THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 411   Session of 2007

INTRODUCED BY PETRI, CALTAGIRONE, COHEN, CURRY, GALLOWAY, GEIST,
    HARHART, HENNESSEY, MOUL, PHILLIPS, ROHRER, RUBLEY, SABATINA,
    SAYLOR, SIPTROTH, SONNEY, STERN, SWANGER, VEREB AND WATSON,
    FEBRUARY 13, 2007

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 13, 2007

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 2007.

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.