
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2041 Session of
2011

INTRODUCED BY STURLA, BRENNAN, BUXTON, CALTAGIRONE, CARROLL,
DALEY, HORNAMAN, MAHONEY, MIRABITO, MUNDY, MURPHY, SANTONI,
SCAVELLO, THOMAS, WATERS AND YOUNGBLOOD, DECEMBER 1, 2011

REFERRED TO COMMITTEE ON APPROPRIATIONS, DECEMBER 1, 2011

AN ACT

1 Authorizing counties to impose sales, use and occupancy taxes;
2 providing for the levying, assessment and collection of taxes
3 and for the powers and duties of the Department of Community
4 and Economic Development, the Department of Revenue and the
5 State Treasurer; and establishing the County Sales, Use and
6 Occupancy Tax Fund.

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17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:
19 CHAPTER 1
20 GENERAL PROVISIONS
21 Section 101. Short title.
22 This act shall be known and may be cited as the Optional
23 Sales Tax for School Property Tax Relief and County and
24 Municipal Assistance Act.
25 Section 102. Definitions.
26 The following words and phrases when used in this act shall
27 have the meanings given to them in this section unless the
28 context clearly indicates otherwise:
29 "Board of county commissioners." Includes the successor in
30 function to the board of county commissioners in a county which

1 has adopted a home rule charter under the provisions 53 Pa.C.S.
2 Pt. III Subpt. E (relating to home rule and optional plan
3 government), but does not include the city council of a city of
4 the first class or the county council of a county of the second
5 class.

6 "County." A county-level municipality within this
7 Commonwealth. The term includes a county which has adopted a
8 home rule charter or optional plan of government under the
9 provisions of 53 Pa.C.S. Pt. III Subpt. E (relating to home rule
10 and optional plan government). The term does not include a
11 county of the first class or a county of the second class.

12 "Department." The Department of Revenue of the Commonwealth.

13 "Fund." The County Sales, Use and Occupancy Tax Fund.

14 "Homestead." As defined in 53 Pa.C.S. § 8401 (relating to
15 definitions).

16 "Local Tax Enabling Act." The act of December 31, 1965
17 (P.L.1257, No.511), known as The Local Tax Enabling Act.

18 "Municipality." A city of the second class A, city of the
19 third class, borough, incorporated town, township of the first
20 class, township of the second class, home rule municipality,
21 optional plan municipality, optional form municipality or
22 similar general purpose unit of government which may after the
23 effective date of this section be established by statute. Unless
24 the context clearly indicates otherwise, for the purposes of
25 this act, a municipality located in a county shall include
26 municipalities that are located entirely or partially in the
27 county. The term shall not include a city of the first class, a
28 city of the second class or a municipality located in a county
29 of the second class.

30 "Nonqualified municipality." A municipality that is not

1 qualified under section 305 to receive disbursements under
2 section 318.

3 "PICAA." The act of June 5, 1991 (P.L.9, No.6), known as the
4 Pennsylvania Intergovernmental Cooperation Authority Act for
5 Cities of the First Class.

6 "Population." The number of individuals residing in an area
7 as determined in the most recent Federal decennial census.

8 "Qualified municipality." A municipality that is qualified
9 under section 305 to receive disbursements under section 318.

10 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),
11 known as the Tax Reform Code of 1971.

12 Section 103. Scope.

13 It is the intent of this act to confer upon each county the
14 power to levy, assess and collect taxes upon the subjects of
15 taxation specified in this act.

16 Section 104. Preemption.

17 No act of the General Assembly in effect prior to or after
18 the effective date of this section shall be deemed to vacate or
19 preempt any ordinance passed or adopted under the authority of
20 this act or any other act providing authority for the imposition
21 of a tax by a county, unless the act of the General Assembly
22 expressly vacates or preempts the authority to pass or adopt the
23 ordinance.

24 Section 105. Rates of taxation in home rule counties.

25 A county which has adopted a home rule charter or optional
26 plan of government under the provisions of 53 Pa.C.S. Pt. III
27 Subpt. E (relating to home rule and optional plan government)
28 may not fix the rate of taxation for the subjects of taxation
29 authorized under Chapter 3 in excess of the rates fixed in
30 Chapter 3.

1 CHAPTER 3

2 SUBJECTS OF TAXATION

3 SUBCHAPTER A

4 TAX AUTHORIZATION

5 Section 301. General tax authorization.

6 A county shall have the power and may by ordinance levy and
7 assess or provide for the levying and assessment of taxes on the
8 sale or use of tangible personal property and services and the
9 occupancy of a hotel room at a rate of 1% within the
10 geographical limits of the county, subject to the provisions of
11 this act.

12 Section 302. Continuity of tax.

13 A tax levied under the provisions of this act shall continue
14 in force on a fiscal year basis without annual reenactment until
15 the tax is subsequently repealed.

16 Section 303. Election to participate under act.

17 A board of county commissioners may elect to participate
18 under this act by adopting an ordinance imposing the tax under
19 the procedures set forth in section 316.

20 Section 304. (Reserved).

21 Section 305. Municipal qualification and initiative.

22 (a) Initial year of implementation.--

23 (1) The governing body of a municipality desiring to
24 qualify for disbursements under section 318 beginning in the
25 first fiscal year following the effective date of this
26 section shall, on or before November 30, 2012, do all of the
27 following:

28 (i) Adopt a resolution containing the following
29 statement:

30 We strongly urge the county to enact a county sales,

1 use and occupancy tax and intend to accept
2 disbursements of the sales, use and occupancy tax
3 collected.

4 (ii) Deliver a certified copy of the resolution to
5 the board of county commissioners for the county in which
6 the municipality is located. If the municipality is
7 located in more than one county, the governing body shall
8 deliver a certified copy to the board of county
9 commissioners for each county where the municipality is
10 located.

11 (2) Within 30 days following receipt of certified
12 resolutions from municipalities whose combined population
13 represents more than 60% of the population of the county, the
14 board of county commissioners of the county shall commence
15 the procedures under section 316 for imposing the tax under
16 section 312; however, the written notice to municipalities
17 under section 316(a) must be made 15 days prior to adoption
18 of the ordinance. The population of a municipality that is
19 located in more than one county shall be determined
20 separately for each county where the municipality is located
21 on the basis of the municipality's population within each
22 county.

23 (3) The tax shall be imposed as of the date occurring 90
24 days following the adoption of the ordinance.

25 (4) A municipality located in a county where the tax is
26 imposed during the first fiscal year following the effective
27 date of this section whose governing body does not adopt and
28 deliver to the board of county commissioners a resolution
29 under paragraph (1) shall not be qualified to receive
30 disbursements under section 318 for the first three fiscal

1 years following the effective date of this section.

2 (b) Implementation in subsequent years.--

3 (1) A municipality located in a county where the tax is
4 not imposed in the first fiscal year following the effective
5 date of this section desiring to qualify for disbursements
6 under section 318 shall follow the procedures under
7 subsection (a), except with respect to adoption by November
8 30, 2012, prior to the enactment by the county of an
9 ordinance under section 316 in any subsequent fiscal year. In
10 that event, the municipality shall be qualified to receive
11 disbursements under section 318 for all subsequent fiscal
12 years that the tax is in effect. The requirements of
13 subsection (a) (1) must be met by June 30 for the imposition
14 of the tax by the county for the subsequent fiscal year.

15 (2) A municipality located in a county where the tax has
16 been imposed and that has not followed the procedures under
17 subsection (a) (1) or (b) (1) may only qualify for
18 disbursements under section 318 in the fourth or any
19 subsequent fiscal year following imposition of the tax, and
20 for all fiscal years thereafter, if it does all of the
21 following by September 1 of the fiscal year prior to the
22 first fiscal year in which the municipality will be qualified
23 to receive disbursement:

24 (i) Adopts a resolution containing the following
25 statement:

26 We support the enactment by the county of the county
27 sales, use and occupancy tax, strongly urge its
28 continuation and intend to accept disbursements of
29 the sales, use and occupancy tax collected.

30 (ii) Delivers a certified copy of the resolution to

1 the board of county commissioners for the county in which
2 the municipality is located. If the municipality is
3 located in more than one county, the governing body shall
4 deliver a certified copy to the board of county
5 commissioners for each county where the municipality is
6 located.

7 (c) No limitation on counties.--Nothing in this section
8 shall prohibit the board of commissioners of a county from
9 electing to participate under this act under the procedures set
10 forth in section 316 without having received certified
11 resolutions from municipalities under subsection (a) or (b).

12 SUBCHAPTER B

13 COUNTY SALES, USE AND OCCUPANCY TAX

14 Section 311. Construction.

15 The tax imposed by the board of county commissioners under
16 this subchapter shall be in addition to any tax imposed by the
17 Commonwealth under Article II of the Tax Reform Code. Except for
18 the differing situs provisions under section 313, the provisions
19 of Article II of the Tax Reform Code shall apply to the tax.

20 Section 312. Imposition of tax.

21 (a) Sales.--

22 (1) The board of county commissioners may levy and
23 assess upon each separate sale at retail of tangible personal
24 property or services, as defined in Article II of the Tax
25 Reform Code, within the boundaries of the county, a tax on
26 the purchase price.

27 (2) The tax shall be collected by the vendor from the
28 purchaser and shall be paid over to the Commonwealth as
29 provided in this subchapter.

30 (b) Use.--

1 (1) In any county within which the tax authorized in
2 subsection (a) is imposed, there shall be levied, assessed
3 and collected upon the use, within the county, of tangible
4 personal property purchased at retail and on services
5 purchased at retail, as defined in Article II of the Tax
6 Reform Code, a tax on the purchase price.

7 (2) The tax shall be paid over to the Commonwealth by
8 the person who makes the use.

9 (3) The use tax imposed under this subchapter shall not
10 be paid over to the Commonwealth by any person who has paid
11 the tax imposed by subsection (a) or has paid the tax imposed
12 by this subsection to the vendor with respect to the use.

13 (c) Occupancy.--

14 (1) In any county within which a tax authorized by
15 subsection (a) is imposed, there shall be levied, assessed
16 and collected an excise tax on the rent upon every occupancy
17 of a room or rooms in a hotel in the county.

18 (2) The tax shall be collected by the operator or owner
19 from the occupant and paid over to the Commonwealth.

20 (d) Rate and uniformity.--The tax authorized by subsections
21 (a), (b) and (c) shall be imposed at a rate of 1% and shall be
22 uniform.

23 (e) Computation.--The tax imposed under this section shall
24 be computed in the manner set forth in section 503(e)(2) of
25 PICA.

26 Section 313. Situs.

27 The situs of sales at retail or uses shall be determined in
28 the manner specified by section 504 of PICA and by Article II-A
29 of the Tax Reform Code.

30 Section 314. Licenses.

1 The license issued pursuant to Article II of the Tax Reform
2 Code or a separate license for the collection of the tax imposed
3 by this subchapter may be issued by the department in the same
4 manner as is provided for in section 505 of PICAA. Licensees
5 shall be entitled to the same discount as provided in section
6 227 of the Tax Reform Code.

7 Section 315. Rules and regulations; collection costs.

8 (a) Regulations.--The rules and regulations promulgated
9 under section 270 of the Tax Reform Code shall be applicable to
10 the taxes imposed under section 312 insofar as such rules and
11 regulations are consistent with section 312.

12 (b) Administration and costs.--

13 (1) The department shall administer and enforce the
14 provisions of this subchapter. The department may promulgate
15 and enforce regulations consistent with the provisions of
16 this subchapter relating to anything pertaining to the
17 administration and enforcement of this subchapter. The
18 department may prescribe the extent to which a regulation
19 shall be applied without retroactive effect.

20 (2) To cover their respective costs of administration,
21 the department and the Treasury Department shall be entitled
22 to retain a sum equal to costs of collection, but no more
23 than 1% and 0.5%, respectively, of the revenues collected
24 under this subchapter. The department shall inform the
25 counties participating under this act in writing monthly of
26 the sum retained and the costs of collection reimbursed. When
27 the annual operating budgets for the department and the
28 Treasury Department are submitted to the General Assembly,
29 each agency shall also submit to the chairman and minority
30 chairman of the Appropriations Committee of the Senate and to

1 the chairman and minority chairman of the Appropriations
2 Committee of the House of Representatives the actual sums
3 retained for costs of collection in the preceding fiscal
4 year, together with all supporting details.

5 Section 316. Procedure.

6 (a) Ordinance.--

7 (1) A county desiring to impose the tax authorized by
8 section 312 shall give at least 45 days' written notice to
9 each municipality in the county of its intent to impose the
10 tax. The notice and ordinance shall state the tax rate and
11 refer to this subchapter. The ordinance shall authorize the
12 imposition of the tax on all subjects provided for in section
13 312.

14 (2) Prior to adopting an ordinance imposing the tax
15 under section 312, the board of county commissioners shall
16 give public notice of its intent to adopt the ordinance in
17 the manner provided by section 306 of the Local Tax Enabling
18 Act and shall conduct at least one public hearing regarding
19 the proposed adoption of the ordinance.

20 (3) The board of county commissioners may waive the
21 requirement for a public hearing if the ordinance will be
22 adopted pursuant to the provisions of section 305.

23 (4) Except as provided in paragraph (5), an ordinance
24 adopted under this section shall be adopted by September 1
25 and the tax shall be imposed as of January 1 of the following
26 fiscal year.

27 (5) Notwithstanding paragraph (4), a county desiring to
28 impose the tax in the first fiscal year following the
29 effective date of this section may adopt an ordinance under
30 this section by November 30, 2012. If this paragraph applies,

1 the tax shall be imposed as of the date occurring 90 days
2 following the adoption of the ordinance.

3 (b) Notification to department.--Certified copies of the
4 county ordinance shall be delivered to the department and the
5 municipalities within 15 days following adoption of the
6 ordinance.

7 (c) Repeal.--

8 (1) No earlier than the end of the fifth fiscal year
9 following imposition of the tax authorized by section 312, a
10 county may repeal the tax. In that event, the county shall
11 give at least 30 days' written notice to every municipality
12 located in the county of its intent to repeal the tax. The
13 ordinance shall authorize the repeal of the tax on all
14 subjects provided for in section 312.

15 (2) Prior to adopting an ordinance repealing the tax
16 imposed under section 312, the board of county commissioners
17 shall give public notice of its intent to repeal the
18 ordinance in the manner provided by section 306 of the Local
19 Tax Enabling Act for the adoption of ordinances and shall
20 conduct at least one public hearing regarding the proposed
21 repeal of the ordinance.

22 (d) Delivery of repeal ordinance.--The board of county
23 commissioners shall deliver certified copies of a repeal
24 ordinance to the department and the municipalities within the
25 county by September 1 of the year prior to the effective date of
26 the repeal.

27 Section 317. County Sales, Use and Occupancy Tax Fund.

28 (a) Fund established in State Treasury.--There is hereby
29 established in the State Treasury a County Sales, Use and
30 Occupancy Tax Fund. The State Treasurer shall be custodian of

1 the fund which shall be subject to the provisions of law
2 applicable to funds listed in section 302 of the act of April 9,
3 1929 (P.L.343, No.176), known as The Fiscal Code. Subaccounts
4 shall be established within the fund for each county
5 participating under this act.

6 (b) Deposits into fund.--

7 (1) The tax imposed under section 312 shall be received
8 by the department and paid to the State Treasurer and, along
9 with interest and penalties, less any collection costs
10 allowed under this subchapter and any refunds and credits
11 paid, shall be credited to the respective counties'
12 subaccounts not less frequently than every two weeks.

13 (2) During any period prior to the credit of money to
14 each such subaccount, interest earned on money received by
15 the department and paid to the State Treasurer under this
16 subchapter shall be credited to the respective subaccount.

17 (c) Lapsing and interfund transfers prohibited.--All money
18 in the fund and credited to the subaccounts, including, but not
19 limited to, money credited to the subaccounts under this
20 section, prior year encumbrances and the interest earned
21 thereon, shall not lapse or be transferred to any other fund or
22 subaccount, but shall remain in the fund and credited to the
23 respective subaccounts as provided in this chapter.

24 (d) Investment.--Pending their disbursement, money received
25 on behalf of or deposited into the fund shall be invested or
26 reinvested as are other money in the custody of the State
27 Treasurer in the manner provided by law. All earnings received
28 from the investment or reinvestment of the money shall be
29 credited to the fund.

30 Section 318. Disbursements.

1 (a) General rule.--On or before the tenth business day
2 following receipt from the department of the necessary
3 calculations, the State Treasurer shall make disbursements as
4 provided in this section.

5 (b) Disbursement to counties.--

6 (1) The State Treasurer shall disburse to a county
7 imposing the tax under section 312 an amount of money equal
8 to 25% of the tax deposited in the fund credited to the
9 county's subaccount. The money shall be deposited into the
10 county general fund for disposition as provided under section
11 501(a).

12 (2) The State Treasurer shall disburse to a county, in
13 addition to its share under paragraph (1), an amount of money
14 equal to the amount allocated under section 320 to all of the
15 nonqualified municipalities. The money shall be deposited
16 into the county general fund for disposition as provided
17 under section 501(a).

18 (c) Disbursement to municipalities.--Twenty-five percent of
19 the tax deposited into the fund shall be disbursed to each
20 qualified municipality in the amounts allocated under section
21 320(a). The money disbursed shall be deposited into the
22 municipal general fund for disposition as provided in section
23 501(b).

24 (d) Disbursement to school districts.--The remaining 50% of
25 the tax deposited into the fund shall be disbursed to each
26 school district in the amounts allocated under section 320(c).
27 The money disbursed shall be deposited into the school district
28 general fund for disposition as provided in section 501(c).

29 Section 319. (Reserved).

30 Section 320. Allocations.

1 (a) Allocations to municipalities.--The department shall
2 compute allocations of the sums to be disbursed to
3 municipalities under section 318(c) in the following manner:

4 (1) Fifty percent shall be allocated pro rata based on
5 the weighted tax revenues for each municipality located in
6 the county as a percentage of the total weighted tax revenues
7 of all municipalities located in the county. For
8 municipalities located in more than one county, the weighted
9 tax revenues for the county shall be prorated based upon the
10 population of the municipality in each county divided by the
11 total population of the municipality.

12 (2) Fifty percent shall be allocated pro rata based on
13 the population of each municipality located in the county as
14 a percentage of the sum of the population of all
15 municipalities located in the county. For municipalities
16 located in more than one county, the population of the county
17 shall be determined separately for each county where the
18 municipality is located on the basis of the municipality's
19 population within each county.

20 (b) Calculation of weighted tax revenues.--Calculations of
21 weighted tax revenues shall be made by the Department of
22 Community and Economic Development and certified to the
23 department based upon information reported to the Department of
24 Community and Economic Development, subject to review,
25 verification and approval by the Department of Community and
26 Economic Development.

27 (c) Allocations to school districts.--The department shall
28 compute allocations of the sums to be disbursed to school
29 districts under section 318(d) by a pro rata allocation based on
30 the average daily membership for each school district located in

1 the county as a percentage of the total average daily membership
2 of all school districts located in the county. For school
3 districts located in more than one county, the average daily
4 memberships for the county shall be prorated based upon the
5 population of the school district in each county divided by the
6 total population of the school district.

7 (d) Calculation of average daily memberships.--Calculations
8 of average daily memberships shall be made by the Department of
9 Education and certified to the department based upon information
10 reported to the Department of Education, subject to review,
11 verification and approval by the Department of Education.

12 (e) Definitions.--As used in this section, the following
13 words and phrases shall have the meanings given to them in this
14 subsection:

15 "Average daily membership." As defined in the act of March
16 10, 1949 (P.L.30, No.14), known as the Public School Code of
17 1949.

18 "Per capita market value." The total market value of all
19 real property divided by population as determined by the most
20 recent decennial census.

21 "Total tax revenues." Real property tax revenues, revenues
22 received by levy of a tax under the Local Tax Enabling Act,
23 revenues received by levy of a tax under this act and revenues
24 received by levy of a tax under the act of June 23, 1931
25 (P.L.932, No.317), known as The Third Class City Code, the act
26 of February 1, 1966 (1965 P.L.1656, No.581), known as The
27 Borough Code, the act of June 24, 1931 (P.L.1206, No.331), known
28 as The First Class Township Code, and the act of May 1, 1933
29 (P.L.103, No.69), known as The Second Class Township Code, as
30 applicable to the municipality.

1 "Weighted tax revenues." Total tax revenues of a
2 municipality from all sources divided by the per capita market
3 value of the municipality.

4 CHAPTER 5

5 DISPOSITION OF TAX REVENUES

6 Section 501. Sales, use and occupancy tax revenues.

7 (a) Counties.--All of the revenues estimated to be received
8 by a county from the tax in a fiscal year shall be expended by
9 the county to maintain core services.

10 (b) Municipalities.--All of the revenues estimated to be
11 received by a qualified municipality from the tax in a fiscal
12 year must be expended by the municipality as follows:

13 (1) When a municipality's pension plan is a moderately
14 or severely distressed municipal pension system pursuant to
15 the act of December 18, 1984 (P.L.1005, No.205), known as the
16 Municipal Pension Plan Funding Standard and Recovery Act,
17 revenues received in a fiscal year shall first be used to pay
18 in full the municipality's minimum municipal obligation
19 pursuant to the Municipal Pension Plan Funding Standard and
20 Recovery Act. Any remaining revenues received shall be used
21 to maintain core services.

22 (2) When a qualified municipality's pension plan is a
23 minimally distressed municipal pension system pursuant to the
24 Municipal Pension Plan Funding Standard and Recovery Act,
25 revenues received in a fiscal year shall be used to maintain
26 core services.

27 (3) When a municipality does not have a minimally,
28 moderately or severely distressed pension system pursuant to
29 the Municipal Pension Plan Funding Standard and Recovery Act,
30 revenues received by a qualified municipality shall be used

1 to maintain core services.

2 (c) School districts.--All of the revenues estimated to be
3 received by a school district from the tax in a fiscal year
4 shall be used to reduce, or maintain the reduction of, the
5 school district real property tax, first by means of a homestead
6 exclusion and then, if the maximum homestead exclusion has been
7 attained, by means of reduction in the property tax millage
8 rate.

9 (d) Definition.--As used in this section, the term "core
10 services" includes:

11 (1) Police services.

12 (2) Fire services.

13 (3) Public works.

14 (4) Public health and welfare services, including
15 county-owned or county-operated nursing homes.

16 (5) Administrative and clerical services.

17 (6) Judicial administration and justice-related
18 services.

19 (7) Corrections services.

20 (8) Election services.

21 CHAPTER 21

22 MISCELLANEOUS PROVISIONS

23 Section 2101. Effective date.

24 This act shall take effect immediately.