

SENATE, No. 1496

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 22, 2010

Sponsored by:

Senator KEVIN J. O'TOOLE

District 40 (Bergen, Essex and Passaic)

Senator STEVEN V. OROHO

District 24 (Sussex, Hunterdon and Morris)

Co-Sponsored by:

Senator A.R.Bucco

SYNOPSIS

Exempts certain lake association membership fees and dues from imposition of sales and use tax.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/9/2011)

1 AN ACT exempting certain lake association membership fees and
2 dues from the imposition of the sales and use tax, supplementing
3 P.L.1966, c.30 (C.54:32B-1 et seq.).
4

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

8 1. a. Charges in the nature of initiation fees, membership fees
9 or dues for access to or use of the property or facilities of a private
10 lake association are exempt from the tax imposed under the "Sales
11 and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

12 b. The director, in consultation with the Commissioner of the
13 Department of Environmental Protection, may promulgate, in
14 accordance with the "Administrative Procedure Act," P.L. 1968, c.
15 410 (C. 52:14B-1 et seq.), rules and regulations necessary to
16 effectuate the purposes of subsection a. of this section.
17

18 2. This act shall take effect immediately and apply to
19 membership periods beginning on or after the first day of the fourth
20 month next following the date of enactment.
21

22
23 STATEMENT
24

25 This bill provides a sales and use tax exemption for initiation and
26 membership fees or dues charged for access to or use of the
27 property or facilities of a private lake association.

28 Initiation and membership fees or dues are charges for the right,
29 privilege, or entitlement to the use of a club or organization's
30 property or facilities, and are typically paid by those who have met
31 the requirements for membership. Examples include monthly
32 membership dues charged by health and fitness facilities, one-time
33 initiation fees charged by country clubs, and the registration or
34 enrollment fees or dues charged by county or municipal swim or
35 golf clubs or organizations.

36 Since 2006, these fees or dues charged for access to or use of
37 the property or facilities of a health and fitness, athletic, sporting, or
38 shopping club or organization in this State have been subject to the
39 sales and use tax, unless the club or organization's members are
40 predominately age 18 or younger. In 2007, the law was amended
41 and the under-18 exclusion expanded to eliminate from tax the fees
42 or dues charged by governmental and charitable non-profit clubs or
43 organizations that have applied for, and have been granted, sales tax
44 exempt status by the Division of Taxation.

45 Under current law, initiation and membership fees or dues
46 charged by private lake associations are generally subject to tax if
47 the fees or dues are not required as a condition of ownership in the
48 community. Lake associations are formed and organized, in part, to

1 promote and facilitate athletic or sporting activities, and the fees
2 and dues charged for membership entitle or otherwise convey rights
3 and privileges to property and facilities which are unavailable to
4 non-members.

5 However, the promotion of athletic and sporting activities is an
6 ancillary part of the overall purpose and function of many private
7 lake associations. In addition to recreational opportunities they
8 provide, lake associations serve to strengthen communities, promote
9 cultural and civic events, and preserve and protect the inland
10 waterways, and the ecosystems of the inland waterways, their
11 communities are centered upon. Their efforts to improve water
12 quality, strengthen infrastructure, and protect woodlands and open
13 space for current and future generations far outweigh their athletic
14 or sporting nature.

15 The exemption provided by the bill will ensure a small, ancillary
16 part of a lake association's overall purpose and mission is not used
17 to characterize private lakes associations as athletic or sporting
18 clubs or organizations for purposes of taxation. Additionally, the
19 exemption will remove a disincentive for membership and reduce
20 the total costs associated with their annual or monthly fees or dues.