

**SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

BILL NUMBER:

A-2206

DATE OF INTRODUCTION:

January 30, 2006

SPONSOR:

Assemblyman Jeff Van Drew

DATE OF RECOMMENDATION:

May 10, 2006

IDENTICAL BILL:

COMMITTEE:

DESCRIPTION:

The Bill provides New Jersey public and private school teachers and teaching staff members a sales tax exemption for purchases of qualified materials used in teaching or professional development.

ANALYSIS:

This Bill is proposed to mitigate the financial burden of teachers who use their personal funds to make purchases for professional development and classroom use without school reimbursement.

This exemption benefits a specialized group and violates the principle of horizontal equity which mandates that sales tax legislation be broadly based and tax similar transactions, persons or things in a similar manner. Tax treatment should be uniform from one taxpayer to another. This proposal creates a disparity between school teachers/staff and taxpayers in other professions not qualifying for the exemption. The creation of an exemption based on a taxpayer's employment could encourage other professionals to pursue the same exemption from purchases for their work and professional development.

Generally, schools themselves are exempt from New Jersey sales tax on purchases made with school funds under N.J.S.A. 54:32B-9. The New Jersey Sales and Use Tax Act also provides a sales and use tax exemption for school textbooks. N.J.S.A. 54:32B-8.21. The financial burden on teachers would be more appropriately handled by legislation mandating the increase school supply allowances.

The Bill's broad language leads itself to significant administrative and enforcement problems. The Bill defines "qualified teaching materials" as "books, supplies, computer equipment and other supplementary materials for use in the course of teaching or professional development." This definition allows for subjective interpretation and may result in fraudulent purchases.

As computer and office supplies qualify for exemption, there is a high risk of purchasers fraudulently claiming exemption, yet there would be no administratively feasible way for

vendors to know whether the purchaser was a teacher making a qualifying purchase or whether the purchaser was using the purchase for personal use.

The Bill states that “public or private school teacher or teaching staff member of preschool through grade 12 in New Jersey” qualifies for the exemption. This language is too broad and it does not further define “teaching staff member[s]” or further identify who qualifies for this exemption. Enforcement and administrative problems arise because of the inherent difficulty in determining whether a purchaser and the purchase are qualified for the exemption.

RECOMMENDATION:

The Commission does not recommend enactment of this Bill.

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 8

COMMISSION MEMBERS ABSTAINING: 0

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