

# **SALES AND USE TAX REVIEW COMMISSION**

## **RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

**BILL NUMBER:** A-2217

**DATE OF  
INTRODUCTION:** 3/20/00

**SPONSOR:** Assemblyman Weingarten  
Assemblyman O'Toole

**DATE OF  
RECOMMENDATION:** 7/10/00

**IDENTICAL BILL:** None

**COMMITTEE:** Assembly Telecommunications & Utilities

### **DESCRIPTION:**

This bill provides an exemption from sales and use tax for purchases of energy and utility service by a county or any agency thereof.

### **ANALYSIS:**

The sales and use tax imposed on gas, electricity and utility service was enacted to replace the repealed Gross Receipts and Franchise Tax (GRFT). See P.L. 1997, c.162. There were no exemptions in the GRFT for county government agencies and the tax was passed along as a part of the rate paid for the service. The percentage of GRFT included in a utility bill paid by county governments was approximately 13%.

In order to save harmless the revenue that was received by the State under GRFT, the sales and use tax base under the Energy Tax Reform Act intentionally included state, county and local government entities as well as nonprofit exempt organizations. Currently, the only governmental entity that is not subject to the sales tax on gas, electricity and utility services is the federal government.

Since the sales tax revenue derived from taxable utility service is dedicated to municipal aid, any erosion of the tax base could have a significant statewide impact.

It is difficult to justify relieving one category of state government from a tax burden while enforcing the tax against other levels of government. From a business standpoint, uniformity in tax treatment among all levels of government entities relieves the administrative burden of determining whether such entities fall within the exemption provision and obtaining the proper documentation. In addition, should an exemption be enacted, it can then be argued that private nonprofit, exclusively religious, educational or charitable organizations should also receive the same exemption in recognition and support of the work they do that reduces the burden of state government.

**RECOMMENDATION:**

The Sales and Use Tax Review Commission does not recommend the bill for enactment.

**COMMISSION MEMBERS FOR PROPOSAL: 0**

**COMMISSION MEMBERS AGAINST PROPOSAL: 5**

**COMMISSION MEMBERS ABSTAINING: 0**