

# LEGISLATIVE HISTORY CHECKLIST

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## *LAWS of 1999*

**CHAPTER:** 141

**NJSA:**40:48-1

(Nudity -- authorizes municipality to regulate on state owned lands)

**BILL NO:** S1912(Substituted for A3144 - 1<sup>st</sup> Reprint)

**SPONSOR(S):**Cafiero

**DATE INTRODUCED:**May 10, 1999

**COMMITTEE:**

*ASSEMBLY:* Local Government

*SENATE:*Law and Public Safety

**AMENDED DURING PASSAGE:**Yes

**DATES OF PASSAGE:**

*ASSEMBLY:*June 17, 1999

*SENATE:*May 24, 1999

**DATE OF APPROVAL:**June 28, 1999

**THE FOLLOWING ARE ATTACHED IF AVAILABLE:**

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**FINAL TEXT OF BILL:** *YES*1<sup>st</sup> Reprint

(Amendments during passage denoted by superscript numbers)

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**S1912**

**SPONSORS STATEMENT:** *Yes* (Begins on page 5 of original bill)

**COMMITTEE STATEMENT:**

**ASSEMBLY:***Yes*

**SENATE:** *Yes*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

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## A3144

**SPONSORS STATEMENT:** *Yes (Begins on page 5 of original bill)*

Bill and Sponsor Statement identical to S1912

**COMMITTEE STATEMENT:**

**ASSEMBLY:** *Yes*

**SENATE:** *No*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

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### GOVERNOR'S ACTIONS

**VETO MESSAGE:** *No*

**GOVERNOR'S PRESS RELEASE ON SIGNING:** *Yes*

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### THE FOLLOWING WERE PRINTED:

*To check for circulating copies contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 102 or [refdesk@njstatelib.org](mailto:refdesk@njstatelib.org)*

**REPORTS:** *No*

**HEARINGS:** *No*

**NEWSPAPER ARTICLES:**

**"Whitman signs bill allowing nudity ban at Higbee Beach," Atlantic CityPress, 6-29-00, p.A1.**

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P.L. 1999, CHAPTER 141, *approved June 28, 1999*

Senate, No. 1912 (*First Reprint*)

1 AN ACT concerning municipal authority to regulate nudity on State-  
2 owned <sup>1</sup>[beaches] lands<sup>1</sup>, and amending R.S.40:48-1.

3

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

6

7 1. R.S.40:48-1 is amended to read as follows:

8 40:48-1. Ordinances; general purpose. The governing body of  
9 every municipality may make, amend, repeal and enforce ordinances  
10 to:

11 Finances and property. 1. Manage, regulate and control the  
12 finances and property, real and personal, of the municipality;

13 Contracts and contractor's bonds. 2. Prescribe the form and  
14 manner of execution and approval of all contracts to be executed by  
15 the municipality and of all bonds to be given to it;

16 Officers and employees; duties, terms and salaries. 3. Prescribe  
17 and define, except as otherwise provided by law, the duties and terms  
18 of office or employment, of all officers and employees; and to  
19 provide for the employment and compensation of such officials and  
20 employees, in addition to those provided for by statute, as may be  
21 deemed necessary for the efficient conduct of the affairs of the  
22 municipality;

23 Fees. 4. Fix the fees of any officer or employee of the municipality  
24 for any service rendered in connection with his office or position, for  
25 which no specific fee or compensation is provided. In the case of  
26 salaried officers or employees, such fee shall be paid into the municipal  
27 treasury;

28 Salaries instead of fees; disposition of fees. 5. Provide that any  
29 officer or employee receiving compensation for his services, in whole  
30 or in part by fees, whether paid by the municipality or otherwise, shall  
31 be paid a salary to be fixed in the ordinance, and thereafter all fees  
32 received by such officer or employee shall be paid into the municipal  
33 treasury;

34 Maintain order. 6. Prevent vice, drunkenness and immorality; to  
35 preserve the public peace and order; to prevent and quell riots,  
36 disturbances and disorderly assemblages;

37 Punish beggars; prevention of loitering. 7. Restrain and punish  
38 drunkards, vagrants, mendicants and street beggars; to prevent  
39 loitering, lounging or sleeping in the streets, parks or public places;

40 Auctions and noises. 8. Regulate the ringing of bells and the

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SLP committee amendments adopted May 20, 1999.

1 crying of goods and other commodities for sale at auction or  
2 otherwise, and to prevent disturbing noises;

3 Swimming; bathing costume <sup>1</sup>; prohibition of public nudity<sup>1</sup>. 9.  
4 Regulate or prohibit swimming or bathing in the waters of, in, or  
5 bounding the municipality, and to regulate or prohibit persons from  
6 appearing upon the public streets, parks and places clad in bathing  
7 costumes or robes, or costumes of a similar character; regulate or  
8 prohibit persons from appearing upon State-owned <sup>1</sup>[beaches] lands<sup>1</sup>  
9 within its borders in a state of nudity;

10 Prohibit annoyance of persons or animals. 10. Regulate or prohibit  
11 any practice tending to frighten animals, or to annoy or injure persons  
12 in the public streets;

13 Animals; pounds; establishment and regulation. 11. Establish and  
14 regulate one or more pounds, and to prohibit or regulate the running  
15 at large of horses, cattle, dogs, swine, goats and other animals, and to  
16 authorize their impounding and sale for the penalty incurred, and the  
17 costs of impounding, keeping and sale; to regulate or prohibit the  
18 keeping of cattle, goats or swine in any part of the municipality; to  
19 authorize the destruction of dogs running at large therein;

20 Hucksters. 12. Prescribe and regulate the place of vending or  
21 exposing for sale articles of merchandise from vehicles;

22 Building regulations; wooden structures. 13. Regulate and control  
23 the construction, erection, alteration and repair of buildings and  
24 structures of every kind within the municipality; and to prohibit,  
25 within certain limits, the construction, erection or alteration of  
26 buildings or structures of wood or other combustible material;

27 Inflammable materials; inspect docks and buildings. 14. Regulate  
28 the use, storage, sale and disposal of inflammable or combustible  
29 materials, and to provide for the protection of life and property from  
30 fire, explosions and other dangers; to provide for inspections of  
31 buildings, docks, wharves, warehouses and other places, and of goods  
32 and materials contained therein, to secure the proper enforcement of  
33 such ordinance;

34 Dangerous structures; removal or destruction; procedure. 15.  
35 Provide for the removal or destruction of any building, wall or  
36 structure which is or may become dangerous to life or health, or  
37 might tend to extend a conflagration; and to assess the cost thereof as  
38 a municipal lien against the premises;

39 Chimneys and boilers. 16. Regulate the construction and setting  
40 up of chimneys, furnaces, stoves, boilers, ovens and other  
41 contrivances in which fire is used;

42 Explosives. 17. Regulate, in conformity with the statutes of this  
43 State, the manufacture, storage, sale, keeping or conveying of  
44 gunpowder, nitroglycerine, dynamite and other explosives;

45 Firearms and fireworks. 18. Regulate and prohibit the sale and use  
46 of guns, pistols, firearms, and fireworks of all descriptions;

1       Soft coal. 19. Regulate the use of soft coal in locomotives,  
2 factories, power houses and other places;

3       Theaters, schools, churches and public places. 20. Regulate the  
4 use of theaters, cinema houses, public halls, schools, churches, and  
5 other places where numbers of people assemble, and the exits  
6 therefrom, so that escape therefrom may be easily and safely made in  
7 case of fire or panic; and to regulate any machinery, scenery, lights,  
8 wires and other apparatus, equipment or appliances used in all places  
9 of public amusement;

10       Excavations. 21. Regulate excavations below the established grade  
11 or curb line of any street, not greater than eight feet, which the owner  
12 of any land may make, in the erection of any building upon his own  
13 property; and to provide for the giving of notice, in writing, of such  
14 intended excavation to any adjoining owner or owners, and that they  
15 will be required to protect and care for their several foundation walls  
16 that may be endangered by such excavation; and to provide that in  
17 case of the neglect or refusal, for 10 days, of such adjoining owner or  
18 owners to take proper action to secure and protect the foundations of  
19 any adjacent building or other structure, that the party or parties  
20 giving such notice, or their agents, contractors or employees, may  
21 enter into and upon such adjoining property and do all necessary work  
22 to make such foundations secure, and may recover the cost of such  
23 work and labor in so protecting such adjacent property; and to make  
24 such further and other provisions in relation to the proper conduct  
25 and performance of said work as the governing body or board of the  
26 municipality may deem necessary and proper;

27       Sample medicines. 22. Regulate and prohibit the distribution,  
28 depositing or leaving on the public streets or highways, public places  
29 or private property, or at any private place or places within any such  
30 municipality, any medicine, medicinal preparation or preparations  
31 represented to cure ailments or diseases of the body or mind, or any  
32 samples thereof, or any advertisements or circulars relating thereto,  
33 but no ordinance shall prohibit a delivery of any such article to any  
34 person above the age of 12 years willing to receive the same;

35       Boating. 23. Regulate the use of motor and other boats upon  
36 waters within or bounding the municipality;

37       Fire escapes. 24. Provide for the erection of fire escapes on  
38 buildings in the municipality, and to provide rules and regulations  
39 concerning the construction and maintenance of the same, and for the  
40 prevention of any obstruction thereof or thereon;

41       Care of injured employees. 25. Provide for the payment of  
42 compensation and for medical attendance to any officer or employee  
43 of the municipality injured in the performance of his duty;

44       Bulkheads and other structures. 26. Fix and determine the lines  
45 of bulkheads or other works or structures to be erected, constructed  
46 or maintained by the owners of lands facing upon any navigable water

1 in front of their lands, and in front of or along any highway or public  
2 lands of said municipality, and to designate the materials to be used,  
3 and the type, height and dimensions thereof;

4 Lifeguard. 27. Establish, maintain, regulate and control a lifeguard  
5 upon any beach within or bordering on the municipality;

6 Appropriation for life-saving apparatus. 28. Appropriate moneys  
7 to safeguard people from drowning within its borders, by location of  
8 apparatus or conduct of educational work in harmony with the plans  
9 of the United States volunteer life-saving corps in this State;

10 Fences. 29. Regulate the size, height and dimensions of any fences  
11 between the lands of adjoining owners, whether built or erected as  
12 division or partition fences between such lands, and whether the same  
13 exist or be erected entirely or only partly upon the lands of any such  
14 adjoining owners, or along or immediately adjacent to any division or  
15 partition line of such lands. To provide, in such ordinance, the manner  
16 of securing, fastening or shoring such fences. In the case of fences  
17 thereafter erected contrary to the provisions thereof, the governing  
18 body may provide for a penalty for the violation of such ordinance,  
19 and in the case of such fence or fences erected or existing at the time  
20 of the passage of any such ordinance, may provide therein for the  
21 removal, change or alteration thereof, so as to make such fence or  
22 fences comply with the provisions of any such ordinance;

23 Advertise municipality. 30. Appropriate funds for advertising the  
24 advantages of the municipality '[.]':<sup>1</sup>

25 Government Energy Aggregation Programs '[.]':<sup>1</sup> 31. Establish  
26 programs and procedures pursuant to which the municipality may act  
27 as an government aggregator pursuant to sections 40 through 45 of  
28 P.L.1999, c.23 (C.48:3-89 through '[C.48:3-84] C.48:3-94<sup>1</sup>').  
29 Notwithstanding the provisions of any other law, rule or regulation to  
30 the contrary, a municipality acting as a government aggregator  
31 pursuant to P.L.1999, c.23 (C.48:3-49 et al.) shall not be deemed to  
32 be a public utility pursuant to R.S.40:62-24 or R.S.48:1-1 et seq. or  
33 be deemed to be operating any form of public utility service pursuant  
34 to R.S.40:62-1 et seq., to the extent such municipality is solely  
35 engaged in the provision of such aggregation service and not otherwise  
36 owning or operating any plant or facility for the production or  
37 distribution of gas, electricity, steam or other product as provided in  
38 R.S.40:62-12.

39 (cf: P.L.1999, c.23, s.47)

40

41 2. This act shall take effect immediately.

42

43

44

45 Authorizes municipality to regulate or prohibit nudity on State-owned  
46 lands.

**SENATE, No. 1912**

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**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

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INTRODUCED MAY 10, 1999

**Sponsored by:**

**Senator JAMES S. CAFIERO**

**District 1 (Cape May, Atlantic and Cumberland)**

**SYNOPSIS**

Authorizes municipality to regulate or prohibit nudity on State- owned beaches.

**CURRENT VERSION OF TEXT**

As introduced.



**S1912 CAFIERO**

2

1 **AN ACT** concerning municipal authority to regulate nudity on State-  
2 owned beaches, and amending R.S.40:48-1.

3

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

6

7 1. R.S.40:48-1 is amended to read as follows:

8 40:48-1. Ordinances; general purpose. The governing body of  
9 every municipality may make, amend, repeal and enforce ordinances  
10 to:

11 Finances and property. 1. Manage, regulate and control the  
12 finances and property, real and personal, of the municipality;

13 Contracts and contractor's bonds. 2. Prescribe the form and  
14 manner of execution and approval of all contracts to be executed by  
15 the municipality and of all bonds to be given to it;

16 Officers and employees; duties, terms and salaries. 3. Prescribe  
17 and define, except as otherwise provided by law, the duties and terms  
18 of office or employment, of all officers and employees; and to  
19 provide for the employment and compensation of such officials and  
20 employees, in addition to those provided for by statute, as may be  
21 deemed necessary for the efficient conduct of the affairs of the  
22 municipality;

23 Fees. 4. Fix the fees of any officer or employee of the municipality  
24 for any service rendered in connection with his office or position, for  
25 which no specific fee or compensation is provided. In the case of  
26 salaried officers or employees, such fee shall be paid into the municipal  
27 treasury;

28 Salaries instead of fees; disposition of fees. 5. Provide that any  
29 officer or employee receiving compensation for his services, in whole  
30 or in part by fees, whether paid by the municipality or otherwise, shall  
31 be paid a salary to be fixed in the ordinance, and thereafter all fees  
32 received by such officer or employee shall be paid into the municipal  
33 treasury;

34 Maintain order. 6. Prevent vice, drunkenness and immorality; to  
35 preserve the public peace and order; to prevent and quell riots,  
36 disturbances and disorderly assemblages;

37 Punish beggars; prevention of loitering 7. Restrain and punish  
38 drunkards, vagrants, mendicants and street beggars; to prevent  
39 loitering, lounging or sleeping in the streets, parks or public places;

40 Auctions and noises. 8. Regulate the ringing of bells and the  
41 crying of goods and other commodities for sale at auction or  
42 otherwise, and to prevent disturbing noises;

43 Swimming; bathing costume. 9. Regulate or prohibit swimming

**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.**



**S1912 CAFIERO**

1 or bathing in the waters of, in, or bounding the municipality, and to  
2 regulate or prohibit persons from appearing upon the public streets,  
3 parks and places clad in bathing costumes or robes, or costumes of a  
4 similar character; regulate or prohibit persons from appearing upon  
5 State-owned beaches within its borders in a state of nudity;

6 Prohibit annoyance of persons or animals. 10. Regulate or prohibit  
7 any practice tending to frighten animals, or to annoy or injure persons  
8 in the public streets;

9 Animals; pounds; establishment and regulation. 11. Establish and  
10 regulate one or more pounds, and to prohibit or regulate the running  
11 at large of horses, cattle, dogs, swine, goats and other animals, and to  
12 authorize their impounding and sale for the penalty incurred, and the  
13 costs of impounding, keeping and sale; to regulate or prohibit the  
14 keeping of cattle, goats or swine in any part of the municipality; to  
15 authorize the destruction of dogs running at large therein;

16 Hucksters. 12. Prescribe and regulate the place of vending or  
17 exposing for sale articles of merchandise from vehicles;

18 Building regulations; wooden structures. 13. Regulate and control  
19 the construction, erection, alteration and repair of buildings and  
20 structures of every kind within the municipality; and to prohibit,  
21 within certain limits, the construction, erection or alteration of  
22 buildings or structures of wood or other combustible material;

23 Inflammable materials; inspect docks and buildings. 14. Regulate  
24 the use, storage, sale and disposal of inflammable or combustible  
25 materials, and to provide for the protection of life and property from  
26 fire, explosions and other dangers; to provide for inspections of  
27 buildings, docks, wharves, warehouses and other places, and of goods  
28 and materials contained therein, to secure the proper enforcement of  
29 such ordinance;

30 Dangerous structures; removal or destruction; procedure. 15.  
31 Provide for the removal or destruction of any building, wall or  
32 structure which is or may become dangerous to life or health, or  
33 might tend to extend a conflagration; and to assess the cost thereof as  
34 a municipal lien against the premises;

35 Chimneys and boilers. 16. Regulate the construction and setting  
36 up of chimneys, furnaces, stoves, boilers, ovens and other  
37 contrivances in which fire is used;

38 Explosives. 17. Regulate, in conformity with the statutes of this  
39 State, the manufacture, storage, sale, keeping or conveying of  
40 gunpowder, nitroglycerine, dynamite and other explosives;

41 Firearms and fireworks. 18. Regulate and prohibit the sale and use  
42 of guns, pistols, firearms, and fireworks of all descriptions;

43 Soft coal. 19. Regulate the use of soft coal in locomotives,  
44 factories, power houses and other places;

45 Theaters, schools, churches and public places. 20. Regulate the  
46 use of theaters, cinema houses, public halls, schools, churches, and

**S1912 CAFIERO**

1 other places where numbers of people assemble, and the exits  
2 therefrom, so that escape therefrom may be easily and safely made in  
3 case of fire or panic; and to regulate any machinery, scenery, lights,  
4 wires and other apparatus, equipment or appliances used in all places  
5 of public amusement;

6 Excavations. 21. Regulate excavations below the established grade  
7 or curb line of any street, not greater than eight feet, which the owner  
8 of any land may make, in the erection of any building upon his own  
9 property; and to provide for the giving of notice, in writing, of such  
10 intended excavation to any adjoining owner or owners, and that they  
11 will be required to protect and care for their several foundation walls  
12 that may be endangered by such excavation; and to provide that in  
13 case of the neglect or refusal, for 10 days, of such adjoining owner or  
14 owners to take proper action to secure and protect the foundations of  
15 any adjacent building or other structure, that the party or parties  
16 giving such notice, or their agents, contractors or employees, may  
17 enter into and upon such adjoining property and do all necessary work  
18 to make such foundations secure, and may recover the cost of such  
19 work and labor in so protecting such adjacent property; and to make  
20 such further and other provisions in relation to the proper conduct  
21 and performance of said work as the governing body or board of the  
22 municipality may deem necessary and proper;

23 Sample medicines. 22. Regulate and prohibit the distribution,  
24 depositing or leaving on the public streets or highways, public places  
25 or private property, or at any private place or places within any such  
26 municipality, any medicine, medicinal preparation or preparations  
27 represented to cure ailments or diseases of the body or mind, or any  
28 samples thereof, or any advertisements or circulars relating thereto,  
29 but no ordinance shall prohibit a delivery of any such article to any  
30 person above the age of 12 years willing to receive the same;

31 Boating. 23. Regulate the use of motor and other boats upon  
32 waters within or bounding the municipality;

33 Fire escapes. 24. Provide for the erection of fire escapes on  
34 buildings in the municipality, and to provide rules and regulations  
35 concerning the construction and maintenance of the same, and for the  
36 prevention of any obstruction thereof or thereon;

37 Care of injured employees. 25. Provide for the payment of  
38 compensation and for medical attendance to any officer or employee  
39 of the municipality injured in the performance of his duty;

40 Bulkheads and other structures. 26. Fix and determine the lines  
41 of bulkheads or other works or structures to be erected, constructed  
42 or maintained by the owners of lands facing upon any navigable water  
43 in front of their lands, and in front of or along any highway or public  
44 lands of said municipality, and to designate the materials to be used,  
45 and the type, height and dimensions thereof;

46 Lifeguard. 27. Establish, maintain, regulate and control a lifeguard

1 upon any beach within or bordering on the municipality;

2 Appropriation for life-saving apparatus. 28. Appropriate moneys  
3 to safeguard people from drowning within its borders, by location of  
4 apparatus or conduct of educational work in harmony with the plans  
5 of the United States volunteer life-saving corps in this State;

6 Fences. 29. Regulate the size, height and dimensions of any fences  
7 between the lands of adjoining owners, whether built or erected as  
8 division or partition fences between such lands, and whether the same  
9 exist or be erected entirely or only partly upon the lands of any such  
10 adjoining owners, or along or immediately adjacent to any division or  
11 partition line of such lands. To provide, in such ordinance, the manner  
12 of securing, fastening or shoring such fences. In the case of fences  
13 thereafter erected contrary to the provisions thereof, the governing  
14 body may provide for a penalty for the violation of such ordinance,  
15 and in the case of such fence or fences erected or existing at the time  
16 of the passage of any such ordinance, may provide therein for the  
17 removal, change or alteration thereof, so as to make such fence or  
18 fences comply with the provisions of any such ordinance;

19 Advertise municipality. 30. Appropriate funds for advertising the  
20 advantages of the municipality.

21 Government Energy Aggregation Programs, 31. Establish  
22 programs and procedures pursuant to which the municipality may act  
23 as an government aggregator pursuant to sections 40 through 45 of  
24 P.L.1999, c.23 (C.48:3-89 through C.48:3-84). Notwithstanding the  
25 provisions of any other law, rule or regulation to the contrary, a  
26 municipality acting as a government aggregator pursuant to P.L.1999,  
27 c.23 (C.48:3-49 et al.) shall not be deemed to be a public utility  
28 pursuant to R.S.40:62-24 or R.S.48:1-1 et seq. or be deemed to be  
29 operating any form of public utility service pursuant to R.S.40:62-1 et  
30 seq., to the extent such municipality is solely engaged in the provision  
31 of such aggregation service and not otherwise owning or operating any  
32 plant or facility for the production or distribution of gas, electricity,  
33 steam or other product as provided in R.S.40:62-12.

34 (cf: P.L.1999, c.23, s.47)

35

36 2. This act shall take effect immediately.

37

38

39

#### STATEMENT

40

41 This bill would authorize municipalities to prohibit or regulate  
42 persons from appearing nude upon State-owned beaches within its  
43 borders.

ASSEMBLY LOCAL GOVERNMENT AND HOUSING  
COMMITTEE

STATEMENT TO

[First Reprint]

**SENATE, No. 1912**

**STATE OF NEW JERSEY**

DATED: JUNE 7, 1999

The Assembly Local Government and Housing Committee reports without recommendation, Senate Bill No. 1912 (1R).

This bill authorizes a municipality to prohibit or regulate persons from appearing nude upon State-owned lands within its borders.

This bill is identical to A-3144 with committee amendments, also reported by this committee on June 7, 1999.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **SENATE, No. 1912**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 20, 1999

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 1912.

As amended and released by the committee, this bill authorizes a municipality to prohibit or regulate persons from appearing nude upon State-owned lands within its borders.

The bill, as introduced, permitted the municipality to prohibit or regulate nudity only on State-owned beaches.

In Tri-State Metro Naturists v. Township of Lower, 219 N.J.Super. 103 (Law Div. 1987), the court held that a township ordinance barring nude sunbathing withstood constitutional challenge, but could not be enforced on a beach located on State-owned lands inside the municipality's borders. The court found that absent State consent or waiver, a municipality may not lawfully exercise its police power to regulate conduct inside State-owned lands located within its boundaries.

The committee also made technical amendments.

# ASSEMBLY, No. 3144

## STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MAY 17, 1999

**Sponsored by:**

**Assemblyman JOHN C. GIBSON**

**District 1 (Cape May, Atlantic and Cumberland)**

**Assemblyman NICHOLAS ASSELTA**

**District 1 (Cape May, Atlantic and Cumberland)**

**SYNOPSIS**

Authorizes municipality to regulate or prohibit nudity on State- owned beaches.

**CURRENT VERSION OF TEXT**

As introduced.



A3144 GIBSON, ASSELTA

2

1 AN ACT concerning municipal authority to regulate nudity on State-  
2 owned beaches, and amending R.S.40:48-1.

3

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

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7 1. R.S.40:48-1 is amended to read as follows:

8 40:48-1. Ordinances; general purpose. The governing body of  
9 every municipality may make, amend, repeal and enforce ordinances  
10 to:

11 Finances and property. 1. Manage, regulate and control the  
12 finances and property, real and personal, of the municipality;

13 Contracts and contractor's bonds. 2. Prescribe the form and  
14 manner of execution and approval of all contracts to be executed by  
15 the municipality and of all bonds to be given to it;

16 Officers and employees; duties, terms and salaries. 3. Prescribe  
17 and define, except as otherwise provided by law, the duties and terms  
18 of office or employment, of all officers and employees; and to provide  
19 for the employment and compensation of such officials and employees,  
20 in addition to those provided for by statute, as may be deemed  
21 necessary for the efficient conduct of the affairs of the municipality;

22 Fees. 4. Fix the fees of any officer or employee of the municipality  
23 for any service rendered in connection with his office or position, for  
24 which no specific fee or compensation is provided. In the case of  
25 salaried officers or employees, such fee shall be paid into the municipal  
26 treasury;

27 Salaries instead of fees; disposition of fees. 5. Provide that any  
28 officer or employee receiving compensation for his services, in whole  
29 or in part by fees, whether paid by the municipality or otherwise, shall  
30 be paid a salary to be fixed in the ordinance, and thereafter all fees  
31 received by such officer or employee shall be paid into the municipal  
32 treasury;

33 Maintain order. 6. Prevent vice, drunkenness and immorality; to  
34 preserve the public peace and order; to prevent and quell riots,  
35 disturbances and disorderly assemblages;

36 Punish beggars; prevention of loitering 7. Restrain and punish  
37 drunkards, vagrants, mendicants and street beggars; to prevent  
38 loitering, lounging or sleeping in the streets, parks or public places;

39 Auctions and noises. 8. Regulate the ringing of bells and the  
40 crying of goods and other commodities for sale at auction or  
41 otherwise, and to prevent disturbing noises;

42 Swimming; bathing costume. 9. Regulate or prohibit swimming  
43 or bathing in the waters of, in, or bounding the municipality, and to

**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.**

1 regulate or prohibit persons from appearing upon the public streets,  
2 parks and places clad in bathing costumes or robes, or costumes of a  
3 similar character; regulate or prohibit persons from appearing upon  
4 State-owned beaches within its borders in a state of nudity:

5 Prohibit annoyance of persons or animals. 10. Regulate or prohibit  
6 any practice tending to frighten animals, or to annoy or injure persons  
7 in the public streets;

8 Animals; pounds; establishment and regulation. 11. Establish and  
9 regulate one or more pounds, and to prohibit or regulate the running  
10 at large of horses, cattle, dogs, swine, goats and other animals, and to  
11 authorize their impounding and sale for the penalty incurred, and the  
12 costs of impounding, keeping and sale; to regulate or prohibit the  
13 keeping of cattle, goats or swine in any part of the municipality; to  
14 authorize the destruction of dogs running at large therein;

15 Hucksters. 12. Prescribe and regulate the place of vending or  
16 exposing for sale articles of merchandise from vehicles;

17 Building regulations; wooden structures. 13. Regulate and control  
18 the construction, erection, alteration and repair of buildings and  
19 structures of every kind within the municipality; and to prohibit, within  
20 certain limits, the construction, erection or alteration of buildings or  
21 structures of wood or other combustible material;

22 Inflammable materials; inspect docks and buildings. 14. Regulate  
23 the use, storage, sale and disposal of inflammable or combustible  
24 materials, and to provide for the protection of life and property from  
25 fire, explosions and other dangers; to provide for inspections of  
26 buildings, docks, wharves, warehouses and other places, and of goods  
27 and materials contained therein, to secure the proper enforcement of  
28 such ordinance;

29 Dangerous structures; removal or destruction; procedure. 15.  
30 Provide for the removal or destruction of any building, wall or  
31 structure which is or may become dangerous to life or health, or might  
32 tend to extend a conflagration; and to assess the cost thereof as a  
33 municipal lien against the premises;

34 Chimneys and boilers. 16. Regulate the construction and setting  
35 up of chimneys, furnaces, stoves, boilers, ovens and other contrivances  
36 in which fire is used;

37 Explosives. 17. Regulate, in conformity with the statutes of this  
38 State, the manufacture, storage, sale, keeping or conveying of  
39 gunpowder, nitroglycerine, dynamite and other explosives;

40 Firearms and fireworks. 18. Regulate and prohibit the sale and use  
41 of guns, pistols, firearms, and fireworks of all descriptions;

42 Soft coal. 19. Regulate the use of soft coal in locomotives,  
43 factories, power houses and other places;

44 Theaters, schools, churches and public places. 20. Regulate the  
45 use of theaters, cinema houses, public halls, schools, churches, and  
46 other places where numbers of people assemble, and the exits



1 therefrom, so that escape therefrom may be easily and safely made in  
2 case of fire or panic; and to regulate any machinery, scenery, lights,  
3 wires and other apparatus, equipment or appliances used in all places  
4 of public amusement;

5 Excavations. 21. Regulate excavations below the established grade  
6 or curb line of any street, not greater than eight feet, which the owner  
7 of any land may make, in the erection of any building upon his own  
8 property; and to provide for the giving of notice, in writing, of such  
9 intended excavation to any adjoining owner or owners, and that they  
10 will be required to protect and care for their several foundation walls  
11 that may be endangered by such excavation; and to provide that in  
12 case of the neglect or refusal, for 10 days, of such adjoining owner or  
13 owners to take proper action to secure and protect the foundations of  
14 any adjacent building or other structure, that the party or parties  
15 giving such notice, or their agents, contractors or employees, may  
16 enter into and upon such adjoining property and do all necessary work  
17 to make such foundations secure, and may recover the cost of such  
18 work and labor in so protecting such adjacent property; and to make  
19 such further and other provisions in relation to the proper conduct  
20 and performance of said work as the governing body or board of the  
21 municipality may deem necessary and proper;

22 Sample medicines. 22. Regulate and prohibit the distribution,  
23 depositing or leaving on the public streets or highways, public places  
24 or private property, or at any private place or places within any such  
25 municipality, any medicine, medicinal preparation or preparations  
26 represented to cure ailments or diseases of the body or mind, or any  
27 samples thereof, or any advertisements or circulars relating thereto,  
28 but no ordinance shall prohibit a delivery of any such article to any  
29 person above the age of 12 years willing to receive the same;

30 Boating. 23. Regulate the use of motor and other boats upon  
31 waters within or bounding the municipality;

32 Fire escapes. 24. Provide for the erection of fire escapes on  
33 buildings in the municipality, and to provide rules and regulations  
34 concerning the construction and maintenance of the same, and for the  
35 prevention of any obstruction thereof or thereon;

36 Care of injured employees. 25. Provide for the payment of  
37 compensation and for medical attendance to any officer or employee  
38 of the municipality injured in the performance of his duty;

39 Bulkheads and other structures. 26. Fix and determine the lines of  
40 bulkheads or other works or structures to be erected, constructed or  
41 maintained by the owners of lands facing upon any navigable water in  
42 front of their lands, and in front of or along any highway or public  
43 lands of said municipality, and to designate the materials to be used,  
44 and the type, height and dimensions thereof;

45 Lifeguard. 27. Establish, maintain, regulate and control a lifeguard  
46 upon any beach within or bordering on the municipality;



ASSEMBLY LOCAL GOVERNMENT AND HOUSING  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3144**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 7, 1999

The Assembly Local Government and Housing Committee reports without recommendation, and with committee amendments, Assembly Bill No. 3144.

This bill, as amended, would authorize municipalities to prohibit or regulate persons from appearing nude upon State-owned lands within its borders. The committee amended the bill to prohibit persons from appearing in a State of nudity upon State-owned lands, rather than upon State-owned beaches, as the introduced version of the bill stated. The committee also made other amendments to make punctuation, headings, and citations identical to those in the Senate companion bill.

The amended bill is identical to S-1912 (1R) which also was reported by this committee on June 7, 1999.

*Office of the Governor*  
**NEWS RELEASE**

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RELEASE: June 28, 1999

## **Governor Whitman Signs Bills into Law**

Gov. Christie Whitman today signed 12 bills into law, including legislation to increase parental involvement in a minor's decision to have an abortion, to allow towns to regulate or prohibit nudity on state-owned land within their borders, and to fund the state's contribution toward a memorial to recognize World War II veterans.

On the parental notification bill, Gov. Whitman said, "This legislation strikes a common-sense balance that recognizes the rights of parents to know when a medical procedure will be performed on their minor children, while preserving a young woman's legal right to choose whether or not to have an abortion."

**A-44**, sponsored by Assembly Members Paul DiGaetano (R-Bergen/Essex/Passaic) and Joseph Doria (D-Hudson) and Senators Ronald Rice (D-Essex) and Joseph Palaia (R-Monmouth), appropriates \$14.8 million to the Department of Community Affairs to demolish and dispose of unsafe buildings. The money would be used as loans to 17 municipalities to demolish buildings in urban and rural areas. The loans were awarded pursuant to the "Urban and Rural Centers Unsafe Buildings Demolition Bond Act." Loans will be granted to Camden, Passaic, Elizabeth, Bridgeton, Jersey City, Asbury Park, Bayonne, East Orange, Hampton, Long Branch, Orange, Paterson, Penns Grove, Perth Amboy, Pleasantville, Union City, and Vineland.

**ACS for A-527/S-813**, sponsored by Assembly Members John E. Rooney (R-Bergen) and Marion Crecco (R-Essex/Passaic), seeks to increase parental involvement in a minor's decision to have an abortion. Specifically, the bill requires a physician, prior to performing an abortion upon a female under the age of 18, to notify a parent at least 48 hours prior to the procedure, subject to certain exemptions. If the parent has no custodial rights or if there is no parent with care and control, the bill provides for notification of a foster parent, guardian or person standing in loco parentis.

The bill establishes an exception to the notification requirement if, in the attending physician's good faith clinical judgment, a medical emergency exists. The bill also allows a pregnant minor to petition a judge of the Superior Court for a judicial order waiving the notification requirement. A judge must waive the notification requirement if he finds, by clear and convincing evidence, that either the pregnant minor is mature enough to decide whether to have an abortion; the notification of the parent is not in the best interests of the minor; or there is evidence of physical, sexual or emotional abuse by the parent, guardian or legal custodian.

**A-631**, sponsored by Assembly Members Joseph Roberts (D-Camden/Gloucester) and Arline Friscia (D-Middlesex), designates a portion of the revenue collected from vending machine sales under contract

with the Commission for the Blind and Visually Impaired to be used for vision screening and prevention services. Since 1994, the vending machine revenue has been redirected through the appropriations act, which resulted in a disincentive to increase sales. The revenue sharing program grants the Commissioner of the Department of Human Services the authority to share a portion of the sales with department institutions only when enough funds have been collected to support Project Prevention.

**S-1698**, sponsored by Senators William L. Gormley (R-Atlantic) and Wayne R. Bryant (D-Camden/Gloucester) and Assembly Member James W. Holzapfel (R-Monmouth/ Ocean), enhances the flexibility of the State Parole Board. The legislation increases the membership of the board from nine members to eleven and adds a third adult panel on prison sentences which will enable the board to conduct an estimated 288 additional panel hearings each month.

The legislation also expands the ability of an alternate board member to assume the duties of an associate member. Currently, the board has an alternate member who can assume the duties of an associate member only when the associate is removed, incapacitated or assumes the duties of the chairman. The legislation will allow an alternate member to step in for an associate member when the member is absent or otherwise unable to perform his or her duties, or assumes the duties of the chairman. Finally, the bill expands the powers of the chairman to temporarily reassign an associate member appointed to a panel on juvenile commitments to a panel on adult sentences. Currently, the chairman can only reassign members appointed to a panel on adult sentences.

**S-1709/A-3115**, sponsored by Senator Robert Singer (R-Burlington/Monmouth/Ocean) and Assembly Members Carol J. Murphy (R-Essex/Morris/Passaic) and Nicholas Felice (R-Bergen/Passaic), clarifies that the corporation business tax benefit transfer program applies only to emerging technology and biotechnology companies in this state. As currently written, the bill could allow large "Fortune 500" companies to obtain CBT tax credits.

**S-1744/A-2886**, sponsored by Senators Norman M. Robertson (R-Essex/Passaic) and Louis Bassano (R-Essex/Union) and Assembly Members Kenneth LeFevre (R-Atlantic) and Joseph Azzolina (R-Middlesex and Monmouth), makes a supplemental appropriation of \$580,000 from the General Fund to the Department of Military and Veterans' Affairs for a grant to the World War II Memorial Fund. The fund is to be used to construct and maintain the first national memorial dedicated to all who served in the armed forces and the merchant marines during World War II.

Former Senator Bob Dole is leading efforts to raise \$100 million toward the memorial, which is to be built on the Mall in Washington, D.C. States have been asked to make donations to the fund, suggested at \$1 for each resident who served in WWII. The \$580,000 supplemental appropriation represents New Jersey's contribution for its approximately 580,000 veterans who served in the war. Of those 580,000 veterans, it is estimated that approximately 200,000 World War II veterans are still living in the state.

**S-1912**, sponsored by Senator James S. Cafiero and Assembly Members John C. Gibson and Nicholas Asselta (all R-Cape May/Atlantic/Cumberland), authorizes municipalities to regulate or prohibit nudity on any state-owned land.

**S-1985**, sponsored by Senators William E. Schluter (R-Warren/Hunterdon/Mercer) and Shirley K. Turner (D-Mercer) and Assembly Members Bonnie Watson Coleman (D-Mercer) and Reed Gusciora (D-Mercer), authorizes the Department of the Treasury to sell as surplus real property all of the state's interest in the Lafayette Yard property in Trenton to the City of Trenton. The terms and conditions of the sale must be approved by the State House Commission. The purpose of the bill is to allow the City of Trenton to build a hotel on the site. The sale of the Lafayette Yard and the City of Trenton Hotel and Conference Center will be financed by a \$5 million loan from the state.

**S-1986**, sponsored by Senators William E. Schluter (R-Warren/Hunterdon/Mercer) and Shirley K. Turner (D-Mercer) and Assembly Members Bonnie Watson Coleman (D-Mercer) and Reed Gusciora (D-Mercer), makes a supplemental appropriation of \$5 million from the Fiscal Year 1999 Appropriations Act to the Department of the Treasury to make a loan to the City of Trenton to construct a hotel/conference center and parking garage on the Lafayette Yard site next to the War Memorial in Trenton.

**S-2009**, sponsored by Senator Gerald Cardinale (R-Bergen) and Assembly Member Claire M. Farragher (R-Monmouth), revises the manner in which the Department of Banking and Insurance (DBI) may assess the insurance industry for the cost of operations of the Division of Insurance and the Office of Insurance Fraud Prosecutor (OIP). The present amount of assessment is approximately \$41 million per year. The assessment is calculated by adding the previous year's spending by the DBI and OIP to the percentage increases (if any) in net written premiums by the insurance industry. Thus, the division must calculate the premium increase for the insurance industry from the previous calendar year and then set its budget for the following year. The assessment growth is limited to the percentage growth in net written premiums from the prior calendar year. Annual statements containing net written premium information are not due from the companies until March following the close of the calendar year and this information is not compiled until May. Consequently, the maximum assessment for the preceding fiscal year is not known until May of the current year, which leaves inadequate time to adjust spending.

To rectify these problems, the bill revises the fiscal cap by removing the present limitation that the assessment may not increase, as a percentage, by more than the percentage increase in net written premiums received by all companies for the prior calendar year. Instead, it sets the cap at 0.20 percent of the combined net written premiums received during the prior calendar year. The bill applies the revised cap to the 1999 fiscal year and every succeeding fiscal year. The cap will now have a fixed ceiling, instead of a variable ceiling.

**ACS for A-2738 and A-2343**, sponsored by Assembly Members Alex DeCroce (R-Essex/Morris/Passaic), Anthony Impreveduto (D-Bergen/Hudson), Francis Bodine (R-Atlantic/Burlington/Camden) and Joseph Charles (D-Hudson) and Senators Andrew Ciesla (R-Monmouth/Ocean) and Walter Kavanaugh (R-Morris/Somerset), increases from \$700 million to \$900 million the amount of debt that the State Transportation Trust Fund Authority may incur. The bill also increases the same amount that may be appropriated for transportation projects. Any savings realized by refinancing debt must be used for funding transportation projects.

**ACS for A-3269**, sponsored by Assembly Members Rose Marie Heck (R-Bergen), Joel M. Weingarten (D-Bergen) and Loretta Weinberg (D-Bergen), authorizes the Division of Motor Vehicles

(DMV) to process motor vehicle transactions submitted through any electronic or digital means, including by the Internet or telephone. Individuals will continue to have the option of conducting business with DMV in person or through the mail.