



SPONSOR: Rep. Schwartzkopf & Sen. Blevins
Reps. Atkins, Dukes, Gray, Hudson, Jaques, Keeley,
Longhurst, Viola, D.E. Williams, Wilson; Sens. Lavelle,
Lopez, Poore, Townsend

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 333

AN ACT TO AMEND TITLE 22 OF THE DELAWARE CODE RELATING TO MUNICIPALITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 22 of the Delaware Code by making insertions as shown by underline as follows:

Chapter 19. Limitation of municipal taxing powers.

§ 1901 Limitation of municipal taxing powers.

(a) Every municipal corporation in this State, regardless of population, shall only have the power to impose, levy, assess, or collect a tax of any kind whatsoever as expressly authorized in its municipal charter or this Title.

(b) Any provision in a municipal charter granting the municipal corporation "all powers," or any derivation thereof, shall not be construed as exempting the municipal corporation from the limitation set forth in subsection (a).

(c) The limitation set forth in subsection (a) shall not be construed as limiting a municipal corporation's power to license and collect fees from persons carrying on or practicing any business, profession, or occupation within the limits of the municipal corporation; provided that the fee charged must be reasonably related to the cost of administering the municipal corporation's licensing program.

SYNOPSIS

§ 11(a), Article VIII, of the Delaware Constitution provides that "No tax ... may be imposed or levied except pursuant to an Act of the General Assembly adopted with the concurrence of three-fifths of all members of each House." A recent Chancery Court opinion has limited this section of the Delaware Constitution by allowing a municipality to impose a tax through an "all powers" clause in a municipal charter even if there is not specific authorization by an Act of the General Assembly to impose such a tax. This bill makes it clear that a municipality may only impose a tax within its jurisdiction if such tax is expressly authorized by an Act of the Delaware General Assembly.