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LAW/IS 6/18/08

P.L. 2007, CHAPTER 294, *approved January 13, 2008*
Senate, No. 2888 (*First Reprint*)

1 AN ACT authorizing the imposition of interest on employers for
2 delinquent payroll taxes imposed under the “Local Tax
3 Authorization Act” and amending P.L.1970, c.326 ¹, R.S.54:50-
4 8¹ and R.S.54:50-9.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. Section 16 of P.L.1970, c.326 (C.40:48C-16) is amended to
10 read as follows:

11 16. Any ordinance adopted pursuant to this article shall:

12 a. Require each employer to report his payroll for the
13 preceding calendar quarter to an officer of the municipality
14 designated therein to receive the same and to collect the tax
15 together with such other related information as shall be required by
16 the ordinance and regulations issued pursuant thereto;

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

20 c. Provide methods for enforcement of, and for the imposition
21 of penalties for failure to report and pay, the tax imposed;

22 d. Provide procedure for claims for refunds, and repayment of
23 overpayment of taxes.

24 e. Prohibit any employer from deducting or withholding any
25 amount from remuneration payable to an employee on account of
26 the tax imposed by the ordinance;

27 f. Provide that information contained in any employer's report
28 or received by the municipality or any of its officers or employees
29 as a result of any investigation, hearing or verification of a report
30 shall be confidential except for official purposes and shall not be
31 disclosed except in accordance with an order of court or as
32 otherwise provided by law.

33 Any ordinance adopted pursuant to this article (C.40:48C-14
34 through 40:48C-19) also may require the payment of interest by an
35 employer on delinquent payroll taxes. Payroll taxes shall be
36 considered delinquent when the amount due to the municipality is
37 not paid by the employer on or before the dates specified in
38 subsection b. of this section. Any ordinance so adopted may fix the
39 rate of interest to be charged on the delinquent payroll taxes;
40 however, the rate so fixed shall not exceed 8% per annum on the
41 first \$1,500 of the delinquency and 18% per annum on any amount
42 in excess of \$1,500, to be calculated from the date the tax was

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted December 10, 2007.

1 payable until the date that actual payment to the municipality is
2 made.

3 (cf: P.L.1970, c.326, s.16)

4 2. R.S.54:50-9 is amended to read as follows:

5 54:50-9. Nothing herein contained shall be construed to prevent:

6 a. The delivery to a taxpayer or the taxpayer's duly authorized
7 representative of a copy of any report or any other paper filed by
8 the taxpayer pursuant to the provisions of this subtitle or of any
9 such State tax law;

10 b. The publication of statistics so classified as to prevent the
11 identification of a particular report and the items thereof;

12 c. The director, in the director's discretion and subject to
13 reasonable conditions imposed by the director, from disclosing the
14 name and address of any licensee under any State tax law, unless
15 expressly prohibited by such State tax law;

16 d. The inspection by the Attorney General or other legal
17 representative of this State of the reports or files relating to the
18 claim of any taxpayer who shall bring an action to review or set
19 aside any tax imposed under any State tax law or against whom an
20 action or proceeding has been instituted in accordance with the
21 provisions thereof;

22 e. The examination of said records and files by the
23 Comptroller, State Auditor or State Commissioner of Finance, or by
24 their respective duly authorized agents;

25 f. The furnishing, at the discretion of the director, of any
26 information contained in tax reports or returns or any audit thereof
27 or the report of any investigation made with respect thereto, filed
28 pursuant to the tax laws, to the taxing officials of any other state,
29 the District of Columbia, the United States and the territories
30 thereof, providing said jurisdictions grant like privileges to this
31 State and providing such information is to be used for tax purposes
32 only;

33 g. The furnishing, at the discretion of the director, of any
34 material information disclosed by the records or files to any law
35 enforcing authority of this State who shall be charged with the
36 investigation or prosecution of any violation of the criminal
37 provisions of this subtitle or of any State tax law;

38 h. The furnishing by the director to the State agency
39 responsible for administering the Child Support Enforcement
40 program pursuant to Title IV-D of the federal Social Security Act,
41 Pub. L.93-647 (42 U.S.C. s.51 et seq.), with the names, home
42 addresses, social security numbers and sources of income and assets
43 of all absent parents who are certified by that agency as being
44 required to pay child support, upon request by the State agency and
45 pursuant to procedures and in a form prescribed by the director;

46 i. The furnishing by the director to the Board of Public
47 Utilities any information contained in tax information statements,
48 reports or returns or any audit thereof or a report of any

1 investigation made with respect thereto, as may be necessary for the
2 administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and
3 P.L.1997, c.162 (C.54:10A-3 et al.);

4 j. The furnishing by the director to the Director of the Division
5 of Alcoholic Beverage Control in the Department of Law and
6 Public Safety any information contained in tax information
7 statements, reports or returns or any audit thereof or a report of any
8 investigation made with respect thereto, as may be relevant, in the
9 discretion of the director, in any proceeding conducted for the
10 issuance, suspension or revocation of any license authorized
11 pursuant to Title 33 of the Revised Statutes;

12 k. The inspection by the Attorney General or other legal
13 representative of this State of the reports or files of any tobacco
14 product manufacturer, as defined in section 2 of P.L.1999, c.148
15 (C.52:4D-2), for any period in which that tobacco product
16 manufacturer was not or is not in compliance with subsection a. of
17 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed
18 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-
19 2), for the purpose of facilitating the administration of the
20 provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);

21 l. The furnishing, at the discretion of the director, of
22 information as to whether a contractor or subcontractor holds a
23 valid business registration as defined in section 1 of P.L.2001, c.134
24 (C.52:32-44);

25 m. The furnishing by the director to a State agency as defined in
26 section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees
27 subject to suspension for non-payment of State tax indebtedness
28 pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);

29 n. The release to the United States Department of the Treasury,
30 Bureau of Financial Management Service, or its successor of
31 relevant taxpayer information for purposes of implementing a
32 reciprocal collection and offset of indebtedness agreement entered
33 into between the State of New Jersey and the federal government
34 pursuant to section 1 of P.L.2006, c.32 (C.54:49-12.7);

35 o. The furnishing 'at the discretion of the director' of '[any]
36 employer provided wage and tax withholding' information contained
37 in tax reports or returns '[, or any audit thereof, or the report of any
38 investigation made with respect thereto,]' filed pursuant to '[any
39 State tax laws] N.J.S.54A:7-2, 54A:7-4 and 54A:7-7' , to the
40 designated municipal officer of a municipality authorized to impose
41 an employer payroll tax pursuant to the provisions of Article 5
42 (Employer Payroll Tax) of the "Local Tax Authorization Act,"
43 P.L.1970, c.326 (C.40:48C-14 et seq.), '[and providing such
44 information is to be used for tax purposes only] for the limited
45 purpose of verifying the payroll information reported by employers
46 subject to the employer payroll tax'.

47 (cf: P.L.2006, c.32, s.7)

1 ¹3. R.S.54:50-8 is amended to read as follows:

2 54:50-8. a. The records and files of the director respecting the
3 administration of the State Tax Uniform Procedure Law or of any
4 State tax law shall be considered confidential and privileged and
5 neither the director nor any employee engaged in the administration
6 thereof or charged with the custody of any such records or files, nor
7 any former officer or employee, nor any person who may have
8 secured information therefrom under subsection d., e., f., **[or]** g. or
9 o. of R.S.54:50-9 or any other provision of State law, shall divulge,
10 disclose, use for their own personal advantage, or examine for any
11 reason other than a reason necessitated by the performance of
12 official duties any information obtained from the said records or
13 files or from any examination or inspection of the premises or
14 property of any person. Neither the director nor any employee
15 engaged in such administration or charged with the custody of any
16 such records or files shall be required to produce any of them for
17 the inspection of any person or for use in any action or proceeding
18 except when the records or files or the facts shown thereby are
19 directly involved in an action or proceeding under the provisions of
20 the State Tax Uniform Procedure Law or of the State tax law
21 affected, or where the determination of the action or proceeding will
22 affect the validity or amount of the claim of the State under some
23 State tax law, or in any lawful proceeding for the investigation and
24 prosecution of any violation of the criminal provisions of the State
25 Tax Uniform Procedure Law or of any State tax law.

26 b. The prohibitions of this section, against unauthorized
27 disclosure, use or examination by any present or former officer or
28 employee of this State or any other individual having custody of
29 such information obtained pursuant to the explicit authority of State
30 law, shall specifically include, without limitation, violations
31 involving the divulgence or examination of any information from or
32 any copy of a federal return or federal return information required
33 by New Jersey law to be attached to or included in any New Jersey
34 return. Any person violating this section by divulging, disclosing or
35 using information shall be guilty of a crime of the fourth degree.
36 Any person violating this section by examining records or files for
37 any reason other than a reason necessitated by the performance of
38 official duties shall be guilty of a disorderly persons offense.

39 c. Whenever records and files are used in connection with the
40 prosecution of any person for violating the provisions of this section
41 by divulging, disclosing or using records or files or examining
42 records and files for any reason other than a reason necessitated by
43 the performance of official duties, the defendant shall be given
44 access to those records and files. The court shall review such
45 records and files in camera, and that portion of the court record
46 containing the records and files shall be sealed by the court.¹

47 (cf: P.L.1999, c.42, s.1)

48

49 ¹[3.] 4.¹ This act shall take effect immediately.

S2888 [1R]

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1

2

3

Requires payment of interest by employer on delinquent payroll

4

taxes imposed under "Local Tax Authorization Act."

SENATE, No. 2888

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED NOVEMBER 8, 2007

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Senator RONALD L. RICE

District 28 (Essex)

SYNOPSIS

Requires payment of interest by employer on delinquent payroll taxes imposed under "Local Tax Authorization Act."

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT authorizing the imposition of interest on employers for
2 delinquent payroll taxes imposed under the “Local Tax
3 Authorization Act” and amending P.L.1970, c.326 and
4 R.S.54:50-9.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. Section 16 of P.L.1970, c.326 (C.40:48C-16) is amended to
10 read as follows:

11 16. Any ordinance adopted pursuant to this article shall:

12 a. Require each employer to report his payroll for the preceding
13 calendar quarter to an officer of the municipality designated therein
14 to receive the same and to collect the tax together with such other
15 related information as shall be required by the ordinance and
16 regulations issued pursuant thereto;

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

20 c. Provide methods for enforcement of, and for the imposition of
21 penalties for failure to report and pay, the tax imposed;

22 d. Provide procedure for claims for refunds, and repayment of
23 overpayment of taxes.

24 e. Prohibit any employer from deducting or withholding any
25 amount from remuneration payable to an employee on account of
26 the tax imposed by the ordinance;

27 f. Provide that information contained in any employer's report or
28 received by the municipality or any of its officers or employees as
29 a result of any investigation, hearing or verification of a report
30 shall be confidential except for official purposes and shall not be
31 disclosed except in accordance with an order of court or as
32 otherwise provided by law.

33 Any ordinance adopted pursuant to this article (C.40:48C-14
34 through 40:48C-19) also may require the payment of interest by an
35 employer on delinquent payroll taxes. Payroll taxes shall be
36 considered delinquent when the amount due to the municipality is
37 not paid by the employer on or before the dates specified in
38 subsection b. of this section. Any ordinance so adopted may fix the
39 rate of interest to be charged on the delinquent payroll taxes;
40 however, the rate so fixed shall not exceed 8% per annum on the
41 first \$1,500 of the delinquency and 18% per annum on any amount
42 in excess of \$1,500, to be calculated from the date the tax was
43 payable until the date that actual payment to the municipality is
44 made.

45 (cf: P.L.1970, c.326, s.16)

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

Matter underlined thus is new matter.

- 1 2. R.S.54:50-9 is amended to read as follows:
2 54:50-9. Nothing herein contained shall be construed to prevent:
3 a. The delivery to a taxpayer or the taxpayer's duly authorized
4 representative of a copy of any report or any other paper filed by
5 the taxpayer pursuant to the provisions of this subtitle or of any
6 such State tax law;
7 b. The publication of statistics so classified as to prevent the
8 identification of a particular report and the items thereof;
9 c. The director, in the director's discretion and subject to
10 reasonable conditions imposed by the director, from disclosing the
11 name and address of any licensee under any State tax law, unless
12 expressly prohibited by such State tax law;
13 d. The inspection by the Attorney General or other legal
14 representative of this State of the reports or files relating to the
15 claim of any taxpayer who shall bring an action to review or set
16 aside any tax imposed under any State tax law or against whom an
17 action or proceeding has been instituted in accordance with the
18 provisions thereof;
19 e. The examination of said records and files by the
20 Comptroller, State Auditor or State Commissioner of Finance, or by
21 their respective duly authorized agents;
22 f. The furnishing, at the discretion of the director, of any
23 information contained in tax reports or returns or any audit thereof
24 or the report of any investigation made with respect thereto, filed
25 pursuant to the tax laws, to the taxing officials of any other state,
26 the District of Columbia, the United States and the territories
27 thereof, providing said jurisdictions grant like privileges to this
28 State and providing such information is to be used for tax purposes
29 only;
30 g. The furnishing, at the discretion of the director, of any
31 material information disclosed by the records or files to any law
32 enforcing authority of this State who shall be charged with the
33 investigation or prosecution of any violation of the criminal
34 provisions of this subtitle or of any State tax law;
35 h. The furnishing by the director to the State agency
36 responsible for administering the Child Support Enforcement
37 program pursuant to Title IV-D of the federal Social Security Act,
38 Pub. L.93-647 (42 U.S.C. s.51 et seq.), with the names, home
39 addresses, social security numbers and sources of income and assets
40 of all absent parents who are certified by that agency as being
41 required to pay child support, upon request by the State agency and
42 pursuant to procedures and in a form prescribed by the director;
43 i. The furnishing by the director to the Board of Public
44 Utilities any information contained in tax information statements,
45 reports or returns or any audit thereof or a report of any
46 investigation made with respect thereto, as may be necessary for the
47 administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and
48 P.L.1997, c.162 (C.54:10A-3 et al.);

1 j. The furnishing by the director to the Director of the Division
2 of Alcoholic Beverage Control in the Department of Law and
3 Public Safety any information contained in tax information
4 statements, reports or returns or any audit thereof or a report of any
5 investigation made with respect thereto, as may be relevant, in the
6 discretion of the director, in any proceeding conducted for the
7 issuance, suspension or revocation of any license authorized
8 pursuant to Title 33 of the Revised Statutes;

9 k. The inspection by the Attorney General or other legal
10 representative of this State of the reports or files of any tobacco
11 product manufacturer, as defined in section 2 of P.L.1999, c.148
12 (C.52:4D-2), for any period in which that tobacco product
13 manufacturer was not or is not in compliance with subsection a. of
14 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed
15 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-
16 2), for the purpose of facilitating the administration of the
17 provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);

18 l. The furnishing, at the discretion of the director, of
19 information as to whether a contractor or subcontractor holds a
20 valid business registration as defined in section 1 of P.L.2001, c.134
21 (C.52:32-44);

22 m. The furnishing by the director to a State agency as defined in
23 section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees
24 subject to suspension for non-payment of State tax indebtedness
25 pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);

26 n. The release to the United States Department of the Treasury,
27 Bureau of Financial Management Service, or its successor of
28 relevant taxpayer information for purposes of implementing a
29 reciprocal collection and offset of indebtedness agreement entered
30 into between the State of New Jersey and the federal government
31 pursuant to section 1 of P.L.2006, c.32 (C.54:49-12.7);

32 o. The furnishing of any information contained in tax reports or
33 returns, or any audit thereof, or the report of any investigation made
34 with respect thereto, filed pursuant to any State tax laws, to the
35 designated municipal officer of a municipality authorized to impose
36 an employer payroll tax pursuant to the provisions of Article 5
37 (Employer Payroll Tax) of the "Local Tax Authorization Act,"
38 P.L.1970, c.326 (C.40:48C-14 et seq.), and providing such
39 information is to be used for tax purposes only.

40 (cf: P.L.2006, c.32, s.7)

41
42 3. This act shall take effect immediately.

43
44
45 STATEMENT

46
47 This bill would revise the payroll tax provisions of the "Local
48 Tax Authorization Act," P.L.1970, c.326 (C.40:48C-1 et seq.).

1 The bill would authorize, by ordinance, the assessment of
2 interest charges on delinquent payroll taxes owed by employers to
3 an eligible municipality that has adopted an ordinance imposing
4 payroll taxes pursuant to section 16 of P.L.1970, c.326 (C.40:48C-
5 16). (The amount of the payroll tax is limited to 1% of the payroll
6 of an employer having one or more employees and a payroll in
7 excess of \$2,500 in any calendar quarter, and is not assessed against
8 governmental entities, interstate agencies or insurance companies
9 formed by the authority of another state or foreign country and
10 subject to certain other State taxes.) Under the bill, the amount of
11 the interest penalty on payroll tax delinquencies would be set by
12 ordinance, but could not exceed 8% per annum on the first \$1,500
13 of the delinquency and 18% per annum on any amount in excess of
14 \$1,500, to be calculated from the date the tax was payable. These
15 delinquency interest rate limits are identical to those authorized to
16 be charged by municipalities for delinquent municipal taxes,
17 assessments, or other liens and charges.

18 The bill also authorizes the furnishing of information contained
19 in tax reports or returns, or any audit thereof, or the report of any
20 investigation made of tax reports and returns, to the designated
21 municipal officer of a municipality authorized to impose an
22 employer payroll tax under the "Local Tax Authorization Act,"
23 provided that the information is to be used only for tax purposes.
24 Newark is the only municipality authorized to impose an employer
25 payroll tax under the "Local Tax Authorization Act." This
26 authorization will provide Newark with a means to verify the
27 veracity of the payroll information reported by employers subject to
28 the employer payroll tax, and the correctness of the payroll tax
29 payments made to it by those employers.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2888

STATE OF NEW JERSEY

DATED: JANUARY 3, 2008

The Assembly Appropriations Committee reports favorably Senate Bill No. 2888 (1R).

Senate Bill No. 2888 (1R) revises the payroll tax provisions of the “Local Tax Authorization Act,” P.L.1970, c.326 (C.40:48C-1 et seq.). The bill would authorize, by ordinance, the assessment of interest charges on delinquent payroll taxes owed by employers to an eligible municipality that has adopted an ordinance imposing payroll taxes pursuant to section 16 of P.L.1970, c.326 (C.40:48C-16). (The amount of the payroll tax is limited to 1% of the payroll of an employer having one or more employees and a payroll in excess of \$2,500 in any calendar quarter, and is not assessed against governmental entities, interstate agencies or insurance companies formed by the authority of another state or foreign country and subject to certain other State taxes.) Under the bill, the amount of the interest penalty on payroll tax delinquencies would be set by ordinance, but could not exceed 8% per annum on the first \$1,500 of the delinquency and 18% per annum on any amount in excess of \$1,500, to be calculated from the date the tax was payable. These delinquency interest rate limits are identical to those authorized to be charged by municipalities for delinquent municipal taxes, assessments, or other liens and charges.

The bill also authorizes the furnishing, at the discretion of the Director of the Division of Taxation, of employer provided wage and tax withholding information contained in tax reports or returns filed under the New Jersey gross income tax, to the designated municipal officer of a municipality authorized to impose an employer payroll tax, for the limited purpose of verifying the payroll information reported by employers subject to the employer payroll tax. Newark is the only municipality authorized to impose an employer payroll tax under the “Local Tax Authorization Act.” This authorization will provide Newark with a means to verify the veracity of the payroll information reported by employers subject to the employer payroll tax, and the correctness of the payroll tax payments made to it by those employers.

This bill is identical to Assembly Bill No. 4662, as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) cannot determine the fiscal impact of this bill because it has no information regarding the amount of delinquent payroll taxes that are owed to the City of Newark, or Newark's contemporary experience in collecting delinquent payroll taxes. The City of Newark is the only municipality that is authorized by the "Local Tax Authorization Act," P.L.1970 c.326 (C.40:48C-1 et seq.) to impose a payroll tax. The OLS notes that any surcharge on delinquent payroll taxes would not take effect until after the bill becomes law and an ordinance authorizing the assessment of interest charges is passed by the municipal council.

Current law sets the rate of the tax at 1% of an employer's payroll. According to its Fiscal Year 2008 budget, the City of Newark collected \$33,345,188 in payroll tax revenues in Fiscal Year 2007. Newark's FY 2008 budget anticipates \$33,345,000 in payroll tax revenues. The OLS has no information as to what portion of these collections comprise delinquent payroll taxes.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2888

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 10, 2007

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2888 with committee amendments.

The bill, as amended, revises the payroll tax provisions of the "Local Tax Authorization Act," P.L.1970, c.326 (C.40:48C-1 et seq.). The bill would authorize, by ordinance, the assessment of interest charges on delinquent payroll taxes owed by employers to an eligible municipality that has adopted an ordinance imposing payroll taxes pursuant to section 16 of P.L.1970, c.326 (C.40:48C-16). (The amount of the payroll tax is limited to 1% of the payroll of an employer having one or more employees and a payroll in excess of \$2,500 in any calendar quarter, and is not assessed against governmental entities, interstate agencies or insurance companies formed by the authority of another state or foreign country and subject to certain other State taxes.) Under the bill, the amount of the interest penalty on payroll tax delinquencies would be set by ordinance, but could not exceed 8% per annum on the first \$1,500 of the delinquency and 18% per annum on any amount in excess of \$1,500, to be calculated from the date the tax was payable. These delinquency interest rate limits are identical to those authorized to be charged by municipalities for delinquent municipal taxes, assessments, or other liens and charges.

The bill also authorizes the furnishing, at the discretion of the Director of the Division of Taxation, of employer provided wage and tax withholding information contained in tax reports or returns filed under the New Jersey gross income tax, to the designated municipal officer of a municipality authorized to impose an employer payroll tax, for the limited purpose of verifying the payroll information reported by employers subject to the employer payroll tax. Newark is the only municipality authorized to impose an employer payroll tax under the "Local Tax Authorization Act." This authorization will provide Newark with a means to verify the veracity of the payroll information reported by employers subject to the employer payroll tax, and the correctness of the payroll tax payments made to it by those employers.

COMMITTEE AMENDMENTS:

The committee amendments restrict the information to be provided by the Division of Taxation to the designated municipal officer to employer provided wage and tax withholding information contained in tax reports or returns filed under the New Jersey gross income tax. The amendments also provide that the information is for the limited purpose of verifying the payroll information reported by employers subject to the employer payroll tax. Unauthorized divulging, disclosing or using of the information by a recipient is made a crime of the fourth degree.

FISCAL IMPACT:

The Office of Legislative Services (OLS) cannot determine the fiscal impact of this bill because it has no information regarding the amount of delinquent payroll taxes that are owed to the City of Newark, or Newark's contemporary experience in collecting delinquent payroll taxes. The City of Newark is the only municipality that is authorized by the "Local Tax Authorization Act," P.L.1970 c.326 (C.40:48C-1 et seq.) to impose a payroll tax. The OLS notes that any surcharge on delinquent payroll taxes would not take effect until after the bill becomes law and an ordinance authorizing the assessment of interest charges is passed by the municipal council.

Current law sets the rate of the tax at 1% of an employer's payroll. According to its Fiscal Year 2008 budget, the City of Newark collected \$33,345,188 in payroll tax revenues in Fiscal Year 2007. Newark's FY 2008 budget anticipates \$33,345,000 in payroll tax revenues. The OLS has no information as to what portion of these collections comprise delinquent payroll taxes.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2888

STATE OF NEW JERSEY 212th LEGISLATURE

DATED: JANUARY 14, 2008

SUMMARY

- Synopsis:** Requires payment of interest by employer on delinquent payroll taxes imposed under “Local Tax Authorization Act.”
- Type of Impact:** Indeterminate increase in municipal revenue.
- Agencies Affected:** City of Newark

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Revenue	Indeterminate- See comments below		

- The Office of Legislative Services (OLS) cannot determine the fiscal impact of Senate Bill No. 2888 [1R] because it has no information regarding the amount of delinquent payroll taxes that are owed to the City of Newark, or Newark’s current experience in collecting delinquent payroll taxes. The OLS notes that any surcharge on delinquent payroll taxes would not take effect until after the bill becomes law and an ordinance authorizing the assessment of interest charges on delinquent payroll taxes is adopted by the municipal council.
- The City of Newark is the only municipality that is authorized by the “Local Tax Authorization Act,” P.L.1970 c.326 (C.40:48C-1 et seq.), to impose a payroll tax. According to its Fiscal Year 2008 budget, the City of Newark collected \$33,345,188 in payroll tax revenues in Fiscal Year 2007. Newark’s Fiscal Year 2008 budget anticipates \$33,345,000 in payroll tax revenues. The OLS has no information as to what portion of either the Fiscal Year 2007 collections comprised the payment of delinquent payroll taxes from prior years, or what portion of the FY 2008 anticipated collection comprise delinquent payroll taxes.
- The OLS cannot determine the fiscal impact of this bill because it permits, but does not require, the City of Newark to adopt an ordinance that authorizes the assessment of interest charges on delinquent payroll taxes owed by employers.

BILL DESCRIPTION

Senate Bill No. 2888 [1R] of 2007 permits any municipality that imposes a payroll tax to authorize, by ordinance, the assessment of interest charges on delinquent payroll taxes owed by employers to that a municipality.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) cannot determine the fiscal impact of Senate Bill No. 2888 [1R] because it has no information regarding the amount of delinquent payroll taxes that are owed to the City of Newark, or Newark's contemporary experience in collecting delinquent payroll taxes. The OLS notes that any surcharge on delinquent payroll taxes would not take effect until after the bill becomes law and an ordinance authorizing the assessment of interest charges is passed by the municipal council.

The City of Newark is the only municipality that is authorized by the "Local Tax Authorization Act," P.L.1970 c.326 (C.40:48C-1 et seq.) to impose a payroll tax. Current law sets the rate of the tax at 1 percent of an employer's payroll. According to its Fiscal Year 2008 budget, the City of Newark collected \$33,345,188 in payroll tax revenues in Fiscal Year 2007. Newark's FY 2008 budget anticipates \$33,345,000 in payroll tax revenues. The OLS has no information as to what portion of these collections comprise delinquent payroll taxes.

Furthermore, the OLS cannot determine the fiscal impact of the bill because it permits, but does not require, the City of Newark to adopt an ordinance that authorizes the assessment of interest charges on delinquent payroll taxes owed by employers.

Section: Local Government
Analyst: Scott A. Brodsky
Assistant Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

ASSEMBLY, No. 4662

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 3, 2008

Sponsored by:

Assemblyman WILFREDO CARABALLO
District 29 (Essex and Union)

Co-Sponsored by:

Assemblyman Giblin

SYNOPSIS

Requires payment of interest by employer on delinquent payroll taxes imposed under "Local Tax Authorization Act."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/8/2008)

A4662 CARABALLO

2

1 AN ACT authorizing the imposition of interest on employers for
2 delinquent payroll taxes imposed under the “Local Tax
3 Authorization Act” and amending P.L.1970, c.326, R.S.54:50-8
4 and R.S.54:50-9.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. Section 16 of P.L.1970, c.326 (C.40:48C-16) is amended to
10 read as follows:

11 16. Any ordinance adopted pursuant to this article shall:

12 a. Require each employer to report his payroll for the preceding
13 calendar quarter to an officer of the municipality designated therein
14 to receive the same and to collect the tax together with such other
15 related information as shall be required by the ordinance and
16 regulations issued pursuant thereto;

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

20 c. Provide methods for enforcement of, and for the imposition of
21 penalties for failure to report and pay, the tax imposed;

22 d. Provide procedure for claims for refunds, and repayment of
23 overpayment of taxes.

24 e. Prohibit any employer from deducting or withholding any
25 amount from remuneration payable to an employee on account of
26 the tax imposed by the ordinance;

27 f. Provide that information contained in any employer's report or
28 received by the municipality or any of its officers or employees as
29 a result of any investigation, hearing or verification of a report
30 shall be confidential except for official purposes and shall not be
31 disclosed except in accordance with an order of court or as
32 otherwise provided by law.

33 Any ordinance adopted pursuant to this article (C.40:48C-14
34 through 40:48C-19) also may require the payment of interest by an
35 employer on delinquent payroll taxes. Payroll taxes shall be
36 considered delinquent when the amount due to the municipality is
37 not paid by the employer on or before the dates specified in
38 subsection b. of this section. Any ordinance so adopted may fix the
39 rate of interest to be charged on the delinquent payroll taxes;
40 however, the rate so fixed shall not exceed 8% per annum on the
41 first \$1,500 of the delinquency and 18% per annum on any amount
42 in excess of \$1,500, to be calculated from the date the tax was
43 payable until the date that actual payment to the municipality is
44 made.

45 (cf: P.L.1970, c.326, s.16)

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

Matter underlined thus is new matter.

- 1 2. R.S.54:50-9 is amended to read as follows:
2 54:50-9. Nothing herein contained shall be construed to prevent:
3 a. The delivery to a taxpayer or the taxpayer's duly authorized
4 representative of a copy of any report or any other paper filed by
5 the taxpayer pursuant to the provisions of this subtitle or of any
6 such State tax law;
7 b. The publication of statistics so classified as to prevent the
8 identification of a particular report and the items thereof;
9 c. The director, in the director's discretion and subject to
10 reasonable conditions imposed by the director, from disclosing the
11 name and address of any licensee under any State tax law, unless
12 expressly prohibited by such State tax law;
13 d. The inspection by the Attorney General or other legal
14 representative of this State of the reports or files relating to the
15 claim of any taxpayer who shall bring an action to review or set
16 aside any tax imposed under any State tax law or against whom an
17 action or proceeding has been instituted in accordance with the
18 provisions thereof;
19 e. The examination of said records and files by the
20 Comptroller, State Auditor or State Commissioner of Finance, or by
21 their respective duly authorized agents;
22 f. The furnishing, at the discretion of the director, of any
23 information contained in tax reports or returns or any audit thereof
24 or the report of any investigation made with respect thereto, filed
25 pursuant to the tax laws, to the taxing officials of any other state,
26 the District of Columbia, the United States and the territories
27 thereof, providing said jurisdictions grant like privileges to this
28 State and providing such information is to be used for tax purposes
29 only;
30 g. The furnishing, at the discretion of the director, of any
31 material information disclosed by the records or files to any law
32 enforcing authority of this State who shall be charged with the
33 investigation or prosecution of any violation of the criminal
34 provisions of this subtitle or of any State tax law;
35 h. The furnishing by the director to the State agency
36 responsible for administering the Child Support Enforcement
37 program pursuant to Title IV-D of the federal Social Security Act,
38 Pub. L.93-647 (42 U.S.C. s.51 et seq.), with the names, home
39 addresses, social security numbers and sources of income and assets
40 of all absent parents who are certified by that agency as being
41 required to pay child support, upon request by the State agency and
42 pursuant to procedures and in a form prescribed by the director;
43 i. The furnishing by the director to the Board of Public
44 Utilities any information contained in tax information statements,
45 reports or returns or any audit thereof or a report of any
46 investigation made with respect thereto, as may be necessary for the
47 administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and
48 P.L.1997, c.162 (C.54:10A-3 et al.);

1 j. The furnishing by the director to the Director of the Division
2 of Alcoholic Beverage Control in the Department of Law and
3 Public Safety any information contained in tax information
4 statements, reports or returns or any audit thereof or a report of any
5 investigation made with respect thereto, as may be relevant, in the
6 discretion of the director, in any proceeding conducted for the
7 issuance, suspension or revocation of any license authorized
8 pursuant to Title 33 of the Revised Statutes;

9 k. The inspection by the Attorney General or other legal
10 representative of this State of the reports or files of any tobacco
11 product manufacturer, as defined in section 2 of P.L.1999, c.148
12 (C.52:4D-2), for any period in which that tobacco product
13 manufacturer was not or is not in compliance with subsection a. of
14 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed
15 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-
16 2), for the purpose of facilitating the administration of the
17 provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);

18 l. The furnishing, at the discretion of the director, of
19 information as to whether a contractor or subcontractor holds a
20 valid business registration as defined in section 1 of P.L.2001, c.134
21 (C.52:32-44);

22 m. The furnishing by the director to a State agency as defined in
23 section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees
24 subject to suspension for non-payment of State tax indebtedness
25 pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);

26 n. The release to the United States Department of the Treasury,
27 Bureau of Financial Management Service, or its successor of
28 relevant taxpayer information for purposes of implementing a
29 reciprocal collection and offset of indebtedness agreement entered
30 into between the State of New Jersey and the federal government
31 pursuant to section 1 of P.L.2006, c.32 (C.54:49-12.7);

32 o. The furnishing at the discretion of the director of employer
33 provided wage and tax withholding information contained in tax
34 reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and
35 54A:7-7, to the designated municipal officer of a municipality
36 authorized to impose an employer payroll tax pursuant to the
37 provisions of Article 5 (Employer Payroll Tax) of the "Local Tax
38 Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the
39 limited purpose of verifying the payroll information reported by
40 employers subject to the employer payroll tax.

41 (cf: P.L.2006, c.32, s.7)

42
43 3. R.S.54:50-8 is amended to read as follows:

44 54:50-8. a. The records and files of the director respecting the
45 administration of the State Tax Uniform Procedure Law or of any
46 State tax law shall be considered confidential and privileged and
47 neither the director nor any employee engaged in the administration
48 thereof or charged with the custody of any such records or files, nor
49 any former officer or employee, nor any person who may have

1 secured information therefrom under subsection d., e., f., [or] g. or
2 o. of R.S.54:50-9 or any other provision of State law, shall divulge,
3 disclose, use for their own personal advantage, or examine for any
4 reason other than a reason necessitated by the performance of
5 official duties any information obtained from the said records or
6 files or from any examination or inspection of the premises or
7 property of any person. Neither the director nor any employee
8 engaged in such administration or charged with the custody of any
9 such records or files shall be required to produce any of them for
10 the inspection of any person or for use in any action or proceeding
11 except when the records or files or the facts shown thereby are
12 directly involved in an action or proceeding under the provisions of
13 the State Tax Uniform Procedure Law or of the State tax law
14 affected, or where the determination of the action or proceeding will
15 affect the validity or amount of the claim of the State under some
16 State tax law, or in any lawful proceeding for the investigation and
17 prosecution of any violation of the criminal provisions of the State
18 Tax Uniform Procedure Law or of any State tax law.

19 b. The prohibitions of this section, against unauthorized
20 disclosure, use or examination by any present or former officer or
21 employee of this State or any other individual having custody of
22 such information obtained pursuant to the explicit authority of State
23 law, shall specifically include, without limitation, violations
24 involving the divulgence or examination of any information from or
25 any copy of a federal return or federal return information required
26 by New Jersey law to be attached to or included in any New Jersey
27 return. Any person violating this section by divulging, disclosing or
28 using information shall be guilty of a crime of the fourth degree.
29 Any person violating this section by examining records or files for
30 any reason other than a reason necessitated by the performance of
31 official duties shall be guilty of a disorderly persons offense.

32 c. Whenever records and files are used in connection with the
33 prosecution of any person for violating the provisions of this section
34 by divulging, disclosing or using records or files or examining
35 records and files for any reason other than a reason necessitated by
36 the performance of official duties, the defendant shall be given
37 access to those records and files. The court shall review such
38 records and files in camera, and that portion of the court record
39 containing the records and files shall be sealed by the court.

40 (cf: P.L.1999, c.42, s.1)

41

42 4. This act shall take effect immediately.

43

44

45

STATEMENT

46

47 This bill revises the payroll tax provisions of the "Local Tax
48 Authorization Act," P.L.1970, c.326 (C.40:48C-1 et seq.). The bill
49 would authorize, by ordinance, the assessment of interest charges

1 on delinquent payroll taxes owed by employers to an eligible
2 municipality that has adopted an ordinance imposing payroll taxes
3 pursuant to section 16 of P.L.1970, c.326 (C.40:48C-16). (The
4 amount of the payroll tax is limited to 1% of the payroll of an
5 employer having one or more employees and a payroll in excess of
6 \$2,500 in any calendar quarter, and is not assessed against
7 governmental entities, interstate agencies or insurance companies
8 formed by the authority of another state or foreign country and
9 subject to certain other State taxes.) Under the bill, the amount of
10 the interest penalty on payroll tax delinquencies would be set by
11 ordinance, but could not exceed 8% per annum on the first \$1,500
12 of the delinquency and 18% per annum on any amount in excess of
13 \$1,500, to be calculated from the date the tax was payable. These
14 delinquency interest rate limits are identical to those authorized to
15 be charged by municipalities for delinquent municipal taxes,
16 assessments, or other liens and charges.

17 The bill also authorizes the furnishing, at the discretion of the
18 Director of the Division of Taxation, of employer provided wage
19 and tax withholding information contained in tax reports or returns
20 filed under the New Jersey gross income tax, to the designated
21 municipal officer of a municipality authorized to impose an
22 employer payroll tax, for the limited purpose of verifying the
23 payroll information reported by employers subject to the employer
24 payroll tax. Newark is the only municipality authorized to impose
25 an employer payroll tax under the "Local Tax Authorization Act."
26 This authorization will provide Newark with a means to verify the
27 veracity of the payroll information reported by employers subject to
28 the employer payroll tax, and the correctness of the payroll tax
29 payments made to it by those employers.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4662

STATE OF NEW JERSEY

DATED: JANUARY 3, 2008

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4662.

Assembly Bill No. 4662 revises the payroll tax provisions of the "Local Tax Authorization Act," P.L.1970, c.326 (C.40:48C-1 et seq.). The bill would authorize, by ordinance, the assessment of interest charges on delinquent payroll taxes owed by employers to an eligible municipality that has adopted an ordinance imposing payroll taxes pursuant to section 16 of P.L.1970, c.326 (C.40:48C-16). (The amount of the payroll tax is limited to 1% of the payroll of an employer having one or more employees and a payroll in excess of \$2,500 in any calendar quarter, and is not assessed against governmental entities, interstate agencies or insurance companies formed by the authority of another state or foreign country and subject to certain other State taxes.) Under the bill, the amount of the interest penalty on payroll tax delinquencies would be set by ordinance, but could not exceed 8% per annum on the first \$1,500 of the delinquency and 18% per annum on any amount in excess of \$1,500, to be calculated from the date the tax was payable. These delinquency interest rate limits are identical to those authorized to be charged by municipalities for delinquent municipal taxes, assessments, or other liens and charges.

The bill also authorizes the furnishing, at the discretion of the Director of the Division of Taxation, of employer provided wage and tax withholding information contained in tax reports or returns filed under the New Jersey gross income tax, to the designated municipal officer of a municipality authorized to impose an employer payroll tax, for the limited purpose of verifying the payroll information reported by employers subject to the employer payroll tax. Newark is the only municipality authorized to impose an employer payroll tax under the "Local Tax Authorization Act." This authorization will provide Newark with a means to verify the veracity of the payroll information reported by employers subject to the employer payroll tax, and the correctness of the payroll tax payments made to it by those employers.

This bill is identical to Senate Bill No. 2888 (1R), as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) cannot determine the fiscal impact of this bill because it has no information regarding the amount of delinquent payroll taxes that are owed to the City of Newark, or Newark's contemporary experience in collecting delinquent payroll taxes. The City of Newark is the only municipality that is authorized by the "Local Tax Authorization Act," P.L.1970 c.326 (C.40:48C-1 et seq.) to impose a payroll tax. The OLS notes that any surcharge on delinquent payroll taxes would not take effect until after the bill becomes law and an ordinance authorizing the assessment of interest charges is passed by the municipal council.

Current law sets the rate of the tax at 1% of an employer's payroll. According to its Fiscal Year 2008 budget, the City of Newark collected \$33,345,188 in payroll tax revenues in Fiscal Year 2007. Newark's FY 2008 budget anticipates \$33,345,000 in payroll tax revenues. The OLS has no information as to what portion of these collections comprise delinquent payroll taxes.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4662
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JANUARY 10, 2008

SUMMARY

Synopsis: Requires payment of interest by employer on delinquent payroll taxes imposed under “Local Tax Authorization Act.”

Type of Impact: Indeterminate increase in municipal revenue.

Agencies Affected: City of Newark

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Revenue	Indeterminate increase	Indeterminate increase	Indeterminate increase

- The Office of Legislative Services (OLS) cannot determine the fiscal impact of the bill because it has no information regarding the amount of delinquent payroll taxes that are owed to the City of Newark, or Newark’s current experience in collecting delinquent payroll taxes. The OLS notes that any surcharge on delinquent payroll taxes would not take effect until after the bill becomes law and an ordinance authorizing the assessment of interest charges on delinquent payroll taxes is adopted by the municipal council.
- The City of Newark is the only municipality that is authorized by the “Local Tax Authorization Act,” P.L.1970, c.326 (C.40:48C-1 et seq.), to impose a payroll tax. According to its Fiscal Year 2008 budget, the City of Newark collected \$33,345,188 in payroll tax revenues in Fiscal Year 2007. Newark’s Fiscal Year 2008 budget anticipates \$33,345,000 in payroll tax revenues. The OLS has no information as to what portion of either the Fiscal Year 2007 collections comprised the payment of delinquent payroll taxes from prior years, or what portion of the FY 2008 anticipated collections comprise delinquent payroll taxes.
- The OLS notes that this bill is permissive. It allows, but does not require, the City of Newark to adopt an ordinance that authorizes the assessment of interest charges on delinquent payroll taxes owed by employers.

BILL DESCRIPTION

Assembly Bill No. 4662 of 2007 permits any municipality that imposes a payroll tax to authorize, by ordinance, the assessment of interest charges on delinquent payroll taxes owed by employers to that municipality. Under the bill, the amount of the interest penalty on payroll tax delinquencies would be set by ordinance, but could not exceed 8% per annum on the first \$1,500 of the delinquency and 18% per annum on any amount in excess of \$1,500, to be calculated from the date the tax was payable. Newark is the only municipality authorized to impose an employer payroll tax.

This bill also authorizes the furnishing, at the discretion of the Director of the Division of Taxation, of employer provided wage and tax withholding information contained in tax reports or returns filed under the New Jersey gross income tax, to the designated municipal officer of a municipality authorized to impose an employer payroll tax, for the limited purpose of verifying the payroll information reported by employers subject to the employer payroll tax. This authorization will provide Newark with a means to verify the veracity of the payroll information reported by employers subject to the employer payroll tax, and the correctness of the payroll tax payments made to it by those employers.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS cannot determine the fiscal impact of this bill because it has no information regarding the amount of delinquent payroll taxes that are owed to the City of Newark, or Newark's contemporary experience in collecting delinquent payroll taxes. The OLS notes that any surcharge on delinquent payroll taxes would not take effect until after the bill becomes law and an ordinance authorizing the assessment of interest charges is passed by the municipal council.

The City of Newark is the only municipality that is authorized by the "Local Tax Authorization Act," P.L.1970, c.326 (C.40:48C-1 et seq.) to impose a payroll tax. Current law sets the rate of the tax at 1% of an employer's payroll. According to its Fiscal Year 2008 budget, the City of Newark collected \$33,345,188 in payroll tax revenues in Fiscal Year 2007. Newark's FY 2008 budget anticipates \$33,345,000 in payroll tax revenues. The OLS has no information as to what portion of these collections comprise delinquent payroll taxes.

Finally, the OLS notes that this bill is permissive. It allows, but does not require, the City of Newark to adopt an ordinance that authorizes the assessment of interest charges on delinquent payroll taxes owed by employers.

Section: Local Government

Analyst: Scott A. Brodsky
Assistant Fiscal Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-1 et seq.).