ASSEMBLY, No. 5485

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED SEPTEMBER 14, 2026

Sponsored by:
Assemblyman DAVID BAILEY, JR.
District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Provides gross income tax exclusion for attorney's fees and costs received in connection with certain unlawful discrimination, unlawful retaliation, and qui tam claims or actions.

CURRENT VERSION OF TEXT

As introduced.

AN ACT providing a gross income tax exclusion for attorney's fees and costs received in connection with certain unlawful discrimination, unlawful retaliation, and qui tam claims or actions, supplementing Title 54A of the New Jersey Statutes.

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

1. a. Gross income shall not include any amount received by the taxpayer for attorney's fees and costs or any amount paid by, or on behalf of the taxpayer, for attorney's fees and costs in connection with an informal claim or legal action, whether by suit or agreement, and whether as a lump sum or periodic payment, for unlawful discrimination or unlawful retaliation. The amount of the exclusion shall be limited to the award or payment of attorney's fees and costs to the taxpayer, without regard to any other amount of judgment or settlement.

b. Gross income shall not include any amount incurred by the taxpayer for attorney's fees and costs or amounts paid by, or on behalf of the taxpayer, for attorney's fees and costs, and payments to other relators pursuant to a sharing agreement, in connection with the amount of awards recovered by the taxpayer pursuant to the federal False Claims Act, 31 U.S.C. s.3730(b), the "New Jersey False Claims Act," P.L.2007, c.265 (C.2A:32C-1 et seq.), or any other similar qui tam action.

c. As used in this section, "unlawful discrimination or unlawful retaliation" means an act that is unlawful under a provision of federal, State, or local law, or common law claims permitted under federal, State, or local law:

(1) providing for the enforcement of civil rights, or

(2) regulating any aspect of the employment relationship, including claims for wages, severance, overtime, compensation, breach of contract, or benefits, or prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights, engaging in protected whistleblowing activity, or taking other actions permitted or protected by federal, state, local, or common law.

2. This act shall take effect immediately and apply to taxable years beginning on or after January 1 of the year next following the date of enactment.

STATEMENT

This bill provides a gross income tax exclusion for the amount of attorney's fees and costs received by a State taxpayer in connection with unlawful discrimination, unlawful retaliation, and certain whistleblower claims and actions.

Employment Discrimination Matters

This bill provides a victim of certain unlawful discrimination or unlawful retaliation with a gross income tax exclusion for the attorney's fees and costs received in connection with claims or actions for discrimination or retaliation. The bill does not affect the current system for determining how New Jersey taxes those fees and costs when they are received by attorneys.

In 2004, Congress enacted the Civil Rights Tax Relief Act as part of the American Jobs Creation Act of 2004. The Civil Rights Tax Relief Act was designed to eliminate the double taxation of attorney's fees and costs at the federal level to both the attorney who is ultimately paid the fees and the victims of discrimination or retaliation. The act accomplished that goal by allowing the victim to take a deduction for the recovery or payment of attorney's fees and costs recovered in connection with any action or claim of unlawful discrimination or retaliation. That law did not affect the federal taxation of the attorney's fees when they are received by an attorney.

New Jersey law was not amended when Congress enacted the Civil Rights Tax Relief Act in 2004. As a result, the attorney's fees and costs that victims of unlawful discrimination or retaliation receive in connection with such claims are taxable for State gross income tax purposes to both the law firm that is ultimately paid the fees and the victim, even though the victim never actually receives the fees.

Qui Tam Matters

The bill also provides a gross income tax exclusion for the amount of attorney's fees and costs received by, and payments to other relators made by, a State taxpayer as part of an award recovered under the federal False Claims Act, the New Jersey False Claims Act, or any other similar qui tam action.

A qui tam action permits a private citizen whistleblower to expose evidence of unlawful conduct against the government, generally in connection with fraud perpetrated in the administration of a government program, and sue the wrongdoer on behalf of the government, though the government may ultimately join the action. A whistleblower may, in turn, become eligible for a monetary award that is based on a percentage of the amount recovered. However, qui tam proceedings may involve costs incurred by the whistleblower in providing assistance, including, but not limited to, private attorney's fees, court costs, and payments to another relator, more commonly understood as a private whistleblower who similarly discovers related unlawful conduct, pursuant to a sharing agreement.