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LAW/RWH 8/4/09

**ASSEMBLY, No. 3773**

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**STATE OF NEW JERSEY**

**213th LEGISLATURE**

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INTRODUCED MARCH 5, 2009

**Sponsored by:**

**Assemblyman JACK CONNERS**

**District 7 (Burlington and Camden)**

**Assemblyman ERIC MUNOZ**

**District 21 (Essex, Morris, Somerset and Union)**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Co-Sponsored by:**

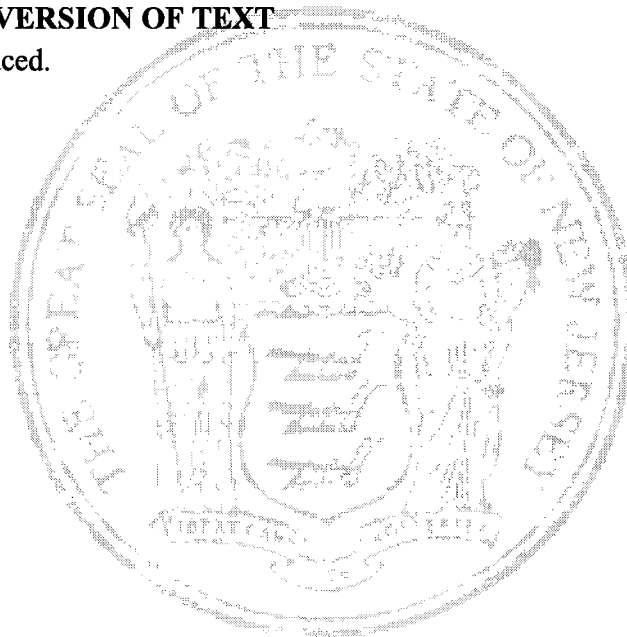
**Senators Sarlo and Scutari**

**SYNOPSIS**

Makes permanent certain Special Civil Part fees.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/17/2009)**

A3773 CONNERS, MUNOZ

2

1 AN ACT concerning certain court fees and amending P.L.1991,  
2 c.177.

3

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

6

7 1. Section 14 of P.L.1991 c.177 (C. 22A:2-37.1) is amended to  
8 read as follows:

9 14. a. **[From the effective date of the amendments made to this**  
10 **section by section 1 of P.L.2003, c.259 through the fifth year**  
11 **thereafter:]**

12 In all civil actions and proceedings in the Special Civil Part of  
13 the Superior Court, Law Division, only the following fees shall be  
14 charged by the clerk and no service shall be performed until the  
15 specified fee has been paid:

16 (1) Filing of small claim, one defendant \$15.00

17 Each additional defendant \$ 2.00

18 (2) Filing of complaint in tenancy,  
19 one defendant \$25.00

20 Each additional defendant \$ 2.00

21 (3) (a) Filing of complaint or other initial  
22 pleading containing a counterclaim, cross-claim  
23 or third party complaint in all other civil actions,  
24 whether commenced without process or by summons,  
25 **capias, replevin or attachment where the amount**  
26 **exceeds the small claims monetary limit** \$50.00

27 Each additional defendant \$ 2.00

28 (b) Filing of complaint or other initial  
29 pleading containing a counterclaim, cross-claim  
30 or third party complaint in all other civil actions,  
31 whether commenced without process or by summons,  
32 **capias, replevin or attachment where the amount**  
33 **does not exceed the small claims monetary limit** \$32.00

34 Each additional defendant \$ 2.00

35 (4) Filing of appearance or answer  
36 to a complaint or third party complaint in all  
37 matters except small claims \$15.00

38 (5) Service of Process: Fees for service of process, including:  
39 summons by mail, each defendant; summons by mail each  
40 defendant at place of business or employment with postal  
41 instructions to deliver to addressee only; reservice of summons by  
42 mail, each defendant; postage for substituted service of process by  
43 the clerk upon the Chief Administrator of the New Jersey Motor  
44 Vehicle Commission in addition to the substituted service fee

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

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1 provided below; and wage execution by mail to a federal agency,  
2 shall be set by the Administrative Director of the Courts. The fee  
3 for service of process shall not exceed the postal rates for ordinary  
4 and certified mail, return receipt requested, and may include an  
5 administrative fee that shall not exceed \$0.25 for each defendant  
6 served with process by mail. The total service of process fee shall  
7 be rounded upward to the nearest dollar. For the purposes of this  
8 paragraph, service of process means the simultaneous mailing by  
9 ordinary and certified mail, return receipt requested, to the  
10 defendant at the address provided by the plaintiff.

11 Reservice of summons or other original process by  
12 court officer, one defendant \$ 3.00  
13 plus mileage  
14 Each additional defendant \$ 2.00  
15 plus mileage  
16 Substituted service of process by the clerk upon  
17 the Chief Administrator of the  
18 New Jersey Motor Vehicle Commission \$10.00

19 (6) Mileage of court officer in serving or executing any process,  
20 writ, order, execution, notice, or warrant, the distance to be  
21 computed by counting the number of miles in and out, by the most  
22 direct route from the place where process is issued, at the same rate  
23 per mile set by the State for other State employees and the total  
24 mileage fee rounded upward to the nearest dollar

25 (7) Jury of six persons \$50.00

26 (8) Warrant for possession in tenancy \$15.00

27 (9) Warrant to arrest, commitment  
28 or writ of *capias ad respondendum*, each defendant \$15.00

29 (10) Writ of execution or an order in  
30 the nature of execution, writs of *replevin* and  
31 attachment issued subsequent to summons \$ 5.00

32 (11) For advertising property under execution  
33 or any order \$10.00

34 (12) For selling property under  
35 execution or any order \$10.00

36 (13) Exemplified copy of judgment  
37 (two pages) \$ 5.00  
38 each additional page \$ 1.00

39 b. (Deleted by amendment, P.L.2002, c.34).

40 c. (Deleted by amendment, P.L.2002, c.34).

41 d. [After the fifth year following the effective date of the  
42 amendments made to this section by section 1 of P.L.2003, c.259:

43 In all civil actions and proceedings in the Special Civil Part of  
44 the Superior Court, Law Division, only the following fees shall be  
45 charged by the clerk and no service shall be performed until the  
46 specified fee has been paid:

47 (1) Filing of small claim, one defendant \$15.00

48 Each additional defendant \$ 2.00

A3773 CONNERS, MUNOZ

4

1	(2) Filing of complaint in tenancy,	
2	one defendant	\$25.00
3	Each additional defendant	\$ 2.00
4	(3) (a) Filing of complaint or other initial	
5	pleading containing a counterclaim, cross-claim	
6	or third party complaint in all other civil actions,	
7	whether commenced without process or by summons,	
8	capias, replevin or attachment where the amount	
9	exceeds the small claims monetary limit	\$50.00
10	Each additional defendant	\$ 2.00
11	(b) Filing of complaint or other initial	
12	pleading containing a counterclaim, cross-claim	
13	or third party complaint in all other civil actions,	
14	whether commenced without process or by summons,	
15	capias, replevin or attachment where the amount	
16	does not exceed the small claims monetary limit	\$32.00
17	Each additional defendant	\$ 2.00
18	(4) Filing of appearance or answer	
19	to a complaint or third party complaint in all	
20	matters except small claims	\$15.00
21	(5) Service of Process:	
22	Summons by mail, each defendant	\$ 4.00
23	Summons by mail, each defendant at place of business	
24	or employment with postal instructions to deliver to	
25	addressee only, additional fee	\$ 4.00
26	Reservice of summons by mail, each defendant	\$ 4.00
27	Reservice of summons or other original process by	
28	court officer, one defendant	\$ 3.00
29	plus mileage	
30	Each additional defendant	\$ 2.00
31	plus mileage	
32	Substituted service of process by the clerk upon	
33	the Chief Administrator of the	
34	New Jersey Motor Vehicle Commission	\$10.00
35	Plus postage.	\$ 4.00
36	(6) Mileage of court officer in serving or executing any process,	
37	writ, order, execution, notice, or warrant, the distance to be	
38	computed by counting the number of miles in and out, by the most	
39	direct route from the place where process is issued, at the same rate	
40	per mile set by the State for other State employees and the total	
41	mileage fee rounded upward to the nearest dollar	
42	(7) Jury of six persons	\$50.00
43	(8) Warrant for possession in tenancy	\$15.00
44	(9) Warrant to arrest, commitment	
45	or writ of capias ad respondendum, each defendant	\$15.00
46	(10) Writ of execution or an order in	
47	the nature of execution, writs of replevin and	
48	attachment issued subsequent to summons	\$ 5.00

A3773 CONNERS, MUNOZ

5

1	Wage execution by mail to a federal agency	
2	additional fee	\$ 4.00
3	(11)For advertising property under execution	
4	or any order	\$10.00
5	(12)For selling property under	
6	execution or any order	\$10.00
7	(13)Exemplified copy of judgment	
8	(two pages)	\$ 5.00
9	each additional page	\$ 1.00]
10	<u>(Deleted by amendment, P.L. _____, c. _____) (pending before the</u>	
11	<u>Legislature as this bill).</u>	
12	(cf: P.L.2003, c.259, s.1)	
13		

14 2. This act shall take effect immediately.

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SPONSORS STATEMENT

19 This bill makes the Special Civil Part fees set forth in subsection  
20 a. of N.J.S.A.22A:2-37.1 permanent by removing the initial  
21 language in the subsection which made the fees sunset as of January  
22 14, 2009 which is five years after the effective date of P.L.2003,  
23 c.259. The bill also deletes subsection d. in its entirety which set  
24 forth the new fee schedule beginning January 14, 2009 since the  
25 fees will be set out permanently in subsection a. under the  
26 provisions of this bill.

**FISCAL NOTE**  
**ASSEMBLY, No. 3773**  
**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

DATED: APRIL 13, 2009

**SUMMARY**

**Synopsis:** Makes permanent certain Special Civil Part fees.

**Type of Impact:** General Fund revenue increase.

**Agencies Affected:** Judiciary

**Executive Estimate**

<b>Fiscal Impact</b>	<b>Fiscal Year 2009</b>	<b>Fiscal Year 2010</b>	<b>Fiscal Year 2011</b>
<b>State Revenue</b>	\$1,591,032	\$3,490,374	\$3,629,988

- The Office of Legislative Services **concurs** in part with the Executive estimate.
- The Administrative Office of the Courts (AOC) states that no additional revenue would be generated as a result of the legislation. This statement was based on the assumption that the bill would be enacted before the fee schedule reverted to the former (lower) schedule, and that the AOC would maintain the higher fee schedule. Because the fee schedule expired and certain fees were lowered, enactment of the bill would result in increased revenue, in the amount of \$3.00 per mailing.
- The bill makes the Special Civil Part fees set forth in subsection a. of N.J.S.A.22A:2-37.1 permanent by removing the initial language in the subsection which made the fees sunset as of January 14, 2009 which is five years after the effective date of P.L.2003, c.259. The bill also deletes subsection d. in its entirety which set forth the new fee schedule beginning January 14, 2009 since the fees will be set out permanently in subsection a. under the provisions of this bill.

**BILL DESCRIPTION**

Assembly Bill No. 3773 of 2009 makes the Special Civil Part fees set forth in subsection a. of N.J.S.A.22A:2-37.1 permanent by removing the initial language in the subsection which made the fees sunset as of January 14, 2009 which is five years after the effective date of P.L.2003, c.259. The bill also deletes subsection d. in its entirety which set forth the new fee schedule



beginning January 14, 2009 since the fees will be set out permanently in subsection a. under the provisions of this bill.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

The AOC states that no additional revenue would be generated as a result of the legislation. Rather, if the authority of the Administrative Director of the Courts to set certain fees for service of process by mail is not made permanent, a loss in revenue to the State could occur.

The AOC notes that under N.J.S.A. 22A:2-37.1 the Administrative Director's authority to adjust the Special Civil Part service of process fee expires January 14, 2009 due to a five-year sunset provision in the authorizing law (P.L.2003, c.259). Unless that authority is extended, the \$7 service of process fee (currently set by the Administrative Director) will revert to the \$4 rate that existed in 2002 prior to the enactment of P.L. 2003, c.259. Therefore, for fiscal year 2009 the impact of not enacting this legislation will only occur on or after January 14, 2009.

The AOC states that it is assumed that actions in the Special Civil Part are expected to increase in the short term by a rate of approximately 4 percent annually based on short term historical data. Based upon data from fiscal year 2008, the Special Civil Part would mail the following number of packages on behalf of plaintiffs at the reduced rate should this legislation not be enacted:

	Special Civil Filings		Small Claims		Total Mailings
Ave # of Defendants Per Filing	2.5		1.5		
	Filings	Mailings	Filings	Mailings	
FY 2009*	197,642	494,105	24,159	36,239	530,344
FY 2010	430,837	1,077,093	57,577	86,365	1,163,458
FY 2011	448,070	1,120,176	59,880	89,820	1,209,996

\* For FY2009 current legislation sunsets on 1/14/2009 therefore period runs from that date thru the end of the fiscal year 6/30/2009

According to the AOC, in the absence of this bill reverting to the \$4 service of process fee would result in a deficit of \$1,193,274 in FY 2009, \$2,617,781 in FY 2010 and \$2,722,492 in FY 2011.

Year	Anticipated Mailings*	Expected Cost of Mailing	Expected Revenue Projection If Legislation Not Enacted	Revenue Shortfall
2009	530,344	\$3,314,650	\$2,121,376	(\$1,193,274)
2010	1,163,458	\$7,271,613	\$4,653,832	(\$2,617,781)
2011	1,209,996	\$7,562,477	\$4,839,985	(\$2,722,492)

\* Based upon a 4% increase annually

The AOC states that if there is not sufficient money to pay for mailed service, the Judiciary would be required to use the county sheriff's office to serve the 400,000 complaint/evidence packages, possibly causing delays and backlogs in the Special Civil Part.

***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services concurs in part with the Executive estimate. The projections of the number of mailings and the resultant amount of fee revenue are reasonable. The AOC's statement that the revenue differential would not constitute increased State revenue stems from the timing of its comments.

*Section: Judiciary*

*Analyst: Anne Raughley  
Principal Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C. 52:13B-1 et seq.).

S2563 SARLO, SCUTARI

5

1	attachment issued subsequent to summons	\$ 5.00
2	Wage execution by mail to a federal agency	
3	additional fee	\$ 4.00
4	(11) For advertising property under execution	
5	or any order	\$10.00
6	(12) For selling property under	
7	execution or any order	\$10.00
8	(13) Exemplified copy of judgment	
9	(two pages)	\$ 5.00
10	each additional page	\$ 1.00]
11	<u>(Deleted by amendment, P.L. _____, c. _____) (pending before the</u>	
12	<u>Legislature as this bill).</u>	
13	(cf: P.L.2003, c.259, s.1)	

14

15 2. This act shall take effect immediately.

16

17

18

SPONSOR'S STATEMENT

19

20 This bill makes the Special Civil Part fees set forth in subsection  
21 a. of N.J.S.A.22A:2-37.1 permanent by removing the initial  
22 language in the subsection which made the fees sunset as of January  
23 14, 2009 which is five years after the effective date of P.L.2003,  
24 c.259. The bill also deletes subsection d. in its entirety which set  
25 forth the new fee schedule beginning January 14, 2009 since the  
26 fees will be set out permanently in subsection a. under the  
27 provisions of this bill.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 2563

# STATE OF NEW JERSEY

DATED: MARCH 9, 2009

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2563.

The bill makes the Special Civil Part fees set forth in subsection a. of N.J.S.A.22A:2-37.1 permanent by removing the initial language in the subsection which made the fees sunset as of January 14, 2009 which is five years after the effective date of P.L.2003, c.259. The bill also deletes subsection d. in its entirety which set forth the new fee schedule beginning January 14, 2009 since the fees will be set out permanently in subsection a. under the provisions of this bill.

The bill changes only the setting of fees for service of process by mail. Under current law, the fee schedule that began January 14, 2009 reverts the fees for service of process by mail to the pre-2004 statutory, fixed-rate schedule. The bill restores the authority of the Administrative Director of the Courts to set the fees for service of process by mail. Prior to January 14, 2009, that fee was set by the director at \$7.00 per defendant.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) notes based upon information provided by the Administrative Office of the Courts, that given projected annual increases in the number of Special Civil Part mailings of service of process, that the expected revenue collected at a rate of \$7.00 per defendant compared to the current rate of \$4.00 applicable to most mailings would garner about \$1.6 million in fee revenue during the balance of Fiscal Year 2009, \$3.5 million in Fiscal Year 2010 and \$3.6 million in Fiscal Year 2011.

**FISCAL NOTE**  
**SENATE, No. 2563**  
**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

DATED: MARCH 11, 2009

**SUMMARY**

**Synopsis:** Makes permanent certain Special Civil Part fees.

**Type of Impact:** General Fund revenue increase.

**Agencies Affected:** Judiciary

**Executive Estimate**

<b>Fiscal Impact</b>	<b>Fiscal Year 2009</b>	<b>Fiscal Year 2010</b>	<b>Fiscal Year 2011</b>
<b>State Revenue</b>	\$1,591,032	\$3,490,374	\$3,629,988

- The Office of Legislative Services **concurs** in part with the Executive estimate.
- The Administrative Office of the Courts (AOC) states that no additional revenue would be generated as a result of the legislation. This statement was based on the assumption that the bill would be enacted before the fee schedule reverted to the former (lower) schedule, and that the AOC would maintain the higher fee schedule. Because the fee schedule expired and certain fees were lowered, enactment of the bill would result in increased revenue, in the amount of \$3.00 per mailing.
- The bill makes the Special Civil Part fees set forth in subsection a. of N.J.S.A.22A:2-37.1 permanent by removing the initial language in the subsection which made the fees sunset as of January 14, 2009 which is five years after the effective date of P.L.2003, c.259. The bill also deletes subsection d. in its entirety which set forth the new fee schedule beginning January 14, 2009 since the fees will be set out permanently in subsection a. under the provisions of this bill.

**BILL DESCRIPTION**

Senate Bill No. 2563 of 2009 makes the Special Civil Part fees set forth in subsection a. of N.J.S.A.22A:2-37.1 permanent by removing the initial language in the subsection which made the fees sunset as of January 14, 2009 which is five years after the effective date of P.L.2003, c.259. The bill also deletes subsection d. in its entirety which set forth the new fee schedule

beginning January 14, 2009 since the fees will be set out permanently in subsection a. under the provisions of this bill.

## FISCAL ANALYSIS

### ***EXECUTIVE BRANCH***

The AOC states that no additional revenue would be generated as a result of the legislation. Rather, if the authority of the Administrative Director of the Courts to set certain fees for service of process by mail is not made permanent, a loss in revenue to the State could occur.

The AOC notes that under N.J.S.A. 22A:2-37.1 the Administrative Director's authority to adjust the Special Civil Part service of process fee expires January 14, 2009 due to a five-year sunset provision in the authorizing law (P.L.2003, c.259). Unless that authority is extended, the \$7 service of process fee (currently set by the Administrative Director) will revert to the \$4 rate that existed in 2002 prior to the enactment of P.L. 2003, c.259. Therefore, for fiscal year 2009 the impact of not enacting this legislation will only occur on or after January 14, 2009.

The AOC states that it is assumed that actions in the Special Civil Part are expected to increase in the short term by a rate of approximately 4 percent annually based on short term historical data. Based upon data from fiscal year 2008, the Special Civil Part would mail the following number of packages on behalf of plaintiffs at the reduced rate should this legislation not be enacted:

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***OFFICE OF LEGISLATIVE SERVICES***

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*Section: Judiciary*

*Analyst: Anne Raughley  
Principal Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).