

Veto No. 1999-1

SB 852

June 25, 1999

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I have on my desk for review Senate Bill 852, Printer's No.1216, which amends Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes.

As originally drafted, Senate Bill 852 would allow municipalities to use a written price quotation submitted by facsimile transmission.

While I am supportive of the use of facsimile transmission in the municipal bidding process, an unrelated amendment was added which prohibits a municipality or school district from levying an amusement or admissions tax on events at a convention center owned by a municipal authority and located in certain first class townships in third class counties. The only facility in the Commonwealth that meets these criteria is the Luzerne County Convention Center.

I am supportive of the elimination of, or the placement of limitations on, the assessment of amusement or admissions taxes in the Commonwealth. These taxes often place a substantial burden on businesses involved in the tourism industry. Some entertainment and recreational facilities have contemplated leaving the Commonwealth because of high amusement taxes. The loss of these businesses would result in a loss of jobs for our citizens.

However, if the amusement tax is to be lifted or limited, it should be done so in a uniform and consistent manner for all subjects of the tax. In 1998, I signed Act 50, which adopted local tax reform. Act 50 capped existing amusement and admissions taxes at the rate imposed by any political subdivision as of June 30, 1997. Political subdivisions that adopt the tax after that date may not impose the tax at a rate higher than 5%. This type of Statewide limitation was an appropriate and positive step towards limiting the imposition of the amusement tax. To unilaterally deprive one municipality or school district in which a specific facility is located does not provide fair or uniform relief from these taxes.

In fact, I believe the exemption of the convention center from amusement or admissions taxes in Senate Bill 852 violates section 1 of Article VIII of the Constitution of Pennsylvania. Section 1 of Article VIII provides that:

“All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws.”

In *Leonard v. Thornburgh*, 507 Pa. 317, 489 A.2d 1349 (1985), the Pennsylvania Supreme Court held that the Philadelphia City Wage Tax, which imposed differing tax rates upon residents and nonresidents of Philadelphia, did

not violate the Uniformity Clause of either the Pennsylvania or the United States Constitution. In that case, residents of the city were subject to a wage tax at a higher rate than nonresidents. The Court held that nonresident wage earners used city services to a lesser extent than city residents. Unlike residents, nonresidents did not benefit from the twenty-four hour and seven day per week availability of the services. Because there was concrete justification for imposing a higher tax rate on resident wage earners than on nonresidents, the local tax was constitutional, *id.* at 1353. There is no similar rational basis for the different tax treatments in Senate Bill 852.

Patrons of an event at another recreational or entertainment facility in the same municipality would be required to pay the amusement or admissions tax, while the convention center would be exempt. Patrons at another facility cannot be distinguished from patrons of the convention center who will not be subject to the tax. Therefore, under Senate Bill 852, the municipality or school district would be required to impose a tax in an unconstitutional manner.

Therefore, because of the policy and constitutional problems raised by Senate Bill 852, I am hereby returning Senate Bill 852, Printer's No.1216, without my signature.

THOMAS J. RIDGE