

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 197 Session of 2011

INTRODUCED BY GINGRICH, BOYD, COHEN, D. COSTA, GEIST, HENNESSEY, M. K. KELLER, KORTZ, MAJOR, MILLER, ROSS, SWANGER, MURT, YOUNGBLOOD, SACCONI AND HARHART, JANUARY 24, 2011

SENATOR EICHELBERGER, LOCAL GOVERNMENT, IN SENATE, AS AMENDED, JUNE 19, 2012

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, in area government and
3 intergovernmental cooperation, further providing for review
4 of agreement by Local Government Commission; AND, IN OTHER
5 SUBJECTS OF TAXATION, FURTHER PROVIDING FOR HOTEL ROOM
6 RENTAL.



7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 ~~Section 1. Section 2314 of Title 53 of the Pennsylvania~~
10 ~~Consolidated Statutes is amended to read:~~



11 SECTION 1. SECTIONS 2314 AND 8721(B) OF TITLE 53 OF THE
12 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:



13 § 2314. [Review of agreement by Local Government Commission.

14 Every agreement between a local government and the
15 Commonwealth, any other state, government of another state or
16 the Federal Government under the provisions of this subchapter
17 shall, prior to and as a condition precedent to enactment of an
18 ordinance, be submitted to the Local Government Commission for

1 review and recommendation. The commission shall within 60 days
2 of receipt of the agreement determine whether it is in proper
3 form and compatible with the laws of this Commonwealth. Failure
4 of the commission to make recommendations within 60 days of
5 receipt of the agreement shall constitute a recommendation in
6 favor of the agreement.] Required review of specified
7 agreements.

8 (a) General rule.--An agreement between a local government
9 and the Federal Government, the Commonwealth, any other state or
10 government of another state under the provisions of this
11 subchapter shall, prior to and as a condition precedent to
12 enactment of an ordinance, be submitted to the Local Government
13 Commission for review and recommendation.

14 (b) Commission review.--

15 (1) The commission shall, within 90 days of receipt of
16 the agreement, provide to the local government or other party
17 submitting the agreement an advisory written response of its
18 review of, and any recommended changes to, the agreement with
19 regard to form and compatibility with the laws of this
20 Commonwealth.

21 (2) If an agreement has been submitted to the commission
22 for review as required by this subsection, the failure of the
23 commission to provide an advisory written response within 90
24 days of receipt of the agreement shall not bar or impede the
25 effectiveness or implementation of the agreement.

26 (c) Committee review.--

27 (1) In all cases involving an agreement between a local
28 government and the Commonwealth, in addition to the
29 requirements of subsection (b), the Commonwealth, after
30 receipt of the commission's advisory written response or

1 after 90 days have elapsed without a written response from
2 the commission, whichever is sooner, shall submit the
3 agreement to the Appropriations Committee of the Senate and
4 the Appropriations Committee of the House of Representatives
5 for their review, preparation of a fiscal note and, if deemed
6 necessary by either committee, a public hearing.

7 (2) (i) Notwithstanding the passage of an ordinance in
8 accordance with section 2315 (relating to effect of joint
9 cooperation agreements), no agreement between a local
10 government and the Commonwealth may be deemed in force
11 and binding as to either the Commonwealth or a local
12 government until 180 days have elapsed from the date that
13 the agreement has been submitted by the Commonwealth to
14 the committees.

15 (ii) The requirements of subparagraph (i) shall not
16 apply to any agreement necessary to respond to a disaster
17 emergency or local emergency as those terms are defined
18 in 35 Pa.C.S. § 7102 (relating to definitions).

19 (d) Exceptions.--This section shall not apply to the
20 following contracts, agreements or transactions:

21 (1) Contracts or agreements between a local government
22 and the Commonwealth that are of a routine nature or are
23 performed on a periodic basis, such as those for public
24 improvements or maintenance.

25 (2) State grants and loans that are administered by the
26 Commonwealth pursuant to statute or regulation.

27 (3) Contracts or agreements for cooperative purchasing.

28 (4) Contracts, agreements or memoranda of understanding
29 between the Commonwealth and a local government that are
30 expressly authorized by statute or regulation and by which

1 the Commonwealth delegates all or a portion of its
2 enforcement duties or responsibilities to a local government.

3 (5) Contracts or agreements between the Commonwealth and
4 a local government that are expressly authorized by statute
5 or regulation and through which the local government provides
6 a service on behalf of the Commonwealth.

7 (6) Contracts or agreements relating to the purchase,
8 right to capacity, sale, exchange, interchange, wheeling,
9 pooling, transmission or development of electric power and
10 associated energy and related services.

11 ~~Section 2. This act shall take effect in 60 days.~~

12 § 8721. HOTEL ROOM RENTAL.

13 * * *

14 (B) COUNTIES OF THE SECOND CLASS.--THE TREASURER OF EACH
15 COUNTY OF THE SECOND CLASS ELECTING TO IMPOSE THE TAX AUTHORIZED
16 UNDER THIS SECTION IS DIRECTED TO COLLECT THE TAX AND TO DEPOSIT
17 THE REVENUE RECEIVED FROM THE TAX IN A SPECIAL FUND. THE
18 REVENUES SHALL BE DISTRIBUTED BY THE COUNTY COMMISSIONERS AS
19 FOLLOWS:

20 (1) EXCEPT AS SET FORTH IN PARAGRAPH (4), TWO-FIFTHS OF
21 THE REVENUE RECEIVED BY THE COUNTY FROM THE EXCISE TAX SHALL
22 BE DISTRIBUTED TO A TOURIST PROMOTION AGENCY PURSUANT TO
23 SECTION 2199.14 OF THE ACT OF JULY 28, 1953 (P.L.723,
24 NO.230), KNOWN AS THE SECOND CLASS COUNTY CODE.

25 (2) EXCEPT AS SET FORTH IN PARAGRAPH (4), ONE-THIRD OF
26 THE TAX COLLECTED BY HOTELS WITHIN A MUNICIPALITY WHERE A
27 CONVENTION CENTER OR EXHIBITION HALL IS LOCATED, LESS THE
28 COST OF COLLECTING THE TAX, SHALL, AT THE REQUEST OF THAT
29 MUNICIPALITY, BE RETURNED TO THAT MUNICIPALITY FOR DEPOSIT IN
30 THAT MUNICIPALITY'S SPECIAL FUND ESTABLISHED SOLELY FOR

1 PURPOSES OF PAYING FOR PROMOTIONAL PROGRAMS IMPLEMENTED BY A
2 NONPROFIT ORGANIZATION WHICH ARE DESIGNED TO STIMULATE AND
3 INCREASE THE VOLUME OF CONVENTIONS AND VISITORS WITHIN THE
4 MUNICIPALITY [OR AS PROVIDED IN PARAGRAPH (5)], SUBJECT TO
5 THE FOLLOWING REQUIREMENTS:

6 (I) AN AUDITED REPORT ON THE INCOME AND EXPENDITURES
7 INCURRED BY THE MUNICIPALITY RECEIVING FUNDS FROM THE
8 EXCISE TAX ON HOTEL ROOM RENTALS SHALL BE MADE ANNUALLY
9 TO COUNTY.

10 (II) THE MEMBERS OF THE BOARD OF DIRECTORS OR OTHER
11 GOVERNING BODY OF THE NONPROFIT ORGANIZATION UTILIZED BY
12 THE MUNICIPALITY TO PROVIDE THE PROMOTIONAL PROGRAMS
13 SHALL BE APPOINTED BY THE GOVERNING BODY OF THE
14 MUNICIPALITY.

15 (2.1) EXCEPT AS SET FORTH IN PARAGRAPH (4), A 5% FEE
16 SHALL BE PAID TO THE COUNTY FOR COLLECTING THE TAX.

17 (3) EXCEPT AS SET FORTH IN PARAGRAPH (4), ALL REMAINING
18 REVENUE FROM THE TAX RECEIVED BY THE COUNTY, AFTER PAYING THE
19 AMOUNTS SET FORTH IN PARAGRAPHS (1), (2) AND (2.1), SHALL BE
20 USED FOR OPERATIONAL AND MAINTENANCE EXPENDITURES OF THE
21 CONVENTION CENTER OR EXHIBITION HALL AS PROVIDED IN
22 SUBSECTION (D) AND FOR REGIONAL TOURIST PROMOTION ACTIVITIES.

23 (4) SUBJECT TO PARAGRAPH (4.1), IF BONDS ARE ISSUED BY
24 THE PUBLIC AUTHORITY TO PROVIDE PERMANENT FINANCING OR
25 REFINANCING OF THE EXPANSION OF AND CAPITAL IMPROVEMENTS TO
26 THE CONVENTION CENTER OR EXHIBITION HALL, THE REVENUE
27 RECEIVED FROM THE TAX AND DEPOSITED IN THE SPECIAL FUND SHALL
28 NOT BE DISTRIBUTED AS SET FORTH IN PARAGRAPHS (1) THROUGH (3)
29 BUT SHALL BE DISTRIBUTED BY THE COUNTY COMMISSIONERS IN THE
30 ORDER OF PRIORITY AS FOLLOWS:

1 (I) FIRST, TO THE PAYMENT OF ALL AMOUNTS SET FORTH
2 IN PARAGRAPH (2).

3 (II) SECOND:

4 (A) TO THE TRUSTEE FOR THE BONDS IN ACCORDANCE
5 WITH THE PROVISIONS OF THE INDENTURE PURSUANT TO
6 WHICH THE BONDS ARE ISSUED, TO BE USED FOR THE
7 PAYMENT OF DEBT SERVICE ON THE BONDS; AND

8 (B) TO THE PAYMENT OF ALL AMOUNTS SET FORTH IN
9 PARAGRAPH (2.1):

10 (I) IN FULL; OR

11 (II) IF THE REVENUES ARE INSUFFICIENT TO MAKE
12 THE PAYMENT IN FULL, PRO RATA.

13 (III) THIRD, TO THE PAYMENT OF ALL AMOUNTS SET FORTH
14 IN PARAGRAPH (1).

15 (IV) FOURTH, AS SET FORTH IN PARAGRAPH (3).

16 (4.1) PARAGRAPH (4) SHALL NOT APPLY TO BONDS ISSUED
17 SUBSEQUENT TO THE PERMANENT FINANCING FOR PURPOSES OF
18 COMPLETION OR SUBSEQUENT EXPANSIONS OR CAPITAL IMPROVEMENTS.

19 [(5) IF A CONVENTION CENTER OR EXHIBITION HALL
20 DISCONTINUES OPERATION IN A MUNICIPALITY IN WHICH A
21 CONVENTION CENTER OR EXHIBITION HALL IS LOCATED, THE
22 MUNICIPALITY SHALL CONTINUE TO COLLECT AND RECEIVE THE TAX
23 FOR A PERIOD OF THREE YEARS FROM THE DATE OF DISCONTINUATION
24 OF OPERATION OR CLOSURE. THE FOLLOWING APPLY:

25 (I) DURING THIS PERIOD, THE MUNICIPALITY MAY USE
26 REVENUE FROM THE TAX FOR DEBT SERVICE ON THE
27 CONSTRUCTION, RECONSTRUCTION, OPERATION OR MAINTENANCE OF
28 A CONVENTION CENTER OR EXHIBITION HALL IN THE
29 MUNICIPALITY.

30 (II) IF, DURING THIS PERIOD, NO CONVENTION CENTER OR

1 EXHIBITION HALL IS OPERATING OR UNDER CONSTRUCTION, THE
2 MUNICIPALITY SHALL HOLD THE REVENUE IN THE SPECIAL
3 ACCOUNT UNDER PARAGRAPH (2), WHICH IS SEPARATE FROM ALL
4 OTHER MUNICIPAL REVENUE, SOLELY FOR THE PURPOSE OF THE
5 CONSTRUCTION OF A CONVENTION CENTER OR EXHIBITION HALL IN
6 THE MUNICIPALITY.

7 (III) AT THE END OF THIS PERIOD, IF A CONVENTION
8 CENTER OR EXHIBITION HALL DOES NOT OPERATE OR IF THE
9 CONSTRUCTION OF A NEW CONVENTION CENTER OR EXHIBITION
10 HALL IN THE MUNICIPALITY HAS NOT REACHED SUBSTANTIAL
11 COMPLETION, THE REVENUE FROM THE TAX SHALL BE DEPOSITED
12 BY THE COUNTY IN THE ECONOMIC DEVELOPMENT, COMMUNITY
13 INFRASTRUCTURE AND TOURISM FUND MAINTAINED BY THE
14 COUNTY.]

15 * * *

16 SECTION 2. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

17 (1) THE AMENDMENT OF 53 PA.C.S. § 2314 SHALL TAKE EFFECT
18 IN 60 DAYS.

19 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
20 IMMEDIATELY.