

**Public Hearing on the Sterling Act & Impact on Suburban Communities**  
**Pennsylvania Senate Majority Policy Committee**  
**March 2, 2023**

**Testimony**  
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Good morning, Chairman Laughlin and Members of the Senate Majority Policy Committee. I appreciate the opportunity to begin testimony here today.

My name is David Greene, Executive Director of the Pennsylvania Local Government Commission. The Local Government Commission is a bipartisan, bicameral agency of the General Assembly comprised of ten legislators—three from the majority party and two from the minority party in each chamber—collectively working for more effective and efficient local government in Pennsylvania. My testimony is intended to provide a brief primer on the origin of the Sterling Act.

As a result of the dire Depression-era economic circumstances facing the Commonwealth and particularly the City of Philadelphia,<sup>1</sup> the law’s namesake, Philadelphia Representative Philip Sterling introduced HB 214 on July 13, 1932, purportedly at the request of City Councilman Harry Trainer. The bill enjoyed an uncharacteristically quick journey through the General Assembly; signed into law on August 5, 1932, after unanimous House concurrence in a single Senate amendment. Restricted to Philadelphia and, for a three-year period, Pittsburgh, the authorization was an extraordinary, nationally unprecedented delegation of taxing authority:

It is the intention of this section to confer upon cities of the first class the power to *levy, assess and collect taxes upon any and all subjects of taxation which the Commonwealth has power to tax but which it does not now tax or license, subject only to the foregoing provisions that any tax upon a subject which the*

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<sup>1</sup> See The Encyclopedia of Greater Philadelphia, *The Great Depression*, Roger D. Simon, <https://philadelphiaencyclopedia.org/essays/great-depression/> (accessed 2/24/2023)(“[B]y [March, 1933] only 40% of the workforce worked full time, the rest worked part time or not at all. . . [Between 1929 and 1933] more than half the commercial banks and building and loan associations in Philadelphia failed . . .and . . .over 90,000 families had lost their homes.” )

*Commonwealth may hereafter tax or license shall automatically terminate upon the effective date of the State act imposing the new tax or license fee.*<sup>2</sup>

There was an attempt to exercise this nearly unlimited taxing authority almost immediately in the form of a wage tax to fill a \$20 million gap in the City's 1933 budget, but it failed miserably, quelling any subsequent efforts until 1938.<sup>3</sup> On November 26, 1938, a wage tax on residents and nonresidents was adopted, but contained an exemption provision declared unconstitutional by the Pennsylvania Supreme Court.<sup>4</sup> The ordinance was subsequently repealed in January of 1939.<sup>5</sup> Late in 1939, a durable measure was finally adopted, set at 1.5 percent of gross earned income of residents and nonresidents employed in the city.<sup>6</sup> Despite its assistance to the financial well-being of the City, the tax quickly encountered opposition on both the legislative and judicial front. A 1943 bill, HB 16, would have repealed the authority of any municipality in the Commonwealth to levy a wage tax; it was unsuccessful on 108-73 vote.<sup>7</sup>

In 1947, the General Assembly passed Act 481, wryly referred to as the "Tax Anything Act," the precursor to today's wage tax authorization, Act 511 of 1965. Act 481 essentially extended the broad Philadelphia taxing authority to all other municipalities and school districts in the Commonwealth.<sup>8</sup> However, given the preexistence of the Philadelphia's lucrative Sterling Act power to tax nonresidents and the desire to maintain that status quo, a notable exception was built into the law from inception: the amount of any payment to a municipality levying a wage tax prior to the effective date of Act 481 (solely Philadelphia) would be a credit against any wage tax levied by any other political subdivision. Consequently, the table had been set for the present controversy 76 years ago.

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<sup>2</sup> Act 45 of 1932 (Sp. Sess. 1), Sec. 1(a)(2023).

<sup>3</sup> *The Sterling Act: A Brief History*, p. 2, (March, 1999 )(hereinafter *A Brief History*)(accessed 2/14/2023).

<sup>4</sup> See *Butcher v. City of Philadelphia*, 6 A.2d 298 (Pa., 1938).

<sup>5</sup> *Id.*

<sup>6</sup> See Pennsylvania History, *The Income Tax in Pennsylvania*, William J. McKenna, p. 305 (1960).

<sup>7</sup> *Id.*, at 4.

<sup>8</sup> "The original act applied to all school districts, except Philadelphia and Pittsburgh, to all cities except Philadelphia, and to all boroughs and first class townships. The act was extended to second class townships several years later." *Taxation Manual*, Department of Community and Economic Development, p. 27 (November, 2022) (hereinafter "Taxation Manual"), <https://dced.pa.gov/download/taxation-manual/> (accessed 2/25/2023).

In 1949, after a study under the ambit of the Joint State Government Commission,<sup>9</sup> the General Assembly restricted school districts to wage taxation of residents alone and capped all wage taxes for municipalities other than Philadelphia at 1%.<sup>10</sup> This restriction purportedly prompted louder calls for Philadelphia to reimburse adjoining communities for 1% of the wage tax collected under the Sterling Act.<sup>11</sup>

Those calls perpetuated unsuccessfully throughout the '50s and '60s, a period during which various federal and state challenges to the tax were contested. As the post war boom years gave way to increasing fiscal difficulties,<sup>12</sup> the rate of the Philadelphia wage steadily increased from a nonresident rate of 1.25% in 1952 to one of 4.1325% in 1983.<sup>13</sup> This latter rate was capped as a result of one successful limitation to Philadelphia wage tax authority, a Tax Reform Code amendment championed by Senator Craig Lewis which capped the nonresident rate at 4.1325 percent until such time as the resident rate reached higher than 5.75%, at such time the nonresident rate could not exceed 75% of the resident rate.<sup>14</sup> The resident rate peaked at 4.96% in 1983.<sup>15</sup>

The Thornburg-era Pennsylvania Tax Commission Report of 1981 recommended requiring Philadelphia to credit wage tax back to home municipalities and school districts and fill revenue gaps with a broadened resident income tax base.<sup>16</sup> The Casey-era Local

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<sup>9</sup> *Report of the Findings and Recommendations on the Pennsylvania Tax System by the Tax Study Commission*, Joint State Government Commission, (February, 1949) (“Act No. 481 should be amended to eliminate the objectionable consequences of its operation, and to prohibit the levying of taxes which may impair the productive processes of the Commonwealth.” *Id.*, at 8).

<sup>10</sup> In the present day, combined local wage taxes in Pennsylvania frequently exceed 1%, principally due the any number of statutory authorizations including home rule, open space, homestead exemption tax shifting, and certain “nuisance tax” elimination laws. *See, generally, Taxation Manual*, at 29-31.

<sup>11</sup> *A Brief History*, at 5.

<sup>12</sup> *See, e.g., Technical.ly, Philly’s city wage tax just turned 75. Here’s its dubious legacy*, Christopher Wink, (December 12, 2014), <https://technical.ly/civic-news/philadelphia-city-wage-tax/> (accessed 2/23/2023) (“In the 1960s and 1970s, as population began to decline and, with it, property tax revenue sank, the James Tate and Frank Rizzo administrations consistently chose to increase the wage tax, seeing it as a choice to protect homeowners.”).

<sup>13</sup> *See Summary Schedule of tax rates since 1952(Revised July 1, 2021)*, <https://www.phila.gov/documents/tax-rate-schedule/> (accessed February 24, 2023).

<sup>14</sup> *See A Brief History*, at 8; 72 P.S. 7359 (1971, March 4, P.L. 6, No. 2, art. III, § 359, added 1971, Aug. 31, P.L. 386, No. 93, § 4. Amended 1977, Dec. 21, P.L. 330, No. 98, § 2; 1994, June 16, P.L. 279, No. 48, § 9).

<sup>15</sup> *See Summary Schedule of tax rates since 1952(Revised July 1, 2021)*, <https://www.phila.gov/documents/tax-rate-schedule/> (accessed February 24, 2023).

<sup>16</sup> *See Final Report of the Pennsylvania Tax Commission*, (March, 1981). In relevant part:

- (4) Concerning non-resident taxation in Philadelphia, it is recommended that Philadelphia only tax earned income (wages, salaries, and net profits of unincorporated business as is currently permitted), and that the

Tax Reform Act of 1988<sup>17</sup> would have limited resident earned and unearned income tax to 4.5% for four years, and a nonresident wage tax to 3.95% perpetually, and would have required a payment back to home municipalities that have enacted a personal income tax of at least .25%, an amount equal to .25% of income earned in the City. This payment was designed to be a flow-through of realty transfer tax funds derived from within a 20-mile radius of the City<sup>18</sup>. Most of the Tax Reform Act, including these provisions, were never effective due to a May 16, 1989, referendum rejecting a triggering constitutional amendment.

In addition to these unheeded recommendations and attempts at sweeping local tax reform, Members of the General Assembly have over the last 20 years continued to introduce proposals to provide relief to both Philadelphia's neighboring communities and their taxpayers. Among other initiatives, in 2002 Senator Tilghman introduced an unsuccessful bill which would have provided a credit against the Sterling Act wage tax for any like tax imposed in the home municipality.<sup>19</sup> Also in 2002 Senator Vincent Fumo introduced SB 1372, a bipartisan measure which would have provided a six-year step down in resident and nonresident wage and net profits tax, and roughly mirrored internal City plans at the time,<sup>20</sup> but the measure did not progress in the House. In 2015, Representative Stephens, and in 2017, Representatives Farry and Petri and Senator Tomlinson, all introduced measures similar to the Tilghman proposal. In the

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rate of the tax be reduced below its current level of 4.3125%. The amount by which the non-resident tax rate is reduced would be determined by the gain in revenues obtained from broadening the resident tax base to include unearned income, and the amount Philadelphia currently contributes to the Southeastern Pennsylvania Transit Authority (SEPTA) and which would be replaced by the regional income tax.

(5) The Commission recommends eliminating the priority given to Philadelphia under Act 511, under which non-residents who pay the Philadelphia earnings tax are allowed to credit any tax paid Philadelphia toward any earnings tax levied where they live. Elimination of this, together with the reduction of the earnings tax rate Philadelphia levies on non-residents, is intended to give school districts and municipalities in the Delaware Valley region fuller access to the resident income tax as a revenue source as well as partially to reduce the extent to which Philadelphia finances its expenditures by taxing non-resident workers.

*Id.* at p.40.

<sup>17</sup> Act 145 of 1988.

<sup>18</sup> See, generally, *Understanding Local Tax Reform*, The Pennsylvania Local Government Commission (January, 1989).

<sup>19</sup> SB 1423 of 2002.

<sup>20</sup> See *The Daily Pennsylvanian*, "Officials Fight Wage Tax Battle," (April 5, 2002), [https://www.thedp.com/article/2002/04/officials\\_fight\\_wage\\_tax\\_battle](https://www.thedp.com/article/2002/04/officials_fight_wage_tax_battle) (accessed 2/23/2023).

House, then-Representative Farry re-introduced HB 949 in early 2021, a proposal identical to one he had introduced since 2017 and similar to bills sponsored by Representative Petri, Senator Tomlinson, and Representative Stephens in prior sessions. The proposals all would have “fixed” the current crediting prohibition. Recently, proposals have included relief to employees subject to remote work arrangements prompted by the pandemic: Representative Thomas, in June of 2021, introduced HB 1686, a bill designed to require Philadelphia to provide a refund to remote workers. As is evident from our presence here today, no legislative effort yet has successfully modified this long-standing and unique local tax issue.

This concludes my testimony. I will do my best to answer any questions that you may have. Thank you.