

No. 2004-222

## AN ACT

HB 197

Amending the act of December 31, 1965 (P.L.1257, No.511), entitled "An act empowering cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class and school districts of the fourth class including independent school districts, to levy, assess, collect or to provide for the levying, assessment and collection of certain taxes subject to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers, agencies and employes to assess and collect such taxes; providing for joint collection of certain taxes, prescribing certain definitions and other provisions for taxes levied and assessed upon earned income, providing for annual audits and for collection of delinquent taxes, and permitting and requiring penalties to be imposed and enforced, including penalties for disclosure of confidential information, providing an appeal from the ordinance or resolution levying such taxes to the court of quarter sessions and to the Supreme Court and Superior Court," further providing for delegation of taxing powers and restrictions thereon; providing for nonresident sports facility usage fee, for parking tax rates and for payroll taxes; further providing for limitations on rates of specific taxes and for the appointment of a single collector of taxes; further providing for the applicability of petitions under the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act; and making a repeal.

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

Section 1. Section 2 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, amended December 9, 2002 (P.L.1364, No.166), is amended to read:

Section 2. Delegation of Taxing Powers and Restrictions Thereon.—The duly constituted authorities of the following political subdivisions, cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class, and school districts of the fourth class, in all cases including independent school districts, may, in their discretion, by ordinance or resolution, for general revenue purposes, levy, assess and collect or provide for the levying, assessment and collection of such taxes as they shall determine on persons, transactions, occupations, privileges, subjects and personal property within the limits of such political subdivisions, and upon the transfer of real property, or of any interest in real property, situate within the political subdivision levying and assessing the tax, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfer take place. The taxing authority may provide that the transferee shall remain liable for any unpaid realty transfer taxes imposed by virtue of this act. Each local taxing authority may, by ordinance or resolution, exempt any person whose total income from all sources is less

than **[ten thousand dollars (\$10,000)]** *twelve thousand dollars (\$12,000)* per annum from the per capita or similar head tax, occupation tax and **[occupational privilege tax]** *emergency and municipal services tax*, or earned income tax, or any portion thereof, and may adopt regulations for the processing of claims for exemptions. Such local authorities shall not have authority by virtue of this act:

(1) To levy, assess and collect or provide for the levying, assessment and collection of any tax on the transfer of real property when the transfer is by will or mortgage or the intestate laws of this Commonwealth or on a transfer by the owner of previously occupied residential premises to a builder of new residential premises when such previously occupied residential premises is taken in trade by such builder as part of the consideration from the purchaser of a new previously unoccupied single family residential premises or on a transfer between corporations operating housing projects pursuant to the housing and redevelopment assistance law and the shareholders thereof, or on a transfer between nonprofit industrial development agencies and industrial corporations purchasing from them, or on transfer to or from nonprofit industrial development agencies, or on a transfer between husband and wife, or on a transfer between persons who were previously husband and wife but who have since been divorced; provided such transfer is made within three months of the date of the granting of the final decree in divorce, or the decree of equitable distribution of marital property, whichever is later, and the property or interest therein, subject to such transfer, was acquired by the husband and wife, or husband or wife, prior to the granting of the final decree in divorce, or on a transfer between parent and child or the spouse of such a child, or between parent and trustee for the benefit of a child or the spouse of such child, or on a transfer between a grandparent and grandchild or the spouse of such grandchild, or on a transfer between brother and sister or brother and brother or sister and sister or the spouse of such brother or sister, or on a transfer to a conservancy which possesses a tax-exempt status pursuant to section 501(c)(3) of the Internal Revenue Code, and which has as its primary purpose the preservation of land for historic, recreational, scenic, agricultural or open space opportunities, by and between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises, or on a correctional deed without consideration, or on a transfer to the United States, the Commonwealth of Pennsylvania, or to any of their instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation, or deed of confirmation in connection with condemnation proceedings, or reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments provided said reconveyance is made within one year from the date of condemnation, leases, or on a conveyance to a trustee under a recorded trust agreement for the express purpose of holding title in trust as security for a debt contracted at the time of the conveyance under which the trustee is not the lender and

requiring the trustee to make reconveyance to the grantor-borrower upon the repayment of the debt, or a transfer within a family from a sole proprietor family member to a family farm corporation, or in any sheriff sale instituted by a mortgagee in which the purchaser of said sheriff sale is the mortgagee who instituted said sale, or on a privilege, transaction, subject, occupation or personal property which is now or does hereafter become subject to a State tax or license fee;

(2) To levy, assess or collect a tax on the gross receipts from utility service of any person or company whose rates and services are fixed and regulated by the Pennsylvania Public Utility Commission or on any public utility services rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service;

(3) Except on sales of admission to places of amusement or on sales or other transfers of title or possession of property, to levy, assess or collect a tax on the privilege of employing such tangible property as is now or does hereafter become subject to a State tax; and for the purposes of this clause, real property rented for camping purposes shall not be considered a place of amusement.

(4) To levy, assess and collect a tax on goods and articles manufactured in such political subdivision or on the by-products of manufacture, or on minerals, timber, natural resources and farm products produced in such political subdivision or on the preparation or processing thereof for use or market, or on any privilege, act or transaction related to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources, or farm products, by manufacturers, by producers and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or on any privilege, act or transaction relating to the business of processing by-products of manufacture, or on the transportation, loading, unloading or dumping or storage of such goods, articles, products or by-products; except that local authorities may levy, assess and collect *an emergency and municipal services tax and* taxes on the occupation, [occupational privilege,] per capita and earned income or net profits of natural persons engaged in the above activities whether doing business as individual proprietorship or as members of partnerships or other associations;

(5) To levy, assess or collect a tax on salaries, wages, commissions, compensation and earned income of nonresidents of the political subdivisions: Provided, That this limitation (5) shall apply only to school districts of the second, third and fourth classes;

(6) To levy, assess or collect a tax on personal property subject to taxation by counties or on personal property owned by persons, associations and corporations specifically exempted by law from taxation under the county personal property tax law: Provided, That this limitation (6) shall not apply to cities of the second class;

(7) To levy, assess or collect a tax on membership in or membership dues, fees or assessment of charitable, religious, beneficial or nonprofit organizations including but not limited to sportsmens, recreational, golf and tennis clubs, girl and boy scout troops and councils;

(8) To levy, assess or collect any tax on a mobilehome or house trailer subject to a real property tax unless the same tax is levied, assessed and collected on other real property in the political subdivision.

(9) To levy, assess or collect any tax on individuals for the privilege of engaging in an occupation [**occupational privilege tax**] (*emergency and municipal services tax*) except that such a tax may be levied, assessed and collected only by the political subdivision of the taxpayer's place of employment.

Payment of any [**occupational privilege tax**] *emergency and municipal services tax* to any political subdivision by any person pursuant to an ordinance or resolution passed or adopted under the authority of this act shall be [**limited to ten dollars (\$10)**] *no less than ten dollars (\$10) nor more than fifty-two dollars (\$52)* on each person for each calendar year.

The situs of such tax shall be the place of employment, but, in the event a person is engaged in more than one occupation, or an occupation which requires his working in more than one political subdivision during the calendar year, the priority of claim to collect such [**occupational privilege tax**] *emergency and municipal services tax* shall be in the following order: first, the political subdivision in which a person maintains his principal office or is principally employed; second, the political subdivision in which the person resides and works, if such a tax is levied by that political subdivision; third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home. The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year.

It is the intent of this provision that no person shall pay more than [**ten dollars (\$10)**] *fifty-two dollars (\$52)* in any calendar year as an [**occupational privilege tax**] *emergency and municipal services tax* irrespective of the number of political subdivisions within which such person may be employed within any given calendar year.

In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment which constitutes prima facie certification of payment to all other political subdivisions.

(10) To levy, assess or collect a tax on admissions to motion picture theatres: Provided, That this limitation (10) shall not apply to cities of the second class.

(11) To levy, assess or collect a tax on the construction of or improvement to residential dwellings or upon the application for or issuance of permits for the construction of or improvements to residential dwellings.

(12) To levy, assess and collect a mercantile or business privilege tax on gross receipts or part thereof which are: (i) discounts allowed to purchasers

as cash discounts for prompt payment of their bills; (ii) charges advanced by a seller for freight, delivery or other transportation for the purchaser in accordance with the terms of a contract of sale; (iii) received upon the sale of an article of personal property which was acquired by the seller as a trade-in to the extent that the gross receipts in the sale of the article taken in trade does not exceed the amount of trade-in allowance made in acquiring such article; (iv) refunds, credits or allowances given to a purchaser on account of defects in goods sold or merchandise returned; (v) Pennsylvania sales tax; (vi) based on the value of exchanges or transfers between one seller and another seller who transfers property with the understanding that property of an identical description will be returned at a subsequent date; however, when sellers engaged in similar lines of business exchange property and one of them makes payment to the other in addition to the property exchanged, the additional payment received may be included in the gross receipts of the seller receiving such additional cash payments; (vii) of sellers from sales to other sellers in the same line where the seller transfers the title or possession at the same price for which the seller acquired the merchandise; or (viii) transfers between one department, branch or division of a corporation or other business entity of goods, wares and merchandise to another department, branch or division of the same corporation or business entity and which are recorded on the books to reflect such interdepartmental transactions.

(13) To levy, assess or collect an amusement or admissions tax on membership, membership dues, fees or assessments, donations, contributions or monetary charges of any character whatsoever paid by the general public, or a limited or selected number thereof, for such persons to enter into any place, indoors or outdoors, to engage in any activities, the predominant purpose or nature of which is exercise, fitness, health maintenance, improvement or rehabilitation, health or nutrition education, or weight control.

*(14) Except by cities of the second class, to levy, assess or collect a tax on payroll amounts generated as a result of business activity.*

*(15) Except by cities of the second class in which a sports stadium or arena that has received public funds in connection with its construction or maintenance is located, to levy, assess and collect a publicly funded facility usage fee upon those nonresident individuals who use such facility to engage in an athletic event or otherwise render a performance for which they receive remuneration.*

*(16) To levy, assess or collect an amusement or admissions tax on the charge imposed upon a patron for the sale of admission to or for the privilege of admission to a bowling alley or bowling lane to engage in one or more games of bowling.*

Section 2. The act is amended by adding sections to read:

**Section 2.2. Payroll Tax.**—(a) *A city of the second class may levy, assess or collect a tax that does not exceed fifty-five hundredths percent on payroll amounts generated as a result of an employer conducting business*

*activity within a city of the second class. For purposes of a payroll tax levied, assessed or collected by a city of the second class, the business activity shall be directly attributable to activity within a city of the second class. For purposes of computation of the payroll tax imposed pursuant to this section, the payroll amount attributable to the city shall be determined by applying an apportionment factor to total payroll expense based on that portion of payroll expense which the total number of days an employe, partner, member, shareholder or other individual works within the city bears to the total number of days such employe or person works within and outside of the city.*

*(a.1) A charitable organization that qualifies for tax exemption pursuant to the act of November 26, 1997 (P.L.508, No.55), known as the "Institutions of Purely Public Charity Act," shall calculate the tax that would otherwise be attributable to the city, but shall only pay the tax on that portion of its payroll expense attributable to business activity for which a tax may be imposed pursuant to section 511 of the Internal Revenue Code of 1986 (Public Law 95-223, 26 U.S.C. § 1 et seq.). If the charity has purchased or is operating branches, affiliates, subsidiaries or other business entities that do not independently meet the standards of the "Institutions of Purely Public Charity Act," the tax shall be paid on the payroll attributable to such for-profit branches, affiliates or subsidiaries, whether or not the employes are leased or placed under the auspices of the charity's umbrella or parent organization. Nothing in this subsection shall restrict the ability of a charitable organization to contract with the city to provide services to the city in lieu of some or all taxes due under this section.*

*(b) For purposes of the payroll tax assessed pursuant to this section, an employer is conducting business within a city of the second class if the employer engages, hires, employs or contracts with one or more individuals as employes and, in addition, the employer does at least one of the following:*

- (1) maintains a fixed place of business within the city;*
- (2) owns or leases real property within the city for purposes of such business;*
- (3) maintains a stock of tangible personal property in the city for sale in the ordinary course of such business;*
- (4) conducts continuous solicitation within the city related to such business; or*
- (5) utilizes the streets of the city in connection with the operation of such business other than transportation through the city.*

*(c) All employers in a city of the second class shall file quarterly returns and make quarterly payments as provided for by ordinance enacted by a city of the second class. Every employer making a return shall certify the correctness thereof. A city of the second class may audit, examine or*

*inspect the books, records or accounts of all employers subject to the tax imposed pursuant to this section.*

*(d) A city of the second class may enact ordinances and regulations necessary to implement this section. The ordinance levying the tax authorized by this section shall permanently replace the city's existing mercantile tax and shall reduce the business privilege tax rate as follows:*

*(1) In tax years 2005 and 2006, the business privilege tax shall be two mills.*

*(2) In tax years 2007, 2008 and 2009, the business privilege tax shall be one mill unless the revenues collected from the payroll expense tax exceed fifty million five hundred thousand dollars (\$50,500,000) in any fiscal year, at which time the business privilege tax shall be replaced for the subsequent fiscal year. After the phaseout of the business privilege tax, all amounts of moneys in excess of fifty million five hundred thousand dollars (\$50,500,000) shall be used by the city of the second class to further accelerate the reduction of the tax imposed by the city of the second class on parking as provided in section 5.1.*

*(3) In tax year 2010 and thereafter, the business privilege tax may not be imposed.*

*(e) All taxes, additions and penalties collected pursuant to this section shall be used by a city of the second class exclusively for the general revenue purposes of the city.*

*(f) An employer shall not offset the amount of tax paid pursuant to this section by reducing compensation or benefits paid to employees.*

*(g) A city of the second class may bring suit for the recovery of taxes due and unpaid under this section. Any suit brought to recover the tax imposed by this section shall be commenced within three years after such tax is due or within three years after the declaration or return has been filed, whichever is later: Provided, however, That this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:*

*(1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of this section, there shall be no limitation.*

*(2) Where an examination of the declaration or return filed by any person or of other evidence relating to such declaration or return in the possession of the city of the second class reveals a fraudulent evasion of taxes, there shall be no limitation.*

*(3) In the case of substantial understatement of tax liability of twenty-five percent or more and no fraud, suit shall be begun within six years.*

*(4) This section shall not be construed to limit the governing body from recovering delinquent taxes by any other means provided by law.*

*(h) If for any reason the payroll tax is not paid when due, interest at the rate of six percent per annum on the amount of said tax and an additional penalty of one percent of the amount of the unpaid tax for each*

*month or fraction thereof during which the tax remains unpaid shall be added and collected. Where suit is brought for the recovery of any such tax, the employer shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed. A city of the second class may, by ordinance or resolution, establish a one-time period during which interest or interest and penalties that would otherwise be imposed for the nonreporting or underreporting of payroll tax liabilities or for the nonpayment of payroll taxes previously imposed and due shall be waived in total or in part if the taxpayer voluntarily files delinquent returns and pays the taxes in full during the period so established.*

*(i) In addition to any other additions, penalties or enforcement proceedings provided for by ordinance of a city of the second class or a law of this Commonwealth for the collection and enforcement of taxes or the submission of information to a government entity:*

*(1) Any employer who wilfully makes any false or untrue statement on the employer's return commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not more than two thousand dollars (\$2,000) or to imprisonment for not more than two years, or both.*

*(2) Any employer who wilfully fails or refuses to file a return required by this section commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than one thousand dollars (\$1,000) or to imprisonment for not more than one year, or both.*

*(3) Any person who wilfully fails or refuses to appear before the collector in person with the employer's books, records or accounts for examination when required under the provisions of this section or of an ordinance to do so, or who wilfully refuses to permit inspection of the books, records or accounts of any employer in the person's custody or control when the right to make such inspection by the collector is requested, commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than five hundred dollars (\$500) or to imprisonment for not more than six months, or both.*

*(j) As used in this section:*

*"Employer" means all persons conducting business activity within a city of the second class except for a governmental entity.*

*"Payroll amounts" means all amounts paid by an employer as salaries, wages, commissions, bonuses, net earnings and incentive payments, whether based on profits or otherwise, fees and similar remuneration for services rendered, whether directly or through an agent and whether in cash, in property or the right to receive property.*

**Section 2.3. Nonresident Sports Facility Usage Fee.**—*A city of the second class in which is located a sports stadium or arena that has received public funds in connection with its construction or maintenance may enact a publicly funded facility usage fee upon those nonresident individuals who use such facility to engage in an athletic event or otherwise render a*



*performance for which they receive remuneration. The fee may be a flat dollar amount or a percentage of the individual's income attributable to such individual's usage of the facility. If the fee is a percentage, it may not exceed three percent of the earned income of the individual attributable to the usage of the facility. If any fee is imposed, those individuals liable for the fee shall be exempt from any earned income tax imposed by the city of the second class pursuant to this act and any such tax imposed under section 652.1 of the act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949." Should a court of competent jurisdiction determine this provision to be invalid for any reason, persons subject to the publicly funded facility usage fee shall not be exempt from any previously applicable earned income tax.*

*Section 5.1. Second Class City Parking Tax Rates.—The rate of the tax imposed on parking transactions shall not differ from the rate contained in City of Pittsburgh Ordinance Number 43-2003 as of January 1, 2004, except as follows:*

- (1) In tax year 2007, the rate of tax shall not exceed 45%.*
- (2) In tax year 2008, the rate of tax shall not exceed 40%.*
- (3) In tax year 2009, the rate of tax shall not exceed 37.5%.*
- (4) In tax year 2010, the rate of tax shall not exceed 35% as existed prior to the adoption of the ordinance.*

Section 3. Section 8 of the act, amended or added October 11, 1984 (P.L.885, No.172) and July 1987 (P.L.203, No.30), is amended to read:

Section 8. Limitations on Rates of Specific Taxes.—No taxes levied under the provisions of this act shall be levied by any political subdivision on the following subjects exceeding the rates specified in this section:

- (1) Per capita, poll or other similar head taxes, ten dollars (\$10).
- (2) On each dollar of the whole volume of business transacted by wholesale dealers in goods, wares and merchandise, one mill, by retail dealers in goods, wares and merchandise and by proprietors of restaurants or other places where food, drink and refreshments are served, one and one-half mills; except in cities of the second class, where rates shall not exceed one mill on wholesale dealers and two mills on retail dealers and proprietors. No such tax shall be levied on the dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise, taken by any dealer as a trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.
- (3) On wages, salaries, commissions and other earned income of individuals, one percent.
- (4) On retail sales involving the transfer of title or possession of tangible personal property, two percent.
- (5) On the transfer of real property, one percent.
- (6) On admissions to places of amusement, athletic events and the like, and on motion picture theatres in cities of the second class, ten percent.

(7) Flat rate occupation taxes not using a millage or percentage as a basis, ten dollars (\$10).

(8) **[Occupational privilege taxes, ten dollars (\$10).]** *Emergency and municipal services taxes, fifty-two dollars (\$52).*

(9) On admissions to ski facilities, ten percent. The tax base upon which the tax shall be levied shall not exceed forty percent of the cost of the lift ticket. The lift ticket shall include all costs of admissions to the ski facility.

(10) On admissions to golf courses, ten percent. The tax base upon which the tax shall be levied shall not exceed forty percent of the greens fee. The greens fee shall include all costs of admissions to the golf course.

**[(11) On admissions to bowling alleys or bowling lanes, ten percent. The tax base upon which the tax shall be levied shall not exceed forty percent of the charge imposed upon a patron for the sale of admission to or the privilege of admission to a bowling alley or bowling lane to engage in one or more games of bowling.]**

**(12) *On payrolls, fifty-five hundredths percent.***

Except as otherwise provided in this act, at any time two political subdivisions shall impose any one of the above taxes on the same person, subject, business, transaction or privilege, located within both such political subdivisions, during the same year or part of the same year, under the authority of this act then the tax levied by a political subdivision under the authority of this act shall, during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate, as above limited, and such one-half rate shall become effective by virtue of the requirements of this act from the day such duplication becomes effective without any action on the part of the political subdivision imposing the tax under the authority of this act. When any one of the above taxes has been levied under the provisions of this act by one political subdivision and a subsequent levy is made either for the first time or is revived after a lapse of time by another political subdivision on the same person, subject, business, transaction or privilege at a rate that would make the combined levies exceed the limit allowed by this subdivision, the tax of the second political subdivision shall not become effective until the end of the fiscal year for which the prior tax was levied, unless:

(1) Notice indicating its intention to make such levy is given to the first taxing body by the second taxing body as follows: (i) when the notice is given to a school district it shall be given at least forty-five days prior to the last day fixed by law for the levy of its school taxes; (ii) when given to any other political subdivision it shall be prior to the first day of January immediately preceding, or if a last day for the adoption of the budget is fixed by law, at least forty-five days prior to such last day; or

(2) Unless the first taxing body shall indicate by appropriate resolution its desire to waive notice requirements in which case the levy of the second taxing body shall become effective on such date as may be agreed upon by the two taxing bodies.

It is the intent and purpose of this provision to limit rates of taxes referred to in this section so that the entire burden of one tax on a person, subject, business, transaction or privilege shall not exceed the limitations prescribed in this section: Provided, however, That any two political subdivisions which impose any one of the above taxes, on the same person, subject, business, transaction or privilege during the same year or part of the same year may agree among themselves that, instead of limiting their respective rates to one-half of the maximum rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate as above permitted.

Notwithstanding the provisions of this section, any city of the second class A may enact a tax upon wages, salaries, commissions and other earned income of individuals resident therein, not exceeding one percent, even though a school district levies a similar tax on the same person provided that the aggregate of both taxes does not exceed two percent. *In the case of duplication of emergency and municipal services taxes by both a school district, other than a school district of the first class A, and another taxing body, the school district's share of the tax shall not exceed the amount of a tax on the privilege of engaging in an occupation collected by the school district as of the effective date of this paragraph. In the case where a school district did not levy a tax on the privilege of engaging in an occupation on the effective date of this paragraph, the school district may impose a future levy not to exceed five dollars (\$5). A school district of the first class A shall not levy, assess or collect an emergency and municipal services tax.*

Section 4. Section 10 of the act is amended to read:

Section 10. Collection of Taxes.—(a) Administrative Personnel; Joint Agreements.—[Any] *Except as provided in subsections (b) and (c), any* such political subdivision is hereby authorized to provide by ordinance or resolution for the creation of such bureaus or the appointment and compensation of such officers, clerks, collectors, and other assistants and employes, either under existing departments, or otherwise as may be deemed necessary, for the assessment and collection of taxes imposed under authority of this act.

[Any] *Except as provided in subsections (b) and (c), any* political subdivisions imposing taxes under authority of this act are authorized to make joint agreements for the collection of such taxes or any of them. The same person or agency may be employed by two or more political subdivisions to collect any taxes imposed by them under authority of this act.

(b) Single Collector for Earned Income Taxes When Certain School Districts Impose Such Taxes.—[Whenever] *Except as provided in subsection (c), whenever* a school district of the second, third or fourth class shall be established pursuant to section 296, act of March 10, 1949 (P.L.30), known as the "Public School Code of 1949," added August 8, 1963 (P.L. 564), and such school district shall levy, assess and collect or provide for the

levying, assessment and collection of a tax upon earned income, such school district and all cities, boroughs, towns and townships within its geographical limits which levy, assess and collect or provide for the levying, assessment and collection of a tax upon earned income, may on January 1, 1967, or as soon thereafter as the school district shall provide for the levying, assessment and collection of taxes upon earned income, select one person or agency to collect the taxes upon earned income imposed by all such political subdivisions. In selecting such person or agency, each political subdivision shall share in the selection upon a basis agreed upon by each political subdivision, or in the absence of any agreement on the basis of voting according to the proportion that the population of each bears to the entire population of the combined collection district, according to the latest official Federal census, and the majority of such votes cast shall determine the person or agency selected to collect the taxes. The provisions of this paragraph shall not prohibit school districts and other political subdivisions which levy, assess and collect or provide for the levying, assessment and collection of taxes upon earned income, under authority of this act, from selecting the same person or agency to collect such tax upon earned income in an area larger than the geographical limits of a school district established pursuant to section 296 of the "Public School Code of 1949."

***(c) Single Tax Collector in Certain Home Rule Municipality.—In a municipality having a population under the 2000 Federal decennial census of at least forty thousand and less than ninety thousand located in a second class county and which municipality has adopted a home rule charter under 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government), the person or persons appointed by the board of school directors for the school district in which the municipality is located as collector or collectors of taxes levied by the school district under this act shall also serve as the collector or collectors of taxes levied by the municipality under this act.***

Section 5. The act is amended by adding sections to read:

***Section 22.4. Emergency and Municipal Services Taxes.—Any reference in any act or law to an occupational privilege tax shall mean the emergency and municipal services taxes as provided for in this act.***

***Section 22.5. Restricted Use.—(a) Any municipality deriving funds from the emergency and municipal services tax may only use the funds for:***

- (1) police, fire and/or emergency services;***
- (2) road construction and/or maintenance; or***
- (3) reduction of property taxes.***

***(b) For the purpose of the emergency and municipal services tax, the term municipality does not include a school district.***

Section 6. Any ordinance or resolution providing for the levying, assessment or collection of a tax on individuals for the privilege of engaging in an occupation which has been enacted by a political subdivision prior to

the effective date of this section shall continue in full force and effect, without reenactment, as if such tax had been levied, assessed or collected as an emergency and municipal services tax under section 2(9) of the act. All references in any ordinance or resolution to a tax on the privilege of engaging in an occupation shall be deemed to be a reference to an emergency and municipal services tax for the purposes of the act.

Section 6.1. Section 141 of the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act, shall not apply to a city of the second class insofar as the section confers authority upon the city to petition for the imposition of an earned income tax on nonresidents. This section shall not be construed to limit any other provision in the Municipalities Financial Recovery Act. This section shall expire upon termination of the authority established under the act of February 12, 2004 (P.L.73, No.11), known as the Intergovernmental Cooperation Authority Act for Cities of the Second Class.

Section 7. (a) The following acts and parts of acts are repealed:

Section 1970.3 of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code.

(b) All other acts or parts of acts and all ordinances and resolutions or parts thereof inconsistent with the provisions of this act are suspended to the extent necessary to carry out the provisions of this act.

Section 8. This act shall apply to taxes levied for tax years commencing on or after January 1, 2005.

Section 9. This act shall take effect immediately.

APPROVED—The 1st day of December, A.D. 2004.

EDWARD G. RENDELL