of the actual
8 revenue collections for the [calendar year ending December
9 31, 2001.] two calendar years immediately prior to the date
10 of the referendum under section 7.

11 (2) The rate at which the earned income tax was
12 collected by a school district for the fiscal year [ending in
13 2002] immediately prior to the date of the referendum under
14 section 7 or the rate at which the earned income tax was
15 collected by a municipality for the calendar year [ending
16 December 31, 2001.] immediately prior to the date of the
17 referendum under section 7.

18 (3) The tax rate determined under paragraphs (1) and (2)
19 shall be rounded off to the nearest increment of ten
20 hundredths of one percent.

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

25 * * *

26 Section 2. The act is amended by adding a section to read:
27 Section 7.1. Referendum required.

28 (a) Question authorized.--In the case of any political
29 subdivision which levies the occupation tax on July 1, 2005, the
30 appropriate county board of elections shall prepare a ballot

1 question on whether to eliminate the occupation tax and obtain
2 replacement revenue by an increase in the earned income tax.

3 (b) Replacement revenue.--

4 (1) Representatives of the county board of elections
5 shall contact the governing body of the political subdivision
6 to calculate the additional amount of earned income tax
7 necessary to replace the revenue generated by the occupation
8 tax as provided in section 4.

9 (2) If the governing body fails to provide the
10 information in a timely manner, representatives of the county
11 board of elections shall calculate the rate of the earned
12 income tax as provided in section 4.

13 (c) Ballot question.--The county board of elections shall
14 place the question on the ballot at the municipal election held
15 in November 2005.

16 (d) Contents of question.--The referendum question must
17 state the maximum rate of the earned income tax calculated under
18 section 4 and that the additional revenue generated by an
19 increase in the earned income tax will be used to eliminate the
20 occupation tax. The question shall be in clear language that is
21 readily understandable by a layperson. For the purpose of
22 illustration, a referendum question may be framed as follows:

23 Do you favor increasing the rate of the earned income tax
24 to a maximum of X% with the requirement that the increase
25 be used to eliminate the occupation tax?

26 (e) Vote.--

27 (1) If a majority of the electors voting on the question
28 vote "yes," then the governing body shall be authorized to
29 implement an increase in the earned income tax pursuant to
30 section 4 and shall be required to eliminate the occupation

1 tax as required by section 5.

2 (2) If a majority of the electors voting on the question
3 vote "no," the governing body shall have no authority to
4 increase the rate of the earned income tax above the maximum
5 rate otherwise provided by law.

6 (f) Voting proceedings.--Proceedings under this section
7 shall be in accordance with the provisions of the act of June 3,
8 1937 (P.L.1333, No.320), known as the Pennsylvania Election
9 Code.

10 (g) Public notice.--

11 (1) Prior to the consideration of a ballot question
12 under this section, the county board of elections shall give
13 notice of the pending ballot question. The notice shall be
14 given in addition to all other notices required by law and
15 shall set forth the substantial nature of the tax to be
16 imposed, the reason which, in the judgment of the governing
17 body of the political subdivision, necessitates the
18 imposition of the tax, and the amount of revenue estimated to
19 be derived from the tax and the tax to be repealed.

20 (2) Publication of the notice shall be made by
21 advertisement once a week for three weeks in a newspaper of
22 general circulation within the political subdivision if there
23 is such newspaper, and if there is not, then the publication
24 shall be made in a newspaper of general circulation within
25 the county in which the advertising political subdivision is
26 located.

27 Section 3. This act shall take effect in 60 days.