

40:48D-1 ET SEQ.

LEGISLATIVE HISTORY CHECKLIST

NJSA 40:48D-1 et seq

Laws of 1975 Chapter 20

Bill No. A3080

Sponsor(s) Esposito & Others

Date Introduced February 4, 1975

Committee: Assembly Taxation

Senate

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of passage: Assembly February 20, 1975

Senate February 27, 1975

Date of approval February 27, 1975

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate ~~Yes~~ No

Fiscal Note ~~Yes~~ No

Veto message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

JUN 1977
10/4/76

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 3080

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 4, 1975

By Assemblymen ESPOSITO, ADUBATO, BROWN, HAWKINS,
KEEGAN, HAMILTON, Assemblywoman CROCE and Assembly-
man GALLO

Referred to Committee on Taxation

AN ACT authorizing certain municipalities to impose an employer payroll tax, providing for the administration and collection thereof and supplementing Title 40 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. As used in this act, the following words and phrases shall
2 have the following meanings:

3 a. "Employer" means any person, corporation, company, as-
4 sociation, society, firm, partnership, joint stock company, trust,
5 estate, or foundation standing in the position of employer in an
6 employer-employee relationship, and having one or more employ-
7 ees; other than:

7A (1) The Government of the United States and its agencies and
7B instrumentalities;

8 (2) The State of New Jersey and its political subdivisions, agen-
9 cies and instrumentalities;

10 (3) An interstate agency and its agencies and instrumentalities;

11 (4) Any insurance company formed by authority of another
12 state or foreign country and subject to the provisions of P. L. 1950,
13 c. 231 (C. 17:32-15); or

14 (5) Corporations, institutions and associations organized not
15 for profit and operated exclusively for religious, educational, chari-
16 table or hospital purposes.

17 b. "Payroll" means that amount of the total remuneration in
18 excess of \$10,000.00 in any calendar quarter paid by an employer
19 to employees which is subject to withholding by the employer
20 for Federal income tax purposes for services, other than domestic
21 services in a private residence, if:

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

22 (1) The services are performed within the municipality; or

23 (2) The services are performed outside the municipality and
24 the place from which the services are supervised is within the
25 municipality.

1 2. Any municipality having a population in excess of ***[225,000]***
2 *250,000* but less than 350,000 may by ordinance impose and collect
3 an employer payroll tax for the general municipal purposes of the
4 municipality at a rate between 0.25% and 2% of the employer's
5 payroll; provided, however, that such rate shall not be imposed
6 at fractional parts less than 0.25%.

1 3. Any ordinance adopted pursuant to this act shall:

2 a. Require each employer to report his payroll for the preceding
3 calendar quarter to the chief fiscal officer of the municipality, who
4 shall collect the tax together with such other related information
5 as shall be required by the ordinance and regulations issued pur-
6 suant thereto;

7 b. Require the report and payment of the tax imposed for the
8 preceding calendar quarter on or before the last day of April, July,
9 October and January, respectively;

10 c. Provide methods for reporting taxes due and providing for
11 the collection thereof;

12 d. Provide methods for enforcement of, and for the imposition
13 of penalties for failure to report and pay, the tax imposed;

14 e. Provide procedures for claims for refunds, and repayment of
15 overpayment of taxes;

16 f. Prohibit any employer from deducting or withholding any
17 amount from remuneration payable to an employee on account of
18 the tax imposed by the ordinance;

19 g. Provide that information contained in any employer's report
20 or received by the municipality or any of its officers or employees
21 as a result of any investigation, hearing or verification of a report
22 shall be confidential except for official purposes and shall not be
23 disclosed except in accordance with an order of court or as other-
24 wise provided by law;

25 h. Provide that if for any reason the tax is not paid when due,
26 interest at a rate of 12% per annum on the amount of said tax,
27 and an additional penalty of $\frac{1}{2}$ of 1% of the amount of the unpaid
28 tax for each month or fraction thereof during which the tax
29 remains unpaid, shall be added and collected. Where action is
30 brought for the recovery of any such tax, the taxpayer liable there-
31 for shall, in addition, be liable for the costs of collection and the
32 interest and penalties therein imposed.

1 4. No employer shall be obligated to report and pay an employer
 2 payroll tax, or any interest, penalty or costs with respect thereto,
 3 to more than one municipality with respect to remuneration paid
 4 to an employee for services performed. Where any dispute as to
 5 the liability for an employer's payroll tax to more than one
 6 municipality for services performed by an employee is not resolved
 7 by agreement between the employer and the municipalities, all of
 8 said municipalities shall be joined in a proceeding in the Division
 9 of Tax Appeals to collect the tax alleged to be due.

1 5. ***[a.]*** No tax shall be imposed under any ordinance adopted
 2 pursuant to this act with respect to services performed prior to
 3 January 1, 1975, or in a calendar quarter prior to that in which the
 4 ordinance is adopted, or on or after January 1, 1976, but any such
 5 ordinance shall remain in effect with respect to the right of the
 6 municipality to receive reports and enforce and collect taxes due
 7 thereunder for any period prior to January 1, 1976.

8 ***[b.]** Any ordinance imposing a tax pursuant to this act or in-
 9 creasing or decreasing the rate of such tax shall take effect on the
 10 first day of the calendar month next succeeding the adoption of the
 11 ordinance or of any other month specified therein.*

1 6. a. The taxes, interest and penalties imposed by any ordinance
 2 adopted pursuant to this act from the date on which they are due
 3 shall be a debt of the taxpayer, payable to the municipality and
 4 recoverable in any court of competent jurisdiction in a civil action
 5 to be instituted in the name of the municipality within 3 years
 6 of the date due or of the filing of the report, whichever date is
 7 later.

8 b. All taxes imposed pursuant to this act shall constitute reve-
 9 nues of the municipality available for any lawful municipal
 10 purpose.

1 7. As an additional remedy, the chief fiscal officer of the munici-
 2 pality adopting any ordinance hereunder may issue a certificate to
 3 the clerk of the Superior Court or to the clerk of the Law Division
 4 of the County Court of any county, that any person is indebted
 5 under such ordinance in an amount as shall be stated in the certifi-
 6 cate. Thereupon, the clerk to whom such certificate shall have been
 7 issued shall immediately enter upon his record of documented
 8 judgments the name of such person, the address of the place of
 9 business where such tax liability was incurred, the amount of the
 10 debt so certified and the date of making such entry. The making of
 11 the entries shall have the same force and effect as the entry of a
 12 documented judgment in the office of such clerk, and said fiscal

13 officer shall have all the remedies and may take all the proceedings
14 for the collection thereof which may be had or taken upon the
15 recovery of a judgment in an action, but without prejudice to the
16 taxpayer's right of appeal.

1 8. Any aggrieved taxpayer may, within 3 months after any
2 decision, order, finding, assessment or action of the chief fiscal
3 officer of any municipality adopting an ordinance hereunder, appeal
4 to the Division of Tax Appeals by filing a petition of appeal with
5 said division in the manner and form prescribed by the said divi-
6 sion and upon payment of the amount stated by said chief fiscal
7 officer to be due. The appeal provided by this section shall be the
8 exclusive remedy available to any taxpayer for review of a decision
9 of the chief fiscal officer in respect of the determination of a liability
10 for the taxes imposed hereunder.

1 9. a. Any person who fails, neglects or refuses to make any
2 report required by an ordinance adopted pursuant to this act, any
3 person who refuses to permit an officer or agent designated by
4 the municipality to examine his books, records and paper, and any
5 person who knowingly makes any incomplete, false, or fraudulent
6 report, or attempts to do anything whatever to avoid the full dis-
7 closure of the amount due under the ordinance to avoid the pay-
8 ment of the whole or any part thereof is a disorderly person.

9 b. The failure of any person to receive or procure the forms
10 required for making reports required by an ordinance adopted
11 pursuant to this act shall not excuse him from making such report.

1 10. The clerk of any municipality adopting an ordinance pur-
2 suant to this act shall, immediately following the adoption of
3 the ordinance or any amendment thereof, forward a copy thereof to
4 the Director of the Division of Local Finance in the Department
5 of Community Affairs and the Director of the Division of Taxation
6 in the Department of the Treasury.

1 11. This act shall take effect immediately.

14 for the collection thereof which may be had or taken upon the
15 recovery of a judgment in an action, but without prejudice to the
16 taxpayer's right of appeal.

1 8. Any aggrieved taxpayer may, within 3 months after any
2 decision, order, finding, assessment or action of the chief fiscal
3 officer of any municipality adopting an ordinance hereunder, appeal
4 to the Division of Tax Appeals by filing a petition of appeal with
5 said division in the manner and form prescribed by the said divi-
6 sion and upon payment of the amount stated by said chief fiscal
7 officer to be due. The appeal provided by this section shall be the
8 exclusive remedy available to any taxpayer for review of a decision
9 of the chief fiscal officer in respect of the determination of a liability
10 for the taxes imposed hereunder.

1 9. a. Any person who fails, neglects or refuses to make any
2 report required by an ordinance adopted pursuant to this act, any
3 person who refuses to permit an officer or agent designated by
4 the municipality to examine his books, records and paper, and any
5 person who knowingly makes any incomplete, false, or fraudulent
6 report, or attempts to do anything whatever to avoid the full dis-
7 closure of the amount due under the ordinance to avoid the pay-
8 ment of the whole or any part thereof is a disorderly person.

9 b. The failure of any person to receive or procure the forms
10 required for making reports required by an ordinance adopted
11 pursuant to this act shall not excuse him from making such report.

1 10. The clerk of any municipality adopting an ordinance pur-
2 suant to this act shall, immediately following the adoption of
3 the ordinance or any amendment thereof, forward a copy thereof to
4 the Director of the Division of Local Finance in the Department
5 of Community Affairs and the Director of the Division of Taxation
6 in the Department of the Treasury.

1 11. This act shall take effect immediately.

STATEMENT

This bill would authorize municipalities having a population in excess of 225,000 but less than 350,000 to impose an employer's payroll tax, as municipalities having a population in excess of 350,000 are now authorized to do. Under current economic conditions, such municipalities require additional revenues in order to sustain necessary programs and services. The authority granted to impose such tax would be limited to 1 year and expire on January 1, 1976.

ASSEMBLY TAXATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3080

STATE OF NEW JERSEY

DATED: FEBRUARY 13, 1975

This bill proposes to allow Jersey City to impose a payroll tax on certain employers at a maximum rate of two percent. The authorization provided in A-3080 is for calendar year 1975 only. It is the contention of the Mayor and other officials in Jersey City that it is the only viable solution to their fiscal problems during this year. They anticipate a \$19 million deficit, and this will provide approximately \$10 million toward meeting that deficit.

The bill in general is similar to that enacted as Chapter 326, P. L. 1970, Section 14, authorizing the City of Newark to impose a payroll tax. There are differences, however; the Newark tax is limited to one percent of the employer's payroll, and it applies to any employer having a payroll in excess of \$2,500 in any calendar quarter. On the other hand, A-3080 places a maximum rate of two percent, but limits it to employers with a payroll in excess of \$10,000 in any calendar quarter.

It is the Committee's sense that this is a bad tax, and under ordinary circumstances the bill would not be released favorably. However, in view of the exigencies of the fiscal situation in Jersey City, they can present no alternative, and thus release the bill favorably, yet reluctantly.

It is the hope of the Committee that there will be no necessity for an extension of this tax beyond one year, and that between now and January 1, 1976, a solution will be found for the fiscal problems of Jersey City and many other municipalities.