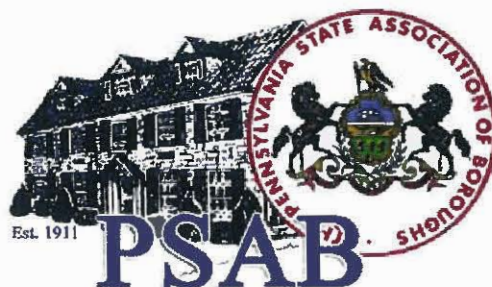


# Pennsylvania State Association of Boroughs



*Testimony on*

*The Implementation of Act 32 of 2008*

*presented before*

*House Finance Committee*

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## Act 32 Implementation

Good Afternoon Chairman Levdansky, Chairman Rohrer, and members of the House Finance Committee. My name is Ron Grutza and I serve as Assistant Director of Government Affairs at the Pennsylvania State Association of Boroughs. Thank you for the opportunity to offer our comments on the implementation of Act 32, which reformed and consolidated the earned income tax collection system in Pennsylvania.

In July of 2008, the General Assembly passed Act 32, which provided for the restructuring of collecting the local earned income tax on a countywide level. The enactment was the culmination of years of studies by the Department of Community and Economic Development and other groups that found significant flaws in the fragmented system of the collection of the earned income tax. These studies concluded the chief effect of the flawed system was the loss of roughly \$200 million annually due in uncollected earned income tax revenue.

As the process toward a streamlined EIT collection system moved forward, our association was engaged as one of the stakeholders. Along with the other local government associations, we provided numerous suggestions to DCED and the bill's sponsor, Senator Jane Earle to improve the final bill. Some examples we suggested to help municipalities included:

- Dedicated funding to assist with startup costs for the tax collection committees
- Establish a working group of advisors to help DCED with the implementation
- Allow more equitable voting rights for smaller municipalities through a one-person, one-vote system
- Provide a voluntary, incentivized phase-in of the consolidated collection system
- Mandatory arbitration provision for disputes between municipalities and tax collectors
- Compliance audit of the new system by the Legislative Budget and Finance Committee
- Provide an opt-out for municipalities and school districts that have just cause
- Provide mandatory sharing of information between the Department of Revenue and tax collectors

Many of these suggestions were included in Act 32 and some unfortunately were not. On the issue of funding, we were unable to secure a direct appropriation for startup costs. However, DCED did make a written commitment to prioritize the Shared Municipal Service Grants to help tax collection committees with startup costs. PSAB is glad to see DCED is honoring that commitment by recently contacting all of the tax collection committees to inform them of the availability of up to \$5,000 in Shared Municipal Service Grants for Act 32 startup costs. \$5,000 does not seem like a lot of money, however, there are many other tools available to the tax collection committees to defer upfront costs or float loans for the upfront costs.

Many tax collection committees have been assessing individual municipalities and school districts prorated fees for startup costs. Some municipalities have balked at the fees since they will not be receiving any benefits from the system for at least another year and they still have questions about the new system. Also, many municipalities were not anticipating these costs, and therefore, they did not budget for extra tax collection charges. This issue of no startup funds from the state has led to the perception that Act 32 is just another unfunded mandate.

Our suggestion to convene a working group of advisers to assist DCED in implementing Act 32 has been a very worthwhile process. PSAB commends the work done by DCED Governor's Center for Local Government Services and the advisory board on producing sample by-laws, standard return forms, sample RFPs, and many other documents for use by the tax collection committees across the state. Having these

sample documents will allow each tax collection committee the ability to tailor them to how their particular committee sees fit.

Although we did not get the one-person, one-vote as the default voting rights in the act, individual tax collection committees may at their discretion choose that method after their first meeting. The issue of voting rights has been of the biggest complaints from our members, many of whom feel their votes do not count. In fact, some municipalities have not appointed a delegate to their tax collection committee due to this sentiment. Their frustration is merited when you realize even though school districts collect more revenue from an earned income tax, these revenues for municipalities comprise a higher percentage of municipal budgets. Therefore, we believe municipalities have more at stake in this transition and should have at least an equal share in decisions of the tax collection committee.

PSAB was very disappointed to learn as part of the implementation process DCED interpreted portions of Act 32 to allow offset gains from one business from losses in a separate business. Throughout the legislative process PSAB remained opposed to using the bill as a vehicle to address any changes to the tax base and definitions in "net profits." Many of our members relied on prior case law to prohibit these types of offsets. Now, with DCED's strict interpretation we believe this will further alienate municipalities and school districts when they learn of this loss in revenue due to Act 32. We understand the argument for consistency with the Department of Revenue's definitions; however, municipalities do not tax net profits from Chapter S corporations as the state does. Inconsistencies are inevitable between the local and state definitions and there will never be an exact 100 percent match. So, we still are left with the question of why DCED dictated to all municipalities they may no longer prohibit offsets from one business loss to a separate business gain. The bottom line is municipalities and school districts will lose revenue as a result of this change.

I would suggest to the Committee that the leadership of the tax collection committees still need more information on other financial methods to mitigate the upfront costs. Perhaps DCED could have regional workshops on this and other Act 32 issues?

While there is a considerable amount of resentment out there about Act 32, most municipalities are working hard with their tax collection committees to make the transition work. It may seem very slow at times in some counties, but in other counties they are moving ahead of schedule.

As we move forward to consolidate the earned income tax collection system, PSAB remains dedicated to informing our members on the merits of the act and listening to their concerns. We believe there still is a lack of a full grasp of all the tools available to municipalities under Act 32, so more information sharing must be done. Also, we stand ready to continue our work with DCED on the Advisory Committee to finish the implementation of Act 32.

Thank you Mr. Chairman. I'd be happy to answer any questions you or members of the committee may have on my testimony.