

SB 1063, P.N. 1366

- Note, page references below are with regard to SB 1063, PN 1366
- Also note that not every modification is addressed below (only the more pertinent ones).

[A04674] Amendment Summary

This amendment consists of various administrative and technical modifications and also provides for the following substantive modifications to the legislation (listing below consists of the more relevant changes):

- [p. 15] Takes existing Section 301 and turns it into a definition section to house both existing and new definitions (existing Section 301 provisions, excluding the definitions, will now be incorporated into new Section 301.1).
- [p. 53] Section 317 [Payment of Tax to Other Political Subdivisions or States as Credit or Deduction, Withholding Tax] now contains a references to the Act of June 27, 2001 (1st Sp. Sess., P.L. __, No.1), known at the Taxpayer Relief Act to prevent any ambiguity.
- [p. 64] Section 501 [Definitions] definition of “net profits” is modified to further clarify that the offsetting of business losses against the profits from another business is allowed as provided for under the Tax Reform Code of 1971 and Department of Revenue regulations.
- [p. 65] Section 501 [Definitions] adds the definitions of “non-resident tax officer” and “resident tax officer” as such terms are later used to clarify to whom the taxpayer must pay the local wage tax.
- [p. 71] Section 505(a) [General Rule] is amended to clarify that a “tax collection committee” is subject to the Act of June 21, 1957 (P.L. 390, No. 212) referred to as the Right-to-Know Law (Sunshine Law).
- [pp. 72 & 73] With regard to “tax collection committee” in Section 505(a.1) [Duties], removes the power to sue and be sued and instead puts under Section 505(a.2) (Powers).
- [p. 75] Section 505(c) [Voting Rights] replaces the weighted voting formula based on population and replaces it with a hybrid formula based on 50% population and 50% revenues collected.
- [pp. 75 - 76] Section 505(d) [First meeting schedule] and Section 505(e) [First Meeting Agenda] adding reference to the chief executive of the county in addition to the reference to the chair of the county commissioners to ensure that someone in the home rule counties is authorized to convene the initial tax collection committee meeting.
- [p. 76] Section 505(f) [Bylaws] is modified to indicated that the Department of Community and Economic Development (DCED) shall provide sample bylaws to the “tax collection committees” for guidance purposes.
- [p. 79] Section 505 is modified by adding a new subsection (k) [Annual Budget Required] – Provides that each tax collection committee shall adopt an annual budget providing for compensation of the tax collector and other expenses of operating the tax collection. These expenses shall be shared and paid by all political subdivisions within the tax collection district that are represented by voting delegates on the tax collection committee (share shall be determined in the same manner are their weighted vote, unless the bylaws adopted provide otherwise).
 - [p. 81] Section 507(c) [Compensation] – Deletes related language regarding a tax officer given that the amendment has added subsection (k) in Section 505.
- [p. 82] Section 508 [Powers and Duties of the Department (DCED)] is modified by adding a new subsection (d) [Departmental Study] requiring that DCED commence a

study of existing local earned income tax collection methods and practices within this Commonwealth. The study shall also investigate and report upon the feasibility of contracting on a statewide basis for the development and/or procurement of appropriate software systems that may be adopted and purchased by county tax collection districts or their appointed tax officers through the Commonwealth's cooperative purchasing programs. This report shall be furnished no later than December 31, 2009.

- [p. 85] Section 509(d) [Bonds] is modified due to cost concerns to allow bond requirements to be satisfied in combination with fiscal controls, insurance and other risk management and loss prevention measures used by the tax collection district.
- [p. 88] Section 509 (g) [Exchange of Information] language is added to provide that the Department of Revenue shall establish procedures under which tax collections, filing and other taxpayer and locality information in its custody will be made available to tax officers for purposes of collection, reconciliation and enforcement no later than one year after the deadline for filing returns for the tax year in question.
- [p. 91] Section 509(k) [Collection] is modified to clarify that the intent of this provision is to give the tax officer the power and duties to collect other taxes as provided by this act, Taxpayer Relief Act (1st Special Session, Act 1 of 2006) or other statutory law.
- [p. 94] Section 510 is modified by adding a new subsection (h) [Withdraw from tax collection district] that provides that in an action brought by a political subdivision under this section after January 1, 2014, the court may, in addition to other available remedies, grant a request by the political subdivision to withdraw from the tax collection district for good cause, provided the court determines, after hearing, that all of the following conditions exist:
 - Political subdivision has suffered loss in income tax revenues directly and primarily due to willful and continued failure of the tax officer or tax collection committee
 - Tax collection committee has failed to take reasonable measures to correct the deficiencies in the performance of the tax officer.
 - The political subdivision and the tax collection committee have engaged in good faith mediation before a special master appointed by the court.
 - Other relief available that could be ordered by the court would not be adequate.
- [p. 94] Adds Section 510.1 [Attorney General Investigation and Enforcement] for the purpose of strengthening the Attorney General's role as identified in Section 510(e) [Actions against a Tax Officer]. It further provides that the identified entities in Section 510(e) may, upon reasonable cause, file a complaint with the Attorney General, which is then directed to undertake a timely investigation and issue within six months a written determination finding a probable violation, no probable violation or insufficient evidence to make a determination. It also provides that if the Attorney General finds a probable violation, it shall prosecute the tax officer under Section 510.