

No. 2002-96

AN ACT

HB 2126

Amending the act of June 22, 2001 (P.L.374, No.24), entitled "An act providing for optional occupation tax replacement; and making a repeal," further providing for the definitions of "governing body" and "political subdivision," for earned income tax limits and for certain prohibition of occupation tax; and making an editorial correction.

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

Section 1. The title of the act of June 22, 2001 (P.L.374, No.24), known as the Optional Occupation Tax Elimination Act, is amended to read:

AN ACT

Providing for optional occupation tax replacement[; and making a repeal].

Section 2. The definitions of "governing body" and "political subdivision" in section 2 of the act are amended to read:

Section 2. Definitions.

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

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"Governing body." *A city council, borough council, incorporated town council, board of township commissioners, board of township supervisors, a governing council of a home rule municipality or optional plan municipality, a governing council of any similar general purpose unit of government which may hereafter be created by statute or a board of school directors of a school district.*

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"Political subdivision." *Any city, borough, incorporated town, township or school district.*

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Section 3. Sections 4 and 5 of the act are amended to read:

Section 4. Earned income tax rate limits.

(a) Earned income tax rate limits.—For the first fiscal year beginning after approval of the referendum under section 7 and each fiscal year thereafter, the governing body of a political subdivision using the procedures authorized by this act shall be authorized to impose the earned income tax at a rate not exceeding the maximum earned income tax rate as calculated under subsection (b).

(b) Calculation of maximum earned income tax rate.—The maximum earned income tax rate shall be determined by taking the sum of the rates calculated under paragraphs (1) and (2) and limited by paragraph (3):

(1) The rate of the earned income tax that would have resulted in the collection by the political subdivision of an amount equal to the amount collected from the occupation tax. **[This] *The calculation by a school district under this paragraph* shall be made using actual revenue collections for the fiscal year ending [immediately prior to the date of the referendum under section 7.] in 2002. The calculation by a municipality under this paragraph shall be made using actual revenue collections for the calendar year ending December 31, 2001.**

(2) The rate at which the earned income tax was collected by **[the political subdivision] *a school district*** for the fiscal year ending **[immediately prior to the date of the referendum under section 7.] in 2002 or the rate at which the earned income tax was collected by a municipality for the calendar year ending December 31, 2001.**

(3) The tax rate determined under paragraphs (1) and (2) shall be rounded off to the nearest increment of **[five hundredths of one percent] *ten hundredths of one percent.***

The maximum rate of the earned income tax calculated under this subsection shall not be subject to the limits on the earned income tax specified in section 8(3) of The Local Tax Enabling Act.

(c) Other rates of taxation.—If a municipality or school district, both of which impose an earned income tax on the same individual under The Local Tax Enabling Act and both of which are limited to or have agreed upon a division of the tax rate in accordance with section 8(3) of The Local Tax Enabling Act, and the *municipality or school district* receives voter approval under section 7 and opts to increase the rate of earned income tax in excess of that limit or agreement, then the *municipality or school district which does not receive voter approval* shall remain subject to that limit or agreement.

Section 5. Occupation tax prohibited.

(a) *General rule.*—For the first fiscal year beginning after approval of the referendum required under section 7 and each fiscal year thereafter, a political subdivision is prohibited from levying, assessing or collecting an occupation tax.

(b) *Occupation assessment tax roll.*—*In a county where no political subdivision levies the tax, the county shall not be required under the provisions of this or another statute to maintain the occupation assessment tax roll.*

(c) *Applicability.*—This section shall not apply to the collection of delinquent occupation taxes.

Section 4. This act shall apply to political subdivisions that levied an occupation tax on January 1, 2002.

Section 5. This act shall take effect immediately.

APPROVED—The 29th day of June, A.D. 2002.

MARK S. SCHWEIKER