

TO: Lester K. Fryer, Chairman, Local Government Committee

FROM: John H. Broujos, Counsel

SUBJECT: House Bill 1325, Printer's No. 1512 - Exclusion of Golf Courses from Tax on Admissions

REF: 53 PS 6902

LAW AND MUNICIPALITY AFFECTED: Act of December 31, 1965 (P.L. 1257), Section 2, (Clause 10); Cities of 2D Class, Second Class A, Third Class, Boroughs, Towns, Townships of First Class, Townships of Second Class, School Districts of Third Class, and School Districts of Fourth Class.

BACKGROUND: This is the Local Tax Enabling Act, which provides the general authority for enactment of a broad range of taxes on persons, occupations, privileges, personal property, transfer of real property, and other interests. Subsection 10 already limits the local authorities from taxation of motion picture theater admissions.

PROVISIONS:

Purpose: To add golf courses to the present exemption of admissions to motion picture theaters from authority of municipalities to impose a tax.

Section 1 (Section 2, (Clause 10): Add golf courses to the exemption from taxation on admissions to theaters. It further extends this exemption to Cities of the Second Class, which are excluded from the exemption for admissions to theaters. In other words, Cities of the Second Class may tax admissions to theaters; whereas such cities may not tax admissions to golf courses.

CONSTITUTIONALITY: The Supreme Court has upheld the constitutionality of exclusion of some amusements from imposition of tax, holding that it does not violate the uniformity provisions of the constitution.

The Superior Court in *Coe v. Duffield* 185 Pa Super 532, 1958, held that an amusement tax on pinball machines and on a percent of admission to drive-in theaters and roller skating rinks was not unconstitutional on the basis of the uniformity requirement, although other places of amusement within the school district were not similarly taxed. If then a municipality can select out specific amusements to be taxed, the legislature can exempt by law specific amusements from taxation.