

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1009 Session of
2007

INTRODUCED BY BOSCOLA AND GREENLEAF, JUNE 26, 2007

REFERRED TO FINANCE, JUNE 26, 2007

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 June 21, 2007 (P.L. , No.7), is amended to read:

1 Section 2. Delegation of Taxing Powers and Restrictions

2 Thereon.--(a) 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.

22 (b) Each local taxing authority may, by ordinance or
23 resolution, exempt any person whose total income from all
24 sources is less than twelve thousand dollars (\$12,000) per annum
25 from the per capita or similar head tax, occupation tax or
26 earned income tax, or any portion thereof, and may adopt
27 regulations for the processing of claims for exemptions.

28 (c) (1) Each political subdivision levying the local
29 services tax shall exempt the following persons from the local
30 services tax:

1 (i) Any person who served in any war or armed conflict in
2 which the United States was engaged and is honorably discharged
3 or released under honorable circumstances from active service
4 if, as a result of military service, the person is blind,
5 paraplegic or a double or quadruple amputee or has a service-
6 connected disability declared by the United States Veterans'
7 Administration or its successor to be a total one hundred
8 percent permanent disability.

9 (ii) Any person who serves as a member of a reserve
10 component of the armed forces and is called to active duty at
11 any time during the taxable year.

12 (2) For purposes of this subsection, "reserve component of
13 the armed forces" shall mean the United States Army Reserve,
14 United States Navy Reserve, United States Marine Corps Reserve,
15 United States Coast Guard Reserve, United States Air Force
16 Reserve, the Pennsylvania Army National Guard or the
17 Pennsylvania Air National Guard.

18 (d) Each political subdivision levying the local services
19 tax at a rate exceeding ten dollars (\$10) shall, and each
20 political subdivision levying the local services tax at a rate
21 of ten dollars (\$10) or less may, by ordinance or resolution,
22 exempt any person from the local services tax whose total earned
23 income and net profits from all sources within the political
24 subdivision is less than twelve thousand dollars (\$12,000) for
25 the calendar year in which the local services tax is levied.

26 (e) (1) A person seeking to claim an exemption from the
27 local services tax may annually file an exemption certificate
28 with the political subdivision levying the tax and with the
29 person's employer affirming that the person reasonably expects
30 to receive earned income and net profits from all sources within

1 the political subdivision of less than twelve thousand dollars
2 (\$12,000) in the calendar year for which the exemption
3 certificate is filed. In the event the political subdivision
4 utilizes a tax collection officer pursuant to section 10 of this
5 act, the political subdivision shall provide a copy of the
6 exemption certificate to that officer. The exemption certificate
7 shall have attached to it a copy of all of the employe's last
8 pay stubs or W-2 forms from employment within the political
9 subdivision for the year prior to the fiscal year for which the
10 employe is requesting to be exempted from the local services
11 tax. Upon receipt of the exemption certificate and until
12 otherwise instructed by the political subdivision levying the
13 tax or except as required by clause (2), the employer shall not
14 withhold the tax from the person during the calendar year or the
15 remainder of the calendar year for which the exemption
16 certificate applies. Employers shall ensure that the exemption
17 certificate forms are readily available to employes at all times
18 and shall furnish each new employe with a form at the time of
19 hiring. The Department of Community and Economic Development
20 shall develop and make available to political subdivisions and
21 employers uniform exemption certificates required by this
22 clause.

23 (2) With respect to a person who claimed an exemption for a
24 given calendar year from the local services tax, upon
25 notification to an employer by the person or by the political
26 subdivision that the person has received earned income and net
27 profits from all sources within that political subdivision equal
28 to or in excess of twelve thousand dollars (\$12,000) in that
29 calendar year or that the person is otherwise ineligible for the
30 tax exemption for that calendar year, or upon an employer's

1 payment to the person of earned income within that political
2 subdivision in an amount equal to or in excess of twelve
3 thousand dollars (\$12,000) in that calendar year, an employer
4 shall withhold the local services tax from the person under
5 clause (3).

6 (3) If a person who claimed an exemption for a given
7 calendar year from the local services tax becomes subject to the
8 tax for the calendar year under clause (2), the employer shall
9 withhold the tax for the remainder of that calendar year. The
10 employer shall withhold from the person, for the first payroll
11 period after receipt of the notification under clause (2), a
12 lump sum equal to the amount of tax that was not withheld from
13 the person due to the exemption claimed by the person under this
14 subsection, plus the per payroll amount due for that first
15 payroll period. The amount of tax withheld per payroll period
16 for the remaining payroll periods in that calendar year shall be
17 the same amount withheld for other employes. In the event the
18 employment of a person subject to withholding of the tax under
19 this clause is subsequently severed in that calendar year, the
20 person shall be liable for any outstanding balance of tax due
21 and the political subdivision levying the tax may pursue
22 collection under this act.

23 (4) Except as provided in clause (2), it is the intent of
24 this subsection that employers shall not be responsible for
25 investigating exemption certificates, monitoring tax exemption
26 eligibility or exempting any employe from a local services tax.

27 (f) Such local authorities shall not have authority by
28 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,
2 other than on sales of admission to professional baseball events
3 in a city of the third class with a population of not less than
4 one hundred six thousand and not more than one hundred seven
5 thousand based on the 2000 Federal decennial census, or on sales
6 or other transfers of title or possession of property, to levy,
7 assess or collect a tax on the privilege of employing such
8 tangible property as is now or does hereafter become subject to
9 a State tax; and for the purposes of this clause, real property
10 rented for camping purposes shall not be considered a place of
11 amusement.

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

1 associations;

2 (5) To levy, assess or collect a tax on salaries, wages,
3 commissions, compensation and earned income of nonresidents of
4 the political subdivisions: Provided, That this limitation (5)
5 shall apply only to school districts of the second, third and
6 fourth classes;

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

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

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

22 (9) To levy, assess or collect any tax on individuals for
23 the privilege of engaging in an occupation except that such a
24 tax, to be known as the local services tax, may be levied,
25 assessed and collected only by the political subdivision of the
26 taxpayer's place of employment. The following apply:

27 (i) If a local services tax is levied at a combined rate
28 exceeding ten dollars (\$10) in a calendar year, a person subject
29 to the local services tax shall be assessed a pro rata share of
30 the tax for each payroll period in which the person is engaging

1 in an occupation. The pro rata share of the tax assessed on the
2 person for a payroll period shall be determined by dividing the
3 combined rate of the local services tax levied for the calendar
4 year by the number of payroll periods established by the
5 employer for the calendar year. For purposes of determining the
6 pro rata share, an employer shall round down the amount of the
7 tax collected each payroll period to the nearest one-hundredth
8 of a dollar. Collection of the local services tax levied under
9 this subclause shall be made on a payroll period basis for each
10 payroll period in which the person is engaging in an occupation,
11 except as provided in subclause (v).

12 (ii) If a school district levied an emergency and municipal
13 services tax on the effective date of this subclause, the school
14 district may continue to levy the local services tax in the same
15 amount the school district collected on the effective date of
16 this subclause. However, if a municipality located in whole or
17 in part within the school district subsequently levies the local
18 services tax, the school district may only collect five dollars
19 (\$5) on persons employed within the municipality each calendar
20 year. A school district that did not levy an emergency and
21 municipal services tax on the effective date of this subclause
22 shall be prohibited from levying the local services tax. If a
23 school district and a municipality located in whole or in part
24 within the school district both levy a local services tax at a
25 combined rate exceeding ten dollars (\$10), the school district's
26 pro rata share of the aggregate local services taxes levied on
27 persons employed within the municipality shall be collected by
28 the municipality or its tax officer based on payroll periods as
29 provided under subclause (i) and shall be paid to the school
30 district on a quarterly basis within sixty days of receipt by

1 the municipality or its tax officer.

2 (iii) Except as provided in subclause (ii), no person shall
3 be subject to the payment of the local services tax by more than
4 one political subdivision during each payroll period as
5 established by subclause (iv).

6 (iv) With respect to a person subject to the local services
7 tax at a combined rate exceeding ten dollars (\$10), the situs of
8 the tax shall be the place of employment on the first day the
9 person becomes subject to the tax during each payroll period.

10 With respect to a person subject to the local services tax at a
11 combined rate of not more than ten dollars (\$10), the situs of
12 the tax shall be the place of employment determined as of the
13 day the person first becomes subject to the tax during the
14 calendar year. In the event a person is engaged in more than one
15 occupation, that is, concurrent employment, or an occupation
16 which requires the person working in more than one political
17 subdivision during a payroll period, the priority of claim to
18 collect the local services tax shall be in the following order:
19 first, the political subdivision in which a person maintains the
20 person's principal office or is principally employed; second,
21 the political subdivision in which the person resides and works,
22 if the tax is levied by that political subdivision; and third,
23 the political subdivision in which a person is employed and
24 which imposes the tax nearest in miles to the person's home.

25 (v) In the case of concurrent employment, an employer shall
26 refrain from withholding the local services tax, if the employe
27 provides a recent pay statement from a principal employer that
28 includes the name of the employer, the length of the payroll
29 period and the amount of the local services tax withheld and a
30 statement from the employe that the pay statement is from the

1 employe's principal employer and the employe will notify other
2 employers of a change in principal place of employment within
3 two weeks of its occurrence. The Department of Community and
4 Economic Development shall develop a uniform employe statement
5 form.

6 (vi) The local services tax shall be no more than fifty-two
7 dollars (\$52) on each person for each calendar year,
8 irrespective of the number of political subdivisions within
9 which a person may be employed. Beginning January 1, 2008, the
10 local services tax shall be no more than ten dollars (\$10) and,
11 in the case of any political subdivision located in a county of
12 the second class, not less than ten dollars (\$10) nor more than
13 fifty-two dollars (\$52) on each person for each calendar year. A
14 political subdivision shall provide a taxpayer a receipt of
15 payment upon request by the taxpayer.

16 (vii) Political subdivisions shall adopt regulations for the
17 processing of refund claims for overpaid local services taxes
18 for any calendar year. The regulations shall be consistent with
19 53 Pa.C.S. §§ 8425 and 8426. Refunds made within seventy-five
20 days of a refund request or seventy-five days after the last day
21 the employer is required to remit the local services tax for the
22 last quarter of the calendar year under section 9 of this act,
23 whichever is later, shall not be subject to interest imposed
24 under 53 Pa.C.S. § 8426. Political subdivisions shall only
25 provide refunds for amounts overpaid in a calendar year that
26 exceed one dollar (\$1).

27 (viii) The Department of Community and Economic Development
28 shall provide suggested forms and technical assistance to
29 facilitate the administration of the local services tax for
30 political subdivisions and reduce the burden of implementation,

1 accounting and compliance for employers and taxpayers.

2 (ix) For purposes of this clause, "combined rate" shall mean
3 the aggregate annual rate of the local services tax levied by a
4 school district and a municipality located in whole or in part
5 within the school district.

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

9 (11) To levy, assess or collect a tax on the construction of
10 or improvement to residential dwellings or upon the application
11 for or issuance of permits for the construction of or
12 improvements to residential dwellings.

13 (12) To levy, assess and collect a mercantile or business
14 privilege tax on gross receipts or part thereof which are: (i)
15 discounts allowed to purchasers as cash discounts for prompt
16 payment of their bills; (ii) charges advanced by a seller for
17 freight, delivery or other transportation for the purchaser in
18 accordance with the terms of a contract of sale; (iii) received
19 upon the sale of an article of personal property which was
20 acquired by the seller as a trade-in to the extent that the
21 gross receipts in the sale of the article taken in trade does
22 not exceed the amount of trade-in allowance made in acquiring
23 such article; (iv) refunds, credits or allowances given to a
24 purchaser on account of defects in goods sold or merchandise
25 returned; (v) Pennsylvania sales tax; (vi) based on the value of
26 exchanges or transfers between one seller and another seller who
27 transfers property with the understanding that property of an
28 identical description will be returned at a subsequent date;
29 however, when sellers engaged in similar lines of business
30 exchange property and one of them makes payment to the other in

1 addition to the property exchanged, the additional payment
2 received may be included in the gross receipts of the seller
3 receiving such additional cash payments; (vii) of sellers from
4 sales to other sellers in the same line where the seller
5 transfers the title or possession at the same price for which
6 the seller acquired the merchandise; or (viii) transfers between
7 one department, branch or division of a corporation or other
8 business entity of goods, wares and merchandise to another
9 department, branch or division of the same corporation or
10 business entity and which are recorded on the books to reflect
11 such interdepartmental transactions.

12 (13) To levy, assess or collect an amusement or admissions
13 tax on membership, membership dues, fees or assessments,
14 donations, contributions or monetary charges of any character
15 whatsoever paid by the general public, or a limited or selected
16 number thereof, for such persons to enter into any place,
17 indoors or outdoors, to engage in any activities, the
18 predominant purpose or nature of which is exercise, fitness,
19 health maintenance, improvement or rehabilitation, health or
20 nutrition education, or weight control.

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

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

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

5 (g) For the purposes of this section, the terms "earned
6 income" and "net profits" shall have the same meanings as those
7 terms are given in Division I of section 13.

8 Section 2. This act shall take effect immediately.