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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1391 Session of  
2019

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INTRODUCED BY STURLA, HILL-EVANS, SCHLOSSBERG, CALTAGIRONE AND  
STRUZZI, MAY 6, 2019

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REFERRED TO COMMITTEE ON FINANCE, MAY 6, 2019

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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 that  
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 that has adopted a home  
5 rule charter or optional plan of government under the provisions  
6 of 53 Pa.C.S. Pt. III Subpt. E. The term does not include a  
7 county of the first class or a county of the second class.

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

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

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

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

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

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

29 "PICAA." The act of June 5, 1991 (P.L.9, No.6), known as the  
30 Pennsylvania Intergovernmental Cooperation Authority Act for

1 Cities of the First Class.

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

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

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

8 Section 103. Scope.

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

12 Section 104. Preemption.

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

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

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

27 CHAPTER 3

28 SUBJECTS OF TAXATION

29 SUBCHAPTER A

30 TAX AUTHORIZATION

1 Section 301. General tax authorization.

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

8 Section 302. Continuity of tax.

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

12 Section 303. Election to participate under act.

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

16 Section 304. Municipal qualification and initiative.

17 (a) Initial year of implementation.--

18 (1) The governing body of a municipality desiring to  
19 qualify for disbursements under section 318 beginning in the  
20 first fiscal year following the effective date of this  
21 section shall, on or before November 30, 2021, do all of the  
22 following:

23 (i) Adopt a resolution containing the following  
24 statement:

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

29 (ii) Deliver a certified copy of the resolution to  
30 the board of county commissioners for the county in which

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

6 (2) Within 30 days following receipt of certified  
7 resolutions from municipalities whose combined population  
8 represents more than 67% of the population of the county, the  
9 board of county commissioners of the county shall commence  
10 the procedures under section 316 for imposing the tax under  
11 section 312. The written notice to municipalities under  
12 section 316(a) must be made 15 days prior to adoption of the  
13 ordinance. The population of a municipality that is located  
14 in more than one county shall be determined separately for  
15 each county where the municipality is located on the basis of  
16 the municipality's population within each county.

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

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

26 (b) Implementation in subsequent years.--

27 (1) A municipality located in a county where the tax is  
28 not imposed in the first fiscal year following the effective  
29 date of this section desiring to qualify for disbursements  
30 under section 318 shall follow the procedures under

1 subsection (a), except with respect to adoption by November  
2 30, 2019, prior to the enactment by the county of an  
3 ordinance under section 316 in any subsequent fiscal year. In  
4 that event, the municipality shall be qualified to receive  
5 disbursements under section 318 for all subsequent fiscal  
6 years that the tax is in effect. The requirements of  
7 subsection (a) (1) must be met by June 30 for the imposition  
8 of the tax by the county for the subsequent fiscal year.

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

18 (i) Adopts a resolution containing the following  
19 statement:

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

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

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

6 SUBCHAPTER B

7 COUNTY SALES, USE AND OCCUPANCY TAX

8 Section 311. Construction.

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

14 Section 312. Imposition of tax.

15 (a) Sales.--

16 (1) The board of county commissioners may levy and  
17 assess upon each separate sale at retail of tangible personal  
18 property or services, subject to tax imposed under section  
19 202 of the Tax Reform Code, within the boundaries of the  
20 county, a tax on the purchase price.

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

24 (b) Use.--

25 (1) In any county within which the tax authorized in  
26 subsection (a) is imposed, there shall be levied, assessed  
27 and collected upon the use within the county of tangible  
28 personal property and on services purchased at retail, as  
29 subject to tax imposed under section 202 of the Tax Reform  
30 Code, a tax on the purchase price.



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

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

8           (c) Occupancy.--

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

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

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

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

21 Section 313. Situs.

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

25 Section 314. Licenses.

26           The license issued under Article II of the Tax Reform Code or  
27 a separate license for the collection of the tax imposed by this  
28 subchapter may be issued by the department in the same manner as  
29 is provided for in section 505 of PICA. Licensees shall be  
30 entitled to the same discount as provided in section 227 of the

1 Tax Reform Code.

2 Section 315. Rules and regulations and collection costs.

3 (a) Regulations.--The rules and regulations promulgated  
4 under section 270 of the Tax Reform Code shall apply to the  
5 taxes imposed under section 312 as those rules and regulations  
6 are consistent with section 312.

7 (b) Administration and costs.--

8 (1) The department shall administer and enforce the  
9 provisions of this subchapter and may promulgate and enforce  
10 regulations consistent with the provisions of this  
11 subchapter. The department may prescribe the extent to which  
12 a regulation shall be applied without retroactive effect.

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

28 Section 316. Procedure.

29 (a) Ordinance.--

30 (1) A county desiring to impose the tax authorized by

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

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

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

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

20 (5) Notwithstanding paragraph (4), a county desiring to  
21 impose the tax in the first fiscal year following the  
22 effective date of this section may adopt an ordinance under  
23 this section by November 30, 2019. If this paragraph applies,  
24 the tax shall be imposed as of the date occurring 90 days  
25 following the adoption of the ordinance.

26 (b) Notification to department.--Certified copies of the  
27 county ordinance shall be delivered to the department and the  
28 municipalities within 15 days following adoption of the  
29 ordinance.

30 (c) Repeal.--

1 (1) Not earlier than the end of the fifth fiscal year  
2 following imposition of the tax authorized under section 312,  
3 a county may repeal the tax. In that event, the county shall  
4 give at least 30 days' written notice to every municipality  
5 located in the county of its intent to repeal the tax. The  
6 ordinance shall authorize the repeal of the tax on all  
7 subjects provided for in section 312.

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

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

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

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

29 (b) Deposits into fund.--

30 (1) The tax imposed under section 312 shall be received

1 by the department and paid to the State Treasurer and, along  
2 with interest and penalties, less any collection costs  
3 allowed under this subchapter and any refunds and credits  
4 paid, shall be credited to the respective counties'  
5 subaccounts not less frequently than every two weeks.

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

10 (c) Lapsing and interfund transfers prohibited.--All money  
11 in the fund and credited to the subaccounts, including, but not  
12 limited to, money credited to the subaccounts under this  
13 section, prior year encumbrances and the interest earned  
14 thereon, shall not lapse nor be transferred to any other fund or  
15 subaccount, but shall remain in the fund and be credited to the  
16 respective subaccounts as provided under this chapter.

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

23 Section 318. Disbursements.

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

28 (b) Disbursement to counties.--The State Treasurer shall  
29 disburse to a county an amount of money equal to the amount  
30 allocated under section 319 to all of the nonqualified

1 municipalities. The money shall be deposited into the county  
2 general fund for disposition as provided under section 501(a).

3 (c) Disbursement to municipalities.--Thirty percent of the  
4 tax deposited into the fund shall be disbursed to each qualified  
5 municipality in the amounts allocated under section 319(a). The  
6 money disbursed shall be deposited into the municipal general  
7 fund for disposition as provided under section 501(b).

8 (d) Disbursement to school districts.--The remaining 70% of  
9 the tax deposited into the fund shall be disbursed to each  
10 school district in the amounts allocated under section 319(c).  
11 The money disbursed shall be deposited into the school district  
12 general fund for disposition as provided under section 501(c).  
13 Section 319. Allocations.

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

17 (1) Fifty percent shall be allocated pro rata based on  
18 the weighted tax revenues for each municipality located in  
19 the county as a percentage of the total weighted tax revenues  
20 of all municipalities located in the county. For  
21 municipalities located in more than one county, the weighted  
22 tax revenues for the county shall be prorated based upon the  
23 population of the municipality in each county divided by the  
24 total population of the municipality.

25 (2) Fifty percent shall be allocated pro rata based on  
26 the population of each municipality located in the county as  
27 a percentage of the sum of the population of all  
28 municipalities located in the county. For municipalities  
29 located in more than one county, the population of the county  
30 shall be determined separately for each county where the

1       municipality is located on the basis of the municipality's  
2       population within each county.

3       (b) Calculation of weighted tax revenues.--Calculations of  
4       weighted tax revenues shall be made by the Department of  
5       Community and Economic Development and certified to the  
6       department based upon information reported to the Department of  
7       Community and Economic Development, subject to review,  
8       verification and approval by the Department of Community and  
9       Economic Development.

10       (c) Allocations to school districts.--The department shall  
11       compute allocations of the sums to be disbursed to school  
12       districts under section 318(d) by a pro rata allocation based  
13       upon the average daily membership for each school district  
14       located in the county as a percentage of the total average daily  
15       membership of all school districts located in the county. For  
16       school districts located in more than one county, the average  
17       daily memberships for the county shall be prorated based upon  
18       the population of the school district in each county divided by  
19       the total population of the school district.

20       (d) Calculation of average daily memberships.--Calculations  
21       of average daily memberships shall be made by the Department of  
22       Education and certified to the department based upon information  
23       reported to the Department of Education, subject to review,  
24       verification and approval by the Department of Education.

25       (e) Definitions.--As used in this section, the following  
26       words and phrases shall have the meanings given to them in this  
27       subsection unless the context clearly indicates otherwise:

28       "Average daily membership." As defined under section 2501 of  
29       the act of March 10, 1949 (P.L.30, No.14), known as the Public  
30       School Code of 1949.

1 "Per capita market value." The total market value of all  
2 real property divided by population as determined by the most  
3 recent Federal decennial census.

4 "Total tax revenues." Real property tax revenues, revenues  
5 received by levy of a tax under the Local Tax Enabling Act,  
6 revenues received by levy of a tax under this act and revenues  
7 received by levy of a tax under the act of June 24, 1931  
8 (P.L.1206, No.331), known as The First Class Township Code, the  
9 act of May 1, 1933 (P.L.103, No.69), known as The Second Class  
10 Township Code, as applicable to the municipality, Title 8  
11 (relating to boroughs and incorporated towns) and 11 Pa.C.S. Pt.  
12 V (relating to third class cities).

13 "Weighted tax revenues." Total tax revenues of a  
14 municipality from all sources divided by the per capita market  
15 value of the municipality.

## 16 CHAPTER 5

### 17 DISPOSITION OF TAX REVENUES

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

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

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

25 (1) When a municipality's pension plan is a moderately  
26 or severely distressed municipal pension system under the act  
27 of December 18, 1984 (P.L.1005, No.205), known as the  
28 Municipal Pension Plan Funding Standard and Recovery Act,  
29 revenues received in a fiscal year shall first be used to pay  
30 in full the municipality's minimum municipal obligation under



1 the Municipal Pension Plan Funding Standard and Recovery Act.  
2 Any remaining revenues received shall be used to maintain  
3 core services.

4 (2) When a qualified municipality's pension plan is a  
5 minimally distressed municipal pension system under the  
6 Municipal Pension Plan Funding Standard and Recovery Act,  
7 revenues received in a fiscal year shall be used to maintain  
8 core services.

9 (3) When a municipality does not have a minimally,  
10 moderately or severely distressed pension system under the  
11 Municipal Pension Plan Funding Standard and Recovery Act,  
12 revenues received by a qualified municipality shall be used  
13 to maintain core services.

14 (c) School districts.--All of the revenues estimated to be  
15 received by a school district from the tax in a fiscal year  
16 shall be used to reduce, or maintain the reduction of, the  
17 school district's real property tax, first by means of a  
18 homestead exclusion and then, if the maximum homestead exclusion  
19 has been attained, by means of reduction in the property tax  
20 millage rate.

21 (d) Definitions.--As used in this section, the following  
22 words and phrases shall have the meanings given to them in this  
23 subsection unless the context clearly indicates otherwise:

24 "Core services." Includes:

25 (1) Police services.

26 (2) Fire services.

27 (3) Public works.

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

30 (5) Administrative and clerical services.

1           (6) Judicial administration and justice-related  
2 services.

3           (7) Corrections services.

4           (8) Election services.

5                                   CHAPTER 21

6                                   MISCELLANEOUS PROVISIONS

7 Section 2101. Effective date.

8           This act shall take effect immediately.