

SENATE, No. 4642

STATE OF NEW JERSEY
222nd LEGISLATURE

INTRODUCED OCTOBER 1, 2026

Sponsored by:
Senator JOHN J. BURZICHELLI
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.



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

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

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

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

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

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

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

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

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45 **STATEMENT**

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47 This bill provides a gross income tax exclusion for the amount of
48 attorney's fees and costs received by a State taxpayer in connection

1 with unlawful discrimination, unlawful retaliation, and certain
2 whistleblower claims and actions.

3

4 *Employment Discrimination Matters*

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

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

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

29

30 *Qui Tam Matters*

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

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