

54: 30A-24 and 54: 30A-24.1

LEGISLATIVE HISTORY CHECKLIST

WASA 54:30A-24 and 54:30A-24.1 (Public Utilities Franchise Tax--
revise distribution)

LAWS OF 1980 CHAPTER 10

Bill No. S793

Sponsor(s) Gregorio, Merlino and Kennedy

Date Introduced Jan. 8, 1980

Committee: Assembly Revenue, Finance and Appropriations

Senate -----

Amended during passage Yes ~~xx~~ Amendments during passage
denoted by asterisks

Date of Passage: Assembly Feb. 28, 1980

Senate Jan. 29, 1980

Date of approval March 18, 1980

Following statements are attached if available:

Sponsor statement	Yes	xx	Also attached: Senate amendments adopted 1-24-80 (with statement)
Committee Statement: Assembly	Yes	xx	
Senate	Yes	No	
Fiscal Note	Yes	No	
Veto message	Yes	No	
Message on signing	Yes	xx	

Following were printed.

Reports	Yes	No
Hearings	Yes	No

Comment on need for legislation in:

974.90 New Jersey. Governor (Byrne, 1974-)
G52 Sixth annual message to the Legislature,
January 8, 1980.

(p.12-13--attached)

2/1/78

3-18-80

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 793

STATE OF NEW JERSEY

INTRODUCED JANUARY 8, 1980

By Senators GREGORIO, MERLINO and KENNEDY

(Without Reference)

AN ACT concerning the taxation of certain public utilities, and amending and supplementing P. L. 1940, c. 4.

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

1 1. Section 9 of P. L. 1940, c. 4 (C. 54:30A-24) is amended to read
2 as follows:

3 9. The balance of the excise tax imposed under subsection (a) of
4 section 3 of this act upon each taxpayer in the year 1940 and each
5 year thereafter is hereby apportioned, *subject to the provisions of*
6 *section 2 of this amendatory and supplementary act*, to the various
7 municipalities of this State in the proportion that the appor-
8 tionment value of the scheduled property of such taxpayer located in,
9 on or over any public street, highway, road or other public place in
10 each municipality as of the preceding July 1 bears to the total
11 apportionment value of such scheduled property of such taxpayer
12 in this State as of that date. The **[State Tax Commissioner]**
13 *Director of the Division of Taxation* shall annually, on or before
14 May 1, 1941 and May 1 in each year thereafter, compute and
15 apportion the balance of such excise taxes in the manner
16 herein set forth. Within 5 days after making such compu-
17 tation and apportionment the **[State Tax Commissioner]**
18 *director* shall certify to the **[respective collectors of taxes or**
19 **officers having like powers and duties to perform in each**
20 **municipality]** *State Treasurer* the amount of such taxes appor-
21 tioned to **[such]** *each* municipality**],** and the collectors of taxes or
22 such other officers shall, within 5 days after receipt of such certifi-
23 cation, deliver or cause to be delivered to each taxpayer named in
24 such certificate a statement in writing showing the amount of such
25 taxes payable to such municipality; and the amount so apportioned

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

26 to each municipality shall become payable at the place where other
 27 taxes are payable in such municipality in the following manner,
 28 to wit: one-third thereof within 30 days after the date of the certifi-
 29 cation of the apportionment by the State Tax Commissioner,
 30 one-third thereof on September 1, and one-third thereof on
 31 December 1 next thereafter; provided, that if, **]**. *At the same time,*
 32 *the director shall issue directly to each taxpayer statements of*
 33 *taxes due, and payments with respect thereto shall be remitted by*
 34 *each taxpayer to the director in the following manner: 35% thereof*
 35 *within 15 days after the date of certification of the apportionment*
 36 *by the director, 35% thereof on or before August 15 and 30%*
 37 *thereof on or before November 15. If for any reason, the making*
 38 *and delivery of such certificate of apportionment shall be delayed*
 39 *until after December 1 in any year, then and in that case, all of*
 40 *such taxes for such year affected by such certificate of apportion-*
 41 *ment shall become due and payable 30 days after the date of such*
 42 *certification of apportionment; and provided [further,] that in*
 43 *case of an appeal from any apportionment valuation or apportion-*
 44 *ment or any review thereof in any court, the portion of any such*
 45 *tax not paid prior to the commencement of such appeal or pro-*
 46 *ceedings for review shall not become payable until 30 days after*
 47 *final determination of such appeal or review and certification or*
 48 *recertification, if required. The taxes payable by each taxpayer*
 49 *shall be and remain a first lien on the property and assets of such*
 50 *taxpayer on and after the date the same become payable as herein*
 51 *provided until paid with interest thereon, and the same shall be*
 52 *collected in the same manner and subject to the same discounts,*
 53 *interests and penalties as other taxes, and the same proceedings*
 54 *now available for the collection of personal taxes against other*
 55 *corporations or individuals shall be applicable to the collection of*
 56 *the excise taxes hereby imposed and payable [to any municipality].*

1 2. (New section) The director shall annually apportion to each
 2 municipality the amount to be apportioned to it pursuant to
 3 section 9 of P. L. 1940, c. 4 (C. 54:30A-24), except that ******: *a.*** no
 4 municipality which in the 3 next preceding tax years had a munic-
 5 ipal purposes tax ***[levy]*** ***rate*** of \$0.10 or less shall receive a
 6 total amount pursuant to P. L. 1940, c. 4 (C. 54:30A-16 et seq.) and
 7 P. L. 1940, c. 5 (C. 54:30A-49 et seq.) greater than it received in
 8 1979, plus ***[20%]*** ***50%*** of the difference between the amount it
 9 received pursuant to those laws in that year and the greater amount
 10 it would have received pursuant to those laws in the year for which
 11 the apportionment and payment is made; ****[provided, however,**

12 that] **** and, b.**** in no year shall any municipality receive an
 13 amount pursuant to P. L. 1940, c. 4 (C. 54:30A-16 et seq.) and P. L.
 14 1940, c. 5 (C. 54:30A-49 et seq.) greater than an amount equal to
 15 **[\$500.00]** **[\$600.00]** **\$700.00** per capita. **Any contig-**
 16 **uous municipalities wherein there are located electric generating**
 17 **stations included in the scheduled property of a public utility,**
 18 **both or all of which municipalities would be affected by a. above**
 19 **but would not be limited by b. above, shall not be affected by the**
 20 **apportionment limitations of this section.**** Any municipality
 20A which has had a municipal purposes tax **[levy]** **rate** of \$0.10 or
 20B less for any 3 tax years affecting its apportionment pursuant to this
 20C section shall be required to have a municipal purposes tax **[levy]**
 20D **rate** in excess of \$0.10 for 3 consecutive tax years before its
 20E apportionment shall cease to be affected pursuant to this section.

21 **If in 1980 or any year thereafter, the application of the**
 22 **[\$600.00]** **\$700.00** per capita limitation under this section
 23 would reduce the amount received by any municipality pursuant
 24 to P. L. 1940, c. 4 (C. **[54:30-16]** **54:30A-16** et seq.) and
 25 P. L. 1940, c. 5 (C. 54:30A-49 et seq.) to less than 50% of the
 26 amount received pursuant to those laws in 1979, then, notwithstand-
 27 ing that limitation, the municipality shall receive in 1980 an amount
 28 equal to 50% of the amount received in 1979, and in any year there-
 29 after an amount equal to 75% of the amount received in 1979; but
 30 in 1981 and each year thereafter such municipality shall **annually**
 31 **appropriate and** pay to the county in which it is located an
 32 amount equal to **[1/5]** **35%** of the amount received in that
 32A year, to be used for county purposes.*

32B **For the purposes of this section in determining per capita**
 32C **amounts, the most recent population estimates published by the**
 32D **New Jersey Department of Labor and Industry shall be utilized.****

33 Amounts apportioned in each year to each municipality shall be
 34 annually paid to them by the State Treasurer, 25% thereof within
 35 30 days after the date of certification of the apportionment by the
 36 director; 40% thereof on or before September 1, and 35% thereof
 37 on or before December 1 next thereafter. Any portion of the balance
 38 set forth in section 9 of P. L. 1940, c. 4 (C. 54:30A-24) remaining
 39 after the apportionments and payments are **[made]** **deter-**
 40 **mined** pursuant to this section shall be deposited in the "Municipal
 41 Purposes Tax Assistance Fund," established pursuant to P. L.
 42 (C.) (now pending before the Legislature as
 43 Senate Bill No. 795), to be used exclusively for the purpose of that
 44 fund.

45 **Notwithstanding the provisions of the "Local Budget Law"
46 (N. J. S. 40A:4-1 et seq.), any county, or municipality affected by
47 the \$700.00 limitation set forth in this section, to which a payment is
48 made pursuant to this section may anticipate the amount of such
49 payment in its annual budget for the year in which such payment
50 is made, and any municipality which is required to make an annual
51 appropriation pursuant to this section shall make such appropria-
52 tion in its annual budget for the year in which it shall receive the
53 payment a portion of which it is required to appropriate. The
54 Director of Local Government Services shall establish rules or
55 regulations necessary to effectuate the purposes and provisions of
56 this section.**

1 3. This act shall take effect immediately and shall apply to any
2 taxes payable under P. L. 1940, c. 4 (C. 54:30A-16 et seq.) on or
3 after January 1, 1980.

16 less for any 3 tax years affecting its apportionment pursuant to
 17 this section shall be required to have a municipal purposes tax
 18 levy in excess of \$0.10 for 3 consecutive tax years before its appor-
 19 tionment shall cease to be affected pursuant to this section.

20 Amounts apportioned in each year to each municipality shall be
 21 annually paid to them by the State Treasurer, 25% thereof within
 22 30 days after the date of certification of the apportionment by the
 23 director; 40% thereof on or before September 1, and 35% thereof
 24 on or before December 1 next thereafter. Any portion of the balance
 25 set forth in section 9 of P. L. 1940, c. 4 (C. 54:30A-24) remaining
 26 after the apportionments and payments are made pursuant to this
 27 section shall be deposited in the "Municipal Purposes Tax Assist-
 28 ance Fund," established pursuant to P. L. , c. (C.)
 29 (now pending before the Legislature as Senate Bill No. 795), to
 30 be used exclusively for the purpose of that fund.

1 3. This act shall take effect immediately and shall apply to any
 2 taxes payable under P. L. 1940, c. 4 (C. 54:30A-16 et seq.) on or
 3 after January 1, 1980.

STATEMENT

This bill, together with Senate Bill Nos. 794 and 795 effects the first significant reform of the public utility franchise and gross receipt taxes. The package provides a modest reallocation of some of the revenue growth in these taxes from communities with low tax needs to communities with substantial ones.

The bills stipulate that no municipality may receive more than \$500.00 per inhabitant from the two taxes. (This ceiling is nearly ten times the current State average of \$53.00 per capita.) This provision would cap receipts of seven municipalities.

Furthermore, this bill prescribes that municipalities that consistently escape local budget caps because of exceptionally low municipal tax rates (i.e., under \$0.10) would enjoy restrained revenue growth from the public utility franchise tax. Annual growth would be set at 20% of the increase suggested by the traditional apportionment. If the municipality's tax rate were to inch above the \$0.10 line for 3 years, it would recapture full annual growth.

Five out of six municipalities would not have their revenues trimmed in any way by this bill. Unallocated revenues after application of these limitations would be deposited in a Municipal Purposes Tax Assistance Fund.

The bill further provides for State collection and distribution of the franchise tax receipts. Each utility company currently pays every municipality separately.

S 793 (1980)

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO

SENATE, No. 793

with Senate amendments and Assembly committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 25, 1980

Senate Bills 793 and 794 provide for the redistribution of gross receipts and franchise taxes by limiting the amount of revenues municipalities may receive under those taxes. The bills, as amended by the Assembly Committee, limit the total amount any municipality may receive under those taxes at \$700.00 per capita. The bills also limit the amount of growth in such revenues certain municipalities with low municipal purposes tax rates (\$0.10 or less) would annually receive at 50%. As amended by the Senate and the Assembly Committee, the bills allow for certain exceptions to these limitations where generating facilities have exceptional regional impact.

The bills provide that local units which in 1980 and in any years thereafter experience a major budgetary impact from the bills, either because they are required to make certain annual payments or are entitled to receive certain annual payments, shall be permitted to do so, notwithstanding the provisions of the "Local Budget Law." The Director of Local Government Services is directed to provide for appropriate mechanisms therefor by rule or regulation.

The bills also provide for central State collection and distribution of the gross receipts and franchise taxes.

SENATE AMENDMENTS TO
SENATE, No. 793

STATE OF NEW JERSEY

ADOPTED JANUARY 24, 1980

Amend page 2, section 2, line 5, omit "levy", insert "rate".

Amend page 2, section 2, line 8, omit "20%", insert "50%".

Amend page 2, section 2, line 14, omit "\$500.00", insert "\$600.00"

Amend page 2, section 2, line 15, omit "levy", insert "rate".

Amend page 3, section 2, line 18, omit "levy", insert "rate".

Amend page 3, section 2, line 19, after line 19 insert new paragraph as follows:

"If in 1980 or any year thereafter, the application of the \$600.00 per capita limitation under this section would reduce the amount received by any municipality pursuant to P. L. 1940, c. 4 (C. 54:30-16 et seq.) and P. L. 1940, c. 5 (C. 54:30A-49 et seq.) to less than 50% of the amount received pursuant to those laws in 1979, then, notwithstanding that limitation, the municipality shall receive in 1980 an amount equal to 50% of the amount received in 1979, and in any year thereafter an amount equal to 75% of the amount received in 1979; but in 1981 and each year thereafter such municipality shall pay to the county in which it is located an amount equal to 1/5 of the amount received in that year, to be used for county purposes."

STATEMENT

(This amendment would increase from 20% to 50% the portion of growth in gross receipts and franchise revenues over the 1979 base year which municipalities with tax rates of \$0.10 or less from 3 consecutive years would continue to receive under the bill.

In addition, it would increase the per capita limitation from \$500.00 to \$600.00. It would also provide that any municipality which would lose in any year 50% or more of its 1979 receipts under the \$600.00 per capita limitation shall receive in 1980 50% of its 1979 receipts, and in subsequent years 75% of its 1979 receipts. The amendment additionally requires that in those subsequent years the municipality pay 20% of its receipts to the county in which it is located.)

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SENATE, No. 793

STATE OF NEW JERSEY

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FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION:

MARCH 18, 1980

PAINTED LETTER

Governor Brendan Byrne today signed a legislative package of three bills, which will amend the provisions of the Public Utilities Gross Receipts and Franchise Tax in order to more equitably distribute the tax revenues among recipient municipalities.

S-793, S-794 and S-795 were all sponsored by Senators John T. Gregorio (D-Union), Joseph P. Merlino (D-Mercer), and Brian T. Kennedy (R-Keananck).

The Governor said this legislative package employs "a need-based formula."

"The important elements are that this program will be permanent, it will grow, it functions outside the cap, and it will provide money for towns that are in need," said the Governor.

The recent rapid growth in revenues from the Public Utilities Gross Receipts and Franchise Tax had provided a "windfall" benefit to sparsely populated rural communities with large power plants, most notably, Lower Alloways Creek Township in Salem County, home of two nuclear power plants and 1,500 people.

These bills "cap" the amount of money any municipality can receive, while redistributing the surplus so generated, by a formula designed to benefit municipalities with low ratables and high tax rates.

These bills were introduced in the last legislative session as S-3498, S-3499, and S-3500. They received Senate approval, but never reached a final vote in the Assembly.

The present bills limit each municipality to \$700 per capita in revenues from the tax. The bills also limit each municipality with a municipal purposes tax rate of less than ten cents for three consecutive years to its 1979 amount, plus 50 percent of any increase it would have received under the old distribution formula.

These limitations, combined with a... concentrate a Municipal Purposes Tax Assistance Fund of approximately \$17 million to be administered by the State Treasurer.

The fund will be distributed to 329 municipalities. The redistribution of the state's gross receipts tax to the state's major cities is as follows:

Newark	\$3,782,580.
Jersey City	\$2,904,670.
Paterson	\$1,955,000.
Trenton	\$1,242,000.
Camden	\$1,167,250.
East Orange	\$ 803,390.
Elizabeth	\$ 716,900.
Union City	\$ 599,150.
Bayonne	\$ 510,830.
Irvington	\$ 506,000.
Passaic City	\$ 495,420.
Hoboken	\$ 484,150.

Governor Byrne concluded, "All 329 municipalities can anticipate the funds in this year's budget to help offset property taxes."



Sixth annual message delivered to
N.J. Legislature 1-11-80 by Governor Byrne

Making New Jersey More Affordable

INCREASING ENERGY STABILITY

No more difficult problem faces us, and the nation, than that of unstable energy supplies and unstable energy prices.

Much of the problem is worldwide. By the end of this decade world production of oil is almost certainly to be declining. Too much of our energy use has been linked to this limited commodity, oil. Too much has been imported from unsteady foreign regions which now threaten this nation's security with the possibility of sharply curtailed supplies.

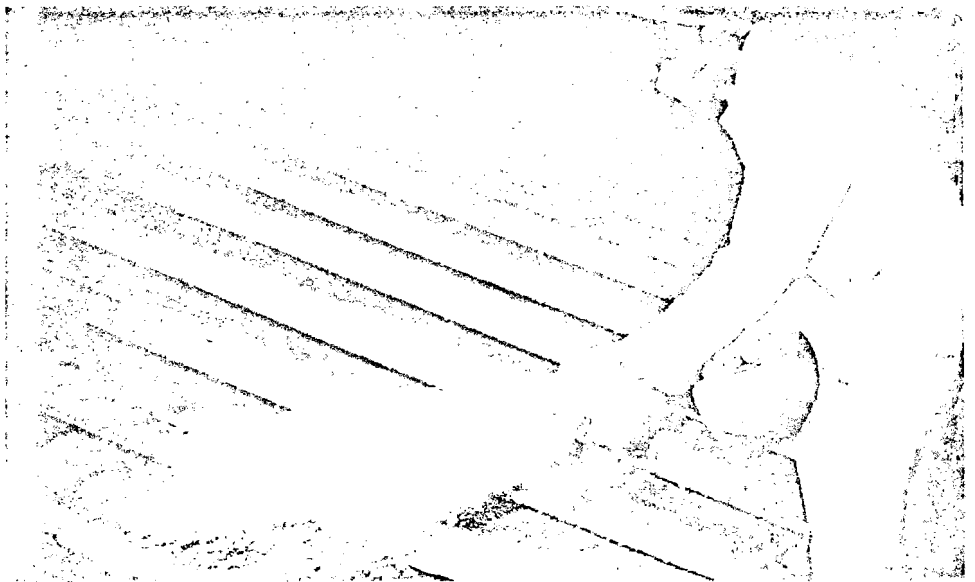
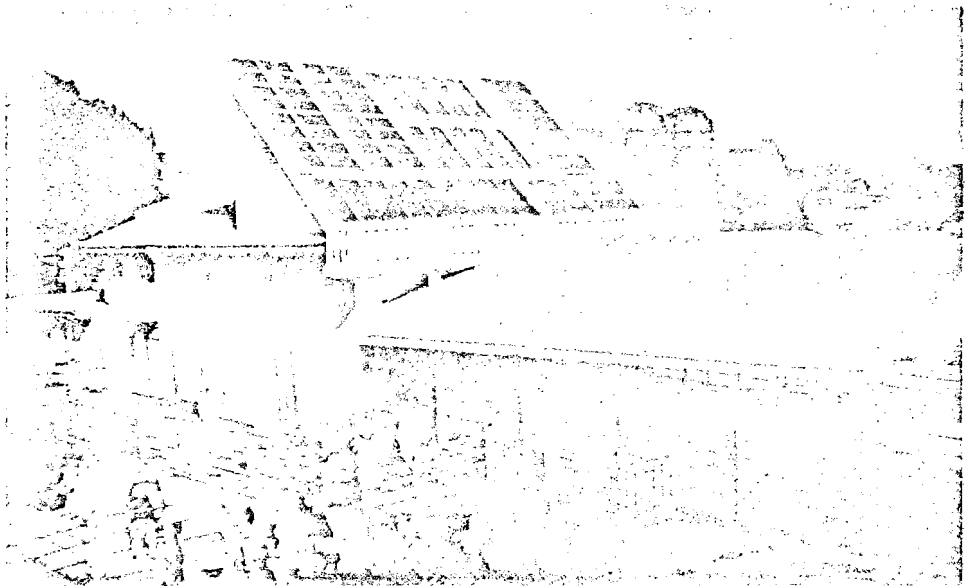
During the past year, I formed and headed a National Citizens' Coalition for the Windfall Profits tax because I believe that we must divert some of the revenues from arbitrarily inflated OPEC oil prices to developing alternate sources of energy and sound methods of conservation.

This is President Carter's long-term strategy for reducing our dependence on foreign oil, and I fully support it.

We also support the creation of a Northeast regional energy corporation to develop self-help projects for the Northeast to reduce its dependence on oil. Cogeneration of heat and electricity, hydroelectric power and solid waste energy recovery are all projects which an Energy Corporation of the Northeast can finance.

Besides alternate energy production, there also must be state-level efforts for increased conservation and efficiency in the oil, natural gas and electricity sectors.

We must consider innovative steps, such as legislation to require that homes have adequate amounts of attic insulation before they are sold. An insulation inspection at the time of sale



Solar energy for private homes and a strong push for upgrading insulation are both important aspects of New Jersey's push for energy conservation.

Governor Byrne called the state's first Energy Summit in Princeton last year to consult with leaders of government, business, labor and universities on ways to cope with energy shortages.



should be required and the buyer should have the right to expect proper attic insulation in the house before taking title to the property.

The same should be required for multi-family apartment houses. Before they can be sold, they should be required to meet minimum energy efficiency standards.

The state must make a substantial commitment to more energy efficient public buildings. For example, we should consider the feasibility of solar installations in new public buildings. We should require electrical systems which automatically shut off unneeded lighting.

Furthermore, we must encourage realistic thinking about nuclear energy. For now New Jersey must continue to have nuclear generating capacity, but first we must have assurance of safety in operating these plants. More reliance must be encouraged for use of coal in electric generation.

Today in New Jersey we have nuclear generating stations side by side, virtually identical facilities but one has a license and one does not. It is illegal to build a plant and just because it does not have a piece of paper, it cannot operate. First, the safety of the nuclear plant must be assured and then it should be allowed to operate.

Finally, we have delayed long enough in amending the utility gross receipts and franchise tax, which allows a handful of communities to reap a windfall totally unrelated to the burdens they bear from electric generating stations within their borders.

We all know the inequity in this system; we all know the options which have been discussed for several years; we all know that the right thing to do is place a moratorium on the escalation of these taxes and shift the annual increase in revenues to the use of citizens throughout the state for purposes such as urban aid, energy conservation and energy efficiency projects.