

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 292 Session of
2005

INTRODUCED BY SCARNATI, LEMMOND, LOGAN, WENGER, D. WHITE,
CORMAN, RAFFERTY, M. WHITE, TOMLINSON, EARLL, WONDERLING,
ERICKSON, CONTI, PIPPY, PILEGGI, ORIE AND O'PAKE,
FEBRUARY 15, 2005

REFERRED TO FINANCE, FEBRUARY 15, 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 collection of taxes, for audits of
23 earned income taxes, for earned income taxes, for suits for
24 tax collection, for penalties and for delinquent tax
25 collection costs.

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

28 Section 1. Section 10 of the act of December 31, 1965

1 (P.L.1257, No.511), known as The Local Tax Enabling Act, amended
2 November 30, 2004 (P.L.1520, No.192), and December 1, 2004
3 (P.L.1729, No.222), is amended to read:

4 Section 10. Collection of Taxes.--(a) Administrative
5 Personnel; Joint Agreements.--Except as provided in subsections
6 (b) and (c), [any such] a political subdivision is hereby
7 authorized to provide by ordinance or resolution for the
8 creation of bureaus or the designation [of such bureaus or the],
9 appointment and compensation of [such] officers, [clerks,
10 collectors,] public employes, private agencies or other [person
11 and other assistants] persons, and their employes[, either under
12 existing departments, or otherwise] as [may be deemed]
13 necessary, for the assessment and collection of taxes imposed
14 under authority of this act. Each ordinance or resolution under
15 this section authorizing a person, public employe or private
16 agency to act [in the capacity and with the authority of] as a
17 tax collector for the political subdivision shall continue in
18 force without annual reauthorization unless otherwise repealed
19 or revoked by the political subdivision. A political subdivision
20 must enter into a written contract with an officer, private
21 agency or other person, appointed or designated to collect the
22 earned income tax. Except as provided in subsections (b) and
23 (c), any political subdivisions imposing taxes under authority
24 of this act are authorized to make joint agreements for the
25 collection of such taxes or any of them. The same person or
26 agency may be employed by two or more political subdivisions to
27 collect any taxes imposed by them under authority of this act.

28 (b) Single Collector for Earned Income Taxes [When Certain
29 School Districts Impose Such Taxes] Imposed by a School
30 District.--Except as provided in subsection (c), whenever a

1 school district of the second, third or fourth class shall be
2 established pursuant to section 296[,] of the act of March 10,
3 1949 (P.L.30), known as the "Public School Code of 1949," added
4 August 8, 1963 (P.L. 564), and [such school district shall levy,
5 assess and collect or provide for the levying, assessment and
6 collection of] the school district levies a tax upon earned
7 income, such school district and all cities, boroughs, towns and
8 townships within its geographical limits which levy, assess and
9 collect [or provide for the levying, assessment and collection
10 of] a tax upon earned income[, may on January 1, 1967, or] shall
11 as soon [thereafter] as the school district [shall provide for
12 the levying, assessment and collection of taxes upon earned
13 income, select one person or agency] has levied, assessed or
14 collected an earned income tax, designate or appoint an officer,
15 public employe or private agency to collect the taxes upon
16 earned income imposed by all [such] political subdivisions
17 within the geographic limits of the school district. In
18 [selecting such person] order to designate or appoint the
19 officer, public employe or private agency, each political
20 subdivision shall share in the [selection] designation or
21 appointment upon a basis agreed upon by each political
22 subdivision, [or in] including the school district. In the
23 absence of any agreement on the basis of voting, voting shall be
24 conducted according to the proportion that the population of
25 each bears to the entire population of the combined collection
26 district, according to the latest official Federal census, and
27 the majority of such votes cast shall determine the [person or
28 agency selected] bureau, officer, public employe or private
29 agency designated to collect the [taxes] earned income tax. The
30 provisions of this paragraph shall not prohibit school districts

1 and other political subdivisions which levy, assess and collect
2 [or provide for the levying, assessment and collection of] taxes
3 upon earned income, under authority of this act, from
4 [selecting] designating or appointing the same [person] officer,
5 public employe or private agency to collect such tax upon earned
6 income in an area larger than the geographical limits of a
7 school district established pursuant to section 296 of the
8 "Public School Code of 1949."

9 (c) Single Tax Collector in Certain Home Rule

10 Municipality.--In a municipality having a population under the
11 2000 Federal decennial census of at least forty thousand and
12 less than ninety thousand located in a second class county which
13 municipality has adopted a home rule charter under 53 Pa.C.S.
14 Pt. III Subpt. E (relating to home rule and optional plan
15 government), the person or persons appointed by the board of
16 school directors for the school district in which the
17 municipality is located as collector or collectors of taxes
18 levied by the school district under this act shall also serve as
19 the collector or collectors of taxes levied by the municipality
20 under this act.

21 (d) Records.--All tax collection records shall be a property
22 of the political subdivision in which the taxes were collected.
23 The political subdivision or its tax collector shall retain all
24 records for at least seven years. Unclaimed tax records shall be
25 retained for fifteen years.

26 Section 2. Section 11 of the act is amended to read:

27 Section 11. Audits of Earned Income Taxes.--Except in cities
28 of the second class, [the governing body of] each political
29 subdivision which levies, assesses and collects [or provides for
30 the levying, assessment and collection of] a tax upon earned

1 income, shall provide for not less than one examination each
2 year of the books, accounts, financial statements, compliance
3 reports and records of the income tax collector, by a certified
4 public accountant, a firm of certified public accountants, a
5 competent independent public accountant, or a firm of
6 independent public accountants appointed by the [governing body]
7 political subdivision. Whenever one person or agency is selected
8 to collect earned income taxes for more than one political
9 subdivision, the books, accounts and records of such person or
10 agency shall be examined as provided above in the case of a tax
11 collector for each political subdivision, except that the
12 accountant shall be selected in the manner provided for
13 selection of one person or agency to collect earned income taxes
14 for the school district established under section 296 of the
15 "Public School Code of 1949," and the cities, boroughs, towns
16 and townships within the geographical limits of such school
17 district. The examination shall be conducted according to
18 generally accepted governmental auditing standards and shall
19 include a financial statement, a report on the income tax
20 officer's compliance with this act, a list of any findings of
21 noncompliance with this act and a copy of a management letter if
22 one is issued by the auditor. The reports of the audit shall be
23 sent to the governing body [or bodies] of the political
24 subdivision [or political subdivisions] employing the
25 accountant. If there are findings of noncompliance, a copy of
26 the report shall be filed with the Office of Attorney General
27 and the Department of Community and Economic Development. No
28 further or additional audit shall be performed by elected or
29 appointed auditors.

30 Section 3. Division I, Subdivision A of Division III and

1 Division V of section 13 of the act, amended or added July 15,
2 1976 (P.L.1047, No.210), October 4, 1978 (P.L.930, No.177),
3 December 9, 2002 (P.L.1364, No.166), April 5, 2004 (P.L.208,
4 No.24), and November 30, 2004 (P.L.1520, No.192), are amended
5 and the section is amended by adding a division to read:

6 Section 13. Earned Income Taxes.--On and after the effective
7 date of this act the remaining provisions of this section shall
8 be included in or construed to be a part of each tax levied and
9 assessed upon earned income by [any] a political subdivision
10 [levying and assessing such tax pursuant to this act]. The
11 definitions contained in this section shall be exclusive for any
12 tax upon earned income and net profits levied and assessed
13 pursuant to this act, and shall not be altered or changed by
14 [any] a political subdivision [levying and assessing such tax].

15 I. Definitions

16 "Association." A partnership, limited partnership, or any
17 other unincorporated group of two or more persons.

18 "Business." An enterprise, activity, profession or any other
19 undertaking of an unincorporated nature conducted for profit or
20 ordinarily conducted for profit whether by a person,
21 partnership, association, or any other entity.

22 "Corporation." A corporation [or] a joint stock association or
23 limited liability company organized under the laws of the United
24 States, the Commonwealth of Pennsylvania, or any other state,
25 territory, foreign country or dependency.

26 "Current year." The calendar year for which the tax is
27 levied.

28 "Department." The Department of Community and Economic
29 Development of the Commonwealth.

30 "Domicile." The place where one lives and has his permanent

1 home and to which he has the intention of returning whenever he
2 is absent. Actual residence is not necessarily domicile, for
3 domicile is the fixed place of abode which, in the intention of
4 the taxpayer, is permanent rather than transitory. Domicile is
5 the voluntarily fixed place of habitation of a person, not for a
6 mere special or limited purpose, but with the present intention
7 of making a permanent home, until some event occurs to induce
8 him to adopt some other permanent home. In the case of
9 businesses, or associations, the domicile is that place
10 considered as the center of business affairs and the place where
11 its functions are discharged.

12 "Earned income." Compensation as determined under section 303
13 of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax
14 Reform Code of 1971," and regulations in 61 Pa. Code Pt. I
15 Subpt. B Art. V (relating to personal income tax), not
16 including, however, wages or compensation paid to individuals on
17 active military service. Employe business expenses are allowable
18 deductions as determined under Article III of the "Tax Reform
19 Code of 1971." The amount of any housing allowance provided to a
20 member of the clergy shall not be taxable as earned income.

21 "Income tax officer or officer." [Person] A bureau, person,
22 public employe or private agency designated by [governing body]
23 a political subdivision to collect and administer the tax on
24 earned income and net profits authorized under this act.

25 "Employer." A person, partnership, association, business,
26 corporation, limited liability company, institution,
27 governmental body or unit or agency, or any other entity
28 employing one or more persons for a salary, wage, commission or
29 other compensation.

30 "Net profits." The net income from the operation of a

1 business, profession, or other activity, except corporations,
2 determined under section 303 of the act of March 4, 1971 (P.L.6,
3 No.2), known as the "Tax Reform Code of 1971," and regulations
4 in 61 Pa. Code Pt. I Subpt. B Art. V (relating to personal
5 income tax). The term does not include income which is not paid
6 for services provided and which is in the nature of earnings
7 from an investment. For taxpayers engaged in the business,
8 profession or activity of farming, the term shall not include:

9 (1) any interest earnings generated from any monetary
10 accounts or investment instruments of the farming business;

11 (2) any gain on the sale of farm machinery;

12 (3) any gain on the sale of livestock held twelve months or
13 more for draft, breeding or dairy purposes; and

14 (4) any gain on the sale of other capital assets of the
15 farm.

16 "Nonresident." A person, partnership, association, business,
17 corporation, limited liability company or other entity domiciled
18 outside the taxing district.

19 "Person or individual." A natural person.

20 "Political subdivision." A city of the second class, city of
21 the second class A, city of the third class, borough, town,
22 township of the first class, township of the second class,
23 school district of the second class, school district of the
24 third class or school district of the fourth class.

25 "Preceding year." The calendar year before the current year.

26 "Private agency." Any person, partnership, association,
27 business corporation or limited liability company, engaged in
28 the business of collecting or administering a tax under this
29 act.

30 "Resident." A person, partnership, association, business,

1 corporation, limited liability company or other entity domiciled
2 in the taxing district.

3 "Succeeding year." The calendar year following the current
4 year.

5 "Taxpayer." A person, partnership, association, business,
6 corporation or any other entity, required hereunder to file a
7 return of earned income or net profits, or to pay a tax thereon.

8 "Tax records." Tax returns, supporting schedules,
9 correspondence with auditors or taxpayers, account books and
10 other documents obtained or created by the officer to implement
11 the collection of a tax under this act. The officer may submit
12 computerized summaries of tax returns and other documents in
13 lieu of the actual documents.

14 * * *

15 III. Declaration and Payment of Tax

16 A. Net Profits.

17 (1) Every taxpayer making net profits shall, as the
18 [governing body] political subdivision elects, (i) pay to the
19 officer an annual payment of tax due on or before April 15[,] of
20 the succeeding year for the period beginning January 1[,] and
21 ending December 31[,] of the current year, or (ii) on or before
22 April 15[,] of the current year, make and file with the officer
23 on a form prescribed [or approved by the officer] by the
24 department, a declaration of his estimated net profits during
25 the period beginning January 1[,] and ending December 31[,] of
26 the current year, and pay to the officer in four equal quarterly
27 installments the tax due thereon as follows: the first
28 installment at the time of filing the declaration, and the other
29 installments on or before June 15[,] of the current year,
30 September 15[,] of the current year, and January 15[,] of the

1 succeeding year, respectively.

2 (2) Where the [governing body] political subdivision elects
3 to require the filing of a declaration and quarterly payments,
4 any taxpayer who first anticipates any net profit after April
5 15[,] of the current year, shall make and file the declaration
6 hereinabove required on or before June 15[,] of the current
7 year, September 15[,] of the current year, or December 31[,] of
8 the current year, whichever of these dates next follows the date
9 on which the taxpayer first anticipates such net profit, and pay
10 to the officer in equal installments the tax due thereon on or
11 before the quarterly payment dates which remain after the filing
12 of the declaration.

13 (3) Where the [governing body] political subdivision
14 requires a declaration of estimated net profits and quarterly
15 payments of tax due on such profits, every taxpayer shall, on or
16 before April 15[,] of the succeeding year, make and file with
17 the officer on a form prescribed or approved by the officer a
18 final return showing the amount of net profits earned during the
19 period beginning January 1[,] of the current year, and ending
20 December 31[,] of the current year, the total amount of tax due
21 thereon and the total amount of tax paid thereon. At the time of
22 filing the final return, the taxpayer shall pay to the officer
23 the balance of tax due or shall make demand for refund or credit
24 in the case of overpayment.

25 Any taxpayer may, in lieu of paying the fourth quarterly
26 installment of his estimated tax, elect to make and file with
27 the officer on or before January 31, of the succeeding year, the
28 final return as hereinabove required.

29 (4) [The officer may be authorized to provide by regulation
30 for the making and filing of] The department may adopt a

1 regulation authorizing the officer to make and file adjusted
2 declarations of estimated net profits, and for the payments of
3 the estimated tax in cases where a taxpayer who has filed [the
4 declaration hereinabove required] under paragraphs (1), (2) or
5 (3) anticipates additional net profits not previously declared
6 or finds that he has overestimated his anticipated net profits.

7 (5) Every taxpayer who discontinues business prior to
8 December 31[,] of the current year[,] shall, within thirty days
9 after the discontinuance of business, file his final return as
10 [hereinabove] required under this division and pay the tax due.

11 * * *

12 V. Powers and Duties of Officer

13 (a) It shall be the duty of the income tax officer to
14 collect and receive [the] resident and nonresident taxes, fines
15 and penalties imposed by the ordinance or resolution. It shall
16 also be [his duty] the duty of the officer to keep a record
17 showing the amount received [by him] from each person or
18 business paying the tax and the date of such receipt. The
19 information shall be included in the report submitted under
20 subsection (i).

21 (b) Each officer, before entering upon his official duties
22 shall give and acknowledge a bond to the political subdivision
23 [or political subdivisions] appointing him. If such political
24 subdivision [or political subdivisions] shall by resolution
25 designate any bond previously given by the officer as adequate,
26 such bond shall be sufficient to satisfy the requirements of the
27 subsection. The bond shall be renewed annually.

28 Each such bond shall be joint and several, with one or more
29 corporate sureties which shall be surety companies authorized to
30 do business in this Commonwealth and duly licensed by the

1 Insurance Commissioner of this Commonwealth.

2 Each bond shall be conditioned upon the faithful discharge by
3 the officer, his clerks, assistants and appointees of all trusts
4 confided in him by virtue of his office, upon the faithful
5 execution of all duties required of him by virtue of his office,
6 upon the just and faithful accounting or payment over, according
7 to law, of all moneys and all balances thereof paid to, received
8 or held by him by virtue of his office and upon the delivery to
9 his successor [or successors] in office of all books, papers,
10 documents or other official things held in right of his office.

11 Each such bond shall be taken in the name of the appointing
12 authority [or authorities], and shall be for the use of the
13 political subdivision [or political subdivisions] appointing the
14 officer, and for the use of such other person [or persons] for
15 whom money shall be collected or received, or as his or her
16 interest shall otherwise appear, in case of a breach of any of
17 the conditions thereof by the acts or neglect of the principal
18 on the bond.

19 The political subdivision [or political subdivisions]
20 appointing the officer, or any person may sue upon the [said]
21 bond in its or his own name for its or his own use.

22 Each such bond shall contain the name [or names] of the
23 surety company [or companies] bound thereon. The political
24 subdivision [or political subdivisions] appointing the officer
25 shall fix the amount of the bond at an amount [equal to the
26 maximum amount of taxes which may be in the possession]
27 sufficient to secure the financial responsibility of the officer
28 [at any given time.] in accordance with guidelines relating to
29 the amount of the bond adopted by the department. Copies of the
30 bond shall be filed with the political subdivision.

1 The political subdivision [or political subdivisions]
2 appointing the officer may, at any time, upon cause shown and
3 due notice to the officer, and his surety [or sureties], require
4 or allow the substitution or the addition of a surety company
5 acceptable to such political subdivision [or political
6 subdivisions] for the purpose of making the bond sufficient in
7 amount, without releasing the surety [or sureties] first
8 approved from any accrued liability or previous action on such
9 bond.

10 The political subdivision [or political subdivisions]
11 appointing the officer shall designate the custodian of the bond
12 required to be given by the officer. A copy of the bond shall be
13 made available upon request to a political subdivision, or the
14 officer collector appointed by the political subdivision,
15 seeking payment or distribution of a tax authorized by this act.

16 (b.1) The department shall promulgate regulations relating
17 to the administration, collection, enforcement, removal of
18 officers from office and appeal process under this act. The
19 regulations shall include required forms, including a
20 certificate of residency form, returns and declarations.

21 (c) The officer charged with the administration and
22 enforcement of the [provisions of the] ordinance or resolution
23 [is hereby empowered to prescribe, adopt, promulgate and
24 enforce, rules and regulations relating to any matter pertaining
25 to the administration and enforcement of the ordinance or
26 resolution, including provisions for the re-examination and
27 correction of declarations and returns, and of payments alleged
28 or found to be incorrect, or as to which an overpayment is
29 claimed or found to have occurred, and to make refunds in case
30 of overpayment, for any period of time not to exceed six years

1 subsequent to the date of payment of the sum involved, and to
2 prescribe forms necessary for the administration of the
3 ordinance or resolution. No rule or regulation of any kind shall
4 be enforceable unless it has been approved by resolution by the
5 governing body. A copy of such rules and regulations currently
6 in force shall be available for public inspection.] shall comply
7 with all regulations adopted by the department under this act.
8 The officer may use rules and regulations previously adopted by
9 the officer or the political subdivision in accordance with this
10 act until the adoption of regulations by the department.

11 (c.1) An officer shall make refunds for overpayment of taxes
12 under this act for a period not to exceed six years subsequent
13 to the date of payment.

14 (d) The officer shall refund, on petition of, and proof by
15 the taxpayer, earned income tax paid on the taxpayer's ordinary
16 and necessary business expenses, to the extent that such
17 expenses are not paid by the taxpayer's employer.

18 (e) The officer and agents designated by him are hereby
19 authorized to examine the books, papers, and records of any
20 employer [or of any taxpayer or of any], taxpayer or other
21 person whom the officer reasonably believes to be an employer or
22 taxpayer, in order to verify the accuracy of any declaration or
23 return, or if no declaration or return was filed, to ascertain
24 the tax due. Every employer [and every taxpayer and every
25 person], taxpayer or other person whom the officer reasonably
26 believes to be an employer or taxpayer, is hereby directed and
27 required to give to the officer, or to any agent designated by
28 [him] the officer, the means, facilities and opportunity for
29 such examination and investigations[, as are hereby] authorized
30 under this act.

1 (f) Any information gained by the officer, his agents, or by
2 any other official or agent of the [taxing district] political
3 subdivision, as a result of any declarations, returns,
4 investigations, hearings or verifications required or authorized
5 by the ordinance or resolution, shall be confidential, except
6 for official purposes and except in accordance with a proper
7 judicial order, or as otherwise provided by law.

8 (g) The officer is authorized to establish different filing,
9 reporting and payment dates for taxpayers whose fiscal years do
10 not coincide with the calendar year.

11 (h) The officer shall distribute earned income taxes to the
12 appropriate political subdivisions within sixty days of the
13 deadline for payment by an employer as set forth in Division
14 IV(b). [The political subdivisions] A political subdivision
15 shall not be required to request the officer to distribute the
16 funds collected but shall at least annually reconcile their
17 receipts with the records of the officer and return to or credit
18 the officer with any overpayment. A political subdivision shall
19 not be required to pay a fee or commission to the other
20 political subdivision or its tax officer for tax revenue
21 distributed under this subsection. If the officer, within one
22 year after receiving a tax payment, cannot identify the taxing
23 jurisdiction entitled to a tax payment, he shall make payment to
24 the municipality in which the tax was collected. If earned
25 income taxes are not distributed to the appropriate political
26 subdivision within one year of receipt, the political
27 subdivision may make a written demand on a tax officer or
28 political subdivision for tax revenues collected and
29 attributable to residents of the political subdivision making
30 the demand. If the taxes attributable to the residents of the

1 political subdivision making the demand are not paid within
2 thirty days from the date of the demand, the political
3 subdivision, person, public employe or private agency designated
4 by the political subdivision may enter into an arbitration
5 agreement with the officer under 42 Pa.C.S. Ch. 73 Subch. A
6 (relating to statutory arbitration) or bring an action in [an
7 appropriate] the court of common pleas where the officer is a
8 resident or where the political subdivision is located in the
9 name of the taxing district for the recovery of taxes not
10 distributed in accordance with this subsection. The action must
11 be brought within seven years of the collection of the taxes.

12 (i) The officer shall, on or before the tenth day of each
13 month, provide a written report, on a form adopted by the
14 department, to the appropriate official of each political
15 subdivision for which taxes were collected during the previous
16 month and to the department. The report shall include the names
17 of taxpayers and employers, the amount collected from each
18 taxpayer or employer, penalties and interest on collections,
19 costs of collection, amounts owed to other political
20 subdivisions, refunds, recoveries and overpayments.

21 (j) An income tax officer shall file an annual report with
22 the political subdivision and the department. The report shall
23 include all tax collection information for the most recently
24 completed tax year as required by the department. The report
25 shall be filed by June 15 of the year following the close of the
26 reporting year.

27 * * *

28 X. Fines and Penalties Against Income

29 Tax Officers

30 (a) A political subdivision which brings an action under

1 Division V(h) may seek equitable relief, including an accounting
2 of all undistributed taxes and monetary damages in the form of
3 recovery of the taxes not previously distributed plus interest
4 calculated from the date that the taxes should have been
5 distributed. In addition, the court may impose a civil penalty
6 not to exceed two thousand five hundred dollars (\$2,500) for
7 each tax quarter for which taxes were not distributed in
8 accordance with Division V(h), plus reasonable costs and
9 attorney fees. If an officer fails to distribute earned income
10 taxes to the appropriate political subdivision as required under
11 Division V(h), for four consecutive tax quarters, the court may
12 impose a civil penalty not to exceed five thousand dollars
13 (\$5,000).

14 (b) If an officer fails to submit the report required under
15 Division V(i) or (j), a political subdivision entitled to
16 receive the report may bring an action in the court of common
17 pleas of that political subdivision and the court may impose a
18 penalty of twenty dollars (\$20) a day for each day that the
19 report is overdue, not to exceed five hundred dollars (\$500). If
20 a report submitted under Division V(j) includes any findings of
21 noncompliance, the officer is responsible for a civil penalty of
22 not less than five hundred dollars (\$500) but not more than two
23 thousand five hundred dollars (\$2,500).

24 (c) An officer who violates any other provision of this act
25 shall be subject to a civil penalty of up to two thousand five
26 hundred dollars (\$2,500) for each violation.

27 (d) An action against an officer for a violation of this act
28 may be brought by a political subdivision in which the officer
29 collects taxes, a political subdivision owed taxes by the
30 officer, by a surety or by the department.

1 (e) A political subdivision shall remove or rescind the
2 appointment of an income tax official who has been penalized
3 under subsection (c) more than three times.

4 Section 4. Section 21 of the act, amended November 30, 2004
5 (P.L.1520, No.192), is amended to read:

6 Section 21. Collection of Taxes by Suit.--Each [taxing
7 district or person,] political subdivision, bureau, officer,
8 public employe [or], private agency or other person designated
9 by the taxing district shall have power to collect unpaid taxes
10 from the persons owing such taxes by suit in assumpsit or other
11 appropriate remedy. Upon each such judgment, execution may be
12 issued without any stay or benefit of any exemption law. The
13 right of each [such taxing district] political subdivision to
14 collect unpaid taxes under [the provisions of] this section
15 shall not be affected by the fact that such taxes have been
16 entered as liens in the office of the prothonotary, or the fact
17 that the property against which they were levied has been
18 returned to the county commissioners for taxes for prior years.

19 Section 5. Section 22 of the act is amended to read:

20 Section 22. Penalties.--Except as otherwise provided in the
21 case of any tax levied and assessed upon earned income, any such
22 political subdivision shall have power to prescribe and enforce
23 reasonable penalties for the nonpayment, within the time fixed
24 for their payment, of taxes imposed under authority of this act
25 and for the violations of the provisions of ordinances or
26 resolutions passed under authority of this act.

27 If for any reason any tax levied and assessed upon earned
28 income by any such political subdivision is not paid when due,
29 interest at the rate of six percent per annum on the amount of
30 said tax, and an additional penalty of one-half of one percent

1 of the amount of the unpaid tax or, if more than 25% of the
2 amount reported is underreported, an additional penalty of 25%
3 of the amount of the unreported tax for each month or fraction
4 thereof during which the tax remains unpaid, shall be added and
5 collected. When suit is brought for the recovery of any such
6 tax, the person liable therefor shall, in addition, be liable
7 for the costs of collection and the interest and penalties
8 herein imposed.

9 Section 6. Section 22.1 of the act, added November 30, 2004
10 (P.L.1520, NO.192), is amended to read:

11 Section 22.1. Costs of Collection of Delinquent Per Capita,
12 Occupation, Occupational Privilege and Earned Income Taxes.--(a)
13 A person, public employe or private agency designated by [a
14 governing body of] a political subdivision to collect and
15 administer a [per capita, occupation, occupational privilege or
16 earned income] tax under this act may impose and collect the
17 reasonable costs incurred to provide notices of delinquency or
18 to implement [similar] other procedures utilized to collect
19 delinquent taxes from a taxpayer, as approved by [the governing
20 body of] the political subdivision. Reasonable costs collected
21 may be retained by the officer, person, public employe or
22 private agency designated to collect the tax, as agreed to by
23 [the governing body of] the political subdivision. An itemized
24 accounting of all costs collected shall be remitted to the
25 political subdivision on an annual basis.

26 (b) Costs related to the collection of unpaid per capita,
27 occupation or occupational privilege taxes may only be assessed,
28 levied and collected for five years from the last day of the
29 calendar year in which the tax was due.

30 (c) A delinquent taxpayer may not bring an action for

1 reimbursement, refund or elimination of reasonable costs of
2 collection assessed or imposed prior to the effective date of
3 this section. Additional costs may not be assessed on delinquent
4 taxes collected prior to the effective date of this section.

5 Section 7. This act shall take effect in 60 days.