
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1059 Session of
2017

INTRODUCED BY STURLA, McNEILL, NEILSON, THOMAS, DONATUCCI AND
MADDEN, APRIL 12, 2017

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, APRIL 12, 2017

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
17 CHAPTER 1
18 GENERAL PROVISIONS
19 Section 101. Short title.
20 This act shall be known and may be cited as the Optional
21 Sales Tax for School Property Tax Relief and County and
22 Municipal Assistance Act.
23 Section 102. Definitions.
24 The following words and phrases when used in this act shall
25 have the meanings given to them in this section unless the
26 context clearly indicates otherwise:
27 "Board of county commissioners." Includes the successor in
28 function to the board of county commissioners in a county which
29 has adopted a home rule charter under the provisions 53 Pa.C.S.
30 Pt. III Subpt. E (relating to home rule and optional plan
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 which has adopted a
5 home rule charter or optional plan of government under the
6 provisions of 53 Pa.C.S. Pt. III Subpt. E (relating to home rule
7 and optional plan government). The term does not include a
8 county of the first class or a county of the second class.

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

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

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

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

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

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

30 "PICAA." The act of June 5, 1991 (P.L.9, No.6), known as the

1 Pennsylvania Intergovernmental Cooperation Authority Act for
2 Cities of the First Class.

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

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

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

9 Section 103. Scope.

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

13 Section 104. Preemption.

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

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

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

28 CHAPTER 3

29 SUBJECTS OF TAXATION

30 SUBCHAPTER A

TAX AUTHORIZATION

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Section 301. General tax authorization.

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

Section 302. Continuity of tax.

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

Section 303. Election to participate under act.

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

Section 304. Municipal qualification and initiative.

(a) Initial year of implementation.--

(1) The governing body of a municipality desiring to qualify for disbursements under section 318 beginning in the first fiscal year following the effective date of this section shall, on or before November 30, 2019, do all of the following:

(i) Adopt a resolution containing the following statement:

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

(ii) Deliver a certified copy of the resolution to

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

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

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

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

27 (b) Implementation in subsequent years.--

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

1 under section 318 shall follow the procedures under
2 subsection (a), except with respect to adoption by November
3 30, 2017, prior to the enactment by the county of an
4 ordinance under section 316 in any subsequent fiscal year. In
5 that event, the municipality shall be qualified to receive
6 disbursements under section 318 for all subsequent fiscal
7 years that the tax is in effect. The requirements of
8 subsection (a) (1) must be met by June 30 for the imposition
9 of the tax by the county for the subsequent fiscal year.

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

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

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

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

1 located.

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

7 SUBCHAPTER B

8 COUNTY SALES, USE AND OCCUPANCY TAX

9 Section 311. Construction.

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

15 Section 312. Imposition of tax.

16 (a) Sales.--

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

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

25 (b) Use.--

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

1 Code, a tax on the purchase price.

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

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

8 (c) Occupancy.--

9 (1) In any county within which a tax authorized by
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 by subsections
16 (a), (b) and (c) shall be imposed at a rate of 1% and shall be
17 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 such 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. The department may promulgate
10 and enforce regulations consistent with the provisions of
11 this subchapter relating to anything pertaining to the
12 administration and enforcement of this subchapter. The
13 department may prescribe the extent to which a regulation
14 shall be applied without retroactive effect.

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

30 Section 316. Procedure.

1 (a) Ordinance.--

2 (1) A county desiring to impose the tax authorized by
3 section 312 shall give at least 45 days' written notice to
4 each municipality in the county of its intent to impose the
5 tax. The notice and ordinance shall state the tax rate and
6 refer to this subchapter. The ordinance shall authorize the
7 imposition of the tax on all subjects provided for in section
8 312.

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

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

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

22 (5) Notwithstanding paragraph (4), a county desiring to
23 impose the tax in the first fiscal year following the
24 effective date of this section may adopt an ordinance under
25 this section by November 30, 2017. If this paragraph applies,
26 the tax shall be imposed as of the date occurring 90 days
27 following the adoption of the ordinance.

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

1 ordinance.

2 (c) Repeal.--

3 (1) No earlier than the end of the fifth fiscal year
4 following imposition of the tax authorized by section 312, a
5 county may repeal the tax. In that event, the county shall
6 give at least 30 days' written notice to every municipality
7 located in the county of its intent to repeal the tax. The
8 ordinance shall authorize the repeal of the tax on all
9 subjects provided for in section 312.

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

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

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

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

1 (b) Deposits into fund.--

2 (1) The tax imposed under section 312 shall be received
3 by the department and paid to the State Treasurer and, along
4 with interest and penalties, less any collection costs
5 allowed under this subchapter and any refunds and credits
6 paid, shall be credited to the respective counties'
7 subaccounts not less frequently than every two weeks.

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

12 (c) Lapsing and interfund transfers prohibited.--All money
13 in the fund and credited to the subaccounts, including, but not
14 limited to, money credited to the subaccounts under this
15 section, prior year encumbrances and the interest earned
16 thereon, shall not lapse or be transferred to any other fund or
17 subaccount, but shall remain in the fund and be credited to the
18 respective subaccounts as provided under this chapter.

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

25 Section 318. Disbursements.

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

30 (b) Disbursement to counties.--The State Treasurer shall

1 disburse to a county an amount of money equal to the amount
2 allocated under section 319 to all of the nonqualified
3 municipalities. The money shall be deposited into the county
4 general fund for disposition as provided under section 501(a).

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

10 (d) Disbursement to school districts.--The remaining 60% of
11 the tax deposited into the fund shall be disbursed to each
12 school district in the amounts allocated under section 319(c).
13 The money disbursed shall be deposited into the school district
14 general fund for disposition as provided under section 501(c).
15 Section 319. Allocations.

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

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

27 (2) Fifty percent shall be allocated pro rata based on
28 the population of each municipality located in the county as
29 a percentage of the sum of the population of all
30 municipalities located in the county. For municipalities

1 located in more than one county, the population of the county
2 shall be determined separately for each county where the
3 municipality is located on the basis of the municipality's
4 population within each county.

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

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

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

27 (e) Definitions.--As used in this section, the following
28 words and phrases shall have the meanings given to them in this
29 subsection:

30 "Average daily membership." As defined under section 2501 of

1 the act of March 10, 1949 (P.L.30, No.14), known as the Public
2 School Code of 1949.

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

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

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

18 CHAPTER 5

19 DISPOSITION OF TAX REVENUES

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

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

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

27 (1) When a municipality's pension plan is a moderately
28 or severely distressed municipal pension system under the act
29 of December 18, 1984 (P.L.1005, No.205), known as the
30 Municipal Pension Plan Funding Standard and Recovery Act,

1 revenues received in a fiscal year shall first be used to pay
2 in full the municipality's minimum municipal obligation under
3 the Municipal Pension Plan Funding Standard and Recovery Act.
4 Any remaining revenues received shall be used to maintain
5 core services.

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

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

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

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

26 "Core services." Includes:

27 (1) Police services.

28 (2) Fire services.

29 (3) Public works.

30 (4) Public health and welfare services, including

1 county-owned or county-operated nursing homes.

2 (5) Administrative and clerical services.

3 (6) Judicial administration and justice-related
4 services.

5 (7) Corrections services.

6 (8) Election services.

7 CHAPTER 21

8 MISCELLANEOUS PROVISIONS

9 Section 2101. Effective date.

10 This act shall take effect immediately.