

54:4-11.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 124
NJSA: 54:4-11.1 (Outdoor advertising fees)
BILL NO: A3714 (Substituted for S2682)
SPONSOR(S): Gusciora

DATE INTRODUCED: June 16, 2003

COMMITTEE: **ASSEMBLY:** Budget

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 30, 2003

SENATE: June 30, 2003

DATE OF APPROVAL: July 2, 2003

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Assembly Committee Substitute for Assembly Committee Substitute)
(Amendments during passage denoted by superscript numbers)

A3714

[SPONSORS STATEMENT](#): (Begins on page 10 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** Yes [6-19-2003](#)
[7-1-2003](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

[ASSEMBLY COMMITTEE SUBSTITUTE:](#) [Yes](#)

S2682

[SPONSORS STATEMENT](#): (Begins on page 8 of original bill) [Yes](#)

Bill and Sponsors Statement identical to A3714

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

[SENATE COMMITTEE SUBSTITUTE:](#) [Yes](#)

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

No

FOLLOWING WERE PRINTED:

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No

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No

P.L. 2003, CHAPTER 124, *approved July 2, 2003*
Assembly Committee Substitute (**CORRECTED COPY**) for
Assembly Committee Substitute for
Assembly, No. 3714

1 AN ACT, imposing an outdoor advertising fee, supplementing Title 54
2 of the Revised Statutes and amending P.L.1991, c.413 (C.27:5-5
3 et seq.).
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. (New Section) a. There is imposed and shall be paid a fee of
9 6% on the gross amounts collected by a retail seller for billboard
10 advertising space. The fee shall be imposed directly on the retail seller
11 of the advertising space.

12 b. For purposes of this section, the following terms shall have the
13 following meanings:

14 "Billboard" means any outdoor advertising sign permitted pursuant
15 to the "Roadside Sign Control and Outdoor Advertising Act,"
16 P.L.1991, c.413 (C.27:5-5 et seq.);

17 "Gross amounts collected by a retail seller for billboard advertising
18 space" include, but are not limited to, amounts collected from
19 contracts to place advertising on billboards located in this State
20 regardless of the location of the advertiser; provided however, such
21 gross amounts shall not include fees received by an advertising agency
22 that is not a related party of the retail seller and that are not received
23 by the retail seller; and

24 "Retail seller" means the person contracting with the customer.

25 c. The Director of the Division of Taxation shall collect and
26 administer the fees imposed pursuant to this section. In carrying out
27 the provisions of this section, the director shall have all of the powers
28 and authority granted in P.L. 1966, c. 30 (C.54:32B-1 et seq). The
29 fees shall be reported and paid to the director on a quarterly basis in
30 a manner prescribed by the Director of the Division of Taxation, which
31 may include by electronic means.

32 d. The fees imposed pursuant to this section shall be governed by
33 the provisions of the State Uniform Tax Procedure Law, R.S. 54:48-1
34 et seq.

35 e. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1
36 et seq.) to the contrary, the director may adopt immediately upon filing
37 with the Office of Administrative Law such regulations as the director
38 deems necessary to implement the provisions of this act, which shall

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 be effective for a period not to exceed 180 days and may thereafter be
2 amended, adopted or readopted by the director in accordance with the
3 requirements of P.L.1968, c.410.

4
5 2. Section 15 of P.L.1991, c.413 (C.27:5-19) is amended to read
6 as follows:

7 15. a. Moneys received from fees and penalties collected pursuant
8 to this act shall be deposited with the State Treasurer, and shall be
9 disbursed to the department to defray the expenses of administering
10 the provisions of this act. Moneys received pursuant to the schedule
11 of fees adopted by the commissioner shall not exceed the cost of
12 administering the provisions of this act.

13 b. The fees [for licenses and permits] prescribed by this act shall
14 be in [lieu of] addition to all other governmental fees or excises for
15 signs, or the carrying on of the business of outdoor advertising by
16 means of signs.

17 (cf: P.L.1991, c.413, s.15)

18
19 3. This act shall take effect immediately and section 1 shall apply
20 to collections for any period on or after July 1, 2003 through June 30,
21 2004.

22
23
24 _____
25
26 Imposes an outdoor advertising fee.

ASSEMBLY, No. 3714

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 16, 2003

Sponsored by:
Assemblyman REED GUSCIORA
District 15 (Mercer)

SYNOPSIS

Establishes certain fees for outdoor advertising signs and subjects certain advertising signs to real property taxation.

CURRENT VERSION OF TEXT

As introduced.



A3714 GUSCIORA

2

1 AN ACT concerning highway beautification and fees for outdoor
2 advertising, amending and supplementing P.L.1991, c.413
3 (C.27:5-5 et seq.) and amending R.S.54:4-1.

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

7
8 1. Section 1 of P.L.1991, c.413 (C.27:5-5) is amended to read as
9 follows:

10 1. This act shall be known and may be cited as the ["Roadside Sign
11 Control and Outdoor Advertising Act] "New Jersey Highway
12 Beautification Act of 2003."
13 (cf: P.L.1991, c.413, s.1)
14

15 2. Section 2 of P.L.1991, c.413 (C.27:5-6) is amended to read as
16 follows:

17 2. The Legislature finds and declares that:

18 a. [In order to balance the promotion of the safety, convenience
19 and enjoyment of travel on the highways of this State with the
20 protection of the recreational value and public investment therein, to
21 preserve and enhance the natural scenic beauty and aesthetic features
22 of the highways and adjacent areas while promoting development and
23 economic vitality and facilitating the flow of speech and expression, of
24 which providing messages of commercial, public and social value
25 conveyed through the medium of roadside signs and outdoor
26 advertising is an important part, roadside signs and outdoor
27 advertising shall be regulated by this act.] The people of the State of
28 New Jersey find that the presence of billboards visible from New
29 Jersey's highways endanger New Jersey's uniqueness and its scenic
30 beauty.

31 b. The erection and maintenance of outdoor advertising signs,
32 displays, and devices must be controlled to protect the public
33 investment in our highways, to promote the safety and recreational
34 value of public travel, and to preserve our State's natural beauty.

35 c. Billboard signage, in particular, is a blight on our environment
36 and aesthetically intrusive on our highways.

37 d. Signage, in general, can be an unreasonable distraction to
38 operators of motor vehicles and therefore it is necessary to prevent
39 confusion with regard to traffic lights, signs, signals, or other
40 interferences with effective controls, to promote the safety,
41 convenience, and enjoyment of travel on our highways, and to
42 preserve and enhance the aesthetic features of our highways and
43 adjacent areas, and to attract tourists.

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 e. It is time to undo the aesthetic harm to our highways, to enhance
2 the beauty of our State, through improved landscaping and
3 maintenance of our highways, our safety rest areas, our gateways, our
4 main streets, and our cities and towns.

5 f. License and permit fees currently do not adequately account for
6 the degradation of large, unsightly billboards.

7 g. Such fees should be dedicated to aesthetic improvement,
8 including but not limited to, building gateways and enhancing the
9 beauty of the entrances to our State, improving and operating our
10 safety rest areas, removing litter and blight from our highways,
11 cleaning graffiti, improving our main streets, making our cities green,
12 and making our highways good neighbors.

13 h. It is time to beautify our highways, our scenic vistas, our Garden
14 State.

15 [b.] i. With respect to the erection and maintenance of signs
16 adjacent to the rights-of-way of the Interstate and Primary Systems
17 within this State, it is the continued intention of the Legislature to
18 provide a basis in the laws of this State for the regulation of roadside
19 signs and outdoor advertising consistent with the public policy relating
20 to those areas declared by the Congress of the United States in Title
21 23 of the United States Code and reflecting statutory enactments and
22 judicial decisions of this State.

23 [c.] j. Supervision and regulation of signs and outdoor
24 advertising, pursuant to the provisions of this act, shall be the
25 responsibility of the Commissioner of Transportation and any person
26 who creates or maintains any signs visible to the public shall be subject
27 to the permitting and licensing provisions of this act and any
28 regulations adopted by the Department of Transportation pursuant to
29 this act.

30 (cf: P.L.1991, c.413, s.2)

31
32 3. Section 8 of P.L.1991, c.413, (C.27:5-12) is amended to read as
33 followed:

34 8. Unless otherwise provided for in this act, no permit shall be
35 required for the use, maintenance or erection of a sign or other device
36 which is to be used solely for any of the following purposes:

37 a. To advertise exclusively for sale or rent the property upon which
38 the sign or other device is located;

39 b. For notices required by law to be posted or displayed;

40 c. For any official sign established pursuant to the provisions of the
41 Manual of Uniform Traffic Control Devices erected on any public
42 highway by the public authority having jurisdiction over that public
43 highway;

44 d. For signs which are not adjacent to an Interstate or Primary
45 System highway and which advertise activities conducted upon the
46 property on which they are located; [or]

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4

1 e. For any sign erected or maintained by the commissioner; or

2 f. For directional signs, service club signs, or religious notices, if
3 they meet certain requirements established by regulation.

4 (cf: P.L.1991, c.413, s.8)

5

6 4. Section 9 of P.L.1991, c.413 (C.27:5-13) is amended to read as
7 follows:

8 9. a. Applications for licenses or permits shall be made on forms
9 prescribed and furnished by the commissioner.

10 b. If an applicant for a license does not reside in this State or is a
11 foreign corporation not authorized to do business in this State, the
12 applicant shall:

13 (1) Authorize in the application service by the commissioner of any
14 process, notice or order issuing out of or by any court, administrative
15 agency or official of this State upon the applicant, and shall agree that
16 such service be deemed to be personal service upon such applicant.
17 The applicant shall provide in the application the name and address of
18 the agent to receive service on behalf of the applicant. Notice of the
19 service of process shall be given by the commissioner to the applicant
20 by certified mail, return receipt requested, addressed to the applicant
21 at the address given in the application, or another address of which the
22 commissioner has been notified in writing by the applicant; and

23 (2) File a bond satisfactory to the commissioner as to form and
24 surety running to the State of New Jersey in the sum of **[\$5,000]**
25 \$15,000, conditioned upon compliance by the applicant with all the
26 provisions of this act. Upon default in the condition of such bond, the
27 commissioner may enforce the collection thereof in any court of
28 competent jurisdiction.

29 c. The commissioner may revoke, after notice and hearing, any
30 permit or license if the commissioner finds that any statement made in
31 an application therefor is materially false and any permit if the
32 commissioner finds that a sign has been erected or maintained contrary
33 to the approved application, or to any provision of this act, or to any
34 of the regulations promulgated hereunder, and has not been brought
35 into compliance therewith within 30 days after receipt of written
36 notification of the intended revocation to the person to whom the
37 license or permit was issued.

38 d. If an administrative hearing is requested or other legal action is
39 commenced by the person to whom the license or permit was issued
40 within 15 days of the receipt of the notice of the intended revocation,
41 the period of time in which to comply with this act and these
42 regulations and cure the violation complained of in the notice may be
43 stayed pending a final disposition of the administrative or legal
44 proceeding and, in the event the commissioner prevails, the person to
45 whom the license or permit was issued shall have 20 days from receipt
46 of the final decision to comply.

47 (cf: P.L.1991, c.413, s.9)

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1 5. Section 10 of P.L.1991, c.413 (C.27:5-14) is amended to read
2 as follows:

3 10. a. Renewal of any license or permit issued after the effective
4 date of this act may be refused for any ground sufficient for the
5 evocation of a license or permit.

6 b. Licenses and permits for signs erected and maintained with a
7 valid license or permit issued before the effective date of this act shall
8 be renewed upon payment of all fees required under P.L. , c. (C.)
9 (now before the Legislature as this bill) unless the commissioner finds
10 that a statement made in the license or permit application is materially
11 false or the sign has been erected or maintained contrary to the terms
12 of the issued license or permit, in the event of which the commissioner
13 may take any appropriate action under the authority of this act.

14 (cf: P.L.1991, c.413, s.10)

15

16 6. Section 12 of P.L.1991, c.413, (C.27:5-16) is amended to read
17 as followed:

18 12. A person who erects or maintains a sign or other object for
19 outdoor advertising, or authorizes his name to be used in connection
20 therewith, without complying with the provisions of this act, or the
21 regulations issued thereunder, shall be liable for a penalty in an amount
22 not less than \$50 or to exceed ~~[\$500]~~ \$1,000, for each offense. Each
23 day of violation may be deemed to be a separate offense. The nature
24 and circumstances of the violation, the conduct of the violator in
25 connection with the violation and the revenue derived from the
26 violation shall be factors to be considered in the assessment of the
27 amount and accrual of the penalty.

28 (cf: P.L.1991, c.413, s.12)

29

30 7. Section 14 of P.L.1991, c.413, (C.27:5-18) is amended to read
31 as follows:

32 14. a. The commissioner may adopt rules and regulations pursuant
33 to the provisions of the "Administrative Procedure Act," P.L.1968,
34 c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act
35 provided that a public hearing on the proposed rule or regulation shall
36 be held with appropriate notice as provided in that act. These
37 regulations shall include, but shall not be limited to: ~~[licensing and~~
38 ~~permitting fees;]~~ duration of licenses and permits; spacing, size,
39 specifications and lighting of signs; procedures for referral of
40 contested cases to the Office of Administrative Law; and other
41 requirements pertaining to the issuance or denial of licenses and
42 permits or for the erection or maintenance of signs, and other matters
43 necessary to effectuate the purposes of this act. The commissioner
44 also may adopt regulations governing new or innovative forms of signs
45 so that they may be made to conform with the intent and purposes of
46 this act.

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6

1 b. In adopting regulations pursuant to this act, the commissioner
2 shall give due consideration to:

3 (1) The safety, convenience and enjoyment of travel on the
4 highways and to the public investment in those highways;

5 (2) The type of information needed by the traveling public when
6 using those highways;

7 (3) Outdoor advertising industry standards, practices and
8 technological advances;

9 (4) Promotion of safety and aesthetics through modernization,
10 technological improvements and innovative construction, design and
11 maintenance;

12 (5) The economic benefit of outdoor advertising to the commerce
13 of this State; **[and]**

14 (6) The needs of the citizens of and travelers within the State to
15 have access to commercial and non-commercial messages and ideas
16 displayed by roadside signs; **and**

17 (7) The aesthetic integrity of our highways, our communities, and
18 the scenic beauty of our State.

19 (cf: P.L.1991, c.413, s.14)

20

21 8. Section 15 of P.L. 1991, c.413 (C.27:5-19) is amended to read
22 as follows:

23 15. a. There is established in the department a nonlapsing fund
24 designated the "Highway Beautification Fund." Moneys received from
25 fees and penalties collected pursuant to this act shall be deposited
26 [with the State Treasurer, and shall be disbursed to the department to
27 defray the expenses of administering the provisions of this act.
28 Moneys received pursuant to the schedule of fees adopted by the
29 commissioner shall not exceed the cost of administering the provisions
30 of this act] into the fund and used by the department for aesthetic and
31 safety enhancements and the maintenance thereof, including but not
32 limited to, graffiti and litter cleanup and removal, scenic and aesthetic
33 improvements, landscaping, safety rest areas, gateway treatment,
34 signage, and other similar programs and activities, in addition to the
35 cost of administering the Outdoor Advertising Program of the
36 department as well as programs in other departments such as the
37 Department of Community Affairs and the Department of
38 Environmental Protection for parks and for programs including the
39 "Good Neighbor" program, the "Main Street" program, the "Green
40 Cities" programs and similar programs.

41 b. The fees **[for licenses and permits]** prescribed by this act shall
42 be in **[lieu of]** addition to all other governmental fees or excises for
43 signs, or the carrying on of the business of outdoor advertising by
44 means of signs.

45 c. A \$50 application fee shall be submitted with each new
46 application for an off-premises outdoor advertising permit for a sign

1 with a proposed advertising surface area of 100 square feet (9.3 square
 2 meters) or less, and \$1,000 for signs with a proposed advertising
 3 surface area of greater than 100 square feet (9.3 square meters).

4 d. Licenses and renewals thereof shall be issued for at least a two-
 5 year period, and the licensee shall have the option of renewing a
 6 license for a period of six years. The biennial fee for each license and
 7 renewal thereof issued shall be \$100.

8 e. Permits and renewals thereof shall be issued for at least a two-
 9 year period, and the permittee shall have the option of renewing a
 10 permit for a period of six years. The biennial fees for permits and
 11 renewals thereof are:

<u>Advertising Surface Area</u>		
<u>In Square Feet (Square Meters)</u>		
<u>Over</u>	<u>Not More Than</u>	<u>Fee</u>
<u>0</u>	<u>100 (9.3)</u>	<u>\$ 40</u>
<u>100 (9.3)</u>	<u>300 (27.9)</u>	<u>\$ 1,200</u>
<u>300 (27.9)</u>	<u>600 (55.8)</u>	<u>\$ 3,000</u>
<u>600 (55.8)</u>	<u>1,000 (93)</u>	<u>\$ 8,000</u>
<u>1,000 (93)</u>	<u>No maximum</u>	<u>\$11,000</u>

21
 22 The six-year fees for permits and renewals thereof are:

<u>Advertising Surface Area</u>		
<u>In Square Feet (Square Meters)</u>		
<u>Over</u>	<u>Not More Than</u>	<u>Fee</u>
<u>0</u>	<u>100 (9.3)</u>	<u>\$ 80</u>
<u>100 (9.3)</u>	<u>300 (27.9)</u>	<u>\$ 2,400</u>
<u>300 (27.9)</u>	<u>600 (55.8)</u>	<u>\$ 6,000</u>
<u>600 (55.8)</u>	<u>1,000 (93)</u>	<u>\$16,000</u>
<u>1,000 (93)</u>	<u>No maximum</u>	<u>\$22,000</u>

31 f. The commissioner may establish administrative fees, late charges,
 32 reinstatement charges, and such other fees as necessary, by regulation.
 33 (cf: P.L.1991, c.413, s.15)

34
 35 9. Section 21 of P.L.1991, c.413 (C.27-5-25) is amended to read
 36 as follows:

37 21. [A] Upon payment of all fees imposed pursuant to P.L. c.
 38 (C.) (now before the Legislature as this bill), a sign erected and
 39 maintained with a valid permit issued before the effective date of this
 40 act, which does not comply with this act or the rules or regulations
 41 adopted pursuant hereto, may continue to be maintained, repaired and
 42 restored at the size, location, height, and setback set forth in the
 43 permit, including in the event of the partial destruction thereof,
 44 without limitation as to time, unless it is totally destroyed or
 45 abandoned, or the commissioner finds, pursuant to the authority
 46 granted under subsection b. of section 10 of this act, any grounds for

1 revocation of the permit.
2 (cf: P.L.1991, c.413, s.21)

3

4 10. R.S.54:4-1 is amended to read as follows:

5 54:4-1. All property real and personal within the jurisdiction of this
6 State not expressly exempted from taxation or expressly excluded
7 from the operation of this chapter shall be subject to taxation annually
8 under this chapter. Such property shall be valued and assessed at the
9 taxable value prescribed by law. Land in agricultural or horticultural
10 use which is being taxed under the "Farmland Assessment Act of
11 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), shall be valued and
12 assessed as provided by that act. An executory contract for the sale
13 of land, under which the vendee is entitled to or does take possession
14 thereof, shall be deemed, for the purpose of this act, a mortgage of
15 said land for the unpaid balance of purchase price. Personal property
16 taxable under this chapter shall include, however, only the machinery,
17 apparatus or equipment of a petroleum refinery that is directly used to
18 manufacture petroleum products from crude oil in any of the series of
19 petroleum refining processes commencing with the introduction of
20 crude oil and ending with refined petroleum products, but shall
21 exclude items of machinery, apparatus or equipment which are located
22 on the grounds of a petroleum refinery but which are not directly used
23 to refine crude oil into petroleum products and the tangible goods and
24 chattels, exclusive of inventories, used in business of local exchange
25 telephone, telegraph and messenger systems, companies, corporations
26 or associations that were subject to tax as of April 1, 1997 under
27 P.L.1940, c.4 (C.54:30A-16 et seq.) as amended, and shall not include
28 any intangible personal property whatsoever whether or not such
29 personalty is evidenced by a tangible or intangible chose in action
30 except as otherwise provided by R.S.54:4-20. As used in this section,
31 "local exchange telephone company" means a telecommunications
32 carrier providing dial tone and access to 51% of a local telephone
33 exchange. Property omitted from any assessment may be assessed by
34 the county board of taxation, or otherwise, within such time and in
35 such manner as shall be provided by law. Real property taxable under
36 this chapter means all land and improvements thereon and includes
37 personal property affixed to the real property or an appurtenance
38 thereto, unless:

39 a. (1) The personal property so affixed can be removed or severed
40 without material injury to the real property;

41 (2) The personal property so affixed can be removed or severed
42 without material injury to the personal property itself; and

43 (3) The personal property so affixed is not ordinarily intended to
44 be affixed permanently to real property; or

45 b. The personal property so affixed is machinery, apparatus, or
46 equipment used or held for use in business and is neither a structure

1 nor machinery, apparatus or equipment the primary purpose of which
2 is to enable a structure to support, shelter, contain, enclose or house
3 persons or property. For purposes of this subsection, real property
4 shall include pipe racks, and piping and electrical wiring up to the
5 point of connections with the machinery, apparatus, or equipment of
6 a production process as defined in this section.

7 c. **[Outdoor advertising signs of steel construction, their**
8 **supporting steel structures, the primary purpose of which is to support**
9 **an outdoor advertising sign, and other constituent parts are considered**
10 **to meet the requirements of subsection a. of this section and do not**
11 **constitute real property. Provided however, that the cement**
12 **foundation to which the supporting structure is attached, and all**
13 **underground piping and electrical wiring, up to the point of**
14 **connections with the supporting structure, shall be considered real**
15 **property.] Deleted by amendment, P.L. , c. (now before the**
16 **Legislature as this bill).**

17 Real property, as defined herein, shall not be construed to affect
18 any transaction or security interest provided for under the provisions
19 of chapter 9 of Title 12A of the New Jersey Statutes (N.J.S.12A:9-101
20 et seq.). The provisions of this section shall not be construed to repeal
21 or in any way alter any exemption from, or any exception to, real
22 property taxation or any definition of personal property otherwise
23 provided by statutory law.

24 The Director of the Division of Taxation in the Department of the
25 Treasury may adopt rules and regulations pursuant to the provisions
26 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
27 et seq.) as may be deemed necessary to implement and administer the
28 provisions of this act.

29 (cf: P.L.2001, c.438, s.1)

30

31 11. (New section) a. There is imposed and shall be paid a fee of
32 6% of the rent for billboard advertising space, which every "person
33 required to collect tax" shall collect from the customer when collecting
34 the rent to which it applies.

35 b. Terms used in this section shall have the meaning given those
36 terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).

37 c. The Director of the Division of Taxation shall collect and
38 administer the fee imposed pursuant to this section. In carrying out
39 the provisions of this section, the director shall have all of the powers
40 and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The fee
41 shall be filed and paid in a manner prescribed by the Director of the
42 Division of Taxation. The director shall promulgate such rules and
43 regulations as the director determines are necessary to effectuate the
44 provisions of this section.

45 d. A fee imposed pursuant to this section shall be governed by the
46 provisions of the "State Tax Uniform Procedure Law," R.S.54:48-1 et
47 seq.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3714

STATE OF NEW JERSEY

DATED: JUNE 19, 2003

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3714.

This Assembly Committee Substitute for Assembly Bill No. 3714 establishes application, license and permit fees for outdoor advertising signs (billboards), and fees on receipts for leasing space on such signs, and requires such fees to be deposited in a specially designated "Highway Beautification Fund" for aesthetic and safety enhancements along the State's highways and for certain environmental and community programs. Currently, the Commissioner of Transportation is authorized to establish a range of fees for billboard licenses and permits, which vary by size, as specified in Department of Transportation regulations.

The substitute establishes a two-year period for outdoor advertising business licenses and license renewals. The substitute establishes a two-year and alternative six-year period for permits and permit renewals. The fee for outdoor advertising business licenses and license renewals will be \$100 per permit held by the licensee. The fees for two-year permits and renewals range from \$40 to \$11,000, depending on square footage of advertising space. The fees for six-year permits and renewals range from \$80 to \$22,000, also depending on the square footage of advertising space.

The substitute also subjects receipts from the rent of advertising space to a 6% fee.

The substitute amends R.S.54:4-1 to eliminate a qualified exception from property tax assessment for steel advertising signs provided pursuant to P.L.2001, c.438 (thus effectively repealing the latter law) and supplements Title 54 of the Revised Statutes to clarify that all advertising signs of wooden or steel construction, their supporting structures, the cement foundation attached to the supporting structure and underground piping and electrical wiring connected to the supporting structure shall constitute real property and shall be subject to taxation pursuant to the provisions of Title 54.

Finally, the bill makes all outdoor advertising signs that are subject to permit also subject to municipal zoning ordinances.

FISCAL IMPACT:

According to information supplied by the Executive Branch this bill would raise an estimated \$36 million in fees, licenses and permits. There is no information concerning property tax assessments.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 3714**

STATE OF NEW JERSEY

DATED: JULY 1, 2003

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3714 (ACS).

This Assembly Committee Substitute for Assembly Bill No. 3714 imposes a fee of 6% on the gross amounts collected by a retail seller for billboard advertising.

For the purposes of the substitute, a billboard is an outdoor advertising sign permitted pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.);

The tax is imposed on the gross amounts collected by the retail seller. For the purposes of the substitute, the gross amounts collected include, but are not limited to, amounts collected from contracts to place advertising on billboards located in this State regardless of the location of the advertiser. However, those gross amounts do not include the fees received by an advertising agency that is not a related party of the retail seller and that are not received by the retail seller.

The substitute imposes the tax only for collections for any period on or after July 1, 2003 through June 30, 2004.

The substitute clarifies that the fees under the "Roadside Sign Control and Outdoor Advertising Act" are in addition to other governmental fees.

FISCAL IMPACT:

According to information supplied by the Executive Branch this substitute would raise an estimated \$24 million in fees.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3714

STATE OF NEW JERSEY
210th LEGISLATURE

ADOPTED JUNE 19, 2003

Sponsored by:
Assemblyman REED GUSCIORA
District 15 (Mercer)

SYNOPSIS

Establishes certain fees for outdoor advertising signs, subjects certain advertising signs to real property taxation, and subjects such signs to municipal zoning provisions.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Budget Committee.



1 AN ACT concerning highway beautification and fees for outdoor
2 advertising, amending and supplementing P.L.1991, c.413
3 (C.27:5-5 et seq.), amending R.S.54:4-1 and supplementing Title
4 54 of the Revised Statutes.

5

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

8

9 1. Section 1 of P.L.1991, c.413 (C.27:5-5) is amended to read as
10 follows:

11 1. This act shall be known and may be cited as the ["Roadside
12 Sign Control and Outdoor Advertising Act] "New Jersey Highway
13 Beautification Act of 2003."

14 (cf: P.L.1991, c.413, s.1)

15

16 2. Section 2 of P.L.1991, c.413 (C.27:5-6) is amended to read as
17 follows:

18 2. The Legislature finds and declares that:

19 a. [In order to balance the promotion of the safety, convenience
20 and enjoyment of travel on the highways of this State with the
21 protection of the recreational value and public investment therein, to
22 preserve and enhance the natural scenic beauty and aesthetic features
23 of the highways and adjacent areas while promoting development and
24 economic vitality and facilitating the flow of speech and expression, of
25 which providing messages of commercial, public and social value
26 conveyed through the medium of roadside signs and outdoor
27 advertising is an important part, roadside signs and outdoor
28 advertising shall be regulated by this act.] The people of the State of
29 New Jersey find that the presence of billboards visible from New
30 Jersey's highways endanger New Jersey's uniqueness and its scenic
31 beauty.

32 b. The erection and maintenance of outdoor advertising signs,
33 displays, and devices must be controlled to protect the public
34 investment in our highways, to promote the safety and recreational
35 value of public travel, and to preserve our State's natural beauty.

36 c. Billboard signage, in particular, is a blight on our environment
37 and aesthetically intrusive on our highways.

38 d. Signage, in general, can be an unreasonable distraction to
39 operators of motor vehicles and therefore it is necessary to prevent
40 confusion with regard to traffic lights, signs, signals, or other
41 interferences with effective controls, to promote the safety,
42 convenience, and enjoyment of travel on our highways, and to
43 preserve and enhance the aesthetic features of our highways and

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

Matter underlined thus is new matter.

1 adjacent areas, and to attract tourists.

2 e. It is time to undo the aesthetic harm to our highways, to
3 enhance the beauty of our State, through improved landscaping and
4 maintenance of our highways, our safety rest areas, our gateways, our
5 main streets, and our cities and towns.

6 f. License and permit fees currently do not adequately account for
7 the degradation of large, unsightly billboards.

8 g. Such fees should be dedicated to aesthetic improvement,
9 including but not limited to, building gateways and enhancing the
10 beauty of the entrances to our State, improving and operating our
11 safety rest areas, removing litter and blight from our highways,
12 cleaning graffiti, improving our main streets, making our cities green,
13 and making our highways good neighbors.

14 h. It is time to beautify our highways, our scenic vistas, our
15 Garden State.

16 [b.] i. With respect to the erection and maintenance of signs
17 adjacent to the rights-of-way of the Interstate and Primary Systems
18 within this State, it is the continued intention of the Legislature to
19 provide a basis in the laws of this State for the regulation of roadside
20 signs and outdoor advertising consistent with the public policy relating
21 to those areas declared by the Congress of the United States in Title
22 23 of the United States Code and reflecting statutory enactments and
23 judicial decisions of this State.

24 [c.] j. Supervision and regulation of signs and outdoor
25 advertising, pursuant to the provisions of this act, shall be the
26 responsibility of the Commissioner of Transportation and any person
27 who creates or maintains any signs visible to the public shall be subject
28 to the permitting and licensing provisions of this act and any
29 regulations adopted by the Department of Transportation pursuant to
30 this act.

31 (cf: P.L.1991, c.413, s.2)

32

33 3. Section 8 of P.L.1991, c.413, (C.27:5-12) is amended to read
34 as followed:

35 8. Unless otherwise provided for in this act, no permit shall be
36 required for the use, maintenance or erection of a sign or other device
37 which is to be used solely for any of the following purposes:

38 a. To advertise exclusively for sale or rent the property upon
39 which the sign or other device is located;

40 b. For notices required by law to be posted or displayed;

41 c. For any official sign established pursuant to the provisions of
42 the Manual of Uniform Traffic Control Devices erected on any public
43 highway by the public authority having jurisdiction over that public
44 highway;

45 d. For signs which are not adjacent to an Interstate or Primary
46 System highway and which advertise activities conducted upon the

1 property on which they are located; [or]

2 e. For any sign erected or maintained by the commissioner; or

3 f. For directional signs, service club signs, or religious notices, if
4 they meet certain requirements established by regulation.

5 (cf: P.L.1991, c.413, s.8)

6

7 4. Section 9 of P.L.1991, c.413 (C.27:5-13) is amended to read
8 as follows:

9 9. a. Applications for licenses or permits shall be made on forms
10 prescribed and furnished by the commissioner.

11 b. If an applicant for a license does not reside in this State or is a
12 foreign corporation not authorized to do business in this State, the
13 applicant shall:

14 (1) Authorize in the application service by the commissioner of
15 any process, notice or order issuing out of or by any court,
16 administrative agency or official of this State upon the applicant, and
17 shall agree that such service be deemed to be personal service upon
18 such applicant. The applicant shall provide in the application the name
19 and address of the agent to receive service on behalf of the applicant.
20 Notice of the service of process shall be given by the commissioner to
21 the applicant by certified mail, return receipt requested, addressed to
22 the applicant at the address given in the application, or another address
23 of which the commissioner has been notified in writing by the
24 applicant; and

25 (2) File a bond satisfactory to the commissioner as to form and
26 surety running to the State of New Jersey in the sum of **[\$5,000]**
27 \$15,000, conditioned upon compliance by the applicant with all the
28 provisions of this act. Upon default in the condition of such bond, the
29 commissioner may enforce the collection thereof in any court of
30 competent jurisdiction.

31 c. The commissioner may revoke, after notice and hearing, any
32 permit or license if the commissioner finds that any statement made in
33 an application therefor is materially false and any permit if the
34 commissioner finds that a sign has been erected or maintained contrary
35 to the approved application, or to any provision of this act, or to any
36 of the regulations promulgated hereunder, and has not been brought
37 into compliance therewith within 30 days after receipt of written
38 notification of the intended revocation to the person to whom the
39 license or permit was issued.

40 d. If an administrative hearing is requested or other legal action is
41 commenced by the person to whom the license or permit was issued
42 within 15 days of the receipt of the notice of the intended revocation,
43 the period of time in which to comply with this act and these
44 regulations and cure the violation complained of in the notice may be
45 stayed pending a final disposition of the administrative or legal
46 proceeding and, in the event the commissioner prevails, the person to

1 whom the license or permit was issued shall have 20 days from receipt
2 of the final decision to comply.

3 (cf: P.L.1991, c.413, s.9)

4

5 5. Section 10 of P.L.1991, c.413 (C.27:5-14) is amended to read
6 as follows:

7 10. a. Renewal of any license or permit issued after the effective
8 date of this act may be refused for any ground sufficient for the
9 evocation of a license or permit.

10 b. Licenses and permits for signs erected and maintained with a
11 valid license or permit issued before the effective date of this act shall
12 be renewed upon payment of all fees required under P.L. _____, c. _____
13 (C. _____) (now before the Legislature as this bill) unless the
14 commissioner finds that a statement made in the license or permit
15 application is materially false or the sign has been erected or
16 maintained contrary to the terms of the issued license or permit, in the
17 event of which the commissioner may take any appropriate action
18 under the authority of this act.

19 (cf: P.L.1991, c.413, s.10)

20

21 6. Section 12 of P.L.1991, c.413, (C.27:5-16) is amended to read
22 as followed:

23 12. A person who erects or maintains a sign or other object for
24 outdoor advertising, or authorizes his name to be used in connection
25 therewith, without complying with the provisions of this act, or the
26 regulations issued thereunder, shall be liable for a penalty in an amount
27 not less than \$50 or to exceed ~~[\$500]~~ \$1,000, for each offense. Each
28 day of violation may be deemed to be a separate offense. The nature
29 and circumstances of the violation, the conduct of the violator in
30 connection with the violation and the revenue derived from the
31 violation shall be factors to be considered in the assessment of the
32 amount and accrual of the penalty.

33 (cf: P.L.1991, c.413, s.12)

34

35 7. Section 14 of P.L.1991, c.413, (C.27:5-18) is amended to read
36 as follows:

37 14. a. The commissioner may adopt rules and regulations
38 pursuant to the provisions of the "Administrative Procedure Act,"
39 P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this
40 act provided that a public hearing on the proposed rule or regulation
41 shall be held with appropriate notice as provided in that act. These
42 regulations shall include, but shall not be limited to: ~~[licensing and~~
43 ~~permitting fees;]~~ duration of licenses and permits; spacing, size,
44 specifications and lighting of signs; procedures for referral of
45 contested cases to the Office of Administrative Law; and other
46 requirements pertaining to the issuance or denial of licenses and
47 permits or for the erection or maintenance of signs, and other matters

1 necessary to effectuate the purposes of this act. The commissioner
2 also may adopt regulations governing new or innovative forms of signs
3 so that they may be made to conform with the intent and purposes of
4 this act.

5 b. In adopting regulations pursuant to this act, the commissioner
6 shall give due consideration to:

7 (1) The safety, convenience and enjoyment of travel on the
8 highways and to the public investment in those highways;

9 (2) The type of information needed by the traveling public when
10 using those highways;

11 (3) Outdoor advertising industry standards, practices and
12 technological advances;

13 (4) Promotion of safety and aesthetics through modernization,
14 technological improvements and innovative construction, design and
15 maintenance;

16 (5) The economic benefit of outdoor advertising to the commerce
17 of this State; [and]

18 (6) The needs of the citizens of and travelers within the State to
19 have access to commercial and non-commercial messages and ideas
20 displayed by roadside signs; and

21 (7) The aesthetic integrity of our highways, our communities, and
22 the scenic beauty of our State.

23 (cf: P.L.1991, c.413, s.14)

24

25 8.. Section 15 of P.L. 1991, c.413 (C.27:5-19) is amended to read
26 as follows:

27 15. a. There is established in the department a nonlapsing fund
28 designated the "Highway Beautification Fund." Moneys received from
29 fees and penalties collected pursuant to this act shall be deposited
30 [with the State Treasurer, and shall be disbursed to the department to
31 defray the expenses of administering the provisions of this act.
32 Moneys received pursuant to the schedule of fees adopted by the
33 commissioner shall not exceed the cost of administering the provisions
34 of this act] into the fund and used by the department for aesthetic and
35 safety enhancements and the maintenance thereof, including but not
36 limited to, graffiti and litter cleanup and removal, scenic and aesthetic
37 improvements, landscaping, safety rest areas, gateway treatment,
38 signage, and other similar programs and activities, in addition to the
39 cost of administering the Outdoor Advertising Program and "Good
40 Neighbor" program of the department as well as programs in other
41 departments such as the Department of Community Affairs and the
42 Department of Environmental Protection for parks and for programs
43 including the the "Main Street" program, the "Green Cities" programs
44 and similar programs.

45 b. The fees [for licenses and permits] prescribed by this act shall
46 be in [lieu of] addition to all other governmental fees or excises for

1 signs, or the carrying on of the business of outdoor advertising by
2 means of signs.

3 c. A \$50 application fee shall be submitted with each new
4 application for an off-premises outdoor advertising permit for a sign
5 with a proposed advertising surface area of 100 square feet (9.3 square
6 meters) or less, and \$1,000 for signs with a proposed advertising
7 surface area of greater than 100 square feet (9.3 square meters).

8 d. Outdoor advertising business licenses and renewals thereof shall
9 be issued for a two-year period. The biennial fee for each license and
10 renewal thereof issued shall be \$100 per permit held by the licensee.

11 e. Permits and renewals thereof shall be issued for either a two-
12 year or six-year period.

13 The biennial fees for permits and renewals thereof are:

<u>Advertising Surface Area</u>		
<u>In Square Feet (Square Meters)</u>		
<u>Over</u>	<u>Not More Than</u>	<u>Fee</u>
<u>0</u>	<u>100 (9.3)</u>	<u>\$ 40</u>
<u>100 (9.3)</u>	<u>300 (27.9)</u>	<u>\$ 1,200</u>
<u>300 (27.9)</u>	<u>600 (55.8)</u>	<u>\$ 3,000</u>
<u>600 (55.8)</u>	<u>1,000 (93)</u>	<u>\$ 8,000</u>
<u>1,000 (93)</u>	<u>No maximum</u>	<u>\$11,000</u>

22
23 The six-year fees for permits and renewals thereof are:

<u>Advertising Surface Area</u>		
<u>In Square Feet (Square Meters)</u>		
<u>Over</u>	<u>Not More Than</u>	<u>Fee</u>
<u>0</u>	<u>100 (9.3)</u>	<u>\$ 80</u>
<u>100 (9.3)</u>	<u>300 (27.9)</u>	<u>\$ 2,400</u>
<u>300 (27.9)</u>	<u>600 (55.8)</u>	<u>\$ 6,000</u>
<u>600 (55.8)</u>	<u>1,000 (93)</u>	<u>\$16,000</u>
<u>1,000 (93)</u>	<u>No maximum</u>	<u>\$22,000</u>

32 f. The commissioner may establish administrative fees, late
33 charges, reinstatement charges, and such other fees as necessary, by
34 regulation.

35 (cf: P.L.1991, c.413, s.15)

36
37 9. Section 21 of P.L.1991, c.413 (C.27-5-25) is amended to read
38 as follows:

39 21. [A] Upon payment of all fees imposed pursuant to P.L. c.
40 (C.) (now before the Legislature as this bill), a sign erected and
41 maintained with a valid permit issued before the effective date of this
42 act, which does not comply with this act or the rules or regulations
43 adopted pursuant hereto, may continue to be maintained, repaired and
44 restored at the size, location, height, and setback set forth in the
45 permit, including in the event of the partial destruction thereof,
46 without limitation as to time, unless it is totally destroyed or
47 abandoned, or the commissioner finds, pursuant to the authority

1 granted under subsection b. of section 10 of this act, any grounds for
2 revocation of the permit.

3 (cf: P.L.1991, c.413, s.21)

4 10. R.S.54:4-1 is amended to read as follows:

5 54:4-1. All property real and personal within the jurisdiction of this
6 State not expressly exempted from taxation or expressly excluded
7 from the operation of this chapter shall be subject to taxation annually
8 under this chapter. Such property shall be valued and assessed at the
9 taxable value prescribed by law. Land in agricultural or horticultural
10 use which is being taxed under the "Farmland Assessment Act of
11 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), shall be valued and
12 assessed as provided by that act. An executory contract for the sale
13 of land, under which the vendee is entitled to or does take possession
14 thereof, shall be deemed, for the purpose of this act, a mortgage of
15 said land for the unpaid balance of purchase price. Personal property
16 taxable under this chapter shall include, however, only the machinery,
17 apparatus or equipment of a petroleum refinery that is directly used to
18 manufacture petroleum products from crude oil in any of the series of
19 petroleum refining processes commencing with the introduction of
20 crude oil and ending with refined petroleum products, but shall
21 exclude items of machinery, apparatus or equipment which are located
22 on the grounds of a petroleum refinery but which are not directly used
23 to refine crude oil into petroleum products and the tangible goods and
24 chattels, exclusive of inventories, used in business of local exchange
25 telephone, telegraph and messenger systems, companies, corporations
26 or associations that were subject to tax as of April 1, 1997 under
27 P.L.1940, c.4 (C.54:30A-16 et seq.) as amended, and shall not include
28 any intangible personal property whatsoever whether or not such
29 personalty is evidenced by a tangible or intangible chose in action
30 except as otherwise provided by R.S.54:4-20. As used in this section,
31 "local exchange telephone company" means a telecommunications
32 carrier providing dial tone and access to 51% of a local telephone
33 exchange. Property omitted from any assessment may be assessed by
34 the county board of taxation, or otherwise, within such time and in
35 such manner as shall be provided by law. Real property taxable under
36 this chapter means all land and improvements thereon and includes
37 personal property affixed to the real property or an appurtenance
38 thereto, unless:

39 a. (1) The personal property so affixed can be removed or severed
40 without material injury to the real property;

41 (2) The personal property so affixed can be removed or severed
42 without material injury to the personal property itself; and

43 (3) The personal property so affixed is not ordinarily intended to
44 be affixed permanently to real property; or

45 b. The personal property so affixed is machinery, apparatus, or
46 equipment used or held for use in business and is neither a structure

1 nor machinery, apparatus or equipment the primary purpose of which
2 is to enable a structure to support, shelter, contain, enclose or house
3 persons or property. For purposes of this subsection, real property
4 shall include pipe racks, and piping and electrical wiring up to the
5 point of connections with the machinery, apparatus, or equipment of
6 a production process as defined in this section.

7 c. [Outdoor advertising signs of steel construction, their
8 supporting steel structures, the primary purpose of which is to support
9 an outdoor advertising sign, and other constituent parts are considered
10 to meet the requirements of subsection a. of this section and do not
11 constitute real property. Provided however, that the cement
12 foundation to which the supporting structure is attached, and all
13 underground piping and electrical wiring, up to the point of
14 connections with the supporting structure, shall be considered real
15 property.] Deleted by amendment, P.L. , c. (now before the
16 Legislature as this bill).

17 Real property, as defined herein, shall not be construed to affect
18 any transaction or security interest provided for under the provisions
19 of chapter 9 of Title 12A of the New Jersey Statutes (N.J.S.12A:9-101
20 et seq.). The provisions of this section shall not be construed to repeal
21 or in any way alter any exemption from, or any exception to, real
22 property taxation or any definition of personal property otherwise
23 provided by statutory law.

24 The Director of the Division of Taxation in the Department of the
25 Treasury may adopt rules and regulations pursuant to the provisions
26 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
27 et seq.) as may be deemed necessary to implement and administer the
28 provisions of this act.

29 (cf: P.L.2001, c.438, s.1)

30

31 11. (New section) Notwithstanding the provisions of any law,
32 rule, regulation, judicial decision or order to the contrary, all outdoor
33 advertising signs of wooden or steel construction, their supporting
34 structures, the primary purpose of which is to support an outdoor
35 advertising sign, and other constituent parts, together with the cement
36 foundation to which the supporting structure is attached, and all
37 underground piping and electrical wiring, up to the point of connection
38 with the supporting structure, is deemed to be real property and shall
39 be subject to taxation pursuant to the provisions of chapter 4 of Title
40 54 of the Revised Statutes.

41

42 12. (New section) a. There is imposed and shall be paid a fee of
43 6% of the rent for billboard advertising space, which every "person
44 required to collect tax" shall collect from the customer when collecting
45 the rent to which it applies.

46 b. Terms used in this section shall have the meaning given those

1 terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).

2 c. The Director of the Division of Taxation shall collect and
3 administer the fee imposed pursuant to this section. In carrying out
4 the provisions of this section, the director shall have all of the powers
5 and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The fee
6 shall be filed and paid in a manner prescribed by the Director of the
7 Division of Taxation. The director shall promulgate such rules and
8 regulations as the director determines are necessary to effectuate the
9 provisions of this section.

10 d. A fee imposed pursuant to this section shall be governed by the
11 provisions of the "State Tax Uniform Procedure Law," R.S.54:48-1 et
12 seq.

13

14 13. (New Section) Notwithstanding the provisions of any law,
15 rule or resolution to the contrary, outdoor advertising signs subject to
16 permit shall be subject to the zoning provisions of the "Municipal Land
17 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

18

19 14. This act shall take effect immediately, and sections 10 and 11
20 of this act shall apply to assessments made for tax years beginning on
21 or after enactment.

SENATE, No. 2682

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED JUNE 16, 2003

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Establishes permitting fees for outdoor advertising signs, increases current fees, and subjects advertising space to sales tax and billboards to real property tax.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/29/2003)

1 AN ACT increasing fees and other revenues from outdoor advertising
2 activities, concerning the taxation of certain structures as real
3 property, and amending P.L.1991, c.413, P.L. 1966, c.30 and
4 R.S.54:4-1.

5

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

8

9 1. Section 14 of P.L.1991 c.413 (C.27:5-18) is amended to read as
10 follows:

11 14. a. The commissioner may adopt rules and regulations pursuant
12 to the provisions of the "Administrative Procedure Act," P.L.1968,
13 c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act
14 provided that a public hearing on the proposed rule or regulation shall
15 be held with appropriate notice as provided in that act. These
16 regulations shall include, but shall not be limited to: [licensing and
17 permitting fees;] duration of licenses and permits; spacing, size,
18 specifications and lighting of signs; procedures for referral of
19 contested cases to the Office of Administrative Law; and other
20 requirements pertaining to the issuance or denial of licenses and
21 permits or for the erection or maintenance of signs, and other matters
22 necessary to effectuate the purposes of this act. The commissioner
23 also may adopt regulations governing new or innovative forms of signs
24 so that they may be made to conform with the intent and purposes of
25 this act.

26 b. In adopting regulations pursuant to this act, the commissioner
27 shall give due consideration to:

28 (1) The safety, convenience and enjoyment of travel on the
29 highways and to the public investment in those highways;

30 (2) The type of information needed by the traveling public when
31 using those highways;

32 (3) Outdoor advertising industry standards, practices and
33 technological advances;

34 (4) Promotion of safety and aesthetics through modernization,
35 technological improvements and innovative construction, design and
36 maintenance;

37 (5) The economic benefit of outdoor advertising to the commerce
38 of this State; and

39 (6) The needs of the citizens of and travelers within the State to
40 have access to commercial and non-commercial messages and ideas
41 displayed by roadside signs.

42 (cf: P.L.1991,c.413,s.14)

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 2. Section 15 of P.L. 1991, c.413 (C.27:5-19) is amended to read
 2 as follows:

3 15. a. Moneys received from fees and penalties collected pursuant
 4 to this act shall be deposited with the State Treasurer, [, and shall be
 5 disbursed to the department to defray the expenses of administering
 6 the provisions of this act. Moneys received pursuant to the schedule
 7 of fees adopted by the commissioner shall not exceed the cost of
 8 administering the provisions of this act].

9 b. The fees for licenses and permits prescribed by this act shall be
 10 in lieu of all other governmental fees or excises for signs, or the
 11 carrying on of the business of outdoor advertising by means of signs.

12 c. A \$1,250 application fee shall be submitted with each new
 13 application for an off-premises outdoor advertising permit for a sign
 14 with a proposed advertising surface area of 100 square feet (9.3 square
 15 meters) or less, and \$1,800 for signs with a proposed advertising
 16 surface area of greater than 100 square feet (9.3 square meters).

17 d. Licenses and renewals thereof shall be issued for at least a two-
 18 year period, and the licensee shall have the option of renewing a
 19 license for a period of five years. The biennial fee for each license and
 20 renewal thereof issued shall be \$100. The five-year fee for each
 21 license and renewal thereof issued shall be \$200.

22 e. Permits and renewals thereof shall be issued for at least a two-
 23 year period, and the permittee shall have the option of renewing a
 24 permit for a period of five years. The biennial fees for permits and
 25 renewals thereof are:

26

<u>Advertising Surface Area</u>		
<u>In Square Feet (Square Meters)</u>		
<u>Over</u>	<u>Not More Than</u>	<u>Annual Fee</u>
<u>0</u>	<u>100 (9.3)</u>	<u>\$ 40</u>
<u>100 (9.3)</u>	<u>300 (27.9)</u>	<u>\$ 1,200</u>
<u>300 (27.9)</u>	<u>600 (55.8)</u>	<u>\$ 3,000</u>
<u>600 (55.8)</u>	<u>1,000 (93)</u>	<u>\$ 8,000</u>
<u>1,000 (93)</u>	<u>No maximum</u>	<u>\$11,000</u>

35

36 The five-year fees for permits and renewals thereof are:

<u>Advertising Surface Area</u>		
<u>In Square Feet (Square Meters)</u>		
<u>Over</u>	<u>Not More Than</u>	<u>Annual Fee</u>
<u>0</u>	<u>100 (9.3)</u>	<u>\$ 80</u>
<u>100 (9.3)</u>	<u>300 (27.9)</u>	<u>\$ 2,400</u>
<u>300 (27.9)</u>	<u>600 (55.8)</u>	<u>\$ 6,000</u>
<u>600 (55.8)</u>	<u>1,000 (93)</u>	<u>\$16,000</u>
<u>1,000 (93)</u>	<u>No maximum</u>	<u>\$22,000</u>

44 (cf: P.L.1991,c.413,s.15)

45

1 3. R.S.54:4-1 is amended to read as follows:

2 54:4-1. All property real and personal within the jurisdiction of this
3 State not expressly exempted from taxation or expressly excluded
4 from the operation of this chapter shall be subject to taxation annually
5 under this chapter. Such property shall be valued and assessed at the
6 taxable value prescribed by law. Land in agricultural or horticultural
7 use which is being taxed under the "Farmland Assessment Act of
8 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), shall be valued and
9 assessed as provided by that act. An executory contract for the sale
10 of land, under which the vendee is entitled to or does take possession
11 thereof, shall be deemed, for the purpose of this act, a mortgage of
12 said land for the unpaid balance of purchase price. Personal property
13 taxable under this chapter shall include, however, only the machinery,
14 apparatus or equipment of a petroleum refinery that is directly used to
15 manufacture petroleum products from crude oil in any of the series of
16 petroleum refining processes commencing with the introduction of
17 crude oil and ending with refined petroleum products, but shall
18 exclude items of machinery, apparatus or equipment which are located
19 on the grounds of a petroleum refinery but which are not directly used
20 to refine crude oil into petroleum products and the tangible goods and
21 chattels, exclusive of inventories, used in business of local exchange
22 telephone, telegraph and messenger systems, companies, corporations
23 or associations that were subject to tax as of April 1, 1997 under
24 P.L.1940, c.4 (C.54:30A-16 et seq.) as amended, and shall not include
25 any intangible personal property whatsoever whether or not such
26 personalty is evidenced by a tangible or intangible chose in action
27 except as otherwise provided by R.S.54:4-20. As used in this section,
28 "local exchange telephone company" means a telecommunications
29 carrier providing dial tone and access to 51% of a local telephone
30 exchange. Property omitted from any assessment may be assessed by
31 the county board of taxation, or otherwise, within such time and in
32 such manner as shall be provided by law. Real property taxable under
33 this chapter means all land and improvements thereon and includes
34 personal property affixed to the real property or an appurtenance
35 thereto, unless:

36 a. (1) The personal property so affixed can be removed or severed
37 without material injury to the real property;

38 (2) The personal property so affixed can be removed or severed
39 without material injury to the personal property itself; and

40 (3) The personal property so affixed is not ordinarily intended to
41 be affixed permanently to real property; or

42 b. The personal property so affixed is machinery, apparatus, or
43 equipment used or held for use in business and is neither a structure
44 nor machinery, apparatus or equipment the primary purpose of which
45 is to enable a structure to support, shelter, contain, enclose or house
46 persons or property. For purposes of this subsection, real property

1 shall include pipe racks, and piping and electrical wiring up to the
2 point of connections with the machinery, apparatus, or equipment of
3 a production process as defined in this section.

4 c. Outdoor advertising signs of wooden or of steel construction,
5 their supporting [steel] structures, the primary purpose of which is to
6 support an outdoor advertising sign, and other constituent parts are
7 considered not to meet the requirements of subsection a. of this
8 section and [do not] constitute real property[. Provided however,
9 that] together with the cement foundation to which the supporting
10 structure is attached, and all underground piping and electrical wiring,
11 up to the point of connections with the supporting structure[, shall be
12 considered real property].

13 Real property, as defined herein, shall not be construed to affect
14 any transaction or security interest provided for under the provisions
15 of chapter 9 of Title 12A of the New Jersey Statutes (N.J.S.12A:9-101
16 et seq.). The provisions of this section shall not be construed to repeal
17 or in any way alter any exemption from, or any exception to, real
18 property taxation or any definition of personal property otherwise
19 provided by statutory law.

20 The Director of the Division of Taxation in the Department of the
21 Treasury may adopt rules and regulations pursuant to the provisions
22 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
23 et seq.) as may be deemed necessary to implement and administer the
24 provisions of this act.

25 (cf: P.L.2001, c.438, s.1)

26

27 4. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read as
28 follows:

29 3. There is imposed and there shall be paid a tax of 6% upon:

30 (a) The receipts from every retail sale of tangible personal property,
31 except as otherwise provided in this act. If the lessor of tangible
32 personal property purchased for lease elects to pay tax on the amount
33 of the sales price as provided in paragraph (2) of subsection (bb) of
34 section 2 of P.L.1966, c.30 (C.54:32B-2), any and each subsequent
35 lease or rental is a retail sale, and a subsequent sale of such property
36 is a retail sale.

37 (b) The receipts from every sale, except for resale, of the following
38 services:

39 (1) Producing, fabricating, processing, printing or imprinting
40 tangible personal property, performed for a person who directly or
41 indirectly furnishes the tangible personal property, not purchased by
42 him for resale, upon which such services are performed.

43 (2) Installing tangible personal property, or maintaining, servicing,
44 repairing tangible personal property not held for sale in the regular
45 course of business, whether or not the services are performed directly
46 or by means of coin-operated equipment or by any other means, and

1 whether or not any tangible personal property is transferred in
2 conjunction therewith, except (i) such services rendered by an
3 individual who is engaged directly by a private homeowner or lessee
4 in or about his residence and who is not in a regular trade or business
5 offering his services to the public, (ii) such services rendered with
6 respect to personal property exempt from taxation hereunder pursuant
7 to section 13 of P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by
8 amendment, P.L.1990, c.40), (iv) any receipts from laundering, dry
9 cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining
10 and (v) services rendered in installing property which, when installed,
11 will constitute an addition or capital improvement to real property,
12 property or land.

13 (3) Storing all tangible personal property not held for sale in the
14 regular course of business and the rental of safe deposit boxes or
15 similar space.

16 (4) Maintaining, servicing or repairing real property, other than a
17 residential heating system unit serving not more than three families
18 living independently of each other and doing their cooking on the
19 premises, whether the services are performed in or outside of a
20 building, as distinguished from adding to or improving such real
21 property by a capital improvement, but excluding services rendered by
22 an individual who is not in a regular trade or business offering his
23 services to the public, and excluding garbage removal and sewer
24 services performed on a regular contractual basis for a term not less
25 than 30 days.

26 (5) Direct-mail advertising processing services, except for
27 direct-mail advertising processing services in connection with
28 distribution of advertising or promotional material to out-of-State
29 recipients.

30 (6) (Deleted by amendment, P.L.1995, c.184).

31 (7) Utility service provided to persons in this State, any right or
32 power over which is exercised in this State.

33 Wages, salaries and other compensation paid by an employer to an
34 employee for performing as an employee the services described in this
35 subsection are not receipts subject to the taxes imposed under this
36 subsection (b).

37 Services otherwise taxable under paragraph (1) or (2) of this
38 subsection (b) are not subject to the taxes imposed under this
39 subsection, where the tangible personal property upon which the
40 services were performed is delivered to the purchaser outside this
41 State for use outside this State.

42 (c) Receipts from the sale of food and drink in or by restaurants,
43 taverns, vending machines or other establishments in this State, or by
44 caterers, including in the amount of such receipts any cover, minimum,
45 entertainment or other charge made to patrons or customers:

46 (1) In all instances where the sale is for consumption on the

1 premises where sold;

2 (2) In those instances where the vendor or any person whose
3 services are arranged for by the vendor, after the delivery of the food
4 or drink by or on behalf of the vendor for consumption off the
5 premises of the vendor, serves or assists in serving, cooks, heats or
6 provides other services with respect to the food or drink, except for
7 meals especially prepared for and delivered to homebound elderly, age
8 60 or older, and to disabled persons, or meals prepared and served at
9 a group-sitting at a location outside of the home to otherwise
10 homebound elderly persons, age 60 or older, and otherwise
11 homebound disabled persons, as all or part of any food service project
12 funded in whole or in part by government or as part of a private,
13 nonprofit food service project available to all such elderly or disabled
14 persons residing within an area of service designated by the private
15 nonprofit organization;

16 (3) In those instances where the sale is for consumption off the
17 premises of the vendor, and consists of a meal, or food prepared and
18 ready to be eaten, of a kind obtainable in restaurants as the main
19 course of a meal, including a sandwich, except where food other than
20 sandwiches is sold in an unheated state and is of a type commonly sold
21 in the same form and condition in food stores other than those which
22 are principally engaged in selling prepared foods; and

23 (4) Sales of food and beverages sold through coin-operated
24 vending machines, at the wholesale price of such sale, which shall be
25 defined as 70% of the retail vending machine selling price, except sales
26 of milk, which shall not be taxed. Nothing herein contained shall
27 affect other sales through coin-operated vending machines taxable
28 pursuant to subsection (a) above or the exemption thereto provided by
29 section 21 of P.L.1980, c.105 (C.54:32B-8.9).

30 The tax imposed by this subsection (c) shall not apply to food or
31 drink which is sold to an airline for consumption while in flight.

32 (d) The rent for every occupancy of a room or rooms in a hotel in
33 this State, except that the tax shall not be imposed upon (1) a
34 permanent resident, or (2) where the rent is not more than at the rate
35 of \$2.00 per day.

36 (e) (1) Any admission charge, where such admission charge is in
37 excess of \$0.75 to or for the use of any place of amusement in the
38 State, including charges for admission to race tracks, baseball,
39 football, basketball or exhibitions, dramatic or musical arts
40 performances, motion picture theaters, except charges for admission
41 to boxing, wrestling, kick boxing or combative sports exhibitions,
42 events, performances or contests which charges are taxed under any
43 other law of this State or under section 20 of P.L.1985, c.83
44 (C.5:2A-20), and, except charges to a patron for admission to, or use
45 of, facilities for sporting activities in which such patron is to be a
46 participant, such as bowling alleys and swimming pools. For any

1 person having the permanent use or possession of a box or seat or
2 lease or a license, other than a season ticket, for the use of a box or
3 seat at a place of amusement, the tax shall be upon the amount for
4 which a similar box or seat is sold for each performance or exhibition
5 at which the box or seat is used or reserved by the holder, licensee or
6 lessee, and shall be paid by the holder, licensee or lessee.

7 (2) The amount paid as charge of a roof garden, cabaret or other
8 similar place in this State, to the extent that a tax upon such charges
9 has not been paid pursuant to subsection (c) hereof.

10 (f) (1) The receipts from every sale, except for resale, of intrastate
11 or interstate telecommunications (other than mobile
12 telecommunications services) charged to an address in this State,
13 regardless of where the services are billed or paid.

14 (2) The receipts from every sale, except for resale, of intrastate or
15 interstate mobile telecommunications services billed by or for a
16 customer's home service provider and provided to a customer with a
17 place of primary use in this State. The provisions and definitions of
18 the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. ss.
19 116-126 (Pub.L. 106-252), are applicable herein.

20 (g) The receipts from every sale, except for resale, of prepaid
21 telephone calling arrangements and the recharge of prepaid telephone
22 calling arrangements. If the sale or recharge of a prepaid telephone
23 calling arrangement does not take place at the vendor's place of
24 business, the sale or recharge shall be conclusively determined to take
25 place at the customer's shipping address, or if there is no item shipped,
26 at the customer's billing address or the location associated with the
27 customer's mobile telephone number.

28 (h) The receipts from all sales, rent, and leases of advertising space
29 on signs with more than 100 square feet in advertising surface area
30 requiring a licence or permit pursuant to P.L.1991, c.413 (C.27:5-5 et
31 seq.).

32 (cf: P.L.2002, c.45, s.2).

33
34 5. This act shall take effect immediately, and sections 1 and 2 shall
35 apply to licenses and permits issued or renewed on or after the
36 effective date of this act and section 3 of this act shall apply to
37 assessments made for tax years beginning or or after enactment.

38
39
40 STATEMENT

41
42 This bill establishes application, license and permit fees for outdoor
43 advertising signs (billboards), and requires such fees to be deposited
44 with the State Treasurer without remittance to the Department of
45 Transportation to cover the cost of administration of the Outdoor
46 Advertising Act. Currently, the Commissioner of Transportation is

1 authorized to establish a range of fees for billboard licenses and
2 permits, which range by size, as specified in Department of
3 Transportation regulations.

4 The bill establishes statutorily mandated fees for licenses, outdoor
5 advertising applications, and permits, at higher rates than those
6 currently set by regulation. The licenses and permits are to be issued
7 on either a two-year or five-year basis.

8 Where licenses are concerned, the bill establishes a fee of \$100 for
9 two-year licenses and a fee of \$200 for five-year licenses. The fees for
10 two-year permits range from \$40 to \$1,100, depending on square
11 footage of advertising space. The fees for five-year permits range
12 from \$80 to \$22,000, also depending on the square footage of
13 advertising space.

14 The bill subject receipts from sales, rents and leases of advertising
15 space on signs with larger than 100 square feet to the sales and use
16 tax.

17 Finally, this bill would subject outdoor advertising signs to real
18 property taxation. Outdoor advertising signs of wooden or of steel
19 construction, together with their supporting structures, the primary
20 purpose of which is to support an outdoor advertising sign, and other
21 constituent parts would be subject to the property tax together with
22 cement foundations to which supporting structures are attached, and
23 all underground piping and electrical wiring, up to the point of
24 connections with the supporting structure.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2682**

STATE OF NEW JERSEY

DATED: JUNE 30, 2003

The Senate Budget and Appropriations Committee reports without recommendation a committee substitute for Senate Bill No. 2682.

This substitute bill imposes a fee of 6% on the gross amounts collected by a retail seller for billboard advertising.

For the purposes of the substitute, a billboard is an outdoor advertising sign permitted pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.);

The tax is imposed on the gross amounts collected by the retail seller. For the purposes of the substitute, the gross amounts collected include, but are not limited to, amounts collected from contracts to place advertising on billboards located in this State regardless of the location of the advertiser. However, those gross amounts do not include the fees received by an advertising agency that is not a related party of the retail seller and that are not received by the retail seller.

The substitute imposes the tax only for collections for any period on or after July 1, 2003 through June 30, 2004.

The substitute clarifies that the fees under the "Roadside Sign Control and Outdoor Advertising Act" are in addition to other governmental fees.

FISCAL IMPACT

According to information supplied by the Executive Branch this substitute would raise an estimated \$24 million in fees.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2682

STATE OF NEW JERSEY
210th LEGISLATURE

ADOPTED JUNE 30, 2003

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Imposes an outdoor advertising fee.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Budget and Appropriations Committee.



1 **AN ACT**, imposing an outdoor advertising fee, supplementing Title 54
2 of the Revised Statutes and amending P.L.1991, c.413 (C.27:5-5
3 et seq.).

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

7
8 1. (New Section) a. There is imposed and shall be paid a fee of
9 6% on the gross amounts collected by a retail seller for billboard
10 advertising space. The fee shall be imposed directly on the retail seller
11 of the advertising space.

12 b. For purposes of this section, the following terms shall have the
13 following meanings:

14 "Billboard" means any outdoor advertising sign permitted pursuant
15 to the "Roadside Sign Control and Outdoor Advertising Act,"
16 P.L.1991, c.413 (C.27:5-5 et seq.);

17 "Gross amounts collected by a retail seller for billboard advertising
18 space" include, but are not limited to, amounts collected from
19 contracts to place advertising on billboards located in this State
20 regardless of the location of the advertiser; provided however, such
21 gross amounts shall not include fees received by an advertising agency
22 that is not a related party of the retail seller and that are not received
23 by the retail seller; and

24 "Retail seller" means the person contracting with the customer.

25 c. The Director of the Division of Taxation shall collect and
26 administer the fees imposed pursuant to this section. In carrying out
27 the provisions of this section, the director shall have all of the powers
28 and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq). The fees
29 shall be reported and paid to the director on a quarterly basis in a
30 manner prescribed by the Director of the Division of Taxation, which
31 may include by electronic means.

32 d. The fees imposed pursuant to this section shall be governed by
33 the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1
34 et seq.

35 e. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1
36 et seq.) to the contrary, the director may adopt immediately upon filing
37 with the Office of Administrative Law such regulations as the director
38 deems necessary to implement the provisions of this act, which shall
39 be effective for a period not to exceed 180 days and may thereafter be
40 amended, adopted or readopted by the director in accordance with the
41 requirements of P.L.1968, c.410.

42
43 2. Section 15 of P.L.1991, c.413 (C.27:5-19) is amended to read

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 as follows:

2 15. a. Moneys received from fees and penalties collected pursuant
3 to this act shall be deposited with the State Treasurer, and shall be
4 disbursed to the department to defray the expenses of administering
5 the provisions of this act. Moneys received pursuant to the schedule
6 of fees adopted by the commissioner shall not exceed the cost of
7 administering the provisions of this act.

8 b. The fees [for licenses and permits] prescribed by this act shall
9 be in [lieu of] addition to all other governmental fees or excises for
10 signs, or the carrying on of the business of outdoor advertising by
11 means of signs.

12 (cf: P.L.1991, c.413, s.15)

13

14 3. This act shall take effect immediately and section 1 shall apply
15 to collections for any period on or after July 1, 2003 through June 30,
16 2004.