
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 708 Session of
2015

INTRODUCED BY STURLA, YOUNGBLOOD, COHEN, PASHINSKI, THOMAS,
SCHLOSSBERG, McNEILL, DAVIDSON AND McCARTER, MARCH 6, 2015

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 6, 2015

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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14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:
16 CHAPTER 1
17 GENERAL PROVISIONS
18 Section 101. Short title.
19 This act shall be known and may be cited as the Optional
20 Sales Tax for School Property Tax Relief and County and
21 Municipal Assistance Act.
22 Section 102. Definitions.
23 The following words and phrases when used in this act shall
24 have the meanings given to them in this section unless the
25 context clearly indicates otherwise:
26 "Board of county commissioners." Includes the successor in
27 function to the board of county commissioners in a county which
28 has adopted a home rule charter under the provisions 53 Pa.C.S.
29 Pt. III Subpt. E (relating to home rule and optional plan
30 government), but does not include the city council of a city of

1 the first class or the county council of a county of the second
2 class.

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

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

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

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

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

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

27 "Nonqualified municipality." A municipality that is not
28 qualified under section 304 to receive disbursements under
29 section 318.

30 "PICAA." The act of June 5, 1991 (P.L.9, No.6), known as the

1 Pennsylvania Intergovernmental Cooperation Authority Act for
2 Cities of the First Class.

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

5 "Qualified municipality." A municipality that is qualified
6 under section 304 to receive disbursements under section 318.

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

9 Section 103. Scope.

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

13 Section 104. Preemption.

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

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

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

28 CHAPTER 3

29 SUBJECTS OF TAXATION

30 SUBCHAPTER A

TAX AUTHORIZATION

Section 301. General tax authorization.

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

Section 302. Continuity of tax.

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

Section 303. Election to participate under act.

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

Section 304. Municipal qualification and initiative.

(a) Initial year of implementation.--

(1) The governing body of a municipality desiring to qualify for disbursements under section 318 beginning in the first fiscal year following the effective date of this section shall, on or before November 30, 2017, do all of the following:

(i) Adopt a resolution containing the following statement:

We strongly urge the county to enact a county sales, use and occupancy tax and intend to accept disbursements of the sales, use and occupancy tax collected.

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

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

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

28 (b) Implementation in subsequent years.--

29 (1) A municipality located in a county where the tax is
30 not imposed in the first fiscal year following the effective

1 date of this section desiring to qualify for disbursements
2 under section 318 shall follow the procedures under
3 subsection (a), except with respect to adoption by November
4 30, 2015, prior to the enactment by the county of an
5 ordinance under section 316 in any subsequent fiscal year. In
6 that event, the municipality shall be qualified to receive
7 disbursements under section 318 for all subsequent fiscal
8 years that the tax is in effect. The requirements of
9 subsection (a) (1) must be met by June 30 for the imposition
10 of the tax by the county for the subsequent fiscal year.

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

20 (i) Adopts a resolution containing the following
21 statement:

22 We support the enactment by the county of the county
23 sales, use and occupancy tax, strongly urge its
24 continuation and intend to accept disbursements of
25 the sales, use and occupancy tax collected.

26 (ii) Delivers a certified copy of the resolution to
27 the board of county commissioners for the county in which
28 the municipality is located. If the municipality is
29 located in more than one county, the governing body shall
30 deliver a certified copy to the board of county

commissioners for each county where the municipality is located.

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

SUBCHAPTER B

COUNTY SALES, USE AND OCCUPANCY TAX

Section 311. Construction.

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

Section 312. Imposition of tax.

(a) Sales.--

(1) The board of county commissioners may levy and assess upon each separate sale at retail of tangible personal property or services, subject to tax imposed under section 202 of the Tax Reform Code, within the boundaries of the county, a tax on the purchase price.

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

(b) Use.--

(1) In any county within which the tax authorized in subsection (a) is imposed, there shall be levied, assessed and collected upon the use, within the county, of tangible personal property purchased at retail and on services

1 purchased at retail, as subject to tax imposed under section
2 202 of the Tax Reform Code, a tax on the purchase price.

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

5 (3) The use tax imposed under this subchapter shall not
6 be paid over to the Commonwealth by any person who has paid
7 the tax imposed by subsection (a) or has paid the tax imposed
8 by this subsection to the vendor with respect to the use.

9 (c) Occupancy.--

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

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

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

19 (e) Computation.--The tax imposed under this section shall
20 be computed in the manner set forth in section 503(e)(2) of
21 PICAA.

22 Section 313. Situs.

23 The situs of sales at retail or uses shall be determined in
24 the manner specified by section 504 of PICAA and by Article II-A
25 of the Tax Reform Code.

26 Section 314. Licenses.

27 The license issued pursuant to Article II of the Tax Reform
28 Code or a separate license for the collection of the tax imposed
29 by this subchapter may be issued by the department in the same
30 manner as is provided for in section 505 of PICAA. Licensees

shall be entitled to the same discount as provided in section 227 of the Tax Reform Code.

Section 315. Rules and regulations and collection costs.

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

(b) Administration and costs.--

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

(2) To cover their respective costs of administration, the department and the Treasury Department shall be entitled to retain a sum equal to costs of collection, but no more than 1% and 0.5%, respectively, of the revenues collected under this subchapter. The department shall inform the counties participating under this act in writing monthly of the sum retained and the costs of collection reimbursed. When the annual operating budgets for the department and the Treasury Department are submitted to the General Assembly, each agency shall also submit to the chairman and minority chairman of the Appropriations Committee of the Senate and to the chairman and minority chairman of the Appropriations Committee of the House of Representatives the actual sums retained for costs of collection in the preceding fiscal year, together with all supporting details.

1 Section 316. Procedure.

2 (a) Ordinance.--

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

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

16 (3) The board of county commissioners may waive the
17 requirement for a public hearing if the ordinance will be
18 adopted pursuant to the provisions of section 304.

19 (4) Except as provided in paragraph (5), an ordinance
20 adopted under this section shall be adopted by September 1
21 and the tax shall be imposed as of January 1 of the following
22 fiscal year.

23 (5) Notwithstanding paragraph (4), a county desiring to
24 impose the tax in the first fiscal year following the
25 effective date of this section may adopt an ordinance under
26 this section by November 30, 2015. If this paragraph applies,
27 the tax shall be imposed as of the date occurring 90 days
28 following the adoption of the ordinance.

29 (b) Notification to department.--Certified copies of the
30 county ordinance shall be delivered to the department and the

1 municipalities within 15 days following adoption of the
2 ordinance.

3 (c) Repeal.--

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

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

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

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

24 (a) Fund established in State Treasury.--There is hereby
25 established in the State Treasury a County Sales, Use and
26 Occupancy Tax Fund. The State Treasurer shall be custodian of
27 the fund which shall be subject to the provisions of law
28 applicable to funds listed in section 302 of the act of April 9,
29 1929 (P.L.343, No.176), known as The Fiscal Code. Subaccounts
30 shall be established within the fund for each county

1 participating under this act.

2 (b) Deposits into fund.--

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

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

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

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

26 Section 318. Disbursements.

27 (a) General rule.--On or before the 10th business day
28 following receipt from the department of the necessary
29 calculations, the State Treasurer shall make disbursements as
30 provided in this section.

1 (b) Disbursement to counties.--

2 (1) The State Treasurer shall disburse to a county
3 imposing the tax under section 312 an amount of money equal
4 to 15% of the tax deposited in the fund credited to the
5 county's subaccount. The money shall be deposited into the
6 county general fund for disposition as provided under section
7 501(a).

8 (2) The State Treasurer shall disburse to a county, in
9 addition to its share under paragraph (1), an amount of money
10 equal to the amount allocated under section 319 to all of the
11 nonqualified municipalities. The money shall be deposited
12 into the county general fund for disposition as provided
13 under section 501(a).

14 (c) Disbursement to municipalities.--Twenty-five percent of
15 the tax deposited into the fund shall be disbursed to each
16 qualified municipality in the amounts allocated under section
17 319(a). The money disbursed shall be deposited into the
18 municipal general fund for disposition as provided in section
19 501(b).

20 (d) Disbursement to school districts.--The remaining 60% of
21 the tax deposited into the fund shall be disbursed to each
22 school district in the amounts allocated under section 319(c).
23 The money disbursed shall be deposited into the school district
24 general fund for disposition as provided in section 501(c).
25 Section 319. Allocations.

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

29 (1) Fifty percent shall be allocated pro rata based on
30 the weighted tax revenues for each municipality located in

1 the county as a percentage of the total weighted tax revenues
2 of all municipalities located in the county. For
3 municipalities located in more than one county, the weighted
4 tax revenues for the county shall be prorated based upon the
5 population of the municipality in each county divided by the
6 total population of the municipality.

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

15 (b) Calculation of weighted tax revenues.--Calculations of
16 weighted tax revenues shall be made by the Department of
17 Community and Economic Development and certified to the
18 department based upon information reported to the Department of
19 Community and Economic Development, subject to review,
20 verification and approval by the Department of Community and
21 Economic Development.

22 (c) Allocations to school districts.--The department shall
23 compute allocations of the sums to be disbursed to school
24 districts under section 318(d) by a pro rata allocation based on
25 the average daily membership for each school district located in
26 the county as a percentage of the total average daily membership
27 of all school districts located in the county. For school
28 districts located in more than one county, the average daily
29 memberships for the county shall be prorated based upon the
30 population of the school district in each county divided by the

1 total population of the school district.

2 (d) Calculation of average daily memberships.--Calculations
3 of average daily memberships shall be made by the Department of
4 Education and certified to the department based upon information
5 reported to the Department of Education, subject to review,
6 verification and approval by the Department of Education.

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

10 "Average daily membership." As defined in the act of March
11 10, 1949 (P.L.30, No.14), known as the Public School Code of
12 1949.

13 "Per capita market value." The total market value of all
14 real property divided by population as determined by the most
15 recent decennial census.

16 "Total tax revenues." Real property tax revenues, revenues
17 received by levy of a tax under the Local Tax Enabling Act,
18 revenues received by levy of a tax under this act and revenues
19 received by levy of a tax under the act of June 23, 1931
20 (P.L.932, No.317), known as The Third Class City Code, the act
21 of June 24, 1931 (P.L.1206, No.331), known as The First Class
22 Township Code, the act of May 1, 1933 (P.L.103, No.69), known as
23 The Second Class Township Code, as applicable to the
24 municipality and Title 8 (relating to boroughs and incorporated
25 towns).

26 "Weighted tax revenues." Total tax revenues of a
27 municipality from all sources divided by the per capita market
28 value of the municipality.

29 CHAPTER 5

30 DISPOSITION OF TAX REVENUES

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

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

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

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

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

22 (3) When a municipality does not have a minimally,
23 moderately or severely distressed pension system pursuant to
24 the Municipal Pension Plan Funding Standard and Recovery Act,
25 revenues received by a qualified municipality shall be used
26 to maintain core services.

27 (c) School districts.--All of the revenues estimated to be
28 received by a school district from the tax in a fiscal year
29 shall be used to reduce, or maintain the reduction of, the
30 school district's real property tax, first by means of a

1 homestead exclusion and then, if the maximum homestead exclusion
2 has been attained, by means of reduction in the property tax
3 millage rate.

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

6 (1) Police services.

7 (2) Fire services.

8 (3) Public works.

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

11 (5) Administrative and clerical services.

12 (6) Judicial administration and justice-related
13 services.

14 (7) Corrections services.

15 (8) Election services.

16 CHAPTER 21

17 MISCELLANEOUS PROVISIONS

18 Section 2101. Effective date.

19 This act shall take effect immediately.