

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1189 Session of 2013

INTRODUCED BY GROVE, STEPHENS, SAYLOR, GREINER, AUMENT, HELM, GINGRICH, CUTLER, MARSICO, TALLMAN, ROCK, MICOZZIE, REGAN, HICKERNELL, EVANKOVICH, DUNBAR, VEREB, HAHN, WATSON, TOOHL, GABLER, MENTZER, TURZAI, R. MILLER, SNYDER, CARROLL, HARHART, GERGELY, SONNEY, REED AND MICCARELLI, APRIL 15, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 1, 2013

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 providing for optional property tax elimination.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. The act of December 31, 1965 (P.L.1257, No.511),
26 known as The Local Tax Enabling Act, is amended by adding a

1 chapter to read:

2 CHAPTER 6

3 OPTIONAL PROPERTY TAX ELIMINATION

4 Section 601. Scope of chapter.

5 This chapter shall authorize a school district to levy,  
6 assess and collect an elimination tax as a means of reducing or  
7 eliminating property taxation.

8 Section 602. Definitions.

9 The following words and phrases when used in this chapter  
10 shall have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Board of school directors." A board of school directors of  
13 a school district of the first class A, second class, third  
14 class or fourth class.

15 "Domicile." The term as defined in section 501.

16 "Earned income." The term as defined in section 501.

17 "Elimination tax." Any of the following:

18 (1) The tax levied by a school district on earned income  
19 and net profits under this chapter.

20 (2) A mercantile tax imposed under section 613.

21 (3) A business privilege tax imposed under section 613.

22 "Index." The term as defined in section 302 of the Taxpayer  
23 Relief Act.

24 "Net profits." The term as defined in section 501.

25 "Resident." The term as defined in section 501.

26 "School district." A school district of the first class A,  
27 second class, third class or fourth class.

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

30 "Taxpayer Relief Act." The act of June 27, 2006 (1st

1 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.

2 Section 603. Preemption.

3 No act of the General Assembly may vacate or preempt any  
4 resolution passed or adopted under the authority of this  
5 chapter, or any other act, providing authority for the  
6 imposition of an elimination tax by a school district, unless  
7 the act of the General Assembly expressly vacates or preempts  
8 the authority to pass or adopt resolutions.

9 Section 604. Real property tax replacement.

10 A school district that levies a tax on real property may  
11 reduce or eliminate the revenues provided by the real property  
12 tax by imposing the elimination tax as provided under this  
13 chapter.

14 Section 605. Resolution required.

15 The board of school directors may impose or increase the  
16 maximum limits of the elimination tax by adopting a resolution.  
17 Prior to approving the resolution, the board of school directors  
18 shall:

19 (1) Give public notice of its intent to adopt the  
20 resolution in the manner provided under section 306.

21 (2) Conduct at least one public hearing regarding  
22 reducing or eliminating the tax on real property and imposing  
23 or increasing the maximum rate of the elimination tax.

24 Section 606. Use of funds.

25 All funds generated from an elimination tax shall be used to  
26 directly reduce or eliminate school district real property tax  
27 millage rates.

28 Section 607. Elimination tax rate limits.

29 (a) Limit.--If a school district has reduced property tax  
30 millage rates to zero, a board of school directors may not

1 increase the elimination tax for the support of public schools  
2 by more than the index unless there is compliance with section  
3 333 of the Taxpayer Relief Act.

4 (b) Maximum rate.--The maximum rate of the elimination tax  
5 calculated under this chapter shall not be subject to the limits  
6 on the earned income tax specified under section 311(3).

7 (c) Limit.--The rate of the mercantile or business privilege  
8 tax imposed under section 613 shall not generate revenues in  
9 excess of 50% of the total elimination tax revenues generated  
10 under this chapter.

11 Section 608. Exemption.

12 A school district that imposes an elimination tax may exempt  
13 from the payment of that tax any person whose total income from  
14 all sources is less than \$12,000.

15 Section 609. Collections.

16 (a) Earned income and net profits.--An elimination tax on  
17 earned income and net profits shall be subject to Chapters 5 and  
18 7.

19 (b) Mercantile tax or a business privilege tax.--A  
20 mercantile tax or a business privilege tax imposed under this  
21 chapter shall be subject to section 613.

22 Section 610. Credits.

23 (a) Credit.--Except as provided under subsection (b), the  
24 provisions of section 317 shall be applied by a board of school  
25 directors to determine any credits applicable to an elimination  
26 tax.

27 (b) Limitation.--Payment of a tax on earned income and net  
28 profits to any state other than Pennsylvania or to any political  
29 subdivision located outside the boundaries of this Commonwealth  
30 by a resident of a school district located in this Commonwealth

1 shall not be credited to and allowed as a deduction from the  
2 liability of the person for an elimination tax imposed by the  
3 school district of residence.

4 Section 611. Real property tax prohibited.

5 (a) Prohibition.--For the first fiscal year beginning after  
6 the adoption of a resolution that eliminates real property tax  
7 millage rates and each fiscal year thereafter, a school district  
8 shall be prohibited from levying, assessing or collecting a real  
9 property tax.

10 (b) Applicability.--This section shall not apply to the  
11 collection of delinquent real property taxes.

12 Section 612. Applicability of personal income tax.

13 Nothing under this chapter shall be construed to authorize a  
14 school district to levy, assess or collect a personal income  
15 tax.

16 Section 613. Mercantile or business privilege tax.

17 (a) Wholesale dealers.--Each school district shall have the  
18 power and may levy, assess and collect a tax on each dollar of  
19 the whole volume of business transacted by wholesale dealers in  
20 goods, wares and merchandise.

21 (b) Retail sales.--Each school district shall have the power  
22 and may levy, assess and collect a tax on each dollar of sales  
23 by:

24 (1) Retail dealers in goods, wares and merchandise,  
25 including proprietors of restaurants or other places where  
26 food, drink and refreshments are served.

27 (2) Providers of services.

28 (c) Transactions partially free of tax.--No tax shall be  
29 levied on the dollar volume of business transacted by wholesale  
30 and retail dealers derived from the resale of goods, wares and

1 merchandise, taken by any dealer as a trade-in or as part  
2 payment for other goods, wares and merchandise, except to the  
3 extent that the resale price exceeds the trade-in allowance.

4 Section 614. Exclusions from tax.

5 A tax under section 613 may not be levied, assessed or  
6 collected on:

7 (1) The gross receipts from utility service of any  
8 person or company whose rates and services are fixed and  
9 regulated by the Pennsylvania Public Utility Commission, on  
10 any public utility services rendered by the person or  
11 company, on any privilege or transaction involving the  
12 rendering of the public utility service or on any Federal  
13 Energy Regulation Commission-approved qualifying facility.

14 (2) Any of the following:

15 (i) Goods and articles manufactured in the school  
16 district.

17 (ii) The by-products of manufacture.

18 (iii) Minerals, timber, natural resources and farm  
19 products produced in the school district.

20 (iv) The preparation or processing of items under  
21 subparagraph (iii) for use or market.

22 (v) Any privilege, act or transaction related to the  
23 business of manufacturing, the production, preparation or  
24 processing of minerals, timber and natural resources or  
25 farm products, by manufacturers, by producers and by  
26 farmers with respect to the goods, articles and products  
27 of their own manufacture, production or growth.

28 (vi) Any privilege, act or transaction relating to  
29 the business of processing by-products of manufacture.

30 (vii) The transportation, loading, unloading or

1 dumping or storage of goods, articles, products or by-  
2 products under this paragraph, except that school  
3 districts may levy, assess and collect taxes on a person  
4 using municipal services and the personal income of  
5 natural persons engaged in these activities whether doing  
6 business as an individual proprietorship or as members of  
7 partnerships or other associations.

8 (3) Gross receipts or part of gross receipts which are:

9 (i) Discounts allowed to purchasers as cash  
10 discounts for prompt payment of their bills.

11 (ii) Charges advanced by a seller for freight,  
12 delivery or other transportation for the purchaser in  
13 accordance with the terms of a contract of sale.

14 (iii) Received upon the sale of an article of  
15 personal property which was acquired by the seller as a  
16 trade-in to the extent that the gross receipts in the  
17 sale of the article taken in trade does not exceed the  
18 amount of trade-in allowance made in acquiring the  
19 article.

20 (iv) Refunds, credits or allowances given to a  
21 purchaser on account of defects in goods sold or  
22 merchandise returned.

23 (v) Pennsylvania sales tax and any sales tax, use  
24 tax and occupancy tax imposed under law.

25 (vi) Based on the value of exchanges or transfers  
26 between one seller and another seller who transfers  
27 property with the understanding that property of an  
28 identical description will be returned at a subsequent  
29 date, except that if sellers engaged in similar lines of  
30 business exchange property and one of them makes payment

1 to the other in addition to the property exchanged, the  
2 additional payment received may be included in the gross  
3 receipts of the seller receiving such additional cash  
4 payments.

5 (vii) Receipts of sellers from sales to other  
6 sellers in the same line where the seller transfers the  
7 title or possession at the same price for which the  
8 seller acquired the merchandise.

9 (viii) Transfers between one department, branch or  
10 division of a corporation or other business entity of  
11 goods, wares and merchandise to another department,  
12 branch or division of the same corporation or business  
13 entity and which are recorded on the books to reflect  
14 such interdepartmental transactions.

15 (ix) Transfers attributable to activities occurring  
16 outside the taxing authority. Gross receipts shall be  
17 attributed to the jurisdiction in which the activities  
18 generating the receipts occur.

19 (4) The gross receipts of:

20 (i) Any bank, bank and trust company, private bank,  
21 savings bank or trust company, as defined in the act of  
22 November 30, 1965 (P.L.847, No.356), known as the Banking  
23 Code of 1965.

24 (ii) Any other institution or entity subject to the  
25 supervision of the Department of Banking under section  
26 201 of the act of May 15, 1933 (P.L.565, No.111), known  
27 as the Department of Banking Code.

28 (iii) Any national bank.

29 (iv) Any similar institution or entity established  
30 pursuant to Federal law or the law of any state.



1           (5) The gross receipts of any distributor or importing  
2           distributor of malt or brewed beverages subject to licensure  
3           under the act of April 12, 1951 (P.L.90, No.21), known as the  
4           Liquor Code.

5           (6) THE GROSS PREMIUMS OF ANY INSURANCE COMPANY           <--  
6           AUTHORIZED TO DO BUSINESS IN THIS COMMONWEALTH.

7           Section 2. This act shall take effect in 60 days.