17:1C-31

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2010 **CHAPTER:** 21

NJSA: 17:1C-31 (Concerns certain taxes and assessments dedicated to the administrative costs of the DOBI)

BILL NO: A3005 (Substituted for S2096)

SPONSOR(S) Coyle and Others

DATE INTRODUCED: June 24, 2010

COMMITTEE: **ASSEMBLY:** Budget

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 28, 2010

SENATE: June 28, 2010

DATE OF APPROVAL: June 29, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint Corrected Copy enacted)

A3005

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes

S2096

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: No

SENATE: Yes

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL NOTE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or mailto:refdesk@njstatelib.org

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

OTHER Yes

974.90 R424 2010p

Department of Banking and Insurance transition report. [Trenton, NJ : New Jersey Office of the Governor 2010] January 5, 2010.

LAW/KR

[Second Reprint]

ASSEMBLY, No. 3005

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED JUNE 24, 2010

Sponsored by:
Assemblywoman DENISE M. COYLE
District 16 (Morris and Somerset)
Assemblyman ROBERT SCHROEDER
District 39 (Bergen)

Co-Sponsored by:
Senator Cardinale

SYNOPSIS

Concerns certain taxes and assessments dedicated to the administrative costs of the DOBI.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 28, 2010.

(Sponsorship Updated As Of: 6/29/2010)

AN ACT concerning certain taxes and assessments dedicated to the administrative costs of the Department of Banking and Insurance and amending P.L.1945, c.132 and P.L.1995, c.156.

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

1. Section 13 of P.L.1995, c.156 (C.17:1C-31) is amended to read as follows:

13. Commencing with fiscal year 1999 and in each fiscal year thereafter, the total amount assessable to companies in any fiscal year for all special purpose assessments made pursuant to applicable law as of the effective date of this act, including the special purpose apportionment established by this act, shall not exceed **[**0.20**]** <u>0.25</u> percent of the combined net written premiums received, as defined in subsection b. of section 2 of this act, by all companies for the previous year.

(cf: P.L.1999, c.143, s.2)

2. Section 2 of P.L.1945, c.132 (C.54:18A-2) is amended to read as follows:

2. (a) The tax specified in subsection (a) of section 1 of this act, except as to life insurance companies and except as to marine insurance as described by chapter 16 of Title 54 of the Revised Statutes, shall, except as hereinafter provided, be 2% upon the taxable premiums collected by such company during the year ending December 31 next preceding on all business of the company in this State, less the amount of taxes on its property, exclusive of taxes on real estate and of taxes payable pursuant to this section, paid in this State by the company pursuant to any law of this State during the said year. Any taxes paid to the treasurer of any firemen's relief association of this State pursuant to R.S.54:18-1 shall be considered a part of the tax payable under this act. An additional tax of 0.1% upon such taxable premiums of such insurers shall also be paid **[**, which amount shall be dedicated to the Department of Banking and Insurance for payment of administrative costs related to its statutory duties**]**.

(b) Taxable premiums, collected after December 31, 1965 by an insurance company subject to the provisions of subsection (a) hereof under group accident and health insurance policies on residents of this State, and taxable premiums collected under legal insurance policies as defined in section 3 of P.L.1981, c.160

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 <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly ABU committee amendments adopted June 24, 2010.
[2]Assembly floor amendments adopted June 28, 2010.

(C.17:46C-3) on residents of this State, shall be subject to tax at the following rates:

As to taxes payable in 1967	1 3/4 %
As to taxes payable in 1968	1 1/2 %
As to taxes payable in 1969	1 1/4 %
As to taxes payable in 1970 through 2008	1%
As to taxes payable in 2009	1.35%
As to taxes payable in 2010 and thereafter	1%

An additional tax of 0.05% upon such taxable premiums of such insurers shall also be paid [, which amount shall be dedicated to the Department of Banking and Insurance for payment of administrative costs related to its statutory duties].

[2](c) For the filing pursuant to subsection (a) of section 1 of P.L.1945, c.132 (C.54:18A-1) due on or before March 1, 2014 and each filing thereafter, every domestic insurance company subject to this section shall be allowed to reduce the amount owed pursuant to this section by 5% of any retaliatory tax liability incurred by that insurance company for the same filing period pursuant to the laws of any other state in which the insurance company transacts business. Such percentage reduction shall increase 1% per annual filing, until reaching 15% of any retaliatory tax liability for the filing due on or before March 1, 2024 and each year thereafter.[2]

(cf: P.L.2009, c.75, s.1)

3. Section 3 of P.L.1945, c.132 (C.54:18A-3) is amended to read as follows:

3. Amount of tax, life insurance companies; additional tax. (a) The tax specified in subsection (a) of section 1 of this act as to life insurance companies, shall, except as hereinafter provided, be 2% upon the taxable premiums collected by the company during the year ending December 31 next preceding under all policies or contracts of insurance on residents of this State, less the amount of taxes on its property, exclusive of taxes on real estate and of taxes payable pursuant to this section, paid in this State by the company pursuant to any law of this State during the said year. An additional tax of 0.1% upon such taxable premiums of such insurers shall also be paid [, which amount shall be dedicated to the Department of Banking and Insurance for payment of administrative costs related to its statutory duties].

(b) Taxable premiums, collected after December 31, 1965 by an insurance company subject to the provisions of subsection (a) hereof under group accident and health insurance policies on residents of this State, and taxable premiums collected under legal insurance policies as defined in section 3 of P.L.1981, c.160 (C.17:46C-3) on residents of this State, shall be subject to tax at the following rates:

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As to taxes payable in 1968	1 1/2%
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As to taxes payable in 2009	1.35%
As to taxes payable in 2010 and thereafter	1%

An additional tax of 0.05% upon such taxable premiums of such insurers shall also be paid [, which amount shall be dedicated to the Department of Banking and Insurance for payment of administrative costs related to its statutory duties].

[1](c) For the filing pursuant to subsection (a) of section 1 of P.L.1945, c.132 (C.54:18A-1) due on or before March 1, 2014 and each filing thereafter, every domestic insurance company subject to this section shall be allowed to reduce the amount owed pursuant to this section by 5% of any retaliatory tax liability incurred by that insurance company for the same filing period pursuant to the laws of any other state in which the insurance company transacts business. Such percentage reduction shall increase 1% per annual filing, until reaching 15% of any retaliatory tax liability for the filing due on or before March 1, 2024 and each year thereafter.[1]

(cf: P.L.2009, c.75, s.2)

4. This act shall take effect immediately.

ASSEMBLY, No. 3005

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED JUNE 24, 2010

Sponsored by:
Assemblywoman DENISE M. COYLE
District 16 (Morris and Somerset)
Assemblyman ROBERT SCHROEDER
District 39 (Bergen)

SYNOPSIS

Concerns certain taxes and assessments dedicated to the administrative costs of the DOBI.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning certain taxes and assessments dedicated to the administrative costs of the Department of Banking and Insurance and amending P.L.1945, c.132 and P.L.1995, c.156.

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

1. Section 13 of P.L.1995, c.156 (C.17:1C-31) is amended to read as follows:

13. Commencing with fiscal year 1999 and in each fiscal year thereafter, the total amount assessable to companies in any fiscal year for all special purpose assessments made pursuant to applicable law as of the effective date of this act, including the special purpose apportionment established by this act, shall not exceed **[**0.20**]** <u>0.25</u> percent of the combined net written premiums received, as defined in subsection b. of section 2 of this act, by all companies for the previous year.

(cf: P.L.1999, c.143, s.2)

2. Section 2 of P.L.1945, c.132 (C.54:18A-2) is amended to read as follows:

2. (a) The tax specified in subsection (a) of section 1 of this act, except as to life insurance companies and except as to marine insurance as described by chapter 16 of Title 54 of the Revised Statutes, shall, except as hereinafter provided, be 2% upon the taxable premiums collected by such company during the year ending December 31 next preceding on all business of the company in this State, less the amount of taxes on its property, exclusive of taxes on real estate and of taxes payable pursuant to this section, paid in this State by the company pursuant to any law of this State during the said year. Any taxes paid to the treasurer of any firemen's relief association of this State pursuant to R.S.54:18-1 shall be considered a part of the tax payable under this act. An additional tax of 0.1% upon such taxable premiums of such insurers shall also be paid **[**, which amount shall be dedicated to the Department of Banking and Insurance for payment of administrative costs related to its statutory duties**]**.

(b) Taxable premiums, collected after December 31, 1965 by an insurance company subject to the provisions of subsection (a) hereof under group accident and health insurance policies on residents of this State, and taxable premiums collected under legal insurance policies as defined in section 3 of P.L.1981, c.160 (C.17:46C-3) on residents of this State, shall be subject to tax at the following rates:

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 <u>thus</u> is new matter.

As to taxes payable in 1967	1 3/4 %
As to taxes payable in 1968	1 1/2 %
As to taxes payable in 1969	1 1/4 %
As to taxes payable in 1970 through 2008	1%
As to taxes payable in 2009	1.35%
As to taxes payable in 2010 and thereafter	1%

An additional tax of 0.05% upon such taxable premiums of such insurers shall also be paid ⟦, which amount shall be dedicated to the Department of Banking and Insurance for payment of administrative costs related to its statutory duties⟧.

(cf: P.L.2009, c.75, s.1)

3. Section 3 of P.L.1945, c.132 (C.54:18A-3) is amended to read as follows:

3. Amount of tax, life insurance companies; additional tax. (a) The tax specified in subsection (a) of section 1 of this act as to life insurance companies, shall, except as hereinafter provided, be 2% upon the taxable premiums collected by the company during the year ending December 31 next preceding under all policies or contracts of insurance on residents of this State, less the amount of taxes on its property, exclusive of taxes on real estate and of taxes payable pursuant to this section, paid in this State by the company pursuant to any law of this State during the said year. An additional tax of 0.1% upon such taxable premiums of such insurers shall also be paid ⟦, which amount shall be dedicated to the Department of Banking and Insurance for payment of administrative costs related to its statutory duties⟧.

(b) Taxable premiums, collected after December 31, 1965 by an insurance company subject to the provisions of subsection (a) hereof under group accident and health insurance policies on residents of this State, and taxable premiums collected under legal insurance policies as defined in section 3 of P.L.1981, c.160 (C.17:46C-3) on residents of this State, shall be subject to tax at the following rates:

As to taxes payable in 1967	1 3/4%
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As to taxes payable in 1969	1 1/4%
As to taxes payable in 1970 through 2008	1%
As to taxes payable in 2009	1.35%
As to taxes payable in 2010 and thereafter	1%

An additional tax of 0.05% upon such taxable premiums of such insurers shall also be paid ⟦, which amount shall be dedicated to the Department of Banking and Insurance for payment of administrative costs related to its statutory duties⟧.

(cf: P.L.2009, c.75, s.2)

4. This act shall take effect immediately.

STATEMENT

This bill eliminates the current dedication of certain insurance premium taxes to the Department of Banking and Insurance for the payment of administrative costs related to its statutory duties. Instead, the revenue from these taxes would now be retained in the General Fund and an equal amount of revenue would be generated for those administrative costs of the department through an increase in the special purpose assessment charged insurance carriers pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.).

Under sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2, and C.54:18A-3), certain established insurance premium taxes, reported as "FAIR Act Administration" taxes in the FY2011 Budget Recommendation, are dedicated to department administrative costs: a tax of 0.1 percent, upon taxable premiums of insurance carriers, (except those carriers that are marine insurance companies, health maintenance organizations (HMOs), group accident and health insurance companies, and legal insurance companies); and, a tax of 0.05 percent, upon taxable premiums of group accident and health insurance companies and legal insurance companies.

The revenue from the "FAIR Act Administration" taxes currently is collected by the Department of Treasury from the insurers and then transferred to the department for administrative expenses. The amounts so collected effectively reduce the total amount collected through the special purpose assessment established pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.).

The special purpose assessment is charged to all insurers writing most classes of insurance in the State for funding the activities of the Division of Insurance in regulating, monitoring and supervising these carriers. The assessment of each carrier is based on the proportion that its net written premiums for the preceding calendar year bears to the combined net written premiums of all carriers in the preceding year, except that no carrier is currently required to pay an assessment that exceeds 0.20 percent of its net written premium.

The bill would also permit an increase in the maximum amount ("caps") assessable to companies for the special purpose assessment from the current 0.20 percent to 0.25 percent of combined net written premiums received by all companies for the previous year to ensure adequate industry funding for the department's administrative costs going forward.

Therefore, pursuant to the changes proposed in this bill, the revenue from the "FAIR Act Administration" taxes would no longer be dedicated to the department's administrative costs and the special purpose assessment would instead be the source of funding for the administration costs of the department.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3005

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 24, 2010

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3005, with committee amendments.

The bill, as amended, eliminates the current dedication of certain insurance premium taxes to the Department of Banking and Insurance for the payment of administrative costs related to its statutory duties. Instead, the revenue from these taxes will now be retained in the General Fund and an equal amount of revenue will be generated for those administrative costs of the department through an increase in the special purpose assessment charged insurance carriers pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.).

Under sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), certain established insurance premium taxes, reported as "FAIR Act Administration" taxes in the FY2011 Budget Recommendation, are dedicated to department administrative costs: a tax of 0.1 percent, upon taxable premiums of insurance carriers (except those carriers that are marine insurance companies, health maintenance organizations (HMOs), group accident and health insurance companies, and legal insurance companies); and, a tax of 0.05 percent, upon taxable premiums of group accident and health insurance companies and legal insurance companies.

The revenue from the "FAIR Act Administration" taxes currently is collected by the Department of Treasury from the insurers and then transferred to the department for administrative expenses. The amounts so collected effectively reduce the total amount collected through the special purpose assessment established pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.).

The special purpose assessment is charged to all insurers writing most classes of insurance in the State for funding the activities of the Division of Insurance in regulating, monitoring and supervising these carriers. The assessment of each carrier is based on the proportion that its net written premiums for the preceding calendar year bears to the combined net written premiums of all carriers in the preceding year, except that no carrier is currently required to pay an assessment that exceeds 0.20 percent of its net written premium.

The bill also permits an increase in the maximum amount ("cap") assessable to companies for the special purpose assessment, from the current 0.20 percent to 0.25 percent, of combined net written premiums received by all companies for the previous year to ensure adequate industry funding for the department's administrative costs going forward.

Therefore, pursuant to the changes proposed in this bill, the revenue from the "FAIR Act Administration" taxes will no longer be dedicated to the department's administrative costs and the special purpose assessment will instead be the source of funding for the administrative costs of the department.

The bill permits domestic life and health insurance companies to reduce or credit their tax liability under the insurance premium tax by a portion of their retaliatory tax liability incurred in other states, beginning with the filing due on or before March 1, 2014 (for the calendar year ending December 31, 2013) and each filing period thereafter. Initially, the credit will amount to 5% of any retaliatory costs incurred for the same filing period. The reduction in liability or credit will increase 1% per tax year until reaching 15% of retaliatory costs for the filing due on March 1, 2024 and each year thereafter.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that, due to the changes proposed under this bill, $21 million in revenue from insurance special premiums tax revenues will become available for general State purposes, rather than be dedicated to the operation costs of the Department of Banking and Insurance. As a result, the special purpose assessment charged to all insurers writing most classes of insurance in the State for funding the activities of the Division of Insurance will increase by $21 million. The State will realize a net gain of $21 million in FY2011, FY2012 and FY2013.

The bill also permits an increase in the maximum amount ("cap") assessable to companies for the special purpose assessment, from the current 0.20 percent to 0.25 percent, of combined net written premiums received by all companies for the previous year to ensure adequate industry funding for the department's administrative costs going forward. According to information provided by the Department of Banking and Insurance, it is not likely that raising the "cap" will have an impact on the amount of assessment to be charged insurers in the foreseeable future. However, there was a concern that future assessments may reach the 0.20 percent limit and thus it was considered prudent to increase the "cap" at this time.

The proposed amendments will result in a decrease in the amount of revenue collected from the premiums tax beginning in FY2014. The amount lost due to the proposed tax credit will initially be five percent of all retaliatory taxes paid by all domestic life and health insurers and thereafter will increase by one percent each year until capping at 15 percent in FY2024.

The OLS can not determine with any certainty the amount of revenue that will be lost beginning in FY2014 because insurance companies are not required to report to New Jersey the retaliatory taxes paid to other states. However, Prudential Financial Inc., a life insurance company operating in New Jersey and in more than 40 other states, has indicated that it pays approximately $10 million in retaliatory taxes to other states. Thus, in FY2014, Prudential would receive a tax credit of $500,000 on its premiums tax bill pursuant to this legislation, based on current information. The tax credit will increase by approximately one percent each year. Assuming Prudential continued to pay $10 million a year in retaliatory taxes, the tax credit would result in Prudential receiving the following tax credit from the State of New Jersey (resulting in a dollar for dollar loss to the General Fund in premiums taxes collected):

Fiscal Year	Tax Credit
2014	$500,000
2015	$530,000
2016	$567,100
2017	$612,468
2018	$667,590
2019	$734,349
2020	$815,128
2021	$912,943
2022	$1,031,625
2023	$1,176,053
2024	$1,352,461

Prudential asserts that it is subject to higher retaliatory taxes than other insurance companies in the State. The Department of Banking and Insurance confirms that Prudential most likely has the largest retaliatory tax burden, but also confirms that there are approximately 34 other domestic life and health insurance companies that may pay retaliatory taxes in other states that would benefit from this legislation and would receive a tax credit against the premiums taxes paid beginning in FY2014.

COMMITTEE AMENDMENTS:

The amendments permit domestic life and health insurance companies to reduce or credit their tax liability under the insurance premium tax by a portion of their retaliatory tax liability incurred in other states, beginning with the filing due on or before March 1, 2014 (for the calendar year ending December 31, 2013) and each filing period thereafter. Initially, the credit will amount to 5% of any retaliatory costs incurred for the same filing period. The reduction in liability or credit will increase 1% per tax year until reaching 15% of retaliatory costs for the filing due on March 1, 2024 and each year thereafter.

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3005

with Assembly Floor Amendments
(Proposed by Assemblywoman COYLE and Assemblyman SCHROEDER

ADOPTED: JUNE 28, 2010

This amendment permits domestic property/casualty insurance companies to reduce or credit their tax liability under the insurance premium tax by a portion of their retaliatory tax liability incurred in other states, beginning with the filing due on or before March 1, 2014 (for the calendar year ending December 31, 2013) and each filing period thereafter. Initially, the credit will amount to 5% of any retaliatory costs incurred for the same filing period. The reduction in liability, or credit, will increase 1% per tax year until reaching 15% of retaliatory costs for the filing due on March 1, 2024 and each year thereafter.

A similar amendment as to domestic life and health insurance companies was made to the bill by the Assembly Budget Committee on June 24, 2010, but was not made at that time to the appropriate statute which applies to property/casualty insurers. This amendment therefore provides parity among all domestic insurers subject to the premium tax in this regard.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 3005

STATE OF NEW JERSEY
214th LEGISLATURE

DATED: JULY 23, 2010

SUMMARY

Synopsis: Concerns certain taxes and assessments dedicated to the administrative costs of the DOBI.

Type of Impact: Revenue Increase General Fund.

Agencies Affected: Department of Banking and Insurance

Office of Legislative Services Estimate

Fiscal Impact	FY2011	FY2012	FY2013
State Revenue- Increased Special Purpose Assessment	$21 million	$21 million	$21 million

Fiscal Impact	FY2014	FY2019	FY2024
State Revenue – Decrease in insurance premium tax due to credit for retaliatory tax	Indeterminate – 5 percent of all retaliatory taxes paid by certain insurers to other states	Indeterminate – 10 percent of all retaliatory taxes paid by certain insurers to other states	Indeterminate – 15 percent of all retaliatory taxes paid by certain insurers to other states

- The Office of Legislative Services (OLS) estimates that this bill will increase total revenue generated through the insurance special purpose assessment by $21 million annually beginning in 2011.

- Pursuant to the changes proposed in the bill, $21 million in revenue collected from the FAIR Act Administration taxes will no longer be dedicated to administrative costs of the Department of Banking and Insurance and will instead be available for general State purposes.

- The decrease of $21 million dedicated to the department's administrative costs pursuant to this bill is replaced by an equal increase of revenue in the special purpose assessment charged to all insurers writing most classes of insurance in the State for funding the activities of the Division of Insurance.

- The OLS estimates that there will be an indeterminate decrease in the revenue collected from the insurance premium tax due to the retaliatory tax credit beginning in FY2014. The revenue lost due to the proposed tax credit will initially be five percent of all retaliatory taxes paid by all domestic insurers subject to the premium tax and thereafter will increase by one percent each year until capping at 15 percent in FY2024.

BILL DESCRIPTION

Assembly Bill No. 3005 (2R) of 2010 eliminates the current dedication of certain insurance premium taxes to the Department of Banking and Insurance for the payment of administrative costs related to its statutory duties. Instead, the revenue from these taxes would now be retained in the General Fund and an equal amount of revenue would be generated for those administrative costs of the department through an increase in the special purpose assessment charged insurers pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.).

The bill would also permit an increase in the maximum amount (“cap”) assessable to companies for the special purpose assessment, from the current 0.20 percent to 0.25 percent, of combined net written premiums received by all companies for the previous year to ensure adequate industry funding for the department’s administrative costs going forward.

The bill permits domestic insurance companies that are subject to the premium tax to reduce, or credit, their tax liability under the insurance premium tax by a portion of their retaliatory tax liability incurred in other states, beginning with the filing due on or before March 1, 2014 (for the calendar year ending December 31, 2013) and each filing period thereafter. Initially, the credit will amount to 5 percent of any retaliatory costs incurred for the same filing period. The reduction in liability or credit will increase 1% per tax year until reaching 15 percent of retaliatory costs for the filing due on March 1, 2024 and each year thereafter.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that, due to the changes proposed under this bill, $21 million in revenue from insurance premium tax revenues will become available for general State purposes, rather than be dedicated to the operating costs of the Department of Banking and Insurance. As a result, the special purpose assessment charged to all insurers writing most classes of insurance in the State for funding the activities of the Division of Insurance will increase by $21 million. The State will realize a net gain of $21 million in FY2011, FY2012 and FY2013.

Under sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2, and C.54:18A-3), certain established insurance premium taxes, reported as “FAIR Act Administration” taxes in the FY2011 Budget Recommendation, are dedicated to department administrative costs: a tax of 0.1 percent, upon taxable premiums of insurance carriers (except those carriers that are marine insurance companies, health maintenance organizations (HMOs), group accident and health insurance companies, and legal insurance companies); and, a tax of 0.05 percent, upon taxable premiums of group accident and health insurance companies and legal insurance companies.

The revenue from the FAIR Act Administration taxes currently is collected by the Department of the Treasury from the insurers and then transferred to the department for administrative expenses. Please see the following table for the revenue collected from "FAIR Act Administration" taxes from FY2004 to FY2011.

	2004*	2005*	2006*	2007*	2008*	2009*	2010**	2011**
FAIR Act Administration	$16,863	$19,778	$20,985	$22,131	$23,348	$21,776	$21,000	$21,000

*Actual **Estimated (As reported in the Governor's proposed budget for the corresponding Fiscal Year).

Currently, the amounts collected from the FAIR Act Administration taxes effectively reduce the total amount collected through the special purpose assessment established pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.). The special purpose assessment is charged to all insurers writing most classes of insurance in the State for funding the activities of the Division of Insurance in regulating, monitoring and supervising these carriers. The assessment of each carrier is based on the proportion that its net written premiums for the preceding calendar year bears to the combined net written premiums of all carriers in the preceding year, except that no carrier is currently required to pay an assessment that exceeds 0.20 percent of its net written premium. Please see the following table for the revenue collected from the special purpose assessment from FY2004 to FY2011.

	2004*	2005*	2006*	2007*	2008*	2009*	2010**	2011**
Special Purpose Assessment	$14,969	$13,696	$13,787	$13,563	$12,091	$9,944	$10,513	$33,179

*Actual **Estimated (As reported in the Governor's proposed budget for the corresponding Fiscal Year).

It should be noted that the estimated amount collected by the department reflects an approximately $22 million increase in FY2011. A majority of this increase ($21 million) can be attributed to the shift in the use of the FAIR Act Administration tax as proposed in this bill. The remainder can be attributed to increased staffing needs of the department in FY2011.

The bill also permits an increase in the maximum amount ("cap") assessable to companies for the special purpose assessment, from the current 0.20 percent to 0.25 percent, of combined net written premiums received by all companies for the previous year to ensure adequate industry funding for the department's administrative costs going forward. According to information provided by the Department of Banking and Insurance, it is not likely that raising the "cap" will have an impact on the amount of assessment to be charged insurers in the foreseeable future. However, there was a concern that future assessments may reach the 0.20 percent limit and thus it was considered prudent to increase the "cap" at this time.

The tax credit proposed in the bill will result in a decrease in the amount of revenue collected from the insurance premium tax beginning in FY2014. The amount lost due to the proposed tax credit will initially be five percent of all retaliatory taxes paid by all domestic insurers that are subject to the premium tax and thereafter will increase by one percent each year until capping at 15 percent in FY2024.

The OLS can not determine with any certainty the amount of revenue that will be lost beginning in FY2014 because insurance companies are not required to report to New Jersey the retaliatory taxes paid to other states. However, Prudential Financial Inc., a life insurance company operating in New Jersey and in more than 40 other states, has indicated that it pays approximately $10 million in retaliatory taxes to other states. Thus, in FY2014, Prudential would receive a tax credit of $500,000 on its premium tax bill pursuant to this legislation, based on current information. The tax credit would increase by one percent each year. Assuming Prudential continued to pay $10 million a year in retaliatory taxes, the tax credit would result in Prudential receiving the following tax credit from the State of New Jersey (resulting in a dollar for dollar loss to the General Fund in premium taxes collected):

Fiscal Year	Tax Credit
2014	$500,000
2015	$530,000
2016	$567,100
2017	$612,468
2018	$667,590
2019	$734,349
2020	$815,128
2021	$912,943
2022	$1,031,625
2023	$1,176,053
2024	$1,352,461

Prudential asserts that it is subject to higher retaliatory taxes than other insurance companies in the State. The Department of Banking and Insurance confirms that Prudential most likely has the largest retaliatory tax burden, but also confirms that there are approximately 34 other domestic insurance companies, that are subject to the premium tax, that may pay retaliatory taxes in other states that would benefit from this legislation and would receive a tax credit against the premium taxes paid beginning in FY2014.

Section:	*Commerce, Labor and Industry.*
Analyst:	*Robin C. Ford* *Associate Fiscal Analyst*
Approved:	*David J. Rosen* *Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 2096

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED JUNE 21, 2010

Sponsored by:
Senator GERALD CARDINALE
District 39 (Bergen)

SYNOPSIS

Concerns certain taxes and assessments dedicated to the administrative costs of the DOBI.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning certain taxes and assessments dedicated to the administrative costs of the Department of Banking and Insurance and amending P.L.1945, c.132 and P.L.1995, c.156.

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

1. Section 13 of P.L.1995, c.156 (C.17:1C-31) is amended to read as follows:

13. Commencing with fiscal year 1999 and in each fiscal year thereafter, the total amount assessable to companies in any fiscal year for all special purpose assessments made pursuant to applicable law as of the effective date of this act, including the special purpose apportionment established by this act, shall not exceed **[**0.20**]** <u>0.25</u> percent of the combined net written premiums received, as defined in subsection b. of section 2 of this act, by all companies for the previous year.

(cf: P.L.1999, c.143, s.2)

2. Section 2 of P.L.1945, c.132 (C.54:18A-2) is amended to read as follows:

2. (a) The tax specified in subsection (a) of section 1 of this act, except as to life insurance companies and except as to marine insurance as described by chapter 16 of Title 54 of the Revised Statutes, shall, except as hereinafter provided, be 2% upon the taxable premiums collected by such company during the year ending December 31 next preceding on all business of the company in this State, less the amount of taxes on its property, exclusive of taxes on real estate and of taxes payable pursuant to this section, paid in this State by the company pursuant to any law of this State during the said year. Any taxes paid to the treasurer of any firemen's relief association of this State pursuant to R.S.54:18-1 shall be considered a part of the tax payable under this act. An additional tax of 0.1% upon such taxable premiums of such insurers shall also be paid **[**, which amount shall be dedicated to the Department of Banking and Insurance for payment of administrative costs related to its statutory duties**]**.

(b) Taxable premiums, collected after December 31, 1965 by an insurance company subject to the provisions of subsection (a) hereof under group accident and health insurance policies on residents of this State, and taxable premiums collected under legal insurance policies as defined in section 3 of P.L.1981, c.160 (C.17:46C-3) on residents of this State, shall be subject to tax at the following rates:

As to taxes payable in 1967	1 3/4 %
As to taxes payable in 1968	1 1/2 %
As to taxes payable in 1969	1 1/4 %
As to taxes payable in 1970 through 2008	1%

As to taxes payable in 2009 1.35%
As to taxes payable in 2010 and thereafter 1%

An additional tax of 0.05% upon such taxable premiums of such insurers shall also be paid [, which amount shall be dedicated to the Department of Banking and Insurance for payment of administrative costs related to its statutory duties].

(cf: P.L.2009, c.75, s.1)

3. Section 3 of P.L.1945, c.132 (C.54:18A-3) is amended to read as follows:

3. Amount of tax, life insurance companies; additional tax. (a) The tax specified in subsection (a) of section 1 of this act as to life insurance companies, shall, except as hereinafter provided, be 2% upon the taxable premiums collected by the company during the year ending December 31 next preceding under all policies or contracts of insurance on residents of this State, less the amount of taxes on its property, exclusive of taxes on real estate and of taxes payable pursuant to this section, paid in this State by the company pursuant to any law of this State during the said year. An additional tax of 0.1% upon such taxable premiums of such insurers shall also be paid [, which amount shall be dedicated to the Department of Banking and Insurance for payment of administrative costs related to its statutory duties].

(b) Taxable premiums, collected after December 31, 1965 by an insurance company subject to the provisions of subsection (a) hereof under group accident and health insurance policies on residents of this State, and taxable premiums collected under legal insurance policies as defined in section 3 of P.L.1981, c.160 (C.17:46C-3) on residents of this State, shall be subject to tax at the following rates:

As to taxes payable in 1967 1 3/4%
As to taxes payable in 1968 1 1/2%
As to taxes payable in 1969 1 1/4%
As to taxes payable in 1970 through 2008 1%
As to taxes payable in 2009 1.35%
As to taxes payable in 2010 and thereafter 1%

An additional tax of 0.05% upon such taxable premiums of such insurers shall also be paid [, which amount shall be dedicated to the Department of Banking and Insurance for payment of administrative costs related to its statutory duties].

(cf: P.L.2009, c.75, s.2)

4. This act shall take effect immediately.

STATEMENT

This bill eliminates the current dedication of certain insurance premium taxes to the Department of Banking and Insurance for the payment of administrative costs related to its statutory duties. Instead, the revenue from these taxes would now be retained in the General Fund and an equal amount of revenue would be generated for those administrative costs of the department through an increase in the special purpose assessment charged insurance carriers pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.).

Under sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2, and C.54:18A-3), certain established insurance premium taxes, reported as “FAIR Act Administration” taxes in the FY2011 Budget Recommendation, are dedicated to department administrative costs: a tax of 0.1 percent, upon taxable premiums of insurance carriers, (except those carriers that are marine insurance companies, health maintenance organizations (HMOs), group accident and health insurance companies, and legal insurance companies); and, a tax of 0.05 percent, upon taxable premiums of group accident and health insurance companies and legal insurance companies.

The revenue from the “FAIR Act Administration” taxes currently is collected by the Department of Treasury from the insurers and then transferred to the department for administrative expenses. The amounts so collected effectively reduce the total amount collected through the special purpose assessment established pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.).

The special purpose assessment is charged to all insurers writing most classes of insurance in the State for funding the activities of the Division of Insurance in regulating, monitoring and supervising these carriers. The assessment of each carrier is based on the proportion that its net written premiums for the preceding calendar year bears to the combined net written premiums of all carriers in the preceding year, except that no carrier is currently required to pay an assessment that exceeds 0.20 percent of its net written premium.

The bill would also permit an increase in the maximum amount (“caps”) assessable to companies for the special purpose assessment from the current 0.20 percent to 0.25 percent of combined net written premiums received by all companies for the previous year to ensure adequate industry funding for the department’s administrative costs going forward.

Therefore, pursuant to the changes proposed in this bill, the revenue from the “FAIR Act Administration” taxes would no longer be dedicated to the department’s administrative costs and the special purpose assessment would instead be the source of funding for the administration costs of the department.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2096

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 23, 2010

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2096, with committee amendments.

Senate Bill No. 2096, as amended, eliminates the current dedication of certain insurance premium taxes to the Department of Banking and Insurance for the payment of administrative costs related to its statutory duties. Instead, the revenue from these taxes would now be retained in the General Fund and an equal amount of revenue would be generated for those administrative costs of the department through an increase in the special purpose assessment charged insurance carriers pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.).

Under sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), certain established insurance premium taxes, reported as “FAIR Act Administration” taxes in the FY2011 Budget Recommendation, are dedicated to department administrative costs: a tax of 0.1 percent, upon taxable premiums of insurance carriers (except those carriers that are marine insurance companies, health maintenance organizations (HMOs), group accident and health insurance companies, and legal insurance companies); and, a tax of 0.05 percent, upon taxable premiums of group accident and health insurance companies and legal insurance companies.

The revenue from the “FAIR Act Administration” taxes currently is collected by the Department of Treasury from the insurers and then transferred to the department for administrative expenses. The amounts so collected effectively reduce the total amount collected through the special purpose assessment established pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.).

The special purpose assessment is charged to all insurers writing most classes of insurance in the State for funding the activities of the Division of Insurance in regulating, monitoring and supervising these carriers. The assessment of each carrier is based on the proportion that its net written premiums for the preceding calendar year bears to the combined net written premiums of all carriers in the preceding year, except that no carrier is currently required to pay an assessment that exceeds 0.20 percent of its net written premium.

The bill would also permit an increase in the maximum amount ("cap") assessable to companies for the special purpose assessment, from the current 0.20 percent to 0.25 percent, of combined net written premiums received by all companies for the previous year to ensure adequate industry funding for the department's administrative costs going forward.

Therefore, pursuant to the changes proposed in this bill, the revenue from the "FAIR Act Administration" taxes would no longer be dedicated to the department's administrative costs and the special purpose assessment would instead be the source of funding for the administrative costs of the department.

The bill permits domestic life and health insurance companies to reduce or credit their tax liability under the insurance premium tax by a portion of their retaliatory tax liability incurred in other states, beginning with the filing due on or before March 1, 2014 (for the calendar year ending December 31, 2013) and each filing period thereafter. Initially, the credit will amount to 5% of any retaliatory costs incurred for the same filing period. The reduction in liability or credit will increase 1% per tax year until reaching 15% of retaliatory costs for the filing due on March 1, 2024 and each year thereafter.

COMMITTEE AMENDMENTS:

The committee amended the bill to permit domestic life and health insurance companies to reduce or credit their tax liability under the insurance premium tax by a portion of their retaliatory tax liability incurred in other states, beginning with the filing due on or before March 1, 2014 (for the calendar year ending December 31, 2013) and each filing period thereafter. Initially, the credit will amount to 5% of any retaliatory costs incurred for the same filing period. The reduction in liability or credit will increase 1% per tax year until reaching 15% of retaliatory costs for the filing due on March 1, 2024 and each year thereafter.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that, due to the changes proposed under this bill, $21 million in revenue from insurance special premiums tax revenues will become available for general State purposes, rather than be dedicated to the operation costs of the Department of Banking and Insurance. As a result, the special purpose assessment charged to all insurers writing most classes of insurance in the State for funding the activities of the Division of Insurance will increase by $21 million. The State will realize a net gain of $21 million in FY2011, FY2012 and FY2013.

The bill also permits an increase in the maximum amount ("cap") assessable to companies for the special purpose assessment, from the current 0.20 percent to 0.25 percent, of combined net written premiums received by all companies for the previous year to ensure adequate industry funding for the department's administrative costs going forward. According to information provided by the Department of Banking and Insurance, it is not likely that raising the "cap" will have an impact on the amount of assessment to be charged insurers in the foreseeable future. However, there was a concern that future assessments may reach the 0.20 percent limit and thus it was considered prudent to increase the "cap" at this time.

The proposed amendments will result in a decrease in the amount of revenue collected from the premiums tax beginning in FY2014. The amount lost due to the proposed tax credit will initially be five percent of all retaliatory taxes paid by all domestic life and health insurers and thereafter will increase by one percent each year until capping at 15 percent in FY2024.

The OLS can not determine with any certainty the amount of revenue that will be lost beginning in FY2014 because insurance companies are not required to report to New Jersey the retaliatory taxes paid to other states. However, Prudential Financial Inc., a life insurance company operating in New Jersey and in more than 40 other states, has indicated that it pays approximately $10 million in retaliatory taxes to other states. Thus, in FY2014, Prudential would receive a tax credit of $500,000 on its premiums tax bill pursuant to this legislation, based on current information. The tax credit would increase by approximately one percent each year. Assuming Prudential continued to pay $10 million a year in retaliatory taxes, the tax credit would result in Prudential receiving the following tax credit from the State of New Jersey (resulting in a dollar for dollar loss to the General Fund in premiums taxes collected):

Fiscal Year	Tax Credit
2014	$500,000
2015	$530,000
2016	$567,100
2017	$612,468
2018	$667,590
2019	$734,349
2020	$815,128
2021	$912,943
2022	$1,031,625
2023	$1,176,053
2024	$1,352,461

Prudential asserts that it is subject to higher retaliatory taxes than other insurance companies in the State. The Department of Banking and Insurance confirms that Prudential most likely has the largest retaliatory tax burden, but also confirms that there are approximately 34 other domestic life and health insurance companies that may pay retaliatory taxes in other states that would benefit from this legislation and would receive a tax credit against the premiums taxes paid beginning in FY2014.

STATEMENT TO

[First Reprint]
SENATE, No. 2096

with Senate Floor Amendments
(Proposed by Senator LESNIAK)

ADOPTED: JUNE 28, 2010

This amendment permits domestic property/casualty insurance companies to reduce or credit their tax liability under the insurance premium tax by a portion of their retaliatory tax liability incurred in other states, beginning with the filing due on or before March 1, 2014 (for the calendar year ending December 31, 2013) and each filing period thereafter. Initially, the credit will amount to 5% of any retaliatory costs incurred for the same filing period. The reduction in liability, or credit, will increase 1% per tax year until reaching 15% of retaliatory costs for the filing due on March 1, 2024 and each year thereafter.

A similar amendment as to domestic life and health insurance companies was made to the bill by the Senate Budget and Appropriations Committee on June 24, 2010, but was not made at that time to the appropriate statute which applies to property/casualty insurers. This amendment therefore provides parity among all domestic insurers subject to the premium tax in this regard.