ASSEMBLY COMMERCE, ECONOMIC DEVELOPMENT AND AGRICULTURE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5371

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 5, 2025

The Assembly Commerce, Economic Development and Agriculture Committee reports favorably and with committee amendments Assembly Bill No. 5371.

As amended by the committee, this bill amends the local payroll tax law to require certain employers, which employ persons within any municipality that imposes a local payroll tax, to provide additional information to assist in the administration of the local tax, as requested by the municipality collecting the tax. The bill further provides that if an out-of-State municipality, or other out-of-State entity, imposes an employer payroll tax on a New Jersey resident employee, an employer payroll tax imposed pursuant to section 15 of P.L.1970, c.326 (C.40:48C-15) would not apply to that employee. Finally, the bill provides that a municipality may elect to retain up to three percent of employer payroll tax collected annually to pay for the costs related to administering an employer payroll tax.

The bill also expands the scope of State tax return information that may be disclosed by the State to a municipality that administers an employer payroll tax and requires that this tax return information be disclosed to certain municipal officials upon request. Specifically, the bill provides that the Director of the Division of Taxation in the Department of the Treasury is to, upon request by a designated municipal officer of a municipality authorized to impose an employer payroll tax, furnish wage and tax withholding information, or such other State tax return information as may be necessary, for the two following purposes: (1) verifying the payroll information reported by employers subject to the employer payroll tax; and (2) identifying each employer operating within the municipality that is subject to the employer payroll tax, and which did not report payroll information for a preceding calendar quarter. This would enable an eligible municipality to certify that information in the municipality's employer database is consistent with the information employers submit to the Division of Taxation.

The bill also removes a provision of current law that provides that this disclosure of information would be subject to the discretion of the

Director of the Division of Taxation. Concerning the disclosure of State tax return information to municipalities that administer an employer payroll tax pursuant to the "Local Tax Authorization Act," P.L.1970, c.326 (C.40:48C-1 et seq.), under the "Local Tax Authorization Act," a municipality with a population in excess of 200,000 residents is authorized to enact an ordinance imposing an employer payroll tax on certain employers operating within the municipality. Currently, only the cities of Newark and Jersey City have populations in excess of 200,000 residents and both have adopted an ordinance to impose an employer payroll tax. A municipality that imposes an employer payroll tax pursuant to the "Local Tax Authorization Act" is permitted to tax, at a rate of up to one percent, an amount equal to the total remuneration paid by employers to employees for certain services if those services are performed within the municipality or those services are performed outside the municipality and the place from which the services are supervised is within the municipality.

Under current law, the Director of the Division of Taxation in the Department of the Treasury is generally prohibited from disclosing State tax return information, except as otherwise permitted in statute. Currently, the director, at their discretion, is authorized to furnish certain State tax return information to a municipality authorized to impose an employer payroll tax under the "Local Tax Authorization Act." This disclosure of information is limited to employer-provided wage and tax withholding information contained in tax reports or returns filed under the New Jersey gross income tax, and the municipality may only use this information to verify the payroll information reported by employers subject to the employer payroll tax to an eligible municipality.

As amended and reported by the committee, Assembly Bill No. 5371 is identical to Senate Bill No. 4219 (2R), as that bill was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

1) provide that a qualifying municipality may elect to retain up to three percent of employer payroll tax collected annually to pay for the costs related to administering an employer payroll tax;

2) require that certain State tax return information be disclosed to a designated municipal officer of a municipality authorized to impose an employer payroll tax upon request;

3) provide that the manner of certain submissions of documentation is to be prescribed by the municipality imposing the employer payroll tax rather than the Division of Local Government Services in the Department of Community Affairs; and

4) make technical changes.