

54:32B-8.12

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1999 **CHAPTER:** 273

NJSA: 54:32B-8.12 (Exemption from sales & use tax—ferryboats)

BILL NO: S761 (Substituted for A1957)

SPONSOR(S): Kyrillos and Kenny

DATE INTRODUCED: February 26, 1998

COMMITTEE: **ASSEMBLY:** Appropriations; Transportation

SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** February 18, 1999 Re-enacted 11-15-99

SENATE: June 22, 1998 Re-enacted 7-1-99

DATE OF APPROVAL: November 24, 1999

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: Second Reprint
(Amendments during passage denoted by superscript numbers)

S761

SPONSORS STATEMENT: (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#) [9-14-98 \(Transportation\)](#)
[Yes](#) [11-9-98 \(Appropriations\)](#)
SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: [Yes](#) [6-1-98](#)
[Yes](#) [11-17-98](#)

A1957

SPONSORS STATEMENT: (Begins on page 2 of original bill) [Yes](#)

Bill and Sponsors Statement identical to S761

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)
Identical to Assembly 9-14-98 Statement to S761

[Yes](#)
Identical to Assembly 11-9-98 Statement to S761

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: [Yes](#)
Identical to 11-17-98 Fiscal Estimate for S761

VETO MESSAGE:

Yes

GOVERNOR'S PRESS RELEASE ON CONDITIONAL VETO:

Yes

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 1999, CHAPTER 273, *approved November 24, 1999*
Senate, No. 761 (*Second Reprint*)

1 AN ACT providing an exemption for sales and repair of ferryboats
2 from the sales and use tax ¹**[and]**,¹ amending P.L.1980, c.105
3 ²**[¹and supplementing P.L.1966, c.30 (C.54:32B-1 et seq.)¹]².**

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 24 of P.L.1980, c.105 (C.54:32B-8.12) is amended to
9 read as follows:

10 24. Receipts from sales or charges for repairs, alterations or
11 conversion of commercial ships or any component thereof including
12 cargo containers of any type whatsoever, barges and other vessels of
13 50-ton burden or over, primarily engaged in interstate or foreign
14 commerce, machinery, apparatus and equipment for use at a marine
15 terminal facility in loading, unloading and handling cargo carried by
16 those commercial ships, barges and other vessels, and storage and
17 other services rendered with respect to such loading, unloading and
18 handling cargo at a marine terminal facility, ferryboats that are
19 primarily engaged in the transportation of passengers during peak
20 hours of commutation, or other vessels, regardless of tonnage,
21 primarily engaged in commercial fishing or shell fishing, including
22 equipment necessary for harvesting fish, shellfish and other
23 crustaceans and aquatic organisms, or other vessels primarily engaged
24 in commercial party boat (head boat) sport fishing and subject to
25 annual inspection by the United States Coast Guard, and of
26 governmentally-owned ships, barges and other vessels and property
27 used by or purchased for the use of such vessels, machinery, apparatus
28 and equipment for fuel, provisions, supplies, maintenance and repairs
29 (other than articles purchased for the original equipping of a new ship)
30 are exempt from the tax imposed under the Sales and Use Tax Act.
31 (cf: P.L.1988, c.53, s.1)

32
33 ²**[¹2. (New section) Notwithstanding the provisions of sections 19**
34 **and 20 of P.L.1966, c.30 (C.54:32B-19 and 54:32B-20) or the State**
35 **Tax Uniform Procedure Law (R.S.54:48-1 et seq.), no refund shall be**
36 **allowed and no deficiency shall be assessed on receipts from any sale**
37 **made or service rendered prior to the effective date of**
38 **P.L. , c. (C.) (now pending before the Legislature as this**
39 **bill), if the sale or service would have been covered by the exemption**

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:

¹ Senate SBA committee amendments adopted June 11, 1998.

² Senate amendments adopted in accordance with Governor's recommendations June 24, 1999.

1 provided under the amendatory provisions of section 1 of P.L. _____,
2 c. if it had been made or rendered on or after that effective date.¹²

3

4 ¹~~[2.]~~²~~[3.]~~¹ 2.² This act shall take effect immediately ¹~~and shall~~
5 be retroactive to the first day of the 36th month preceding
6 enactment¹.

7

8

9

10

11 _____
12 Provides for general exemption from sales and use tax of cost of
purchase and repair of commuter ferryboats.

SENATE, No. 761

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED FEBRUARY 26, 1998

Sponsored by:

Senator JOSEPH M. KYRILLOS, JR.
District 13 (Middlesex and Monmouth)
Senator BERNARD F. KENNY
District 33 (Hudson)

Co-Sponsored by:

Senator Ciesla

SYNOPSIS

Provides for general exemption from sales and use tax of cost of purchase and repair of commuter ferryboats.

CURRENT VERSION OF TEXT

As introduced.



S761 KYRILLOS, KENNY

2

1 AN ACT providing an exemption for sales and repair of ferryboats
2 from the sales and use tax and amending P.L.1980, c.105.

3

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

6

7 1. Section 24 of P.L.1980, c.105 (C.54:32B-8.12) is amended to
8 read as follows:

9 24. Receipts from sales or charges for repairs, alterations or
10 conversion of commercial ships or any component thereof including
11 cargo containers of any type whatsoever, barges and other vessels of
12 50-ton burden or over, primarily engaged in interstate or foreign
13 commerce, machinery, apparatus and equipment for use at a marine
14 terminal facility in loading, unloading and handling cargo carried by
15 those commercial ships, barges and other vessels, and storage and
16 other services rendered with respect to such loading, unloading and
17 handling cargo at a marine terminal facility, ferryboats that are
18 primarily engaged in the transportation of passengers during peak
19 hours of commutation, or other vessels, regardless of tonnage,
20 primarily engaged in commercial fishing or shell fishing, including
21 equipment necessary for harvesting fish, shellfish and other
22 crustaceans and aquatic organisms, or other vessels primarily engaged
23 in commercial party boat (head boat) sport fishing and subject to
24 annual inspection by the United States Coast Guard, and of
25 governmentally-owned ships, barges and other vessels and property
26 used by or purchased for the use of such vessels, machinery, apparatus
27 and equipment for fuel, provisions, supplies, maintenance and repairs
28 (other than articles purchased for the original equipping of a new ship)
29 are exempt from the tax imposed under the Sales and Use Tax Act.
30 (cf: P.L.1988, c.53, s.1)

31

32 2. This act shall take effect immediately and shall be retroactive to
33 the first day of the 36th month preceding enactment.

34

35

36

STATEMENT

37

38 This bill amends the sales and use tax to clarify and extend an
39 existing exemption from the tax for the sale and servicing of certain
40 commercial ships to include commuter ferryboats.

41 Current law provides an exemption from sales and use tax for sales
42 or charges for repairs, alterations or conversion of commercial ships,
43 barges and other vessels of 50-ton burden or over, primarily engaged

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.

S761 KYRILLOS, KENNY

3

1 in interstate or foreign commerce. This bill incorporates into the text
2 of the current law specific provision for the exemption of receipts from
3 sales or charges for repairs, alterations or conversion of ferryboats that
4 are primarily engaged in the transportation of passengers during peak
5 hours of commutation. Besides providing more explicitly for
6 coverage, under the exemption, of commuter ferryboats that are within
7 the class of ships and vessels already exempted, the bill extends the
8 exemption to commuter ferryboats primarily engaged in intrastate
9 commerce.

10 The bill would applies retroactively to the three-year period
11 preceding enactment.

ASSEMBLY TRANSPORTATION COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 761

STATE OF NEW JERSEY

DATED: SEPTEMBER 14, 1998

The Assembly Transportation Committee reports favorably Senate Bill No. 761 (1R).

This bill amends the sales and use tax by extending an existing exemption from the tax for the sale and servicing of certain commercial ships to include commuter ferryboats.

Current law provides an exemption from sales and use tax for sales or charges for repairs, alterations or conversion of commercial ships, barges and other vessels of 50-ton burden or over, primarily engaged in interstate or foreign commerce. This bill incorporates into the text of the current law specific provision for the exemption of receipts from sales or charges for repairs, alterations or conversion of ferryboats that are primarily engaged in the transportation of passengers during peak hours of commutation.

The bill specifically provides that no refund will be allowed or any deficiency assessed on receipts from any sale or service that, had the sale been made or service rendered on or after the date on which the bill is enacted, would have been covered by the exemption for which the legislation provides.

As reported by the committee, this bill is identical to Assembly Bill No. 1957 as amended and reported by the committee this day.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 761

STATE OF NEW JERSEY

DATED: NOVEMBER 9, 1998

The Assembly Appropriations Committee reports favorably Senate Bill No. 761 (1R).

Senate Bill No. 761 (1R) amends the sales and use tax by extending an existing exemption from the tax for the sale and servicing of certain commercial ships to include commuter ferryboats.

Current law provides an exemption from sales and use tax for sales or charges for repairs, alterations or conversion of commercial ships, barges and other vessels of 50-ton burden or over, primarily engaged in interstate or foreign commerce. This bill incorporates into the text of the current law specific provision for the exemption of receipts from sales or charges for repairs, alterations or conversion of ferryboats that are primarily engaged in the transportation of passengers during peak hours of commutation.

The bill specifically provides that no refund will be allowed or any deficiency assessed on receipts from any sale or service that, had the sale been made or service rendered on or after the date on which the bill is enacted, would have been covered by the exemption for which the legislation provides.

As reported by the committee, this bill is identical to Assembly Bill No. 1957 (1R) also reported by the committee this day.

FISCAL IMPACT:

The Division of Taxation noted that this bill would result in a loss of sales and use tax revenue; however, the division was unable to quantify the loss. Based on information from the Port Authority of New York and New Jersey, the Office of Maritime Resources and the Department of Transportation, the Office of Legislative Services (OLS) estimates the revenue loss to be between \$180,000 to \$210,000 per ferryboat.

The OLS estimates that one or two new ferryboats will become operational each year, resulting in annual losses of \$180,000 to \$420,000 based on current prices.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 761

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 8, 1998

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 761.

This bill amends the sales and use tax by extending an existing exemption from the tax for the sale and servicing of certain commercial ships to include commuter ferryboats.

Current law provides an exemption from sales and use tax for sales or charges for repairs, alterations or conversion of commercial ships, barges and other vessels of 50-ton burden or over, primarily engaged in interstate or foreign commerce. This bill incorporates into the text of the current law specific provision for the exemption of receipts from sales or charges for repairs, alterations or conversion of ferryboats that are primarily engaged in the transportation of passengers during peak hours of commutation.

COMMITTEE AMENDMENTS

The committee adopted amendments to the bill deleting a provision for its retroactive application to the three-year period preceding enactment and providing instead that no refund will be allowed or any deficiency assessed on receipts from any sale or service that, had the sale been made or service rendered on or after the date on which the bill is enacted, would have been covered by the exemption for which the legislation provides.

FISCAL IMPACT

The Office of Legislative Services (OLS) has issued a fiscal estimate for this bill estimating that implementation of the legislation will result in foregone sales and use tax revenues from the sale of ferryboats of approximately \$180,000 to \$420,000 per year prospectively, while an additional \$1.0 million in revenue would be either foregone to the State or subject to refund by the State as a result of the bill's retroactivity. Similarly, the State would forego (and may owe refunds on) an unspecified amount of sales tax paid on the repair or maintenance of ferryboats. Any estimate of revenue loss to the State as a result of this bill, however, is contingent on the Division of Taxation's interpretation of current law, which is ambiguous with

respect to ferryboats under 50 tons.

The OLS estimate of revenue loss is based on information obtained through the Port Authority of New York and New Jersey, the Office of Maritime Resources in the State Department of Commerce and Economic Development, and the State Department of Transportation. According to these sources, although the purchase price of a new commuter ferryboat can vary widely, from approximately \$1.5 million to \$10 million depending on factors such as speed, design and capacity, the current average price of a new, high-speed commuter ferryboat is approximately \$3.0 million to \$3.5 million. Applying the six percent sales tax rate to this average purchase price yields the amount of tax foregone (\$180,000 to \$210,000) per ferryboat. However, given recent trends (which indicate that of the 21 ferry boats currently operating in this State, five were added over the last three years), it is assumed that one to two new ferry boats will become operational each year, resulting in annual revenue losses of \$180,000 to \$420,000 based on current prices.

Finally, in calculating the amount which would either be foregone or refunded as a result of the bill's retroactivity, the Port Authority indicates an average purchase price of \$3.3 million (with actual prices ranging from approximately \$1.5 million to \$6.0 million) for the five ferryboats purchased over the last three years.

LEGISLATIVE FISCAL ESTIMATE

SENATE, No. 761

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: JUNE 1, 1998

Senate Bill No. 761 of 1998 amends the sales and use tax to clarify and extend an existing exemption from the tax for the sale and servicing of certain commercial ships to include commuter ferryboats.

Current law provides an exemption from sales and use tax for sales or charges for repairs, alterations or conversion of commercial ships, barges and other vessels of 50-ton burden or over, primarily engaged in interstate or foreign commerce. This bill incorporates into the text of the current law specific provision for the exemption of receipts from the sale of ferryboats or receipts from charges for repairs, alterations or conversion of ferryboats primarily engaged in the transportation of passengers during peak hours of commutation. Besides providing a more explicit exemption of commuter ferryboats within the class of ships and vessels already exempted, the bill extends the exemption to commuter ferryboats primarily engaged in intrastate commerce.

The bill would apply retroactively to the three-year period preceding enactment.

The Office of Legislative Services (OLS) estimates that implementation of this bill will result in foregone sales and use tax revenues from the sale of ferryboats of approximately \$180,000 to \$420,000 per year prospectively, while an additional \$1.0 million in revenue would either be foregone to the State, or would be subject to refund by the State, as a result of the bill's retroactivity. Similarly, the State would forego (and may owe refunds on) an unspecified amount of sales tax paid on the repair or maintenance of ferryboats. The presumption of any revenue loss to the State as a result of this bill, however, is contingent on the Division of Taxation's interpretation of current law, which is ambiguous with respect to ferry boats under 50 tons.

The loss of revenue projected by the OLS is based on information obtained through the Port Authority of New York and New Jersey, the Office of Maritime Resources in the State Department of Commerce and Economic Development and the State Department of Transportation. According to these sources, although the purchase price of a new commuter ferryboat can vary widely, from approximately \$1.5 million to \$10 million depending on factors such

as speed, design and capacity, the current average cost of a new, high-speed commuter ferryboat is approximately \$3.0 million to \$3.5 million. Thus, applying the six percent sales tax to the current average purchase price yields the amount of tax foregone (\$180,000 to \$210,000) per ferryboat. However, given recent trends (which indicate that of the 21 ferry boats currently operating in this State, five were added over the last three years), the OLS estimate assumes that one to two new ferry boats will become operational each year, resulting in annual revenue losses of \$180,000 to \$420,000 based on current prices.

Finally, in calculating the amount which would either be foregone or refunded as a result of the bill's retroactivity, the Port Authority indicates an average purchase price of \$3.3 million (with actual prices ranging from approximately \$1.5 million to \$6.0 million) for the five ferryboats purchased over the last three years.

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.

FISCAL NOTE

[First Reprint]

SENATE, No. 761

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: NOVEMBER 17, 1998

Bill Summary:

Senate Bill No. 761 (1R) of 1998 amends the sales and use tax to clarify and extend an existing exemption from the tax for the sale and servicing of certain commercial ships to include commuter ferryboats.

Current law provides an exemption from sales and use tax for sales or charges for repairs, alterations or conversion of commercial ships, barges and other vessels of 50-ton burden or over, primarily engaged in interstate or foreign commerce. This bill incorporates into the text of the current law specific provision for the exemption of receipts from the sale of ferryboats or receipts from charges for repairs, alterations or conversion of ferryboats primarily engaged in the transportation of passengers during peak hours of commutation. Besides providing a more explicit exemption of commuter ferryboats within the class of ships and vessels already exempted, the bill extends the exemption to commuter ferryboats primarily engaged in intrastate commerce.

Executive Estimate:

The Division of Taxation, in material supplied for an identical bill, notes that enactment of this legislation will result in a loss of sales and use tax revenues; however, the division is unable to estimate the magnitude of this loss as it cannot project the number of ferry boats which will be purchased in future years. In addition, the division cannot estimate the amount which would be foregone as a result of the exemption the bill provides for sales tax paid on the repair and maintenance of ferryboats.

The division notes, however, that based on data available through the U.S. Department of Transportation, which indicates that ferryboats range in price from approximately \$1.5 million to \$6.0 million, the loss of revenue to the State would be some \$90,000 to \$360,000 per ferryboat based on the State sales and use tax rate of six percent.

OLS Estimate:

The Office of Legislative Services (OLS) estimates that

implementation of this bill will result in foregone sales and use tax revenues from the sale of ferryboats of approximately \$180,000 to \$420,000 per year. Similarly, the State would forego an unspecified amount of sales tax paid on the repair or maintenance of ferryboats. The presumption of any revenue loss to the State as a result of this bill, however, is contingent on the Division of Taxation's interpretation of current law, which is ambiguous with respect to ferry boats under 50 tons, an issue which is not addressed by the division in its estimate.

The loss of revenue projected by the OLS is based on information obtained through the Port Authority of New York and New Jersey, the Office of Maritime Resources in the Department of Treasury and the State Department of Transportation. According to these sources, although the purchase price of a new commuter ferryboat can vary widely, from approximately \$1.5 million to \$10 million depending on factors such as speed, design and capacity, the current average cost of a new, high-speed commuter ferryboat is approximately \$3.0 million to \$3.5 million. Thus, applying the six percent sales tax to the current average purchase price yields the amount of tax foregone (\$180,000 to \$210,000) per ferryboat. However, given recent trends (which indicate that of the 21 ferryboats currently operating in this State, five were added over the last three years), the OLS estimate assumes that one to two new ferryboats will become operational each year, resulting in annual revenue losses of \$180,000 to \$420,000 based on current prices.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 1957

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED APRIL 20, 1998

Sponsored by:

Assemblyman STEVE CORODEMUS

District 11 (Monmouth)

Assemblyman LOUIS A. ROMANO

District 33 (Hudson)

Co-Sponsored by:

Assemblyman Bagger

SYNOPSIS

Provides for general exemption from sales and use tax of cost of purchase and repair of commuter ferryboats.

CURRENT VERSION OF TEXT

As introduced.



A1957 CORODEMUS, ROMANO

2

1 AN ACT providing an exemption for sales and repair of ferryboats
2 from the sales and use tax and amending P.L.1980, c.105.

3

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

6

7 1. Section 24 of P.L.1980, c.105 (C.54:32B-8.12) is amended to
8 read as follows:

9 24. Receipts from sales or charges for repairs, alterations or
10 conversion of commercial ships or any component thereof including
11 cargo containers of any type whatsoever, barges and other vessels of
12 50-ton burden or over, primarily engaged in interstate or foreign
13 commerce, machinery, apparatus and equipment for use at a marine
14 terminal facility in loading, unloading and handling cargo carried by
15 those commercial ships, barges and other vessels, and storage and
16 other services rendered with respect to such loading, unloading and
17 handling cargo at a marine terminal facility, ferryboats that are
18 primarily engaged in the transportation of passengers during peak
19 hours of commutation, or other vessels, regardless of tonnage,
20 primarily engaged in commercial fishing or shell fishing, including
21 equipment necessary for harvesting fish, shellfish and other
22 crustaceans and aquatic organisms, or other vessels primarily engaged
23 in commercial party boat (head boat) sport fishing and subject to
24 annual inspection by the United States Coast Guard, and of
25 governmentally-owned ships, barges and other vessels and property
26 used by or purchased for the use of such vessels, machinery, apparatus
27 and equipment for fuel, provisions, supplies, maintenance and repairs
28 (other than articles purchased for the original equipping of a new ship)
29 are exempt from the tax imposed under the Sales and Use Tax Act.
30 (cf: P.L.1988, c.53, s.1)

31

32 2. This act shall take effect immediately and shall be retroactive to
33 the first day of the 36th month preceding enactment.

34

35

36

STATEMENT

37

38 This bill amends the sales and use tax to clarify and extend an
39 existing exemption from the tax for the sale and servicing of certain
40 commercial ships to include commuter ferryboats.

41 Current law provides an exemption from sales and use tax for sales
42 or charges for repairs, alterations or conversion of commercial ships,
43 barges and other vessels of 50-ton burden or over, primarily engaged

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.

A1957 CORODEMUS, ROMANO

3

1 in interstate or foreign commerce. This bill incorporates into the text
2 of the current law specific provision for the exemption of receipts from
3 sales or charges for repairs, alterations or conversion of ferryboats that
4 are primarily engaged in the transportation of passengers during peak
5 hours of commutation. Besides providing more explicitly for
6 coverage, under the exemption, of commuter ferryboats that are within
7 the class of ships and vessels already exempted, the bill extends the
8 exemption to commuter ferryboats primarily engaged in intrastate
9 commerce.
10 The bill would apply retroactively to the three-year period
11 preceding enactment.

ASSEMBLY TRANSPORTATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1957

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 14, 1998

The Assembly Transportation Committee reports favorably Assembly Bill No. 1957 with committee amendments.

This bill amends the sales and use tax by extending an existing exemption from the tax for the sale and servicing of certain commercial ships to include commuter ferryboats.

Current law provides an exemption from sales and use tax for sales or charges for repairs, alterations or conversion of commercial ships, barges and other vessels of 50-ton burden or over, primarily engaged in interstate or foreign commerce. This bill incorporates into the text of the current law specific provision for the exemption of receipts from sales or charges for repairs, alterations or conversion of ferryboats that are primarily engaged in the transportation of passengers during peak hours of commutation.

The committee adopted amendments to the bill deleting a provision for its retroactive application to the three-year period preceding enactment and providing instead that no refund will be allowed or any deficiency assessed on receipts from any sale or service that, had the sale been made or service rendered on or after the date on which the bill is enacted, would have been covered by the exemption for which the legislation provides.

As reported by the committee, this bill is identical to Senate Bill No. 761(1R).

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1957

STATE OF NEW JERSEY

DATED: NOVEMBER 9, 1998

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1957 (1R).

Assembly Bill No. 1957 (1R) amends the sales and use tax by extending an existing exemption from the tax for the sale and servicing of certain commercial ships to include commuter ferryboats.

Current law provides an exemption from sales and use tax for sales or charges for repairs, alterations or conversion of commercial ships, barges and other vessels of 50-ton burden or over, primarily engaged in interstate or foreign commerce. This bill incorporates into the text of the current law specific provision for the exemption of receipts from sales or charges for repairs, alterations or conversion of ferryboats that are primarily engaged in the transportation of passengers during peak hours of commutation.

The bill specifically provides that no refund will be allowed or any deficiency assessed on receipts from any sale or service that, had the sale been made or service rendered on or after the date on which the bill is enacted, would have been covered by the exemption for which the legislation provides.

As reported by the committee, this bill is identical to Senate Bill No. 761 (1R) also reported by the committee this day.

FISCAL IMPACT:

The Division of Taxation noted that this bill would result in a loss of sales and use tax revenue; however, the division was unable to quantify the loss. Based on information from the Port Authority of New York and New Jersey, the Office of Maritime Resources and the Department of Transportation, the Office of Legislative Services (OLS) estimates the revenue loss to be between \$180,000 to \$210,000 per ferryboat.

The OLS estimates that one or two new ferryboats will become operational each year, resulting in annual losses of \$180,000 to \$420,000 based on current prices.

FISCAL NOTE

[First Reprint]

ASSEMBLY, No. 1957

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: NOVEMBER 17, 1998

Bill Summary:

Assembly Bill No. 1957 (1R) of 1998 amends the sales and use tax to clarify and extend an existing exemption from the tax for the sale and servicing of certain commercial ships to include commuter ferryboats.

Current law provides an exemption from sales and use tax for sales or charges for repairs, alterations or conversion of commercial ships, barges and other vessels of 50-ton burden or over, primarily engaged in interstate or foreign commerce. This bill incorporates into the text of the current law specific provision for the exemption of receipts from the sale of ferryboats or receipts from charges for repairs, alterations or conversion of ferryboats primarily engaged in the transportation of passengers during peak hours of commutation. Besides providing a more explicit exemption of commuter ferryboats within the class of ships and vessels already exempted, the bill extends the exemption to commuter ferryboats primarily engaged in intrastate commerce.

Executive Estimate:

The Division of Taxation notes that enactment of this legislation will result in a loss of sales and use tax revenues; however, the division is unable to estimate the magnitude of this loss as it cannot project the number of ferry boats which will be purchased in future years. In addition, the division cannot estimate the amount which would be foregone as a result of the exemption the bill provides for sales tax paid on the repair and maintenance of ferryboats.

The division notes, however, that based on data available through the U.S. Department of Transportation, which indicates that ferryboats range in price from approximately \$1.5 million to \$6.0 million, the loss of revenue to the State would be some \$90,000 to \$360,000 per ferryboat based on the State sales and use tax rate of six percent.

OLS Estimate:

The Office of Legislative Services (OLS) estimates that implementation of this bill will result in foregone sales and use tax revenues from the sale of ferryboats of approximately \$180,000 to \$420,000 per year. Similarly, the State would forego an unspecified amount of sales tax paid on the repair or maintenance of ferryboats. The presumption of any revenue loss to the State as a result of this bill, however, is contingent on the Division of Taxation's interpretation of current law, which is ambiguous with respect to ferry boats under 50 tons, an issue which is not addressed by the division in its estimate.

The loss of revenue projected by the OLS is based on information obtained through the Port Authority of New York and New Jersey, the Office of Maritime Resources in the Department of Treasury and the State Department of Transportation. According to these sources, although the purchase price of a new commuter ferryboat can vary widely, from approximately \$1.5 million to \$10 million depending on factors such as speed, design and capacity, the current average cost of a new, high-speed commuter ferryboat is approximately \$3.0 million to \$3.5 million. Thus, applying the six percent sales tax to the current average purchase price yields the amount of tax foregone (\$180,000 to \$210,000) per ferryboat. However, given recent trends (which indicate that of the 21 ferryboats currently operating in this State, five were added over the last three years), the OLS estimate assumes that one to two new ferryboats will become operational each year, resulting in annual revenue losses of \$180,000 to \$420,000 based on current prices.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

SENATE BILL NO. 761 (FIRST REPRINT)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 761 (First Reprint) with my recommendations for reconsideration.

A. SUMMARY OF THE BILL

This bill seeks to establish fairness in the private mass transportation industry by creating an exemption from the sales and use tax for the purchase and repair of commuter ferries. A similar exemption currently exists for certain other forms of mass transportation equipment, including trains and buses. A separate provision in the legislation would prohibit the assessment of deficiencies for the payment of taxes attributable to the purchase and repair of commuter ferries prior to the effective date of this act.

B. RECOMMENDED ACTION

I am supportive of extending an exemption from the sales and use tax for the purchase and repair of commuter ferries, as such an exemption is currently available for certain other commuter vehicles. Indeed, the extension of this exemption will foster more equitable competition within the mass transportation industry and benefit commuters throughout the State by making ferries a more viable and attractive transit option. I do object, however, to the provision in this bill that would apply this exemption retroactively. This provision is troubling as it would benefit only those ferry services that have improperly failed to pay their taxes. Accordingly, I recommend deletion of this provision.

Therefore, I herewith return Senate Bill No. 761 (First Reprint) and recommend that it be amended as follows:

Page 2, Title, Lines 2-3 : Delete “and supplementing P.L. 1966. c.30 (C.54:32B-1 et seq.)”

Page 2, Section 2, Lines 33-41: Delete Section 2 in its entirety.

Page 3, Section 3, Line 1:

Delete "3" and insert "2".

Respectfully,

/s/ Christine Todd Whitman

Governor

[seal]

Attest:

/s/ John J. Farmer, Jr.

Chief Counsel to the Governor

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Gene Herman
609-777-2600

RELEASE: May 6, 1999

Gov. Christie Whitman today conditionally vetoed the following pieces of legislation:

S-761, sponsored by Senators Joseph M. Kyrillos (R-Middlesex/Monmouth) and Bernard F. Kenny, Jr. (D-Hudson) and Assembly Members Steve Corodemus (R-Monmouth) and Louis A. Romano (D-Hudson), would have exempted the purchase, repair and maintenance of ferries from the sales and use tax. This type of exemption is already in existence for buses, trains and other commuter vehicles, so this exemption would create a more fair playing field within the mass transit industry and make ferries more viable as a mass transit option. The legislation also would have prevented the Division of Taxation from collecting sales and use tax that commuter ferry services have failed to pay over the last several years. In her conditional veto, the Governor said she was supportive of extending the sales and use tax exemption for the purchase and repair of commuter ferries, which is currently available for certain other commuter vehicles. However, she said retroactive provision is troubling since it would only benefit ferry services that have improperly failed to pay their taxes. The Governor recommended deleting the retroactive provision.

S-1009, sponsored by Senator Robert J. Martin (R-Essex/Morris/Passaic) and Assembly Member Larry Chatkzidakis (R-Atlantic/Burlington/Camden), would have provided that special elections in type II school districts may occur on only the fourth Tuesday in January, the second Tuesday in March, or the first Tuesday in September that follows by eight days the day on which Labor Day is celebrated, or the second Tuesday in September. Current law provides that a board of education in a type II district may call a special school election at any time the board of education determines the need for such an election or whenever 50 legal voters in the district request it by petition. The law precludes any such election from occurring within 20 days before or after a primary, municipal or general election and provides that no more than two special elections may be called within any period of six months to submit a bond question to the voters. In her conditional veto, the Governor said she supports this bill, which enables county election officials to effectively administer special school elections in conjunction with other state and municipal elections. She said it is anticipated that providing uniformity in the special school election process will result in savings to local taxpayers and increase local participation. The Governor said, however, that many school districts have contacted her regarding the detrimental short-term effect the bill could have if it is effective immediately. Many school districts have scheduled special school elections this spring and summer to move forward with bond referenda. Under the bill, the Governor said, such school districts would be precluded from holding a special election until the first Tuesday in September that follows by eight days the day on which Labor Day is celebrated. She said that date would be too late for many districts that face urgent facilities needs and that have invested significant resources in planning for bond referenda. The Governor recommended allowing a 120-day delay in the effective date of the act to remedy the problem.

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Gene Herman
609-777-2600

RELEASE: November 24, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

S-1063, sponsored by Senators Robert Martin (R-Essex/Morris/Passaic) and Raymond J. Zane (D-Salem/Cumberland/Gloucester), and Assembly Member Michael Patrick Carroll (R-Morris), establishes a new civil penalty enforcement act. The bill incorporates recommendations the Governor made in a conditional veto.

S-1112, sponsored by Senator Gerald Cardinale (R-Bergen), permits insurers to file and use life insurance policy contract forms in New Jersey if the forms were approved in at least 42 other states. The bill incorporates recommendations the Governor made in a conditional veto.

S-235, sponsored by Senator James S. Cafiero (R-Cape May/Atlantic/Cumberland) and Assembly Members Nicholas Asselta (R-Cape May/Atlantic/Cumberland) and John C. Gibson (R-Cape May/Atlantic/Cumberland), makes certain changes in the requirements for and enforcement of cancellation of mortgages of record. The bill incorporates recommendations the Governor made in a conditional veto.

S-761, sponsored by Senators Joseph M. Kyrillos, Jr. (R-Middlesex/Monmouth) and Bernard F. Kenny, Jr. (D-Hudson) and Assembly Members Steve Corodemus (R-Monmouth) and Louis A. Romano (D-Hudson), exempts the purchase, repair and maintenance of commuter ferries from the sales and use tax. The bill incorporates recommendations the Governor made in a conditional veto.

A-2884, sponsored by Assembly Members Joseph Azzolina (R-Middlesex/Monmouth) and George F. Geist (R-Camden/Gloucester), requires the New Jersey Economic Development Authority (EDA), in consultation with the Department of Military and Veterans' Affairs, to establish informational sessions to advise veterans of business assistance programs available from the EDA and assist them in applying to these programs.