

No. 2008-76

AN ACT

SB 1332

Amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, in general provisions, providing for form of oaths of office; and in other subjects of taxation, providing for hotel room rental.

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

Section 1. Chapter 11 of Title 53 of the Pennsylvania Consolidated Statutes is amended by adding a subchapter to read:

**SUBCHAPTER D
MISCELLANEOUS PROVISIONS**

Sec.

1141. Form of oaths of office.

§ 1141. Form of oaths of office.

Whenever an elected or appointed official of a municipality is required to take, subscribe or file an oath or affirmation of office, the oath or affirmation shall be in the form prescribed in this section, as follows:

I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that I will discharge the duties of my office with fidelity.

Section 2. Chapter 87 of Title 53 is amended by adding a subchapter to read:

**SUBCHAPTER C
MISCELLANEOUS TAXES**

Sec.

8721. Hotel room rental.

§ 8721. Hotel room rental.

(a) Imposition.—

(1) The county commissioners in each county of the second class are authorized to impose an excise tax at 5% on the consideration received by each operator of a hotel within the county from each transaction of renting a room or rooms to accommodate transients.

(2) The county commissioners in each county of the second class A are authorized to impose an excise tax not to exceed 3% on the consideration received by each operator of a hotel within the county

from each transaction of renting a room or rooms to accommodate transients.

(3) The tax shall be collected by the operator from the patron of the room and paid over to the county as in provided in this section.

(b) Counties of the second class.—The treasurer of each county of the second class electing to impose the tax authorized under this section is directed to collect the tax and to deposit the revenue received from the tax in a special fund. The revenues shall be distributed by the county commissioners as follows:

(1) Except as set forth in paragraph (4), two-fifths of the revenue received by the county from the excise tax shall be distributed to a tourist promotion agency pursuant to section 2199.14 of the act of July 28, 1953 (P.L. 723, No. 230), known as the Second Class County Code.

(2) Except as set forth in paragraph (4), one-third of the tax collected by hotels within a municipality where a convention center or exhibition hall is located, less the cost of collecting the tax, shall, at the request of that municipality, be returned to that municipality for deposit in that municipality's special fund established solely for purposes of paying for promotional programs implemented by a nonprofit organization which are designed to stimulate and increase the volume of conventions and visitors within the municipality or as provided in paragraph (5), subject to the following requirements:

(i) An audited report on the income and expenditures incurred by the municipality receiving funds from the excise tax on hotel room rentals shall be made annually to county.

(ii) The members of the board of directors or other governing body of the nonprofit organization utilized by the municipality to provide the promotional programs shall be appointed by the governing body of the municipality.

(2.1) Except as set forth in paragraph (4), a 5% fee shall be paid to the county for collecting the tax.

(3) Except as set forth in paragraph (4), all remaining revenue from the tax received by the county, after paying the amounts set forth in paragraphs (1), (2) and (2.1), shall be used for operational and maintenance expenditures of the convention center or exhibition hall as provided in subsection (d) and for regional tourist promotion activities.

(4) Subject to paragraph (4.1), if bonds are issued by the public authority to provide permanent financing or refinancing of the expansion of and capital improvements to the convention center or exhibition hall, the revenue received from the tax and deposited in the special fund shall not be distributed as set forth in paragraphs (1) through (3) but shall be distributed by the county commissioners in the order of priority as follows:

(i) First, to the payment of all amounts set forth in paragraph (2).

(ii) Second:

(A) to the trustee for the bonds in accordance with the provisions of the indenture pursuant to which the bonds are issued, to be used for the payment of debt service on the bonds; and

(B) to the payment of all amounts set forth in paragraph (2.1):

(I) in full; or

(II) if the revenues are insufficient to make the payment in full, pro rata.

(iii) Third, to the payment of all amounts set forth in paragraph (1).

(iv) Fourth, as set forth in paragraph (3).

(4.1) Paragraph (4) shall not apply to bonds issued subsequent to the permanent financing for purposes of completion or subsequent expansions or capital improvements.

(5) If a convention center or exhibition hall discontinues operation in a municipality in which a convention center or exhibition hall is located, the municipality shall continue to collect and receive the tax for a period of three years from the date of discontinuation of operation or closure. The following apply:

(i) During this period, the municipality may use revenue from the tax for debt service on the construction, reconstruction, operation or maintenance of a convention center or exhibition hall in the municipality.

(ii) If, during this period, no convention center or exhibition hall is operating or under construction, the municipality shall hold the revenue in the special account under paragraph (2), which is separate from all other municipal revenue, solely for the purpose of the construction of a convention center or exhibition hall in the municipality.

(iii) At the end of this period, if a convention center or exhibition hall does not operate or if the construction of a new convention center or exhibition hall in the municipality has not reached substantial completion, the revenue from the tax shall be deposited by the county in the economic development, community infrastructure and tourism fund maintained by the county.

(c) Counties of the second class A.—The treasurer of each county of the second class A electing to impose the tax authorized under this section is directed to collect the tax and to deposit the revenue in a special fund established solely for purposes of travel and tourism promotion and advertising related to travel and tourism promotion. The treasurer is authorized to establish rules and regulations concerning the collection of the tax.

(d) Expenditures in counties of the second class.—

(1) In counties of the second class, expenditures from the fund established under subsection (b) shall be used for all purposes which a

public authority may determine to be reasonably necessary to the support, operation and maintenance of a convention center or exhibition hall, including the following:

(i) Advertising and publicizing tourist attractions in the area served by the recognized tourist promotion agency.

(ii) Promoting and otherwise encouraging the use of the facilities in the area served by the recognized tourist promotion agency by the public as a whole.

(iii) Promoting and attracting conventions, exhibitions and other functions to utilize facilities in the area served by the recognized tourist promotion agency.

(iv) Precompletion advertising and publicizing of any convention center or exhibition hall.

(v) Promoting and attracting conventions, exhibitions and other functions to utilize the convention center or exhibition hall.

(vi) Promoting and otherwise encouraging the use of the premises by the public as a whole or any segment of the public.

(vii) Operating, furnishing and otherwise maintaining and equipping the premises and realty appurtenant to the premises.

(viii) Furnishing and equipping the building and grounds.

(2) It is the intention of this subsection that the receipts from any tax imposed under this section after payment of the distributions under subsection (b)(1), (2), (2.1), (3) and (4) be used in the county to offset the entire operating deficit, if any, of any convention center or exhibition hall including equally, shares of any cooperating political subdivision or agency of government incurred pursuant to any agreement. The operating deficit shall be determined by the public authority which is the designated operating agency of the convention center or exhibition hall.

(e) Expenditures in counties of the second class A.—

(1) In counties of the second class A, expenditures from the fund established under subsection (c) shall be annually appropriated by the county commissioners for tourist promotion activities, to be executed by the recognized tourist promotion agency for the following:

(i) Marketing the area served by the recognized tourist promotion agency as a leisure travel destination.

(ii) Marketing the area served by the recognized tourist promotion agency as a convention and business travel destination.

(iii) Marketing the area served by the recognized tourist promotion agency to the public as a whole for use of its tourist and convention facilities.

(iv) Using all appropriate marketing tools to accomplish these purposes, including advertising, publicity, publications, direct marketing, direct sales and participation in travel trade shows.

(2) The county commissioners may deduct from the funds collected any direct or indirect costs attributable to the collection of the tax.

(f) Effectiveness of provisions.—

(1) The provisions of this section relating to counties of the second class shall remain in force from year to year. The following apply:

(i) Revenue in excess of amounts needed to pay the distributions under subsection (b.1)(1), (2), (2.1), (3) and (4) and to offset operating deficits under subsections (b.1)(3) and (d) shall be determined by the public authority and may be accumulated.

(ii) At the discretion of the cooperating political subdivisions and the public authority, any revenue may be used to:

(A) provide part or all of an annual payment to be paid by a county or a political subdivision under an agreement with a public authority created under the act of July 29, 1953 (P.L.1034, No.270), known as the Public Auditorium Authorities Law, which has been designated as the operating agency for a convention center or exhibition hall; or

(B) effect necessary expansion or further capital improvements.

(2) The provisions of this section relating to counties of the second class A shall remain in force and effect for three years from February 14, 1986, and may be continued thereafter by ordinance or resolution of the county commissioners of the respective counties.

(g) Taxable years.—Each taxable year for a tax imposed under this section shall run concurrently with the calendar year.

(h) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Consideration.” Receipts, fees, charges, rentals, leases, cash, credits, property or other payment received by operators in exchange for or in consideration of the use or occupancy by a transient of a room in a hotel for a temporary period.

“Convention center or exhibition hall.” A building or series of buildings:

(1) at least one of which contains a minimum of 75,000 gross square feet of exhibition space for shows and conventions;

(2) which are not used for the retail sale of merchandise or part of any shopping center, mall or other retail center;

(3) a major function of which is to house meetings, exhibitions, shows, conventions, assemblies, convocations and similar gatherings. The term includes land appurtenant to the building or buildings.

“Cooperating political subdivision or agency of government.” A city or public authority located in a county:

(1) within the boundaries of which a convention center or exhibition hall is planned or constructed; and

(2) which shares with the county duties, obligations or privileges with respect to that convention center.

“Hotel.” Any of the following:

(1) Any hotel, motel, inn, guest house or other building located within the taxing jurisdiction which holds itself out by any means, including advertising, license, registration with any innkeeper’s group, convention listing association, travel publication or similar association or with any government agency, as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation.

(2) A place which advertises to the public at large or a segment of the public at large that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large.

(3) A place recognized as a hostelry.

The term does not include portions of the facility which are devoted to individuals who have established permanent residence.

“Municipality.” Notwithstanding section 8401 (relating to definitions), a township or borough or a home rule municipality which was formerly a township or borough.

“Occupancy.” The use or possession or the right to the use or possession by any person other than a permanent resident of a room in a hotel for any purpose or the right to the use or possession of the furnishings or to the services accompanying the use and possession of the room.

“Operating deficit.” The excess of expenses over receipts from the operation and management of a convention center or exhibition hall.

“Operator.” Any individual, partnership, nonprofit or profit-making association or corporation or other person or group of persons that maintain, operate, manage, own, have custody of or otherwise possess the right to rent or lease overnight accommodations in a hotel to the public for consideration.

“Patron.” A person that pays the consideration for the occupancy of a room in a hotel.

“Permanent resident.” An individual who has occupied or has the right to occupancy of a room in a hotel as a patron or otherwise for a period exceeding 30 consecutive days.

“Recognized tourist promotion agency.” As defined in section 3(6) of the former act of April 28, 1961 (P.L.111, No.50), known as the Tourist Promotion Law and in accordance with the Tourist Promotion Law, the nonprofit corporation, organization, association or agency:

(1) which is and has been engaged in planning and promoting programs designed to stimulate and increase the volume of tourist, visitor and vacation business within counties it serves; and

(2) which is recognized by the Department of Community and Economic Development.

“Regional tourist promotion activities.” Services, activities, facilities and events, which result in a significant number of nonresidents visiting a county of the second class for recreational, cultural or educational purposes.

“Room.” A space in a hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodation.

“Substantial completion.” Construction which is sufficiently completed in accordance with contract documents and certified by the convention center authority’s architect or engineer, as modified by change orders so that:

(1) the main convention area can be used, occupied or operated for its intended use; and

(2) at least 90% of the work on the main convention or exhibition area is complete.

“Temporary.” A period of time not exceeding 30 consecutive days.

“Transaction.” The activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration emanates to the operator under an express or an implied contract.

“Transient.” An individual who obtains accommodation in any hotel for himself by means of registering at the facility for the temporary occupancy of any room for the personal use of that individual by paying to the operator of the facility a fee in consideration for the accommodation.

Section 3. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of 53 Pa.C.S. § 8721.

(2) Section 1970.2 of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, is repealed.

(3) All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 4. The addition of 53 Pa.C.S. § 8721 is a continuation of section 1970.2 of the Second Class County Code. Except as otherwise provided in 53 Pa.C.S. § 8721, all activities initiated under section 1970.2 of the Second Class County Code shall continue and remain in full force and effect and may be completed under 53 Pa.C.S. § 8721. Orders, regulations, rules and decisions which were made under section 1970.2 of the Second Class County Code and which are in effect on the effective date of section 3(2) of this act shall remain in full force and effect until revoked, vacated or modified under 53 Pa.C.S. § 8721. Contracts, obligations and collective bargaining agreements entered into under section 1970.2 of the Second Class County Code are not affected nor impaired by the repeal of section 1970.2 of the Second Class County Code.

Section 5. This act shall take effect in 60 days.

APPROVED—The 9th day of July, A.D. 2008.

EDWARD G. RENDELL