

54:10A-3 ET AL.

LEGISLATIVE HISTORY CHECKLIST

NJSA 54:10A-3 et al.

Laws of 1975 Chapter 170

Bill No. A1915

Sponsor(s) Shelton

Date Introduced July 8, 1974

Committee: Assembly Taxation

Senate

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of passage: Assembly August 1, 1975

Senate August 4, 1975

Date of approval August 4, 1975

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note Yes ~~No~~

Veto message Yes ~~No~~

Message on signing Yes ~~No~~

Following were printed:

Reports Yes ~~No~~

Hearings Yes ~~No~~

Do Not Remove From Library
DEPOSITORY COPY

10/4/76
JUN 1977

170
8-4-75

CORRECTED COPY

[THIRD OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1915

STATE OF NEW JERSEY

INTRODUCED JULY 8, 1974

By Assemblyman SHELTON

Referred to Committee on Taxation

AN ACT subjecting banking corporations to the provisions of the "Corporation Business Tax Act (1945)," (P. L. 1945, c. 162) and the "Business Personal Property Tax Act," (P. L. 1966, c. 136), amending and supplementing the "Corporation Business Tax Act (1945)" and repealing sections 54:9-1 through 54:9-18 of the Revised Statutes *and section 13 of P. L. 1970, c. 8 (C. 54:9-19)*.*

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

1 1. Section 3 of P. L. 1945, c. 162 (C. 54:10A-3) is amended to
2 read as follows:

3 3. The following corporations shall be exempt from the tax
4 imposed by this act:

5 (a) Corporations subject to a tax under the provisions of article
6 2 of chapter 13 of Title 54 of the Revised Statutes, or to a tax
7 assessed upon the basis of gross receipts other than the Retail
8 Gross Receipts Tax Act, or insurance premiums collected;

9 (b) Corporations which operate regular route autobus service
10 within this State under operating authority conferred pursuant to
11 R. S. 48:4-3, provided, however, that such corporations shall not
12 be exempt from the tax on net income imposed by section 5 (c) of
13 P. L. 1945, c. 162 (C. 54:10A-5(c));

14 (c) Railroad, canal **[or banking]** corporations, savings banks,
15 production credit associations organized under the Farm Credit
16 Act of 1933, agricultural cooperative associations incorporated or
17 domesticated under or subject to chapter 13 of Title 4 of the
18 Revised Statutes and exempt under Subtitle A, Chapter 1 F, Part
19 III, Section 521 of the Federal Internal Revenue Code, or building
20 and loan or savings and loan associations;

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

21 (d) Cemetery corporations not conducted for pecuniary profit
22 or any private shareholder or individual;

23 (e) Nonprofit corporations, associations or organizations estab-
24 lished, organized or chartered, without capital stock, under the
25 provisions of Titles 15, 16 or 17 of the Revised Statutes, or under
26 a special charter or under any similar general or special law of
27 this or any other State, and not conducted for pecuniary profit of
28 any private shareholders or individual;

29 (f) Corporations subject to a tax under the provisions of P. L.
30 1940, c. 4, or P. L. 1940, c. 5, or any statute or law imposing a
31 similar tax or taxes;

32 (g) Nonstock corporations organized under the laws of this
33 State or of any other state of the United States to provide mutual
34 ownership housing under Federal law by tenants, provided, how-
35 ever, that the exemption hereunder shall continue only so long as
36 the corporations remain subject to rules and regulations of the
37 Federal Housing Authority and the Commissioner of the Federal
38 Housing Authority holds membership certificates in the corpora-
39 tions and the corporate property is encumbered by a mortgage
40 deed or deed of trust insured under the National Housing Act
41 (48 Stat. 1246) as amended by subsequent Acts of Congress. In
42 order to be exempted under this subsection, corporations shall
43 annually file a report on or before August 15 with the commissioner,
44 in the form required by the commissioner, to claim such exemption,
45 and shall pay a filing fee of \$25.00;

46 (h) Corporations not for profit organized under any law of this
47 State where the primary purpose thereof is to provide for its
48 shareholders or members housing in a retirement community as
49 same is defined under the provisions of the "Retirement Com-
50 munity Full Disclosure Act" (P. L. 1969, c. 215).

1 ***2.** The taxes collected from banking corporations pursuant to
2 the act to which this act is a supplement shall be allocated as
3 follows: 50% shall be retained by the State; 25% shall be allocated
4 to the counties of the State; and 25% shall be allocated to the
5 local taxing districts in the State in which an office or offices of a
6 banking corporation are located. Each county shall be entitled
7 to receive out of the 25% allocated to counties, that proportion of
8 the sum representing such 25% which the deposit balances at all
9 banking corporation offices in such county as of the close of business
10 on the assessment date bears to the total deposit balances at all
11 offices of all banking corporations in the State as of the close of
12 business on the assessment date. Out of the 25% allocated to

13 local taxing districts, an amount equal to the amount so ascertained
 14 to be payable to a county shall be allocated for distribution among
 15 the local taxing districts in such county on the following basis:
 16 each such local taxing district in a county shall be entitled to receive
 17 that proportion of the amount so allocated as the deposit balances
 18 at all banking corporation offices in such county at the close of
 19 business on the assessment date bears to the deposit balances at all
 20 banking corporation offices in such county at the close of business
 21 on such assessment date. "Assessment date" as used herein means
 22 December 31 of the year next preceding the year in which taxes are
 23 payable under the act to which this act is a supplement. The amount
 24 so due to each county and each local taxing district shall be paid
 25 forthwith by the State Treasurer, setting forth in detail the amount
 26 of the tax received, the names of the banks from which the tax was
 27 received, the aggregate amount thereof, and the basis of ap-
 28 portionment.】*

29 *2. *The taxes collected from banking corporations pursuant to*
 30 *the Corporation Business Tax Act (P. L. 1945, c. 162) and the*
 31 *Business Personal Property Tax Act (P. L. 1966, c. 136) shall be*
 32 *apportioned one-half thereof to the State, one-quarter thereof to*
 33 *the several counties of the State, and one-quarter thereof to the*
 34 *several local taxing districts of the State in which one or more*
 35 *banking corporations have one or more offices. Each county shall*
 36 *be paid by the State a sum equal to that proportion of one-quarter*
 37 *of the total tax collected by the State pursuant to this act from*
 38 *each banking corporation having one or more offices in such county,*
 39 *which the total deposit balances at all offices of such banking corpo-*
 40 *ration in such county at the close of business on the ***day pre-*
 41 *ceding the*** assessment date **bear to the total deposit balances*
 42 *of such banking corporation in the State at the close of business on*
 43 *the ***day preceding the*** assessment date.** Each local taxing*
 44 *district in which one or more banking corporations have one or*
 45 *more offices shall be paid by the State a sum equal to that proportion*
 46 *of one-quarter of the total tax collected by the State pursuant to*
 47 *this act from each such banking corporation, which the total deposit*
 48 *balances at all offices of such banking corporation in such district*
 49 *at the close of business on the ***day preceding the*** assessment*
 50 *date bear to the total deposit balances at all offices of such banking*
 51 *corporation in the county where such district is located, as such*
 52 *deposit balances stood at the close of business on the ***day*
 53 *preceding the*** assessment date. ***【“Assessment date” as used*
 54 *herein means December 31 of the year preceding the year in which*

55 *taxes are payable under the Corporation Business Tax Act.】****
 56 *The amount due to each county and each local taxing district shall*
 57 *be certified by the Director, Division of Taxation on or before*
 58 *June 1, 1976, and annually thereafter, and shall be paid on or*
 59 *before June 20, 1976, and annually thereafter, by the State Trea-*
 60 *surer to the counties and to the local taxing districts entitled*
 61 *thereto, setting forth in detail the amount of the tax received, the*
 62 *names of the banking corporations from which the tax was received,*
 63 *the aggregate amount thereof, and the basis of apportionment.**

1 3. R. S. 54:9-1 through 54:9-18 **and section 13 of P. L. 1970,*
 2 *c. 8 (C. 54:9-19)** are repealed.

3 **Such repeal shall not affect the obligation, lien or duty to pay*
 4 *any taxes, interest or penalties which have accrued or may accrue*
 5 *by virtue of any assessment made or which may be made with*
 6 *respect to taxes levied for any taxable year prior to the effective*
 7 *date of the repeal of R. S. 54:9-1 through 54:9-19, and section 13*
 8 *of P. L. 1970, c. 8 (C. 54:9-19), nor shall this act affect the legal*
 9 *authority to assess and collect taxes which may be or have been due*
 10 *or payable under R. S. 54:9-1 through 54:9-19 and section 13 of*
 11 *P. L. 1970, c. 8 (C. 54:9-19), together with such interest and*
 12 *penalties as would have accrued thereon under any provision of*
 13 *law amended or repealed hereby; nor shall this act invalidate any*
 14 *assessments or affect any proceeding for the enforcement thereof.**

1 *****【4.** On and after January 1, **【1976】*** **1975** and thereafter,
 2 every banking corporation shall be subject to taxation under the
 3 provisions of the "Corporation Business Tax Act (1945)," P. L.
 4 1945, c. 162 (C. 54:10A-1 et seq.), and shall cease being subject to
 5 taxation under R. S. 54:9-1 through 54:9-18 **and section 13 of P. L.*
 6 *1970, c. 8 (C. 54:9-19)**. On or before April 15, **【1976】*** **1975**,
 7 each such corporation shall make a partial payment of the **【1976】***
 8 **1975** tax equal to **【50%】*** **60%** of the tax that would have
 9 been due from such banking corporation had it been subject to taxa-
 10 tion under the act to which this act is a supplement during the year
 11 ended December 31, **【1975】*** **1974**. In the calculation of the tax
 12 due when such banking corporation files its final return for the
 13 year **【1976】*** **1975**, such banking corporation shall be entitled
 14 to a credit in the amount of such partial tax payment. Thereafter,
 15 returns shall be filed and taxes paid in accordance with the pro-
 16 visions of the act to which this act is a supplement. **During each*
 17 *of the years 1976, 1977, and 1978, each banking corporation shall*
 18 *pay as taxes under the provisions of the act to which this act is a*
 19 *supplement, the greater of a sum equal to the amount such banking*
 20 *corporation paid pursuant to R. S. 54:9-1 through R. S. 54:9-19*

21 and section 13 of P. L. 1970, c. 8 (C. 54:9-19) in the calendar year
22 1975, or a sum equal to the total of the taxes payable by such bank-
23 ing corporation pursuant to this section and to section 5 of this
24 act.***]

25 ***4. Every banking corporation shall pay an annual franchise
26 tax in the year 1976 and each year thereafter, as provided in the
27 Corporation Business Tax Act, P. L. 1945, c. 162 (C. 54:10A-1
28 et seq.) for the privilege of having or exercising its corporate
29 franchise in this State, or for the privilege of doing business,
30 employing or owning capital or property, or maintaining an office
31 in this State. For the purposes of this act, (1) the privilege period
32 of each banking corporation shall be the calendar year, and the
33 initial privilege period shall be the calendar year ending Decem-
34 ber 31, 1976; (2) January 1, 1976 and January 1 of each year
35 thereafter shall be the assessment dates; (3) the tax on income
36 shall be based upon the income of the calendar year preceding the
37 assessment date; (4) net worth shall be determined as of the
38 December 31 preceding the assessment date; and (5) income of a
39 banking corporation in any privilege period shall include the
40 income of any banking corporation merged into or consolidated
41 with such banking corporation in such privilege period. From and
42 after January 1, 1976, no banking corporation shall be subject
43 to the provisions of R. S. 54:9-1 through 54:9-18 and section 13
44 of P. L. 1970, c. 8 (C. 54:9-19) but shall, to the extent and in the
45 manner provided by this act, become and be subject to the provi-
46 sions of the Corporation Business Tax Act and the Business
47 Personal Property Tax Act, P. L. 1966, c. 136 (C. 54:11A-1 et seq.).
48 To effect the transition from taxation under R. S. 54:9-1 through
49 54:9-18 and section 13 of P. L. 1970, c. 8, to taxation under the
50 Corporation Business Tax Act, every banking corporation shall,
51 within 90 days after the effective date of this act, but not later than
52 December 1, 1975, pay to the State a sum equal to 60% of the
53 amount of the tax that would have been due from such banking
54 corporation had it been subject to taxation under the Corporation
55 Business Tax Act during the calendar year ending December 31,
56 1974. Thereafter, as provided by the Corporation Business Tax
57 Act, each banking corporation shall, on or before April 15 of each
58 privilege period, commencing with the privilege period beginning
59 January 1, 1976, file a tax return and pay the full amount of the
60 tax determined to be due for the then current privilege period,
61 and shall, in addition, pay a sum equal to 60% of the full amount
62 of the tax due for such privilege period as an advance partial

63 payment against the tax determined to be due for the next succeed-
 64 ing privilege period. Each such banking corporation shall, in the
 65 final calculation of the tax determined to be due from it for the
 66 1976 privilege period, receive a credit for the 60% payment made
 67 by it on or before December 1, 1975 pursuant to this section, and
 68 thereafter, each banking corporation shall, in the final calculation
 69 of the tax determined to be due from it for any subsequent privilege
 70 period, receive credit for the advance partial payment made by it
 71 in the next preceding privilege year. No banking corporation shall,
 72 in calculating its income for any of the purposes of taxation under
 73 the Corporation Business Tax Act deduct from its income the
 74 amount of any tax paid pursuant to R. S. 54:9-1 through 54:9-18
 75 and section 13 of P. L. 1970, c. 8 (C. 54:9-19). Any excess payment
 76 made in any privilege year shall be returned as provided in sec-
 77 tion 15 of the Corporation Business Tax Act (C. 54:10A-15).
 78 Notwithstanding anything contained in this act to the contrary,
 79 during each of the privilege years 1976, 1977 and 1978, the amount
 80 to be paid by each banking corporation as taxes under this act
 81 shall be the greater of (1) the amount which such banking corpora-
 82 tion paid in the calendar year 1975 as taxes pursuant to R. S. 54:9-1
 83 through 54:9-18 and section 13 of P. L. 1970, c. 8 or (2) a sum
 84 equal to the total of the taxes paid by such banking corporation
 85 pursuant to this section and section 5 of this act. In any case
 86 where the corporate existence of a banking corporation transacting
 87 business on the effective date of this act terminates during a
 88 privilege period by voluntary or involuntary dissolution, or by
 89 merger or consolidation, or otherwise, such banking corporation
 90 shall be liable for the payment of taxes under this section for the
 91 full privilege period in which such termination takes place.***

1 5. On or before February 15, ***[1977]*** *1976*, and on or before
 2 February 15 in each year thereafter, each banking corporation
 3 owning personal property used in its business in this State on the
 4 preceding October 1 and taxable under the "Business Personal
 5 Property Tax Act," P. L. 1966, c. 136, (C. 54:11A-1 et seq.) shall
 6 prepare and file with the Director of the Division of Taxation in
 7 the Department of the Treasury a return in the form prescribed
 8 by the "Business Personal Property Tax Act," P. L. 1966, c. 136,
 9 section 7 (C. 54:11A-7), and, beginning February 15, ***[1977]***
 10 *1976*, each such banking corporation shall pay the tax due from
 11 it on the taxable personal property owned by it and used in its
 12 business in this State according to the provisions of the "Business
 13 Personal Property Tax Act," P. L. 1966, c. 136 (C. 54:11A-1
 14 et seq.).

1 *6. No part of the taxes paid by banking corporations pursuant
 2 to the Corporation Business Tax Act (P. L. 1945, c. 162) or the
 3 Business Personal Property Tax Act (P. L. 1966, c. 136) shall be
 4 distributed pursuant to P. L. 1966, c. 135.*

1 ***[6.]*** *7.* The provisions of this act with respect to the
 2 applicability to banking corporations of the "Corporation Business
 3 Tax Act (1945)," P. L. 1945, c. 162 (C. 54:10A-1 et seq.) shall
 4 become operative *****[to taxes due and payable ***[for]*** *in* the**
 5 year ***[1976]*** *1975*]*** ***as provided in section 4 of this
 5A act***; and, with respect to the applicability to banking
 6 corporations of the "Business Personal Property Tax Act,"
 7 P. L. 1966, c. 136 (C. 54:11A-1 et seq.) shall become operative
 8 as to taxes due and payable ***[for]*** *in* the year ***[1977]*** *1976*;
 9 and, in respect to repeal of R. S. 54:9-1 through 54:9-18 *and
 10 section 13 of P. L. 1970, c. 8 (C. 54:9-19)* shall become operative
 11 on January 1, ***[1976]*** *1975, provided, however, that nothing
 12 herein shall be deemed to prohibit the payment and collection of
 13 taxes assessed as of December 31, 1974 under R. S. 54:9-1 through
 14 54:9-19 and section 13 of P. L. 1970, c. 8 (C. 54:9-19) which taxes
 15 are due and payable in the year 1975 nor affect the requirement to
 16 file returns under and pursuant to said law.*

1 *8. As used in this act, "banking corporation" means a bank as
 2 defined in section 1 of "The Banking Act of 1948, c. 67, and also
 3 means a national bank.*

1 ***9. No banking corporation may qualify as an investment
 2 company or as a regulated investment company under paragraph
 3 (f) or paragraph (g) of section 4 of the Corporation Business Tax
 4 Act (C. 54:10A-4 (f) or (g)).***

1 ***[7.]*** *****[*9.*]***** ***10.*** This act shall become effective
 2 immediately. *If, on the effective date of this act, the rate of
 3 the tax imposed on the net incomes of corporations pursuant to the
 3A *****[Business Corporation]***** ***Corporation Business*** Tax
 4 Act (P. L. 1945, c. 162) is less than 7 1/2% **this act shall remain
 5 inoperative until such time as such rate is established at not less
 6 than 7 1/2%***, and if, at the time when this act becomes operative,
 7 it is impossible to comply with the schedule of dates prescribed
 8 herein for the implementation of the provisions hereof, the Director,
 9 Division of Taxation, shall, as soon as may be reasonably possible
 10 after this act becomes operative, prescribe an alternative schedule
 11 of dates for such implementation.*

11 owned by it and used in its business in this State according to
12 the provisions of the "Business Personal Property Tax Act,"
13 P. L. 1966, c. 136 (C. 54:11A-1 et seq.).

1 6. The provisions of this act with respect to the applicability
2 to banking corporations of the "Corporation Business Tax Act
3 (1945)," P. L. 1945, c. 162 (C. 54:10A-1 et seq.) shall become
4 operative to taxes due and payable for the year 1976; and, with
5 respect to the applicability to banking corporations of the "Busi-
6 ness Personal Property Tax Act," P. L. 1966, c. 136 (C. 54:11A-1
7 et seq.) shall become operative as to taxes due and payable for the
8 year 1977; and, in respect to repeal of R. S. 54:9-1 through 54:9-18
9 shall become operative on January 1, 1976.

1 7. This act shall become effective immediately.

STATEMENT

This bill provides for the taxation of banks under the same law pursuant to which business corporations are taxed in New Jersey. It would also subject banks to the "Business Personal Property Tax Act," P. L. 1966, c. 136 (C. 54:11A-1 et seq.) which does not presently apply to banks. In order to prevent dislocation in the collection of the State's revenues for the fiscal year ending June 30, 1976, the bill further provides that 50% of the tax estimated to be payable by each bank under the provisions of the "Corporation Business Tax Act (1945)," P. L. 1945, c. 162 (C. 54:10A-1 et seq.) for the year 1976 (the first year in which that act will apply to banks) will be payable on April 15, 1976.

LAW LIBRARY COPY
1975

ASSEMBLY TAXATION COMMITTEE
PROPOSED COMMITTEE STATEMENT TO
ASSEMBLY, No. 1915

—•—
STATE OF NEW JERSEY
—•—

DATED: APRIL 21, 1975

This bill proposes to bring banks under the Corporation Income Tax and the Business Personal Property Tax, and to repeal the Bank Stock Tax.

The bill has been given careful consideration and rather extensive amendments have been written to prevent loss of revenue on the one hand, and to provide for the replacement of moneys lost to municipalities from the repeal of the Bank Stock Tax.

It has been considered both by the Committee and by the Division of Taxation and both are in accord that the bill now represents positive legislation.

FISCAL NOTE TO
ASSEMBLY, No. 1915

STATE OF NEW JERSEY

DATED: NOVEMBER 14, 1974

Assembly Bill No. 1915 would subject banking corporations to the Corporation Business Tax and to the Business Personal Property Tax Act and would repeal their liability to tax under the Bank Stock Tax Act. Revenues collected pursuant to Assembly Bill No. 1915 would be shared on the basis of 50 percent to the State, 25 percent to the counties and 25 percent to the taxing district.

As the Division of Taxation interprets the wording of this legislation, enactment would cause the State and local governments combined to lose \$12 million due June 1, 1976. However, the State would gain \$7.5 million prepayment corporation business taxes or a net gain to the State of \$1.5 million but a loss to local governments of \$6 million.

Instead of the \$24 million currently paid by banks, they would only pay \$15.6 million in fiscal 1976-77, a combined loss of \$8.4 million. The banks would pay \$16.3 million in fiscal 1977-78—a combined loss of \$7.7 million.

In all of the above calculations, no provision has been made for growth.

The fiscal note is based on an estimate of costs rather than actual cost information.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.

961
641

STATEMENT BY GOVERNOR BRENDAN BYRNE

August 4, 1975

A-3557

I have signed into law the supplemental appropriations bill and the tax and other revenue bills to finance it. These revenues will keep the buses and trains in operation and will restore the other programs that a majority of the Legislature adjudged to be vital to the public welfare.

Even with these restorations, New Jersey remains the most tight-fisted state in the nation. We will spend in this fiscal year about \$75 million less than we spent last year, despite the toll of continuing inflation which falls as heavily on government as it does on household budgets. And this Administration will continue its effort to cut corners and realize further economies wherever possible to make stretch every tax dollar as far as it will go.

The new taxes included in this revenue package are far less regressive than some of the taxes that the Legislature considered and wisely rejected. For the most part, the burden falls most heavily on segments of the economy that are able to bear that additional burden. And one of them -- the capital gains or unearned income tax -- is truly progressive.

Nevertheless, I take no particular pride in signing these taxes into law. And I noticed that few members of the Legislature exhibited much pride in enacting them. For this is strictly a stopgap revenue program and we must not lose sight of what it fails to do, as well as what it accomplishes.

This revenue package does nothing to meet our commitment -- the Legislature's and mine -- to fund the new education formula under which the State is to assume a greater portion of the costs of operating our public schools. The State Supreme Court has ordered that this be done and the Legislature has publicly declared its intention to deal with that commitment beginning on November 10.

* A-1915
A-3339
A-3556
A-3593
A-3609
A-3625
A-3626
A-3627
A-3628
A-3629

PROPERTY OF
NEW JERSEY STATE LIBRARY

AUG 15 1975

185 W. State Street
Trenton, N. J.

This revenue package does nothing to reform New Jersey's patchwork tax structure and provide relief from rising and too often confiscatory property taxes, a goal to which I remain personally committed. The most we can say for these new taxes is that they will not make that tax structure measurably more regressive than it is.

And several of the bills I signed today are, by design, temporary sources of revenue. The funds they provide will, of necessity, have to be replaced from some other source next year if the programs they finance are to continue. These temporary measures, together with other fiscal facts of life, increase the already inevitable need for substantial new revenues next year.

The Legislature has demonstrated dramatically in the past several months that there are no easy taxes -- nor should there be. The true test of a potential new tax or tax increase should not be whether it will be easy to pass, but how equitably its burden will be distributed on those who will pay it.

I am confident that the Legislature will work for true tax reform in addressing our unmet obligations in the months ahead. I will, as always, be ready to work with it in a pursuit of that goal.

###

Attachment