

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 157 Session of
2005

INTRODUCED BY ARMSTRONG, VANCE, GORDNER, THOMPSON, PILEGGI,
EARLL, COSTA, KASUNIC, ORIE, LOGAN, ROBBINS, WONDERLING,
BOSCOLA, M. WHITE, WAUGH AND WENGER, FEBRUARY 2, 2005

REFERRED TO FINANCE, FEBRUARY 2, 2005

AN ACT

1 Amending the act of December 31, 1965 (P.L.1257, No.511),
2 entitled "An act empowering cities of the second class,
3 cities of the second class A, cities of the third class,
4 boroughs, towns, townships of the first class, townships of
5 the second class, school districts of the second class,
6 school districts of the third class and school districts of
7 the fourth class including independent school districts, to
8 levy, assess, collect or to provide for the levying,
9 assessment and collection of certain taxes subject to maximum
10 limitations for general revenue purposes; authorizing the
11 establishment of bureaus and the appointment and compensation
12 of officers, agencies and employes to assess and collect such
13 taxes; providing for joint collection of certain taxes,
14 prescribing certain definitions and other provisions for
15 taxes levied and assessed upon earned income, providing for
16 annual audits and for collection of delinquent taxes, and
17 permitting and requiring penalties to be imposed and
18 enforced, including penalties for disclosure of confidential
19 information, providing an appeal from the ordinance or
20 resolution levying such taxes to the court of quarter
21 sessions and to the Supreme Court and Superior Court,"
22 further providing for delegation of taxing powers and
23 restrictions thereon.

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 Section 1. Section 2 of the act of December 31, 1965
27 (P.L.1257, No.511), known as The Local Tax Enabling Act, amended
28 December 1, 2004 (P.L.1729, No.222), is amended to read:

1 Section 2. Delegation of Taxing Powers and Restrictions

2 Thereon.--The duly constituted authorities of the following
3 political subdivisions, cities of the second class, cities of
4 the second class A, cities of the third class, boroughs, towns,
5 townships of the first class, townships of the second class,
6 school districts of the second class, school districts of the
7 third class, and school districts of the fourth class, in all
8 cases including independent school districts, may, in their
9 discretion, by ordinance or resolution, for general revenue
10 purposes, levy, assess and collect or provide for the levying,
11 assessment and collection of such taxes as they shall determine
12 on persons, transactions, occupations, privileges, subjects and
13 personal property within the limits of such political
14 subdivisions, and upon the transfer of real property, or of any
15 interest in real property, situate within the political
16 subdivision levying and assessing the tax, regardless of where
17 the instruments making the transfers are made, executed or
18 delivered or where the actual settlements on such transfer take
19 place. The taxing authority may provide that the transferee
20 shall remain liable for any unpaid realty transfer taxes imposed
21 by virtue of this act. Each local taxing authority [may] shall,
22 by ordinance or resolution, exempt any person whose total income
23 from all sources is less than twelve thousand dollars (\$12,000)
24 per annum from the per capita or similar head tax, occupation
25 tax and emergency and municipal services tax, or earned income
26 tax, or any portion thereof, and may adopt regulations for the
27 processing of claims for exemptions. Such local authorities
28 shall not have authority by virtue of this act:

29 (1) To levy, assess and collect or provide for the levying,
30 assessment and collection of any tax on the transfer of real

1 property when the transfer is by will or mortgage or the
2 intestate laws of this Commonwealth or on a transfer by the
3 owner of previously occupied residential premises to a builder
4 of new residential premises when such previously occupied
5 residential premises is taken in trade by such builder as part
6 of the consideration from the purchaser of a new previously
7 unoccupied single family residential premises or on a transfer
8 between corporations operating housing projects pursuant to the
9 housing and redevelopment assistance law and the shareholders
10 thereof, or on a transfer between nonprofit industrial
11 development agencies and industrial corporations purchasing from
12 them, or on transfer to or from nonprofit industrial development
13 agencies, or on a transfer between husband and wife, or on a
14 transfer between persons who were previously husband and wife
15 but who have since been divorced; provided such transfer is made
16 within three months of the date of the granting of the final
17 decree in divorce, or the decree of equitable distribution of
18 marital property, whichever is later, and the property or
19 interest therein, subject to such transfer, was acquired by the
20 husband and wife, or husband or wife, prior to the granting of
21 the final decree in divorce, or on a transfer between parent and
22 child or the spouse of such a child, or between parent and
23 trustee for the benefit of a child or the spouse of such child,
24 or on a transfer between a grandparent and grandchild or the
25 spouse of such grandchild, or on a transfer between brother and
26 sister or brother and brother or sister and sister or the spouse
27 of such brother or sister, or on a transfer to a conservancy
28 which possesses a tax-exempt status pursuant to section
29 501(c)(3) of the Internal Revenue Code, and which has as its
30 primary purpose the preservation of land for historic,

1 recreational, scenic, agricultural or open space opportunities,
2 by and between a principal and straw party for the purpose of
3 placing a mortgage or ground rent upon the premises, or on a
4 correctional deed without consideration, or on a transfer to the
5 United States, the Commonwealth of Pennsylvania, or to any of
6 their instrumentalities, agencies or political subdivisions, by
7 gift, dedication or deed in lieu of condemnation, or deed of
8 confirmation in connection with condemnation proceedings, or
9 reconveyance by the condemning body of the property condemned to
10 the owner of record at the time of condemnation which
11 reconveyance may include property line adjustments provided said
12 reconveyance is made within one year from the date of
13 condemnation, leases, or on a conveyance to a trustee under a
14 recorded trust agreement for the express purpose of holding
15 title in trust as security for a debt contracted at the time of
16 the conveyance under which the trustee is not the lender and
17 requiring the trustee to make reconveyance to the grantor-
18 borrower upon the repayment of the debt, or a transfer within a
19 family from a sole proprietor family member to a family farm
20 corporation, or in any sheriff sale instituted by a mortgagee in
21 which the purchaser of said sheriff sale is the mortgagee who
22 instituted said sale, or on a privilege, transaction, subject,
23 occupation or personal property which is now or does hereafter
24 become subject to a State tax or license fee;

25 (2) To levy, assess or collect a tax on the gross receipts
26 from utility service of any person or company whose rates and
27 services are fixed and regulated by the Pennsylvania Public
28 Utility Commission or on any public utility services rendered by
29 any such person or company or on any privilege or transaction
30 involving the rendering of any such public utility service;

1 (3) Except on sales of admission to places of amusement or
2 on sales or other transfers of title or possession of property,
3 to levy, assess or collect a tax on the privilege of employing
4 such tangible property as is now or does hereafter become
5 subject to a State tax; and for the purposes of this clause,
6 real property rented for camping purposes shall not be
7 considered a place of amusement.

8 (4) To levy, assess and collect a tax on goods and articles
9 manufactured in such political subdivision or on the by-products
10 of manufacture, or on minerals, timber, natural resources and
11 farm products produced in such political subdivision or on the
12 preparation or processing thereof for use or market, or on any
13 privilege, act or transaction related to the business of
14 manufacturing, the production, preparation or processing of
15 minerals, timber and natural resources, or farm products, by
16 manufacturers, by producers and by farmers with respect to the
17 goods, articles and products of their own manufacture,
18 production or growth, or on any privilege, act or transaction
19 relating to the business of processing by-products of
20 manufacture, or on the transportation, loading, unloading or
21 dumping or storage of such goods, articles, products or by-
22 products; except that local authorities may levy, assess and
23 collect an emergency and municipal services tax and taxes on the
24 occupation, per capita and earned income or net profits of
25 natural persons engaged in the above activities whether doing
26 business as individual proprietorship or as members of
27 partnerships or other associations;

28 (5) To levy, assess or collect a tax on salaries, wages,
29 commissions, compensation and earned income of nonresidents of
30 the political subdivisions: Provided, That this limitation (5)

1 shall apply only to school districts of the second, third and
2 fourth classes;

3 (6) To levy, assess or collect a tax on personal property
4 subject to taxation by counties or on personal property owned by
5 persons, associations and corporations specifically exempted by
6 law from taxation under the county personal property tax law:
7 Provided, That this limitation (6) shall not apply to cities of
8 the second class;

9 (7) To levy, assess or collect a tax on membership in or
10 membership dues, fees or assessment of charitable, religious,
11 beneficial or nonprofit organizations including but not limited
12 to sportsmens, recreational, golf and tennis clubs, girl and boy
13 scout troops and councils;

14 (8) To levy, assess or collect any tax on a mobilehome or
15 house trailer subject to a real property tax unless the same tax
16 is levied, assessed and collected on other real property in the
17 political subdivision.

18 (9) To levy, assess or collect any tax on individuals for
19 the privilege of engaging in an occupation (emergency and
20 municipal services tax) except that such a tax may be levied,
21 assessed and collected only by the political subdivision of the
22 taxpayer's place of employment.

23 Payment of any emergency and municipal services tax to any
24 political subdivision by any person pursuant to an ordinance or
25 resolution passed or adopted under the authority of this act
26 shall be no less than ten dollars (\$10) nor more than fifty-two
27 dollars (\$52) on each person for each calendar year.

28 The situs of such tax shall be the place of employment, but,
29 in the event a person is engaged in more than one occupation, or
30 an occupation which requires his working in more than one

1 political subdivision during the calendar year, the priority of
2 claim to collect such emergency and municipal services tax shall
3 be in the following order: first, the political subdivision in
4 which a person maintains his principal office or is principally
5 employed; second, the political subdivision in which the person
6 resides and works, if such a tax is levied by that political
7 subdivision; third, the political subdivision in which a person
8 is employed and which imposes the tax nearest in miles to the
9 person's home. The place of employment shall be determined as of
10 the day the taxpayer first becomes subject to the tax during the
11 calendar year. The taxing authority shall authorize payment of
12 the tax on a quarterly or more frequent basis.

13 It is the intent of this provision that no person shall pay
14 more than fifty-two dollars (\$52) in any calendar year as an
15 emergency and municipal services tax irrespective of the number
16 of political subdivisions within which such person may be
17 employed within any given calendar year.

18 In case of dispute, a tax receipt of the taxing authority for
19 that calendar year declaring that the taxpayer has made prior
20 payment which constitutes prima facie certification of payment
21 to all other political subdivisions.

22 (10) To levy, assess or collect a tax on admissions to
23 motion picture theatres: Provided, That this limitation (10)
24 shall not apply to cities of the second class.

25 (11) To levy, assess or collect a tax on the construction of
26 or improvement to residential dwellings or upon the application
27 for or issuance of permits for the construction of or
28 improvements to residential dwellings.

29 (12) To levy, assess and collect a mercantile or business
30 privilege tax on gross receipts or part thereof which are: (i)

1 discounts allowed to purchasers as cash discounts for prompt
2 payment of their bills; (ii) charges advanced by a seller for
3 freight, delivery or other transportation for the purchaser in
4 accordance with the terms of a contract of sale; (iii) received
5 upon the sale of an article of personal property which was
6 acquired by the seller as a trade-in to the extent that the
7 gross receipts in the sale of the article taken in trade does
8 not exceed the amount of trade-in allowance made in acquiring
9 such article; (iv) refunds, credits or allowances given to a
10 purchaser on account of defects in goods sold or merchandise
11 returned; (v) Pennsylvania sales tax; (vi) based on the value of
12 exchanges or transfers between one seller and another seller who
13 transfers property with the understanding that property of an
14 identical description will be returned at a subsequent date;
15 however, when sellers engaged in similar lines of business
16 exchange property and one of them makes payment to the other in
17 addition to the property exchanged, the additional payment
18 received may be included in the gross receipts of the seller
19 receiving such additional cash payments; (vii) of sellers from
20 sales to other sellers in the same line where the seller
21 transfers the title or possession at the same price for which
22 the seller acquired the merchandise; or (viii) transfers between
23 one department, branch or division of a corporation or other
24 business entity of goods, wares and merchandise to another
25 department, branch or division of the same corporation or
26 business entity and which are recorded on the books to reflect
27 such interdepartmental transactions.

28 (13) To levy, assess or collect an amusement or admissions
29 tax on membership, membership dues, fees or assessments,
30 donations, contributions or monetary charges of any character

1 whatsoever paid by the general public, or a limited or selected
2 number thereof, for such persons to enter into any place,
3 indoors or outdoors, to engage in any activities, the
4 predominant purpose or nature of which is exercise, fitness,
5 health maintenance, improvement or rehabilitation, health or
6 nutrition education, or weight control.

7 (14) Except by cities of the second class, to levy, assess
8 or collect a tax on payroll amounts generated as a result of
9 business activity.

10 (15) Except by cities of the second class in which a sports
11 stadium or arena that has received public funds in connection
12 with its construction or maintenance is located, to levy, assess
13 and collect a publicly funded facility usage fee upon those
14 nonresident individuals who use such facility to engage in an
15 athletic event or otherwise render a performance for which they
16 receive remuneration.

17 (16) To levy, assess or collect an amusement or admissions
18 tax on the charge imposed upon a patron for the sale of
19 admission to or for the privilege of admission to a bowling
20 alley or bowling lane to engage in one or more games of bowling.

21 Section 2. This act shall apply to taxes levied for tax
22 years commencing on or after January 1, 2005.

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