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RWH/JA

P.L.2017, CHAPTER 77, *approved May 11, 2017*
Assembly, No. 2512

1 AN ACT concerning certain decisions of the Board of Public
2 Utilities and amending P.L.1991, c.428 and P.L.1983, c.454.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 4 of P.L.1991, c.428 (C.48:2-21.19) shall be
8 amended as follows:

9 4. a. (1) Notwithstanding the provisions of R.S.48:2-18,
10 R.S.48:2-21, section 31 of P.L.1962, c.198 (C.48:2-21.2), R.S.48:3-
11 1, or any other law to the contrary, the board shall not regulate, fix,
12 or prescribe the rates, tolls, charges, rate structures, terms and
13 conditions of service, rate base, rate of return, and cost of service,
14 of competitive services.

15 (2) The board shall not require the local exchange
16 telecommunications company or interexchange telecommunications
17 carrier to file and maintain tariffs for retail competitive services, but
18 shall require any terms and conditions of retail competitive services
19 to be made available for public inspection on the Internet website of
20 any local exchange telecommunications company or interexchange
21 telecommunications carrier providing those services, and a printed
22 copy of those terms and conditions shall be provided upon the
23 request of a customer. Nothing in this section shall affect the
24 ability of a local exchange telecommunications company or
25 interexchange telecommunications carrier, in their discretion, to file
26 tariffs with the board.

27 b. The board is authorized to determine, after notice and public
28 hearing, whether a telecommunications service is a competitive
29 service. In making **[such a]** that determination, the board shall
30 develop standards of competitive service which, at a minimum,
31 shall include: evidence of ease of market entry; presence of other
32 competitors; and the availability of like or substitute services in the
33 relevant geographic area. A final decision or order pursuant to this
34 subsection shall be made within 12 months of the final public
35 hearing held to determine whether a telecommunications service is
36 a competitive service. If the board has not adopted a final decision
37 or order within 12 months of the final public hearing, the board
38 shall hold an additional public hearing before adopting a final
39 decision or order. The board shall not make a determination
40 pursuant to this subsection unless a public hearing has been held in
41 the previous 12 months to determine whether a telecommunications
42 service is a competitive service.

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

Matter underlined thus is new matter.

1 c. The board may determine, by rule, order, or in accordance
2 with the provisions of a plan filed pursuant to subsection a. of
3 section 3 of P.L.1991, c.428 (C.48:2-21.18), what reports are
4 necessary to monitor the competitiveness of any
5 telecommunications service.

6 d. The board shall have the authority to reclassify any
7 telecommunications service that it has previously found to be
8 competitive if, after notice and public hearing, it determines that
9 sufficient competition is no longer present, upon application of the
10 criteria set forth in subsection b. of this section. Upon **[such a]** that
11 reclassification, the provisions of subsection a. of this section shall
12 no longer apply and the board may determine such rates for that
13 telecommunications service which it finds to be just and reasonable.
14 The board, however, shall continue to monitor the
15 telecommunications service and, whenever the board shall find that
16 the telecommunications service has again become sufficiently
17 competitive pursuant to subsection b. of this section, the board shall
18 again apply the provisions of subsection a. of this section. A final
19 decision or order pursuant to this subsection shall be made within
20 12 months of the final public hearing held to determine whether a
21 telecommunications service is a competitive service. If the board
22 has not adopted a final decision or order within 12 months of the
23 final public hearing, the board shall hold an additional public
24 hearing before adopting a final decision or order. The board shall
25 not make a reclassification pursuant to this subsection unless a
26 public hearing has been held in the previous 12 months to determine
27 whether a telecommunications service is a competitive service.

28 e. Notwithstanding the provisions of subsection a. of this
29 section, the following safeguards shall apply to the offering of any
30 competitive service by a local exchange telecommunications
31 company:

32 (1) the local exchange telecommunications company shall
33 unbundle each noncompetitive service which is incorporated in the
34 competitive service and shall make all **[such]** noncompetitive
35 services separately available to any customer under tariffed terms
36 and conditions, including price, that are identical to those used by
37 the local exchange telecommunications company in providing its
38 competitive service;

39 (2) the rate which a local exchange telecommunications
40 company charges for a competitive service shall exceed the rates
41 charged to others for any noncompetitive services used by the local
42 exchange telecommunications company to provide the competitive
43 service;

44 (3) tariffs for competitive services that may be filed with the
45 board shall either be in the public records, or, if the board
46 determines that the rates are proprietary, shall be filed under seal
47 and made available under the terms of an appropriate protective
48 agreement, such as those used in cases before the board; and

1 (4) nothing in P.L.1991, c.428 (C.48:2-21.16 et seq.) shall limit
2 the authority of the board, pursuant to R.S.48:3-1, to ensure that
3 local exchange telecommunications companies do not make or
4 impose unjust preferences, discriminations, or classifications for
5 noncompetitive services.

6 (cf: P.L.2013, c.181, s.1)

7
8 2. Section 2 of P.L.1983, c.454 (C.48:2-32.6) is amended to
9 read as follows:

10 a. (1) The provisions of any other law, rule, regulation, or
11 order to the contrary notwithstanding, the board, or the Office of
12 Administrative Law acting pursuant to subsection (c) of section 10
13 of the "Administrative Procedure Act," P.L.1968, c.410
14 (C.52:14B-10(c)), shall conduct as many of its public hearings held
15 to review applications by **【gas and electric light, heat and power**
16 **companies】** public utilities other than **【municipally】** municipal,
17 county, or other local government owned companies not subject to
18 the jurisdiction of the board for significant increases, changes, or
19 alterations in their rate schedules, in the service area of the
20 applicant as **【it】** the board deems necessary or appropriate to afford
21 the affected ratepayers the opportunity to monitor the decision-
22 making process by which the rates are set. At least two public
23 hearings shall be held in the service area with respect to any
24 application except that, if substantial portions of the service area are
25 located in more than one geographic region of the State, then at
26 least two public hearings shall be held in the service area located in
27 each of those geographic regions, under the terms and conditions
28 specified in this subsection. One of the public hearings held in the
29 service area, or one of the hearings held in each geographic area, as
30 the case may be, shall be a hearing in which petitioners,
31 respondents, and intervenors are parties. At the second hearing **【or**
32 **hearings】** required by the provisions of this subsection, statements
33 by objectors shall be permitted. All public hearings held pursuant
34 to the provisions of this subsection shall be held at places which are
35 easily accessible to the public with at least one **【such】** hearing held
36 during evening hours.

37 (2) As used in this subsection, "public utility" means "public
38 utility" as defined in R.S.48:2-13.

39 b. On the day that the final public hearing is to be held in
40 connection with any application, after which the recommended
41 report and decision is to be filed in accordance with subsection (c)
42 of section 10 of the "Administrative Procedure Act," P.L.1968,
43 c.410 (C.52:14B-10(c)), the administrative law judge or the board,
44 as the case may be, may require the parties to the proceedings to
45 present a summary statement of their cases or defenses. After
46 **【such a】** the presentation, statements by the objectors shall be
47 permitted in order to accord persons not parties to the proceedings
48 an opportunity to participate in the proceedings. If no **【such】**

1 presentation is made, objector's statements shall be permitted in any
2 event before the conclusion of the hearing. The final public hearing
3 shall be held in the service area.

4 (cf: P.L.1983, c.454, s.2)

5

6 3. Section 3 of P.L.1983, c.454 (C.48:2-32.7) is amended to
7 read as follows:

8 3. a. The board shall adopt a final decision or order with respect
9 to an application under section 2 of **【this act】** P.L.1983, c.454
10 (C.48:2-32.6) at a public meeting, in accordance with subsection (d)
11 of section 10 of the "Administrative Procedure Act," P.L.1968,
12 c.410 (C.52:14B-10(d)). Each member of the board shall
13 individually state the reason **【or reasons】** for **【his】** the member's
14 decision on the application either at the public meeting or in a
15 written document, which document shall be available to the public
16 **【on】** upon request.

17 b. A final decision or order pursuant to subsection a. of this
18 section shall be made within 12 months of the final public hearing
19 held to review an application under section 2 of P.L.1983, c.454
20 (C.48:2-32.6). If the board has not adopted a final decision or order
21 within 12 months of the final public hearing, the board shall hold an
22 additional public hearing before adopting a final decision or order.
23 A final decision or order shall not be adopted pursuant to subsection
24 a. of this section unless a public hearing to review an application
25 has been held in the previous 12 months.

26 (cf: P.L.1983, c.454, s.3)

27

28 4. This act shall take effect immediately.

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STATEMENT

32

33 The bill requires the Board of Public Utilities (board) to adopt a
34 final decision or order within 12 months of the final public hearing
35 held to determine whether a telecommunications service is a
36 competitive service. If the board has not adopted a final decision or
37 order within 12 months of the final public hearing, the board is to
38 hold an additional public hearing before adopting a final decision or
39 order. The board is to make no determination as to whether a
40 telecommunications service is a competitive service unless a public
41 hearing has been held in the previous 12 months to determine
42 whether a telecommunications service is a competitive service.

43 This bill also requires the board to adopt a final decision or order
44 on an application to increase rates charged by public utilities to
45 their customers within 12 months of the final public hearing held to
46 review an application. If the board has not adopted a final decision
47 or order within 12 months of the final public hearing, the board is to
48 hold an additional public hearing before adopting a final decision or
49 order. Under the bill, a final decision or order is not to be adopted

1 with respect to an application unless a public hearing to review an
2 application has been held in the previous 12 months.

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5

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7 _____

8 Requires BPU to render decision on case within 12 months of
9 final public hearing or hold another public hearing prior to deciding
case.

ASSEMBLY, No. 2512

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 4, 2016

Sponsored by:

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Senator JIM WHELAN

District 2 (Atlantic)

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

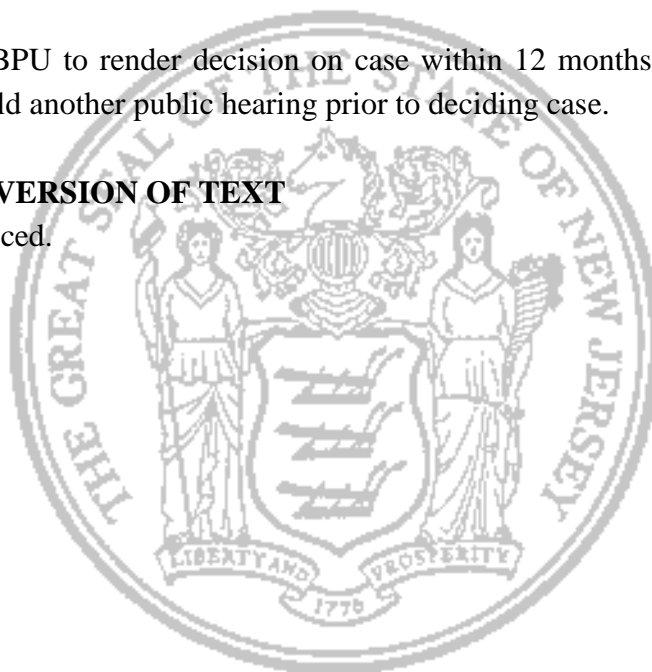
**Assemblyman Wimberly, Assemblywoman Pinkin, Assemblyman Webber,
Senators Beck, Beach and Greenstein**

SYNOPSIS

Requires BPU to render decision on case within 12 months of final public hearing or hold another public hearing prior to deciding case.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/14/2017)

1 AN ACT concerning certain decisions of the Board of Public
2 Utilities and amending P.L.1991, c.428 and P.L.1983, c.454.

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

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11 1, or any other law to the contrary, the board shall not regulate, fix,
12 or prescribe the rates, tolls, charges, rate structures, terms and
13 conditions of service, rate base, rate of return, and cost of service,
14 of competitive services.

15 (2) The board shall not require the local exchange
16 telecommunications company or interexchange telecommunications
17 carrier to file and maintain tariffs for retail competitive services, but
18 shall require any terms and conditions of retail competitive services
19 to be made available for public inspection on the Internet website of
20 any local exchange telecommunications company or interexchange
21 telecommunications carrier providing those services, and a printed
22 copy of those terms and conditions shall be provided upon the
23 request of a customer. Nothing in this section shall affect the
24 ability of a local exchange telecommunications company or
25 interexchange telecommunications carrier, in their discretion, to file
26 tariffs with the board.

27 b. The board is authorized to determine, after notice and public
28 hearing, whether a telecommunications service is a competitive
29 service. In making **【such a】** that determination, the board shall
30 develop standards of competitive service which, at a minimum,
31 shall include: evidence of ease of market entry; presence of other
32 competitors; and the availability of like or substitute services in the
33 relevant geographic area. A final decision or order pursuant to this
34 subsection shall be made within 12 months of the final public
35 hearing held to determine whether a telecommunications service is
36 a competitive service. If the board has not adopted a final decision
37 or order within 12 months of the final public hearing, the board
38 shall hold an additional public hearing before adopting a final
39 decision or order. The board shall not make a determination
40 pursuant to this subsection unless a public hearing has been held in
41 the previous 12 months to determine whether a telecommunications
42 service is a competitive service.

43 c. The board may determine, by rule, order, or in accordance
44 with the provisions of a plan filed pursuant to subsection a. of
45 section 3 of P.L.1991, c.428 (C.48:2-21.18), what reports are

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

Matter underlined thus is new matter.

1 necessary to monitor the competitiveness of any
2 telecommunications service.

3 d. The board shall have the authority to reclassify any
4 telecommunications service that it has previously found to be
5 competitive if, after notice and public hearing, it determines that
6 sufficient competition is no longer present, upon application of the
7 criteria set forth in subsection b. of this section. Upon **[such a]** that
8 reclassification, the provisions of subsection a. of this section shall
9 no longer apply and the board may determine such rates for that
10 telecommunications service which it finds to be just and reasonable.
11 The board, however, shall continue to monitor the
12 telecommunications service and, whenever the board shall find that
13 the telecommunications service has again become sufficiently
14 competitive pursuant to subsection b. of this section, the board shall
15 again apply the provisions of subsection a. of this section. A final
16 decision or order pursuant to this subsection shall be made within
17 12 months of the final public hearing held to determine whether a
18 telecommunications service is a competitive service. If the board
19 has not adopted a final decision or order within 12 months of the
20 final public hearing, the board shall hold an additional public
21 hearing before adopting a final decision or order. The board shall
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24 whether a telecommunications service is a competitive service.

25 e. Notwithstanding the provisions of subsection a. of this
26 section, the following safeguards shall apply to the offering of any
27 competitive service by a local exchange telecommunications
28 company:

29 (1) the local exchange telecommunications company shall
30 unbundle each noncompetitive service which is incorporated in the
31 competitive service and shall make all **[such]** noncompetitive
32 services separately available to any customer under tariffed terms
33 and conditions, including price, that are identical to those used by
34 the local exchange telecommunications company in providing its
35 competitive service;

36 (2) the rate which a local exchange telecommunications
37 company charges for a competitive service shall exceed the rates
38 charged to others for any noncompetitive services used by the local
39 exchange telecommunications company to provide the competitive
40 service;

41 (3) tariffs for competitive services that may be filed with the
42 board shall either be in the public records, or, if the board
43 determines that the rates are proprietary, shall be filed under seal
44 and made available under the terms of an appropriate protective
45 agreement, such as those used in cases before the board; and

46 (4) nothing in P.L.1991, c.428 (C.48:2-21.16 et seq.) shall limit
47 the authority of the board, pursuant to R.S.48:3-1, to ensure that
48 local exchange telecommunications companies do not make or

1 impose unjust preferences, discriminations, or classifications for
2 noncompetitive services.

3 (cf: P.L.2013, c.181, s.1)

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5 2. Section 2 of P.L.1983, c.454 (C.48:2-32.6) is amended to
6 read as follows:

7 a. (1) The provisions of any other law, rule, regulation, or
8 order to the contrary notwithstanding, the board, or the Office of
9 Administrative Law acting pursuant to subsection (c) of section 10
10 of the "Administrative Procedure Act," P.L.1968, c.410
11 (C.52:14B-10(c)), shall conduct as many of its public hearings held
12 to review applications by **【gas and electric light, heat and power**
13 **companies】** public utilities other than **【municipally】** municipal,
14 county, or other local government owned companies not subject to
15 the jurisdiction of the board for significant increases, changes, or
16 alterations in their rate schedules, in the service area of the
17 applicant as **【it】** the board deems necessary or appropriate to afford
18 the affected ratepayers the opportunity to monitor the decision-
19 making process by which the rates are set. At least two public
20 hearings shall be held in the service area with respect to any
21 application except that, if substantial portions of the service area are
22 located in more than one geographic region of the State, then at
23 least two public hearings shall be held in the service area located in
24 each of those geographic regions, under the terms and conditions
25 specified in this subsection. One of the public hearings held in the
26 service area, or one of the hearings held in each geographic area, as
27 the case may be, shall be a hearing in which petitioners,
28 respondents, and intervenors are parties. At the second hearing **【or**
29 **hearings】** required by the provisions of this subsection, statements
30 by objectors shall be permitted. All public hearings held pursuant
31 to the provisions of this subsection shall be held at places which are
32 easily accessible to the public with at least one **【such】** hearing held
33 during evening hours.

34 (2) As used in this subsection, "public utility" means "public
35 utility" as defined in R.S.48:2-13.

36 b. On the day that the final public hearing is to be held in
37 connection with any application, after which the recommended
38 report and decision is to be filed in accordance with subsection (c)
39 of section 10 of the "Administrative Procedure Act," P.L.1968,
40 c.410 (C.52:14B-10(c)), the administrative law judge or the board,
41 as the case may be, may require the parties to the proceedings to
42 present a summary statement of their cases or defenses. After
43 **【such a】** the presentation, statements by the objectors shall be
44 permitted in order to accord persons not parties to the proceedings
45 an opportunity to participate in the proceedings. If no **【such】**
46 presentation is made, objector's statements shall be permitted in any
47 event before the conclusion of the hearing. The final public hearing

1 shall be held in the service area.

2 (cf: P.L.1983, c.454, s.2)

3

4 3. Section 3 of P.L.1983, c.454 (C.48:2-32.7) is amended to
5 read as follows:

6 3. a. The board shall adopt a final decision or order with respect
7 to an application under section 2 of **【this act】** P.L.1983, c.454
8 (C.48:2-32.6) at a public meeting, in accordance with subsection (d)
9 of section 10 of the "Administrative Procedure Act," P.L.1968,
10 c.410 (C.52:14B-10(d)). Each member of the board shall
11 individually state the reason **【or reasons】** for **【his】** the member's
12 decision on the application either at the public meeting or in a
13 written document, which document shall be available to the public
14 **【on】** upon request.

15 b. A final decision or order pursuant to subsection a. of this
16 section shall be made within 12 months of the final public hearing
17 held to review an application under section 2 of P.L.1983, c.454
18 (C.48:2-32.6). If the board has not adopted a final decision or order
19 within 12 months of the final public hearing, the board shall hold an
20 additional public hearing before adopting a final decision or order.
21 A final decision or order shall not be adopted pursuant to subsection
22 a. of this section unless a public hearing to review an application
23 has been held in the previous 12 months.

24 (cf: P.L.1983, c.454, s.3)

25

26 4. This act shall take effect immediately.

27

28

29

STATEMENT

30

31 The bill requires the Board of Public Utilities (board) to adopt a
32 final decision or order within 12 months of the final public hearing
33 held to determine whether a telecommunications service is a
34 competitive service. If the board has not adopted a final decision or
35 order within 12 months of the final public hearing, the board is to
36 hold an additional public hearing before adopting a final decision or
37 order. The board is to make no determination as to whether a
38 telecommunications service is a competitive service unless a public
39 hearing has been held in the previous 12 months to determine
40 whether a telecommunications service is a competitive service.

41 This bill also requires the board to adopt a final decision or order
42 on an application to increase rates charged by public utilities to
43 their customers within 12 months of the final public hearing held to
44 review an application. If the board has not adopted a final decision
45 or order within 12 months of the final public hearing, the board is to
46 hold an additional public hearing before adopting a final decision or
47 order. Under the bill, a final decision or order is not to be adopted
48 with respect to an application unless a public hearing to review an
49 application has been held in the previous 12 months.

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2512

STATE OF NEW JERSEY

DATED: FEBRUARY 4, 2016

The Assembly Telecommunications and Utilities Committee reports favorably Assembly Bill No. 2512.

As reported, the bill requires the Board of Public Utilities (board) to adopt a final decision or order within 12 months of the final public hearing held to determine whether a telecommunications service is a competitive service. If the board has not adopted a final decision or order within 12 months of the final public hearing, the board is to hold an additional public hearing before adopting a final decision or order. The board is to make no determination as to whether a telecommunications service is a competitive service unless a public hearing has been held in the previous 12 months to determine whether a telecommunications service is a competitive service.

This bill also requires the board to adopt a final decision or order on an application to increase rates charged by public utilities to their customers within 12 months of the final public hearing held to review an application. If the board has not adopted a final decision or order within 12 months of the final public hearing, the board is to hold an additional public hearing before adopting a final decision or order. Under the bill, a final decision or order is not to be adopted with respect to an application unless a public hearing to review an application has been held in the previous 12 months.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2512

STATE OF NEW JERSEY

DATED: JANUARY 30, 2017

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2512.

This bill requires the Board of Public Utilities to adopt a final decision or order within 12 months of the final public hearing held to determine whether a telecommunications service is a competitive service. If the board has not adopted a final decision or order within 12 months of the final public hearing, the board is to hold an additional public hearing before adopting a final decision or order. The bill provides that the board is not to make a determination as to whether a telecommunications service is a competitive service unless a public hearing has been held in the previous 12 months to determine whether a telecommunications service is a competitive service.

The bill also requires the board to adopt a final decision or order on an application to increase rates charged by public utilities to their customers within 12 months of the final public hearing held to review an application. If the board has not adopted a final decision or order within 12 months of the final public hearing, the board is to hold an additional public hearing before adopting a final decision or order. Under the bill, a final decision or order is not to be adopted with respect to an application unless a public hearing to review an application has been held in the previous 12 months.

As reported, this bill is identical to Senate Bill No. 1899, as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the bill may have a negligible impact on State and local government costs. It is not common for the board to issue decisions more than 12 months following public hearings, but that circumstance has previously occurred. The additional public hearings required by the bill will result in increased costs for the board; however, that impact is expected to be a small percentage of the board's overall budget in a given year. The board is funded, in large part, through assessments on the bills of utility customers. State and local governments as utility customers are likely to share in this increased cost, but the increase in rates is likely to be so small that it is expected to be negligible even to the largest customers.

The OLS notes that it is possible the additional public hearings required by the bill could result in the board making different decisions with regard to utility rate cases, and the impact of those decisions could have significant fiscal impacts on customers. However, it is not possible to determine with any certainty what those decisions or the resulting fiscal impact may be if the board makes a different decision than it would have made if not for the additional public hearings.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 2512
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: SEPTEMBER 20, 2016

SUMMARY

Synopsis: Requires BPU to render decision on case within 12 months of final public hearing or hold another public hearing prior to deciding case.

Type of Impact: Increased Cost

Agencies Affected: Board of Public Utilities (BPU)

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Negligible – See comments below		
Local Cost	Negligible – See comments below		

- It is not common for the BPU to render decisions more than 12 months following public hearings, and the cost of additional hearings that are to be required should have a minor impact on the BPU’s annual costs.
- To the extent that the BPU’s costs are passed on as a charge to public utility (utility) customers, State and local government entities will experience increased utility costs; however, spread out over the entire utility rate base, the amount of increased cost may be negligible.
- The impact of the additional public hearing on the decision making process of the BPU and the subsequent impact on utility rates is not possible to determine; however, that impact is expected to be a small percentage of the BPU’s overall budget in a given year.

BILL DESCRIPTION

Assembly Bill No. 2512 of 2016 requires the BPU to adopt a final decision or order within 12 months of the final public hearing held to determine whether a telecommunications service is deemed a “competitive service”. If the BPU has not adopted a final decision or order within 12 months of the final public hearing, the BPU is to hold an additional public hearing before adopting a final decision or order. The BPU is to make no determination as to whether a

telecommunications service is a competitive service unless a public hearing has been held in the previous 12 months to determine whether a telecommunications service is a competitive service.

This bill also requires the BPU to adopt a final decision or order on an application to increase rates charged by public utilities to their customers within 12 months of the final public hearing held to review the application. If the BPU has not adopted a final decision or order within 12 months of the final public hearing on the application, the BPU is to hold an additional public hearing before adopting a final decision or order. Under the bill, a final decision or order is not to be adopted with respect to the application unless a public hearing to review the application has been held in the previous 12 months.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services finds that the bill may have a negligible impact on State and local government costs. It is not common for the BPU to issue decisions more than 12 months following public hearings, but that circumstance has previously occurred. The additional public hearings required by the bill will result in increased costs for the BPU; however, that impact is expected to be a small percentage of the BPU's overall budget in a given year. The BPU is funded, in large part, through assessments on the bills of utility customers. State and local governments as utility customers would share in this increased cost, but the increase in rates would likely be so small that it is expected to be negligible even to the largest customers.

It is possible that the additional public hearings required under the bill could result in the BPU making different decisions with regard to utility rate cases, and the impact of those decisions could have significant fiscal impacts on customers. It is not possible to determine what those decisions, or the resulting fiscal impact would be, if the BPU makes a different decision that it would have if not for the additional public hearings.

Section: Authorities, Utilities, Transportation and Communications

*Analyst: Richard Diaconu
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Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

SENATE, No. 1899

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MARCH 10, 2016

Sponsored by:

Senator JIM WHELAN

District 2 (Atlantic)

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Senators Beck, Beach and Greenstein

SYNOPSIS

Requires BPU to render decision on case within 12 months of final public hearing or hold another public hearing prior to deciding case.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/14/2017)

1 AN ACT concerning certain decisions of the Board of Public
2 Utilities and amending P.L.1991, c.428 and P.L.1983, c.454.

3

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

6

7 1. Section 4 of P.L.1991, c.428 (C.48:2-21.19) shall be
8 amended as follows:

9 4. a. (1) Notwithstanding the provisions of R.S.48:2-18,
10 R.S.48:2-21, section 31 of P.L.1962, c.198 (C.48:2-21.2), R.S.48:3-
11 1, or any other law to the contrary, the board shall not regulate, fix,
12 or prescribe the rates, tolls, charges, rate structures, terms and
13 conditions of service, rate base, rate of return, and cost of service,
14 of competitive services.

15 (2) The board shall not require the local exchange
16 telecommunications company or interexchange telecommunications
17 carrier to file and maintain tariffs for retail competitive services, but
18 shall require any terms and conditions of retail competitive services
19 to be made available for public inspection on the Internet website of
20 any local exchange telecommunications company or interexchange
21 telecommunications carrier providing those services, and a printed
22 copy of those terms and conditions shall be provided upon the
23 request of a customer. Nothing in this section shall affect the
24 ability of a local exchange telecommunications company or
25 interexchange telecommunications carrier, in their discretion, to file
26 tariffs with the board.

27 b. The board is authorized to determine, after notice and public
28 hearing, whether a telecommunications service is a competitive
29 service. In making **[such a]** that determination, the board shall
30 develop standards of competitive service which, at a minimum,
31 shall include: evidence of ease of market entry; presence of other
32 competitors; and the availability of like or substitute services in the
33 relevant geographic area. A final decision or order pursuant to this
34 subsection shall be made within 12 months of the final public
35 hearing held to determine whether a telecommunications service is
36 a competitive service. If the board has not adopted a final decision
37 or order within 12 months of the final public hearing, the board
38 shall hold an additional public hearing before adopting a final
39 decision or order. The board shall not make a determination
40 pursuant to this subsection unless a public hearing has been held in
41 the previous 12 months to determine whether a telecommunications
42 service is a competitive service.

43 c. The board may determine, by rule, order, or in accordance
44 with the provisions of a plan filed pursuant to subsection a. of
45 section 3 of P.L.1991, c.428 (C.48:2-21.18), what reports are

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

Matter underlined thus is new matter.

1 necessary to monitor the competitiveness of any
2 telecommunications service.

3 d. The board shall have the authority to reclassify any
4 telecommunications service that it has previously found to be
5 competitive if, after notice and public hearing, it determines that
6 sufficient competition is no longer present, upon application of the
7 criteria set forth in subsection b. of this section. Upon **[such a]** that
8 reclassification, the provisions of subsection a. of this section shall
9 no longer apply and the board may determine such rates for that
10 telecommunications service which it finds to be just and reasonable.
11 The board, however, shall continue to monitor the
12 telecommunications service and, whenever the board shall find that
13 the telecommunications service has again become sufficiently
14 competitive pursuant to subsection b. of this section, the board shall
15 again apply the provisions of subsection a. of this section. A final
16 decision or order pursuant to this subsection shall be made within
17 12 months of the final public hearing held to determine whether a
18 telecommunications service is a competitive service. If the board
19 has not adopted a final decision or order within 12 months of the
20 final public hearing, the board shall hold an additional public
21 hearing before adopting a final decision or order. The board shall
22 not make a reclassification pursuant to this subsection unless a
23 public hearing has been held in the previous 12 months to determine
24 whether a telecommunications service is a competitive service.

25 e. Notwithstanding the provisions of subsection a. of this
26 section, the following safeguards shall apply to the offering of any
27 competitive service by a local exchange telecommunications
28 company:

29 (1) the local exchange telecommunications company shall
30 unbundle each noncompetitive service which is incorporated in the
31 competitive service and shall make all **[such]** noncompetitive
32 services separately available to any customer under tariffed terms
33 and conditions, including price, that are identical to those used by
34 the local exchange telecommunications company in providing its
35 competitive service;

36 (2) the rate which a local exchange telecommunications
37 company charges for a competitive service shall exceed the rates
38 charged to others for any noncompetitive services used by the local
39 exchange telecommunications company to provide the competitive
40 service;

41 (3) tariffs for competitive services that may be filed with the
42 board shall either be in the public records, or, if the board
43 determines that the rates are proprietary, shall be filed under seal
44 and made available under the terms of an appropriate protective
45 agreement, such as those used in cases before the board; and

46 (4) nothing in P.L.1991, c.428 (C.48:2-21.16 et seq.) shall limit
47 the authority of the board, pursuant to R.S.48:3-1, to ensure that
48 local exchange telecommunications companies do not make or

1 impose unjust preferences, discriminations, or classifications for
2 noncompetitive services.

3 (cf: P.L.2013, c.181, s.1)

4

5 2. Section 2 of P.L.1983, c.454 (C.48:2-32.6) is amended to
6 read as follows:

7 a. (1) The provisions of any other law, rule, regulation, or
8 order to the contrary notwithstanding, the board, or the Office of
9 Administrative Law acting pursuant to subsection (c) of section 10
10 of the "Administrative Procedure Act," P.L.1968, c. 410 (C.
11 52:14B-10(c)), shall conduct as many of its public hearings held to
12 review applications by **[gas and electric light, heat and power**
13 **companies]** public utilities other than **[municipally]** municipal,
14 county, or other local government owned companies not subject to
15 the jurisdiction of the board for significant increases, changes, or
16 alterations in their rate schedules, in the service area of the
17 applicant as **[it]** the board deems necessary or appropriate to afford
18 the affected ratepayers the opportunity to monitor the decision-
19 making process by which the rates are set. At least two public
20 hearings shall be held in the service area with respect to any
21 application except that, if substantial portions of the service area are
22 located in more than one geographic region of the State, then at
23 least two public hearings shall be held in the service area located in
24 each of those geographic regions, under the terms and conditions
25 specified in this subsection. One of the public hearings held in the
26 service area, or one of the hearings held in each geographic area, as
27 the case may be, shall be a hearing in which petitioners,
28 respondents, and intervenors are parties. At the second hearing **[or**
29 **hearings]** required by the provisions of this subsection, statements
30 by objectors shall be permitted. All public hearings held pursuant
31 to the provisions of this subsection shall be held at places which are
32 easily accessible to the public with at least one **[such]** hearing held
33 during evening hours.

34 (2) As used in this subsection, "public utility" means "public
35 utility" as defined in R.S.48:2-13.

36 b. On the day that the final public hearing is to be held in
37 connection with any application, after which the recommended
38 report and decision is to be filed in accordance with subsection (c)
39 of section 10 of the "Administrative Procedure Act," P.L.1968, c.
40 410 (C. 52:14B-10(c)), the administrative law judge or the board, as
41 the case may be, may require the parties to the proceedings to
42 present a summary statement of their cases or defenses. After
43 **[such a]** the presentation, statements by the objectors shall be
44 permitted in order to accord persons not parties to the proceedings
45 an opportunity to participate in the proceedings. If no **[such]**
46 presentation is made, objector's statements shall be permitted in any
47 event before the conclusion of the hearing. The final public hearing

1 shall be held in the service area.

2 (cf: P.L.1983, c.454, s.2)

3

4 3. Section 3 of P.L.1983, c.454 (C.48:2-32.7) is amended to
5 read as follows:

6 3. a. The board shall adopt a final decision or order with
7 respect to an application under section 2 of **[this act]** P.L.1983,
8 c.454 (C.48:2-32.6) at a public meeting, in accordance with
9 subsection (d) of section 10 of the "Administrative Procedure Act,"
10 P.L.1968, c. 410 (C.52:14B-10(d)). Each member of the board
11 shall individually state the reason **[or reasons]** for **[his]** the
12 member's decision on the application either at the public meeting or
13 in a written document, which document shall be available to the
14 public **[on]** upon request.

15 b. A final decision or order pursuant to subsection a. of this
16 section shall be made within 12 months of the final public hearing
17 held to review an application under section 2 of P.L.1983, c.454
18 (C.48:2-32.6). If the board has not adopted a final decision or order
19 within 12 months of the final public hearing, the board shall hold an
20 additional public hearing before adopting a final decision or order.
21 A final decision or order shall not be adopted pursuant to subsection
22 a. of this section unless a public hearing to review an application
23 has been held in the previous 12 months.

24 (cf: P.L.1983, c.454, s.3)

25

26 4. This act shall take effect immediately.

27

28

29

STATEMENT

30

31 The bill requires the Board of Public Utilities (board) to adopt a
32 final decision or order within 12 months of the final public hearing
33 held to determine whether a telecommunications service is a
34 competitive service. If the board has not adopted a final decision or
35 order within 12 months of the final public hearing, the board is to
36 hold an additional public hearing before adopting a final decision or
37 order. The board is to make no determination as to whether a
38 telecommunications service is a competitive service unless a public
39 hearing has been held in the previous 12 months to determine
40 whether a telecommunications service is a competitive service.

41 This bill also requires the board to adopt a final decision or order
42 on an application to increase rates charged by public utilities to
43 their customers within 12 months of the final public hearing held to
44 review an application. If the board has not adopted a final decision
45 or order within 12 months of the final public hearing, the board is to
46 hold an additional public hearing before adopting a final decision or
47 order. Under the bill, a final decision or order is not to be adopted
48 with respect to an application unless a public hearing to review an
49 application has been held in the previous 12 months.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 1899

STATE OF NEW JERSEY

DATED: MAY 5, 2016

The Senate Economic Growth Committee reports favorably Senate Bill No. 1899.

As reported, the bill requires the Board of Public Utilities (board) to adopt a final decision or order within 12 months of the final public hearing held to determine whether a telecommunications service is a competitive service. If the board has not adopted a final decision or order within 12 months of the final public hearing, the board is to hold an additional public hearing before adopting a final decision or order. The board is not to determine whether a telecommunications service is a competitive service unless a public hearing on that issue has been held in the previous 12 months.

This bill also requires the board to adopt a final decision or order on an application to increase rates charged by public utilities to their customers within 12 months of the final public hearing held to review an application. If the board has not adopted a final decision or order within 12 months of the final public hearing, the board is to hold an additional public hearing before adopting a final decision or order. Under the bill, a final decision or order is not to be adopted with respect to an application unless a public hearing to review an application has been held in the previous 12 months.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1899

STATE OF NEW JERSEY

DATED: JANUARY 30, 2017

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1899.

This bill requires the Board of Public Utilities to adopt a final decision or order within 12 months of the final public hearing held to determine whether a telecommunications service is a competitive service. If the board has not adopted a final decision or order within 12 months of the final public hearing, the board is to hold an additional public hearing before adopting a final decision or order. The bill provides that the board is not to make a determination as to whether a telecommunications service is a competitive service unless a public hearing has been held in the previous 12 months to determine whether a telecommunications service is a competitive service.

The bill also requires the board to adopt a final decision or order on an application to increase rates charged by public utilities to their customers within 12 months of the final public hearing held to review an application. If the board has not adopted a final decision or order within 12 months of the final public hearing, the board is to hold an additional public hearing before adopting a final decision or order. Under the bill, a final decision or order is not to be adopted with respect to an application unless a public hearing to review an application has been held in the previous 12 months.

As reported, this bill is identical to Assembly Bill No. 2512, as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the bill may have a negligible impact on State and local government costs. It is not common for the board to issue decisions more than 12 months following public hearings, but that circumstance has previously occurred. The additional public hearings required by the bill will result in increased costs for the board; however, that impact is expected to be a small percentage of the board's overall budget in a given year. The board is funded, in large part, through assessments on the bills of utility customers. State and local governments as utility customers are likely to share in this increased cost, but the increase in rates is likely to be so small that it is expected to be negligible even to the largest customers.

The OLS notes that it is possible the additional public hearings required by the bill could result in the board making different decisions with regard to utility rate cases, and the impact of those decisions could have significant fiscal impacts on customers. However, it is not possible to determine with any certainty what those decisions or the resulting fiscal impact may be if the board makes a different decision than it would have made if not for the additional public hearings.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 1899
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: DECEMBER 7, 2016

SUMMARY

Synopsis: Requires BPU to render decision on case within 12 months of final public hearing or hold another public hearing prior to deciding case.

Type of Impact: Increased Cost

Agencies Affected: Board of Public Utilities (BPU)

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Negligible – See comments below		
Local Cost	Negligible – See comments below		

- It is not common for the Board of Public Utilities (BPU) to render decisions more than 12 months following public hearings, and the cost of additional hearings that are to be required should have a minor impact on the BPU’s annual costs.
- To the extent that the BPU’s costs are passed on as a charge to public utility (utility) customers, State and local government entities will experience increased utility costs; however, spread out over the entire utility rate base, the amount of increased cost may be negligible.
- The impact of the additional public hearing on the decision making process of the BPU and the subsequent impact on utility rates is not possible to determine; however, that impact is expected to be a small percentage of the BPU’s overall budget in a given year.

BILL DESCRIPTION

Senate Bill No. 1899 of 2016 requires the BPU to adopt a final decision or order within 12 months of the final public hearing held to determine whether a telecommunications service is deemed a “competitive service”. If the BPU has not adopted a final decision or order within 12 months of the final public hearing, the BPU is to hold an additional public hearing before adopting a final decision or order. The BPU is to make no determination as to whether a

telecommunications service is a competitive service unless a public hearing has been held in the previous 12 months to determine whether a telecommunications service is a competitive service.

This bill also requires the BPU to adopt a final decision or order on an application to increase rates charged by public utilities to their customers within 12 months of the final public hearing held to review the application. If the BPU has not adopted a final decision or order within 12 months of the final public hearing on the application, the BPU is to hold an additional public hearing before adopting a final decision or order. Under the bill, a final decision or order is not to be adopted with respect to the application unless a public hearing to review the application has been held in the previous 12 months.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services finds that the bill may have a negligible impact on State and local government costs. It is not common for the BPU to issue decisions more than 12 months following public hearings, but that circumstance has previously occurred. The additional public hearings required by the bill will result in increased costs for the BPU; however, that impact is expected to be a small percentage of the BPU's overall budget in a given year. The BPU is funded, in large part, through assessments on the bills of utility customers. State and local governments as utility customers would share in this increased cost, but the increase in rates would likely be so small that it is expected to be negligible even to the largest customers.

It is possible that the additional public hearings required under the bill could result in the BPU making different decisions with regard to utility rate cases, and the impact of those decisions could have significant fiscal impacts on customers. It is not possible to determine what those decisions, or the resulting fiscal impact would be, if the BPU makes a different decision that it would have if not for the additional public hearings.

Section: Authorities, Utilities, Transportation and Communications

*Analyst: Richard Diaconu
Senior Research Analyst*

*Approved: Frank W. Haines III
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Governor Christie Takes Action On Pending Legislation

Thursday, May 11, 2017 Tags: [Bill Action](#)



Trenton, NJ - Governor Chris Christie today signed into law additional bills to support New Jersey's military members, veterans, and their families and show pride in the state's military history. On May 1, he signed a number of bills impacting veterans and the military, including a law creating a program to divert certain veterans accused of non-violent offenses from the criminal justice system and into appropriate mental health and substance use services.

Today, Governor Christie signed A450/S750 (Mazzeo, Andrzejczak, Mukherji, Moriarty, Benson, Daniels, Houghtaling/Beach, Van Drew) creating the Wounded Warrior Caregivers Relief Act, which provides a gross income tax credit of up to \$675 to family caregivers of totally disabled veterans whose injuries occurred as a result of serving on active duty on or after September 11, 2001.

"We must do all we can do to make it easier for military members who have been left with debilitating injuries in the line of duty and their family members who now care for them," said Governor Christie. "This compassionate new law provides a tax credit to ease some of the financial burden on those families and show our appreciation for the many sacrifices they have made to keep their loved ones safe and at home."

Other military and veterans bills signed by Governor Christie allow active duty members of the U.S. Armed Forces who have completed basic training to wear their dress uniform at their high school graduation and require the Department of Military and Veterans' Affairs to work with the Division of Travel and Tourism and the New Jersey Historical Commission to develop an online list with a historic tour of war battles fought and places of historical military significance in New Jersey and its State waters.

Governor Christie also took action on the following bills:

BILL SIGNINGS:

ACS for A-815/ACS for S-1088 (Land, Andrzejczak, Mosquera, Vainieri Huttle, Bramnick/Van Drew, T. Kean) - Concerns Code Blue alert plans to shelter at-risk individuals

A-837/S-468 (Jimenez, Green, Mukherji, Sumter, Munoz/Sacco, Greenstein) - Establishes "Hazardous Drug Safe Handling Act;" requires promulgation of standards and regulations concerning safe handling of hazardous drugs by certain health care personnel

A-1256/S-1381 (Caride, Singleton, Jasey, Wimberly/Bateman) - Requires State Board of Education regulations regarding school nurse certification to include certain minimum eligibility requirements

A-1649/S-853 (Schaer, Pintor Marin, Wimberly, Mukherji/Stack) - Requires local governments and authorities to obtain financing cost estimate from NJ Environmental Infrastructure Trust for certain projects

ACS for A-1973/SCS for S-2401 (Prieto, Handlin/Diegnan, Stack) - "Appraisal Management Company Registration and Regulation Act"

A-1991/S-2722 (Prieto, Jimenez, Oliver/Stack, Cunningham) - Provides two elected members of pension commission of closed Hudson County Employees' Pension Fund may be active or retired county employees

ACS for A-2004/SCS for S-731 (Green, Benson, Moriarty, Mukherji, Pintor Marin/Cruz-Perez, Beach) - Establishes certain penalties for operating or participating in pyramid promotional schemes

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[GOVERNOR'S STATEMENT UPON SIGNING ASSEMBLY BILL NO. 4146](#)

A-2087/SCS for S-2792 (Mukherji, Schaer, Downey, Quijano/Greenstein, Turner) - Grants drivers additional time to resolve parking violations prior to license or registration suspension

A-2340/S-2108 (Benson, Muoio, Gusciora/Greenstein, Diegnan) - Authorizes students in Marie H. Katzenbach school for the deaf to operate State vehicle for driver education and provides protection for such activity under tort claims act

A-2512/S-1899 (DeAngelo, Pintor Marin, Houghtaling/Whelan, Turner) - Requires BPU to render decision on case within 12 months of final public hearing or hold another public hearing prior to deciding case

A-2805/S-2726 (Caputo, Houghtaling, McKeon, Chiaravalloti/Codey, Pou) - Requires DMVA to develop online historic tour identifying locations of war battles and places of significance to war efforts in State

A-3011/S-2796 (Conaway, Singleton/Allen) - Modifies charter of Board of Island Managers of Burlington Island to move elections to November

AS for A-3351/S-2570 (Lampitt, Andrzejczak, Quijano, Holley, Jones, Space/Cruz-Perez, Oroho) - Creates license to manufacturer and sell hard cider and mead

A-3581/SCS for S-2582, 2092 (Downey, Mosquera, Danielsens, Houghtaling, Van Drew, Turner, Moriarty) - Requires Internet-connected baby monitors to include security features

A-3601/S-2209 (Schaer/Vitale, Gill) - Concerns regulation of guaranteed asset protection waivers by DOBI

A-3785/S-2396 (Downey, Houghtaling, Jasey, Singleton, Holley, Caride, Wimberly/Ruiz, Turner) - Requires State to pay educational costs of students who reside in homeless shelter outside district of residence for more than one year

A-4019/S-2491 (Mazzeo, Mukherji, Andrzejczak, Land, DeCroce, McKnight, Danielsens/Cruz-Perez, Madden) - Permits eligible students who are members of United States Armed Forces to wear military uniform at high school graduation

A-4146/S-2521 (Vainieri Huttie, Benson, Lampitt, Johnson, McKnight, Sumter/Vitale, Gordon) – STATEMENT UPON SIGNING - Provides for monitoring and evaluation of transition of mental health and substance use disorder treatment service system and developmental disability system to fee-for-service reimbursement model; makes appropriation

A-4284/S-2675 (Quijano, Benson, Muoio, Caride, Vainieri Huttie, McKnight, Wimberly, Sumter/Diegnan, Beach) - Provides that school districts and nonpublic schools may receive reimbursement for costs incurred on or after January 1, 2016 for testing school drinking water for lead

A-4344/S-2729 (Karabinchak, Pinkin, Coughlin, Wisniewski/Diegnan, Vitale) - Designates portion of Route 18 in East Brunswick as "State Trooper Werner Foerster Memorial Interchange"

AJR-76/SJR-16 (Vainieri Huttie, Holley, McKnight, Jasey/Gill) - Designates September "Affordable Housing Awareness Month"

AJR-130/SJR-92 (Vainieri Huttie, Lampitt/Vitale, Singer) - Designates January 23 of each year as "Maternal Health Awareness Day" in New Jersey

BILLS VETOED:

A-1850/S-2606 (Giblin, DeAngelo, Mukherji, Holley/Diegnan) – ABSOLUTE - Extends by two months seasonal retail consumption alcoholic beverage license

A-1869/S-668 (Wimberly, Vainieri Huttie, Oliver, Tucker, Quijano, Johnson/Rice, Cruz-Perez) - CONDITIONAL - Establishes Division of Minority and Women Business Development and State Chief Disparity Officer to monitor efforts to promote participation by minority-owned and women-owned businesses in State contracting

A-2353/S-367 (Vainieri Huttie, Jasey, Mukherji, Benson, Quijano/Codey, Turner) – CONDITIONAL - Establishes measures to deter steroid use among students; appropriates \$45,000 to DOE for New Jersey State Interscholastic Athletic Association testing of student-athletes for steroids and other performance enhancing substances

A-3091/S-2528 (Munoz, Gusciora, O'Scanlon, Oliver, Lagana, Lampitt, Mukherji, Sumter/Pou, Weinberg, Cunningham) - CONDITIONAL - Bars persons under age 18 from marrying or entering into a civil union

###

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