

27:5-27

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2004 **CHAPTER:** 42
NJSA: 27:5-27 (Revises outdoor advertising law and local tax)
BILL NO: A3101 (Substituted for S3101)

SPONSOR(S): Mayer and others

DATE INTRODUCED: June 14, 2004

COMMITTEE: **ASSEMBLY:** Budget

SENATE: ----

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 24, 2004

SENATE: June 24, 2004

DATE OF APPROVAL: June 29, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (1st reprint enacted)

A3101

[SPONSOR'S STATEMENT:](#) (Begins on page 19 of original bill) [Yes](#)

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

SENATE: No

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

S3101

[SPONSOR'S STATEMENT:](#) (Begins on page 19 f original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

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

Identical to Assembly Statement to S3101

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

§§1,2 - C.27:5-27
& 27:5-28
§11 - C.52:31-1.1a
§12 - C.52:32-5.2
§14 - C.54:4-1.20
§17 - Note to
54:4-1 & 54:4-11.1

P.L. 2004, CHAPTER 42, *approved June 29, 2004*
Assembly, No. 3101 (*First Reprint*)

1 **AN ACT** concerning signs and outdoor advertising, amending various
2 parts of the statutory law and supplementing Title 27, Title 52 and
3 Title 54 of the Revised Statutes.

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

7
8 1. (New section) Notwithstanding any other provision of law or
9 regulation to the contrary, the commissioner shall determine the
10 number of square feet of advertising space authorized on signs which
11 have received permits pursuant to P.L.1991, c.413 (C.27:5-5 et seq.)
12 which are in effect on the effective date of P.L. , c. (C.)
13 (now before the Legislature as this bill), and which signs are located
14 on property owned or controlled by a State entity. The total number
15 of square feet of advertising space authorized for such signs on
16 property owned or controlled by each State entity after the effective
17 date of P.L. , c. (C.) (now before the Legislature as this bill)
18 shall not exceed the total number of square feet authorized on that
19 effective date for signs on such property of each such State entity.
20 The limitation on the total square footage of advertising space
21 authorized on signs on property owned or controlled by each State
22 entity after the effective date of P.L. , c. (C.)(now before
23 the Legislature as this bill) shall not apply to outdoor advertising signs
24 on bus shelters or on railroad station platforms. The commissioner
25 may adjust the total number of square feet of advertising space
26 authorized pursuant to this section if the State entity acquires
27 additional property after the effective date of P.L. , c. (C.)(now
28 before the Legislature as this bill).

29 Each such State entity shall adopt rules and regulations, in
30 accordance with the "Administrative Procedure Act," P.L.1968, c.410
31 (C.52:14B-1 et seq.) providing for a reduction, over time, in the total
32 number of square feet of advertising space authorized for signs subject
33 to the permitting procedures of P.L.1991, c.413 (C.27:5-5 et seq.)
34 located on the property of such State entity.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ABU committee amendments adopted June 17, 2004.

1 As used in this section, "State entity" means a State department or
2 agency, board, commission, corporation or authority.

3
4 2. (New section) Any person who is the holder of any license to
5 engage in the business of outdoor advertising or of any outdoor
6 advertising permit issued pursuant to the provisions of P.L.1991, c.
7 413 (C.27:5-5 et seq.) which is in effect on or after the effective date
8 of P.L. , c. (C.) (now before the Legislature as this bill) shall be
9 subject to revocation of that license or permit unless that person files
10 a disclosure statement with the Department of Transportation which
11 shall include:

12 a. The full name and business address of the person who is the
13 holder of the outdoor advertising license or permit, as the case may be,
14 and of any officers, directors, or partners thereof and all persons
15 holding any equity in or debt liability of that corporation, association,
16 firm, partnership, sole proprietorship, trust or any other form of
17 commercial organization, or, if the holder is a publicly traded
18 corporation, all persons having more than 10% of the equity in or the
19 debt liability of that corporation, association, firm, partnership, sole
20 proprietorship, trust or any other form of commercial organization,
21 except that where the debt liability is held by a chartered lending
22 institution, the person need only supply the name and business address
23 of the lending institution; and

24 b. The full name and business address of all officers, directors, or
25 partners of any corporation, association, firm, partnership, sole
26 proprietorship, trust or any other form of commercial organization
27 disclosed in the disclosure statement and the names and addresses of
28 all persons holding any equity in or the debt liability of any
29 corporation, association, firm, partnership, sole proprietorship, trust
30 or any other form of commercial organization so disclosed, or, if the
31 corporation, association, firm, partnership, sole proprietorship, trust
32 or any other form of commercial organization is a publicly traded
33 corporation, all persons holding more than 10% of the equity in or the
34 debt liability of that corporation, association, firm, partnership, sole
35 proprietorship, trust or any other form of commercial organization,
36 except that where the debt liability is held by a chartered lending
37 institution, the person need only supply the name and business address
38 of the lending institution.

39 The disclosure statement shall be filed within 60 days of the
40 effective date of P.L. , c. (C.)(now before the Legislature
41 as this bill), except for licenses or permits issued on or after the
42 effective date of P.L. , c. (C.)(now before the Legislature
43 as this bill), in which case the disclosure statement shall be filed within
44 60 days of the issuance of the license or permit.

45
46 3. Section 7 of P.L.1991, c.413 (C.27:5-11) is amended to read as

1 follows:

2 7. a. No permit shall be issued by the commissioner for roadside
3 signs to be erected or maintained in any protected area visible from the
4 main-traveled way of any Interstate or Primary System highway within
5 the State, except as provided herein.

6 (1) In protected areas, only the following signs shall be permitted,
7 subject to the regulations of the commissioner:

8 (a) Directional and other official signs and notices which are
9 required or authorized by law, and which conform to national
10 standards promulgated by the Secretary of Transportation of the
11 United States.

12 (b) Signs located in zoned and unzoned commercial and industrial
13 areas within 660 feet of the nearest edge of the right-of-way, any part
14 of which was acquired on or before July 1, 1956.

15 c. Signs advertising activities conducted on the property on which
16 they are located.

17 (2) In portions of protected areas on the Interstate System the
18 following may also be permitted:

19 (a) Signs located in commercial or industrial zones within the
20 boundaries of incorporated municipalities as those boundaries existed
21 on September 21, 1959, and all other areas where the land use as of
22 September 21, 1959 was clearly established by State law as
23 commercial or industrial within 660 feet of the nearest edge of the
24 right-of-way.

25 (b) Signs located in zoned and unzoned commercial and industrial
26 areas within 660 feet of the nearest edge of the right-of-way, any part
27 of which was acquired on or before July 1, 1956.

28 (3) In protected areas on the Primary System, the following signs
29 may also be permitted:

30 (a) Signs located in areas which are zoned industrial or commercial
31 under the authority of State law.

32 (b) Signs located in areas determined to be industrial or
33 commercial pursuant to State law.

34 b. No permit shall be issued by the commissioner for signs to be
35 erected or maintained in any other area not covered by paragraphs (1),
36 (2) and (3) above, except that permits for the following signs may also
37 be permitted:

38 (1) Signs located in areas which are zoned industrial or commercial
39 under the authority of State law.

40 (2) Signs located in areas determined to be industrial or
41 commercial pursuant to State law.

42 c. In those instances where the commissioner deems it is in the
43 public interest, he may issue a permit for a sign on public property
44 which would not otherwise be permitted under the provisions of this
45 act, and impose conditions as he deems appropriate, provided,
46 however, that the State House Commission shall have previously

1 reviewed and approved the issuance of such a permit.

2 (cf: P.L.1991, c.413, s.7)

3

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

6 4. a. A person shall not erect, maintain or make available to
7 another a roadside sign, or engage in the business of outdoor
8 advertising for profit through the rental or other compensation
9 received for the erection, use or maintenance of signs or other objects
10 upon real property for the display of advertising matter on any
11 stationary object within public view without first obtaining from the
12 commissioner a license to engage in that business, and a permit for the
13 erection, use and maintenance of each sign or other object used for
14 outdoor advertising, except as provided in this act. A permit issued
15 to a person required to obtain a license under this act shall not be valid
16 unless the person has obtained a license which is in full force and
17 effect.

18 b. Notwithstanding any provision of law to the contrary, the
19 commissioner shall not issue a permit, other than a conditional permit,
20 for a new outdoor advertising sign required to be permitted pursuant
21 to P.L.1991, c.413 (C.27:5-7 et seq.) unless a public hearing has been
22 held in accordance with the provisions of section 6 of P.L.1975, c.291
23 (C.40:55D-10) and, where the permit applicant is a private entity, all
24 relevant approvals required by the municipality have been received by
25 the private entity seeking the permit.

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

27

28 5. Section 6 of P.L.1975, c.291 (C.40:55D-10) is amended to read
29 as follows:

30 6. Hearings. a. The municipal agency shall hold a hearing on each
31 application for development, [or] adoption, revision or amendment of
32 the master plan, each application for approval of an outdoor
33 advertising sign submitted to the municipal agency as required
34 pursuant to an ordinance adopted under subsection g. of section 29.1
35 of P.L.1975, c.291 (C.40:55D-39) or any review undertaken by a
36 planning board pursuant to section 22 of P.L.1975, c.291 (C.40:55D-
37 31).

38 b. The municipal agency shall make the rules governing such
39 hearings. Any maps and documents for which approval is sought at a
40 hearing shall be on file and available for public inspection at least 10
41 days before the date of the hearing, during normal business hours in
42 the office of the administrative officer. The applicant may produce
43 other documents, records, or testimony at the hearing to substantiate
44 or clarify or supplement the previously filed maps and documents.

45 c. The officer presiding at the hearing or such person as he may
46 designate shall have power to administer oaths and issue subpoenas to

1 compel the attendance of witnesses and the production of relevant
2 evidence, including witnesses and documents presented by the parties,
3 and the provisions of the "County and Municipal Investigations Law,"
4 P.L.1953, c.38 (C.2A:67A-1 et seq.) shall apply.

5 d. The testimony of all witnesses relating to an application for
6 development shall be taken under oath or affirmation by the presiding
7 officer, and the right of cross-examination shall be permitted to all
8 interested parties through their attorneys, if represented, or directly,
9 if not represented, subject to the discretion of the presiding officer and
10 to reasonable limitations as to time and number of witnesses.

11 e. Technical rules of evidence shall not be applicable to the
12 hearing, but the agency may exclude irrelevant, immaterial or unduly
13 repetitious evidence.

14 f. The municipal agency shall provide for the verbatim recording of
15 the proceedings by either stenographer, mechanical or electronic
16 means. The municipal agency shall furnish a transcript, or duplicate
17 recording in lieu thereof, on request to any interested party at his
18 expense; provided that the governing body may provide by ordinance
19 for the municipality to assume the expense of any transcripts necessary
20 for appeal to the governing body, pursuant to section 8 of this act, of
21 decisions by the zoning board of adjustment pursuant to subsection
22 57d. of this act, up to a maximum amount as specified by the
23 ordinance.

24 The municipal agency, in furnishing a transcript or tape of the
25 proceedings to an interested party at his expense, shall not charge such
26 interested party more than the actual cost of preparing the transcript
27 or tape. Transcripts shall be certified in writing by the transcriber to
28 be accurate.

29 g. The municipal agency shall include findings of fact and
30 conclusions based thereon in each decision on any application for
31 development and shall reduce the decision to writing. The municipal
32 agency shall provide the findings and conclusions through:

33 (1) A resolution adopted at a meeting held within the time period
34 provided in the act for action by the municipal agency on the
35 application for development; or

36 (2) A memorializing resolution adopted at a meeting held not later
37 than 45 days after the date of the meeting at which the municipal
38 agency voted to grant or deny approval. Only the members of the
39 municipal agency who voted for the action taken may vote on the
40 memorializing resolution, and the vote of a majority of such members
41 present at the meeting at which the resolution is presented for
42 adoption shall be sufficient to adopt the resolution. If only one
43 member who voted for the action attends the meeting at which the
44 resolution is presented for adoption, the resolution may be adopted
45 upon the vote of that member. An action pursuant to section 5 of the
46 act (C.40:55D-9) (resulting from the failure of a motion to approve an

1 application) shall be memorialized by resolution as provided above,
2 with those members voting against the motion for approval being the
3 members eligible to vote on the memorializing resolution. The vote on
4 any such resolution shall be deemed to be a memorialization of the
5 action of the municipal agency and not to be an action of the municipal
6 agency; however, the date of the adoption of the resolution shall
7 constitute the date of the decision for purposes of the mailings, filings
8 and publications required by subsections h. and i. of this section
9 (C.40:55D-10). If the municipal agency fails to adopt a resolution or
10 memorializing resolution as hereinabove specified, any interested party
11 may apply to the Superior Court in a summary manner for an order
12 compelling the municipal agency to reduce its findings and conclusions
13 to writing within a stated time, and the cost of the application,
14 including attorney's fees, shall be assessed against the municipality.

15 h. A copy of the decision shall be mailed by the municipal agency
16 within 10 days of the date of decision to the applicant or, if
17 represented, then to his attorney, without separate charge, and to all
18 who request a copy of the decision, for a reasonable fee. A copy of
19 the decision shall also be filed by the municipal agency in the office of
20 the administrative officer. The administrative officer shall make a
21 copy of such filed decision available to any interested party for a
22 reasonable fee and available for public inspection at his office during
23 reasonable hours.

24 i. A brief notice of the decision shall be published in the official
25 newspaper of the municipality, if there be one, or in a newspaper of
26 general circulation in the municipality. Such publication shall be
27 arranged by the applicant unless a particular municipal officer is so
28 designated by ordinance; provided that nothing contained in this act
29 shall be construed as preventing the applicant from arranging such
30 publication if he so desires. The municipality may make a reasonable
31 charge for its publication. The period of time in which an appeal of
32 the decision may be made shall run from the first publication of the
33 decision, whether arranged by the municipality or the applicant.

34 (cf: P.L.1998, c.95, s.2)

35

36 6. Section 7.1 of P.L.1975, c.291 (C.40:55D-12) is amended to
37 read as follows:

38 7.1. Notice pursuant to subsections a., b., d., e., f., g. and h. of this
39 section shall be given by the applicant unless a particular municipal
40 officer is so designated by ordinance; provided that nothing contained
41 herein shall prevent the applicant from giving such notice if he so
42 desires. Notice pursuant to subsections a., b., d., e., f., g. and h. of
43 this section shall be given at least 10 days prior to the date of the
44 hearing.

45 a. Public notice of a hearing shall be given for an extension of
46 approvals for five or more years under subsection d. of section 37 of

1 P.L.1975, c.291 (C.40:55D-49) and subsection b. of section 40 of
2 P.L.1975, c.291 (C.40:55D-52); for modification or elimination of a
3 significant condition or conditions in a memorializing resolution in any
4 situation wherein the application for development for which the
5 memorializing resolution is proposed for adoption required public
6 notice, and for any other applications for development, with the
7 following exceptions: (1) conventional site plan review pursuant to
8 section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor subdivisions
9 pursuant to section 35 of P.L.1975, c.291 (C.40:55D-47) or (3) final
10 approval pursuant to section 38 of P.L.1975, c.291 (C.40:55D-50);
11 notwithstanding the foregoing, the governing body may by ordinance
12 require public notice for such categories of site plan review as may be
13 specified by ordinance, for appeals of determinations of administrative
14 officers pursuant to subsection a. of section 57 of P.L.1975, c.291
15 (C.40:55D-70), and for requests for interpretation pursuant to
16 subsection b. of section 57 of P.L.1975, c.291 (C.40:55D-70). Public
17 notice shall also be given in the event that relief is requested pursuant
18 to section 47 or 63 of P.L.1975, c.291 (C.40:55D-60 or C.40:55D-76)
19 as part of an application for development otherwise excepted herein
20 from public notice.

21 In addition, public notice shall be given by a public entity seeking
22 to erect an outdoor advertising sign on land owned or controlled by a
23 public entity as required pursuant to section 22 of P.L.1975, c.291
24 (C.40:55D-31) or, if so provided by ordinance adopted pursuant to
25 subsection g. of section 29.1 of P.L.1975, c.291 (C.40:55D-39), by a
26 private entity seeking to erect an outdoor advertising sign on public
27 land or on land owned by a private entity.

28 Public notice shall be given by publication in the official newspaper
29 of the municipality, if there be one, or in a newspaper of general
30 circulation in the municipality.

31 b. Notice of a hearing requiring public notice pursuant to
32 subsection a. of this section shall be given to the owners of all real
33 property as shown on the current tax duplicates, located in the State
34 and within 200 feet in all directions of the property which is the
35 subject of such hearing; provided that this requirement shall be deemed
36 satisfied by notice to the (1) condominium association, in the case of
37 any unit owner whose unit has a unit above or below it, or (2)
38 horizontal property regime, in the case of any co-owner whose
39 apartment has an apartment above or below it. Notice shall be given
40 by: (1) serving a copy thereof on the property owner as shown on the
41 said current tax duplicate, or his agent in charge of the property, or (2)
42 mailing a copy thereof by certified mail to the property owner at his
43 address as shown on the said current tax duplicate.

44 Notice to a partnership owner may be made by service upon any
45 partner. Notice to a corporate owner may be made by service upon its
46 president, a vice president, secretary or other person authorized by

1 appointment or by law to accept service on behalf of the corporation.
2 Notice to a condominium association, horizontal property regime,
3 community trust or homeowners' association, because of its ownership
4 of common elements or areas located within 200 feet of the property
5 which is the subject of the hearing, may be made in the same manner
6 as to a corporation without further notice to unit owners, co-owners,
7 or homeowners on account of such common elements or areas.

8 c. Upon the written request of an applicant, the administrative
9 officer of a municipality shall, within seven days, make and certify a
10 list from said current tax duplicates of names and addresses of owners
11 to whom the applicant is required to give notice pursuant to subsection
12 b. of this section. In addition, the administrative officer shall include
13 on the list the names, addresses and positions of those persons who,
14 not less than seven days prior to the date on which the applicant
15 requested the list, have registered to receive notice pursuant to
16 subsection h. of this section. The applicant shall be entitled to rely
17 upon the information contained in such list, and failure to give notice
18 to any owner or to any public utility, cable television company, or
19 local utility not on the list shall not invalidate any hearing or
20 proceeding. A sum not to exceed \$0.25 per name, or \$10.00,
21 whichever is greater, may be charged for such list.

22 d. Notice of hearings on applications for development involving
23 property located within 200 feet of an adjoining municipality shall be
24 given by personal service or certified mail to the clerk of such
25 municipality.

26 e. Notice shall be given by personal service or certified mail to the
27 county planning board of a hearing on an application for development
28 of property adjacent to an existing county road or proposed road
29 shown on the official county map or on the county master plan,
30 adjoining other county land or situated within 200 feet of a municipal
31 boundary.

32 f. Notice shall be given by personal service or certified mail to the
33 Commissioner of Transportation of a hearing on an application for
34 development of property adjacent to a State highway.

35 g. Notice shall be given by personal service or certified mail to the
36 State Planning Commission of a hearing on an application for
37 development of property which exceeds 150 acres or 500 dwelling
38 units. The notice shall include a copy of any maps or documents
39 required to be on file with the municipal clerk pursuant to subsection
40 b. of section 6 of P.L.1975, c.291 (C.40:55D-10).

41 h. Notice of hearings on applications for approval of a major
42 subdivision or a site plan not defined as a minor site plan under this act
43 requiring public notice pursuant to subsection a. of this section shall
44 be given, in the case of a public utility, cable television company or
45 local utility which possesses a right-of-way or easement within the
46 municipality and which has registered with the municipality in

1 accordance with section 5 of P.L.1991, c.412 (C.40:55D-12.1), by (1)
2 serving a copy of the notice on the person whose name appears on the
3 registration form on behalf of the public utility, cable television
4 company or local utility or (2) mailing a copy thereof by certified mail
5 to the person whose name appears on the registration form at the
6 address shown on that form.

7 i. The applicant shall file an affidavit of proof of service with the
8 municipal agency holding the hearing on the application for
9 development in the event that the applicant is required to give notice
10 pursuant to this section.

11 j. Notice pursuant to subsections d., e., f., g. and h. of this section
12 shall not be deemed to be required, unless public notice pursuant to
13 subsection a. and notice pursuant to subsection b. of this section are
14 required.

15 (cf: P.L.1998, c.95, s.4)

16

17 7. Section 22 of P.L.1975, c.291 (C.40:55D-31) is amended to
18 read as follows:

19 22. a. Whenever the planning board shall have adopted any portion
20 of the master plan, the governing body or other public agency having
21 jurisdiction over the subject matter, before taking action necessitating
22 the expenditure of any public funds, incidental to the location,
23 character or extent of such project, shall refer the action involving
24 such specific project to the planning board for review and
25 recommendation in conjunction with such master plan and shall not act
26 thereon, without such recommendation or until 45 days have elapsed
27 after such reference without receiving such recommendation. This
28 requirement shall apply to action by a housing, parking, highway,
29 special district, or other authority, redevelopment agency, school
30 board or other similar public agency, State, county or municipal. In
31 addition, this requirement shall apply to any public entity taking any
32 action to permit the location, erection, use or maintenance of an
33 outdoor advertising sign required to be permitted pursuant to
34 P.L.1991, c.413 (C.27:5-5 et seq.).

35 b. The planning board shall review and issue findings concerning
36 any long-range facilities plan submitted to the board pursuant to the
37 "Educational Facilities Construction and Financing Act," P.L.2000,
38 c.72 (C.18A:7G-1 et al.), for the purpose of review of the extent to
39 which the long-range facilities plan is informed by, and consistent with,
40 at least the land use plan element and the housing element contained
41 within the municipal master plan adopted pursuant to section 19 of
42 P.L.1975, c.291 (C.40:55D-28) and such other elements of the
43 municipal master plan as the planning board deems necessary to
44 determine whether the prospective sites for school facilities contained
45 in the long-range facilities plan promote more effective and efficient
46 coordination of school construction with the development efforts of

1 the municipality. The planning board shall devote at least one full
2 meeting of the board to presentation and review of the long-range
3 facilities plan prior to adoption of a resolution setting forth the board's
4 findings.

5 (cf: P.L.2000, c.72, s.55)

6

7 8. Section 29.1 of P.L.1975, c.291 (C.40:55D-39) is amended to
8 read as follows:

9 29.1 Discretionary contents of ordinance. An ordinance requiring
10 approval by the planning board of either subdivisions or site plans or
11 both may include the following:

12 a. Provisions for off-tract water, sewer, drainage, and street
13 improvements which are necessitated by a subdivision or land
14 development, subject to the provisions of section 30;

15 b. Provisions for standards encouraging and promoting flexibility,
16 and economy in layout and design through the use of planned unit
17 development, planned unit residential development and residential
18 cluster; provided that such standards shall be appropriate to the type
19 of development permitted; and provided further that the ordinance
20 shall set forth the limits and extent of any special provisions applicable
21 to such planned developments, so that the manner in which such
22 special provisions differ from the standards otherwise applicable to
23 subdivisions or site plans can be determined;

24 c. Provisions for planned development:

25 (1) Authorizing the planning board to grant general development
26 plan approval to provide the increased flexibility desirable to promote
27 mutual agreement between the applicant and the planning board on the
28 basic scheme of a planned development and setting forth any variations
29 from the ordinary standards for preliminary and final approval;

30 (2) Requiring that any common open space resulting from the
31 application of standards for density, or intensity of land use, be set
32 aside for the use and benefit of the owners or residents in such
33 development subject to section 31 of this act;

34 (3) Setting forth how the amount and location of any common
35 open space shall be determined and how its improvement and
36 maintenance for common open space use shall be secured subject to
37 section 31 of this act;

38 (4) Authorizing the planning board to allow for a greater
39 concentration of density, or intensity of land use, within a section or
40 sections of development, whether it be earlier, later or simultaneous
41 in the development, than in others;

42 (5) Setting forth any requirement that the approval by the planning
43 board of a greater concentration of density or intensity of land use for
44 any section to be developed be offset by a smaller concentration in any
45 completed prior stage or by an appropriate reservation of common
46 open space on the remaining land by grant of easement or by covenant

1 in favor of the municipality; provided that such reservation shall, as far
2 as practicable, defer the precise location of common open space until
3 an application for final approval is filed, so that flexibility of
4 development can be maintained;

5 (6) Setting forth any requirements for timing of development
6 among the various types of uses and subgroups thereunder and, in the
7 case of planned unit development and planned unit residential
8 development, whether some nonresidential uses are required to be built
9 before, after or at the same time as the residential uses.

10 d. Provisions ensuring in the case of a development which proposes
11 construction over a period of years, the protection of the interests of
12 the public and of the residents, occupants and owners of the proposed
13 development in the total completion of the development.

14 e. Provisions that require as a condition for local municipal
15 approval the submission of proof that no taxes or assessments for local
16 improvements are due or delinquent on the property for which any
17 subdivision, site plan, or planned development application is made.

18 f. Provisions for the creation of a Site Plan Review Advisory Board
19 for the purpose of reviewing all site plan applications and making
20 recommendations to the planning board in regard thereto.

21 g. Provisions for standards governing outdoor advertising signs
22 required to be permitted pursuant to P.L.1991, c.413 (C.27:5-5 et
23 seq.) including, but not limited to, the location, placement, size and
24 design thereof.

25 (cf: P.L.1987, c.129, s.2)

26
27 9. Section 3 of P.L.1975, c.217 (C.52:27D-121) is amended to
28 read as follows:

29 3. Definitions. As used in this act:

30 "Building" means a structure enclosed with exterior walls or fire
31 walls, built, erected and framed of component structural parts,
32 designed for the housing, shelter, enclosure and support of individuals,
33 animals or property of any kind.

34 "Business day" means any day of the year, exclusive of Saturdays,
35 Sundays, and legal holidays.

36 "Certificate of occupancy" means the certificate provided for in
37 section 15 of this act, indicating that the construction authorized by
38 the construction permit has been completed in accordance with the
39 construction permit, the State Uniform Construction Code and any
40 ordinance implementing said code.

41 "Commissioner" means the Commissioner of Community Affairs.

42 "Code" means the State Uniform Construction Code.

43 "Commercial farm building" means any building located on a
44 commercial farm which produces not less than \$2,500 worth of
45 agricultural or horticultural products annually, which building's main
46 use or intended use is related to the production of agricultural or

1 horticultural products produced on that farm. A building shall not be
2 regarded as a commercial farm building if more than 1,200 square feet
3 of its floor space is used for purposes other than its main use. A
4 greenhouse constructed in conjunction with the odor control bio-filter
5 of a solid waste or sludge composting facility, which greenhouse
6 produces not less than \$2,500 worth of agricultural or horticultural
7 products in addition to its function as a cover for the bio-filter, shall
8 be considered a commercial farm building for the purposes of this act,
9 provided, however, that the greenhouse is not intended for human
10 occupancy.

11 "Construction" means the construction, erection, reconstruction,
12 alteration, conversion, demolition, removal, repair or equipping of
13 buildings or structures.

14 "Construction board of appeals" means the board provided for in
15 section 9 of this act.

16 "Department" means the Department of Community Affairs.

17 "Enforcing agency" means the municipal construction official and
18 subcode officials provided for in section 8 of this act and assistants
19 thereto.

20 "Equipment" means plumbing, heating, electrical, ventilating, air
21 conditioning, refrigerating and fire prevention equipment, and
22 elevators, dumbwaiters, escalators, boilers, pressure vessels and other
23 mechanical facilities or installations.

24 "Hearing examiner" means a person appointed by the commissioner
25 to conduct hearings, summarize evidence, and make findings of fact.

26 "Maintenance" means the replacement or mending of existing work
27 with equivalent materials or the provision of additional work or
28 material for the purpose of the safety, healthfulness, and upkeep of the
29 structure and the adherence to such other standards of upkeep as are
30 required in the interest of public safety, health and welfare.

31 "Manufactured home" or "mobile home" means a unit of housing
32 which:

33 (1) Consists of one or more transportable sections which are
34 substantially constructed off site and, if more than one section, are
35 joined together on site;

36 (2) Is built on a permanent chassis;

37 (3) Is designed to be used, when connected to utilities, as a
38 dwelling on a permanent or nonpermanent foundation; and

39 (4) Is manufactured in accordance with the standards promulgated
40 for a manufactured home by the Secretary of the United States
41 Department of Housing and Urban Development pursuant to the
42 "National Manufactured Housing Construction and Safety Standards
43 Act of 1974," Pub.L.93-383 (42 U.S.C. s. 5401 et seq.) and the
44 standards promulgated by the commissioner pursuant to P.L.1975,
45 c.217 (C.52:27D-119 et seq.).

46 "Municipality" means any city, borough, town, township or village.

1 "Outdoor advertising sign" means a sign required to be permitted
2 pursuant to P.L.1991, c.413 (C.27:5-5 et seq.).

3 "Owner" means the owner or owners in fee of the property or a
4 lesser estate therein, a mortgagee or vendee in possession, an assignee
5 of rents, receiver, executor, trustee, lessee, or any other person, firm
6 or corporation, directly or indirectly in control of a building, structure,
7 or real property and shall include any subdivision thereof of the State.

8 "Premanufactured system" means an assembly of materials or
9 products that is intended to comprise all or part of a building or
10 structure and that is assembled off site by a repetitive process under
11 circumstances intended to insure uniformity of quality and material
12 content.

13 "Public school facility" means any building, or any part thereof, of
14 a school, under college grade, owned and operated by a local,
15 regional, or county school district.

16 "State sponsored code change proposal" means any proposed
17 amendment or code change adopted by the commissioner in
18 accordance with subsection c. of section 5 of this act for the purpose
19 of presenting such proposed amendment or code change at any of the
20 periodic code change hearings held by the National Model Code
21 Adoption Agencies, the codes of which have been adopted as subcodes
22 under this act.

23 "Stop construction order" means the order provided for in section
24 14 of this act.

25 "State Uniform Construction Code" means the code provided for
26 in section 5 of this act, or any portion thereof, and any modification of
27 or amendment thereto.

28 "Structure" means a combination of materials to form a
29 construction for occupancy, use, or ornamentation, whether installed
30 on, above, or below the surface of a parcel of land; provided the word
31 "structure" shall be construed when used herein as though followed by
32 the words "or part or parts thereof and all equipment therein" unless
33 the context clearly requires a different meaning.

34 (cf: P.L.1992, c.12, s.1)

35

36 10. Section 11 of P.L.1975, c.217 (C.52:27D-129) is amended to
37 read as follows:

38 11. State buildings and buildings of interstate agencies; outdoor
39 advertising signs on public property. a. Notwithstanding any other
40 provision of P.L.1975, c.217 (C.52:27D-119 et seq.), the Department
41 of Community Affairs shall have authority to administer and enforce
42 the code in regard to buildings and structures owned by the State, and
43 any of its departments, divisions, bureaus, boards, councils, authorities
44 or other agencies; provided, however, that the Division of Building
45 and Construction in the Department of the Treasury shall have
46 authority to conduct field inspections for the purpose of enforcing the

1 code in buildings built under its supervision. The Division of Building
2 and Construction shall be authorized to review plans and undertake
3 construction if the Department of Community Affairs cannot approve
4 plans within the 20-day period provided for in P.L.1975, c.217. In an
5 emergency or cost savings situation, the commissioner may delegate,
6 by rule, the authority to conduct field inspections for the purpose of
7 enforcing the code. The Division of Building and Construction and
8 any public or private agency which receives such a delegation shall
9 carry out any review or inspection responsibilities with persons
10 certified by the Commissioner of Community Affairs pursuant to the
11 provisions of P.L.1975, c.217. The Department of Community Affairs
12 shall have ultimate responsibility for insuring that all buildings conform
13 to the requirements of the code.

14 b. Construction, alteration, renovation, rehabilitation, repair,
15 removal or demolition of any building or structure situated wholly
16 within New Jersey by or for an agency created by an interstate
17 compact to which the State of New Jersey is a party shall be subject
18 to the provisions of the code; provided that such interstate agency
19 shall have exclusive authority to administer and enforce the code in
20 regard to such buildings and structures.

21 c. Notwithstanding any other provision of law, rule or regulation
22 to the contrary, except for signs which advertise or otherwise identify
23 activities performed on the property on which the sign is located, the
24 Department of Community Affairs shall be the sole enforcing agency
25 with regard to outdoor advertising signs which exceed 32 square feet
26 in area on any face and which are located on land owned or controlled
27 by any public entity, including but not limited to any State, county or
28 local department, agency, board, commission, authority or
29 instrumentality.

30 (cf: P.L.1991, c.87, s.1)

31

32 11. (New section) Notwithstanding the provisions of any other law
33 to the contrary, a State entity, as defined in section 1 of P.L. , c.
34 (C.)(now before the Legislature as this bill), shall not enter into
35 any contract or agreement for the sale, lease or license of real property
36 owned or controlled by it, or of any interest therein, with any person,
37 firm, partnership or corporation for the purpose of displaying any
38 advertisement, as defined in section 3 of P.L.1991, c.413 (C.27:5-7),
39 without publicly advertising for bids. Notwithstanding the foregoing,
40 any State entity may enter into such a contract or agreement with any
41 of its current contractors, tenants or licensees with respect to the
42 current real property on which they are a contractor, tenant or licensee
43 for the purpose of displaying advertisement, for a period of time not
44 to exceed five years, without publicly advertising for bids. Where,
45 pursuant to the foregoing, a State entity enters into a contract or
46 agreement with such a current contractor, tenant or licensee for a

1 period not exceeding five years, after the completion of that contract
2 or agreement, any future contract or agreement for the same purposes
3 shall be done by publicly advertising for bids.

4
5 12. (New section) Notwithstanding the provisions of any other law
6 to the contrary, a State entity, as defined in section 1 of P.L. , c.
7 (C.) (now before the Legislature as this bill), shall not enter into
8 any contract or agreement for the construction on, or development or
9 maintenance of, real property owned or controlled by it, with any
10 person, firm, partnership or corporation for the purpose of displaying
11 any advertisement, as defined in section 3 of P.L.1991, c.413
12 (C.27:5-7), without publicly advertising for bids. Notwithstanding the
13 foregoing, any State entity may enter into a contract or agreement for
14 the maintenance of (but not the construction on or development of)
15 such real property for the purposes of displaying any advertisement,
16 with any of its current contractors, tenants or licensees with respect to
17 the current real property on which they are a contractor, tenant or
18 licensee for the purpose of displaying advertisement, for a period of
19 time not to exceed five years, without publicly advertising for bids.
20 Where, pursuant to the foregoing, the State enters into a contract or
21 agreement with a current contractor, tenant or licensee for a period
22 not exceeding five years, after the completion of that contract or
23 agreement, any future contract or agreement for the same purposes
24 shall be done by publicly advertising for bids.

25
26 13. R.S.54:4-1 is amended to read as follows:

27 54:4-1. All property real and personal within the jurisdiction of this
28 State not expressly exempted from taxation or expressly excluded
29 from the operation of this chapter shall be subject to taxation annually
30 under this chapter. Such property shall be valued and assessed at the
31 taxable value prescribed by law. Land in agricultural or horticultural
32 use which is being taxed under the "Farmland Assessment Act of
33 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), shall be valued and
34 assessed as provided by that act. An executory contract for the sale
35 of land, under which the vendee is entitled to or does take possession
36 thereof, shall be deemed, for the purpose of this act, a mortgage of
37 said land for the unpaid balance of purchase price. Personal property
38 taxable under this chapter shall include, however, only the machinery,
39 apparatus or equipment of a petroleum refinery that is directly used to
40 manufacture petroleum products from crude oil in any of the series of
41 petroleum refining processes commencing with the introduction of
42 crude oil and ending with refined petroleum products, but shall
43 exclude items of machinery, apparatus or equipment which are located
44 on the grounds of a petroleum refinery but which are not directly used
45 to refine crude oil into petroleum products and the tangible goods and
46 chattels, exclusive of inventories, used in business of local exchange

1 telephone, telegraph and messenger systems, companies, corporations
2 or associations that were subject to tax as of April 1, 1997 under
3 P.L.1940, c.4 (C.54:30A-16 et seq.) as amended, and shall not include
4 any intangible personal property whatsoever whether or not such
5 personalty is evidenced by a tangible or intangible chose in action
6 except as otherwise provided by R.S.54:4-20. As used in this section,
7 "local exchange telephone company" means a telecommunications
8 carrier providing dial tone and access to 51% of a local telephone
9 exchange. Property omitted from any assessment may be assessed by
10 the county board of taxation, or otherwise, within such time and in
11 such manner as shall be provided by law. Real property taxable under
12 this chapter means all land and improvements thereon and includes
13 personal property affixed to the real property or an appurtenance
14 thereto, unless:

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

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

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

21 b. The personal property so affixed is machinery, apparatus, or
22 equipment used or held for use in business and is neither a structure
23 nor machinery, apparatus or equipment the primary purpose of which
24 is to enable a structure to support, shelter, contain, enclose or house
25 persons or property. For purposes of this subsection, real property
26 shall include pipe racks, and piping and electrical wiring up to the
27 point of connections with the machinery, apparatus, or equipment of
28 a production process as defined in this section.

29 c. **[Outdoor advertising signs of steel construction, their**
30 **supporting steel structures, the primary purpose of which is to support**
31 **an outdoor advertising sign, and other constituent parts are considered**
32 **to meet the requirements of subsection a. of this section and do not**
33 **constitute real property. Provided however, that the cement**
34 **foundation to which the supporting structure is attached, and all**
35 **underground piping and electrical wiring, up to the point of**
36 **connections with the supporting structure, shall be considered real**
37 **property]** (Deleted by amendment, P.L. . . . , c. . . .)(now before the
38 Legislature as this bill).

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

46 The Director of the Division of Taxation in the Department of the

1 Treasury may adopt rules and regulations pursuant to the provisions
2 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
3 et seq.) as may be deemed necessary to implement and administer the
4 provisions of this act.
5 (cf: P.L.2001, c.438, s.1)

6
7 14. (New section) For the purposes of chapter 4 of Title 54 of the
8 Revised Statutes and notwithstanding the provisions of R.S.54:4-1, an
9 outdoor advertising sign required to be permitted pursuant to the
10 "Roadside Sign Control and Outdoor Advertising Act," P.L.1991,
11 c.413 (C.27:5-5 et seq.), the sign's supporting structure having the
12 primary purpose of supporting the outdoor advertising sign, its other
13 constituent parts, and the foundation if any to which the supporting
14 structure is attached, are deemed to be real property.

15
16 15. Section 1 of P.L.2003, c. 124 (C.54:4-11.1) is amended to read
17 as follows:

18 1. a. ¹(1)¹ There is imposed and shall be paid a fee of ¹[6%] the
19 percentage rate for the period determined under paragraph (2) of this
20 subsection¹ on the gross amounts collected by a retail seller for
21 [billboard] advertising space on an outdoor advertising sign. The fee
22 shall be imposed directly on the retail seller of the advertising space on
23 the outdoor advertising sign.

24 ¹(2) For the period beginning July 1, 2003 through June 30, 2006,
25 the rate shall be 6%;

26 for the period beginning July 1, 2006 through June 30, 2007, the
27 rate shall be 4%; and

28 for the period beginning July 1, 2007 and thereafter, there shall be
29 no rate of fee imposed.¹

30 b. For purposes of this section, the following terms shall have the
31 following meanings:

32 "Advertising space" means the placement of advertising on an
33 outdoor sign;

34 "End user" means the person purchasing the advertising space on
35 an outdoor advertising sign for the person's own use;

36 ["Billboard"] "Outdoor advertising sign" means [any outdoor
37 advertising] a sign required to be permitted pursuant to the "Roadside
38 Sign Control and Outdoor Advertising Act," P.L.1991, c.413
39 (C.27:5-5 et seq.);

40 "Gross amounts collected by a retail seller for [billboard]
41 advertising [space]" space on an outdoor advertising sign" include,
42 but are not limited to, amounts collected, whether received in money
43 or otherwise, from contracts to place advertising on [billboards]
44 outdoor advertising signs located in this State regardless of the
45 location of the advertiser; provided however, such gross amounts
46 shall not include fees received by an advertising agency that is not a

1 related party of the retail seller and that are not received by the retail
2 seller; [and]

3 “Related party” means any licensee, permittee or other party that
4 has authority to sell advertising space on an outdoor advertising sign.

5 "Retail seller" means [the person contracting with the customer] a
6 permit holder or licensee who directly contracts with the end user for
7 outdoor advertising space on an outdoor advertising sign or any party
8 that is authorized on behalf of the permit holder or licensee to sell
9 advertising space on an outdoor advertising sign.

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

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

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

27 f. The fee imposed by subsection a. of this section shall not be
28 imposed on the gross amounts received from advertising space on an
29 outdoor advertising sign if the end user is an entity exempt from the
30 tax imposed under the “Sales and Use Tax Act” pursuant to subsection
31 a. or b. of section 9 of P.L.1966, ¹[c.410 (C.52:14B-9)] c.30
32 (C.54:32B-9)¹ .

33 g. The director may require a person who is the holder of any
34 license to engage in the business of outdoor advertising or of any
35 outdoor advertising permit issued pursuant to the provisions of
36 P.L.1991, c.413 (C.27:5-5 et seq.) to supply that person's social
37 security number and other taxpayer identification information to the
38 Division of Taxation. The social security number and other taxpayer
39 identification information supplied shall not be deemed a public record
40 under P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404
41 (C.47:1A-5 et al) or the common law concerning access to public
42 records.

43 (cf: P.L.2003, c.124, s.1)

44

45 16. Section 3 of P.L. 2003, c.124 is amended to read as follows:

46 3. This act shall take effect immediately and section 1 shall apply
47 to collections for any period on or after July 1, 2003 ¹[through June

1 30, ~~[2004] 2007, except that for the period beginning July 1, 2006~~
2 ~~through June 30, 2007, the fee paid pursuant to section 1 of P.L.2004,~~
3 ~~c.124 (C.54:4-11.1) shall be 4 percent]~~¹.

4 (cf: P.L.2003, c.124, s.3)

5

6 17. This act shall take effect immediately and sections 13 and 14
7 shall apply to assessments made after the date of enactment.

8

9

10

11

12 Revises outdoor advertising law and local tax treatment of certain
13 outdoor advertising signs.

[Corrected Copy]

ASSEMBLY, No. 3101

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JUNE 14, 2004

Sponsored by:

Assemblyman DAVID R. MAYER
District 4 (Camden and Gloucester)

Assemblyman ROBERT J. SMITH
District 4 (Camden and Gloucester)

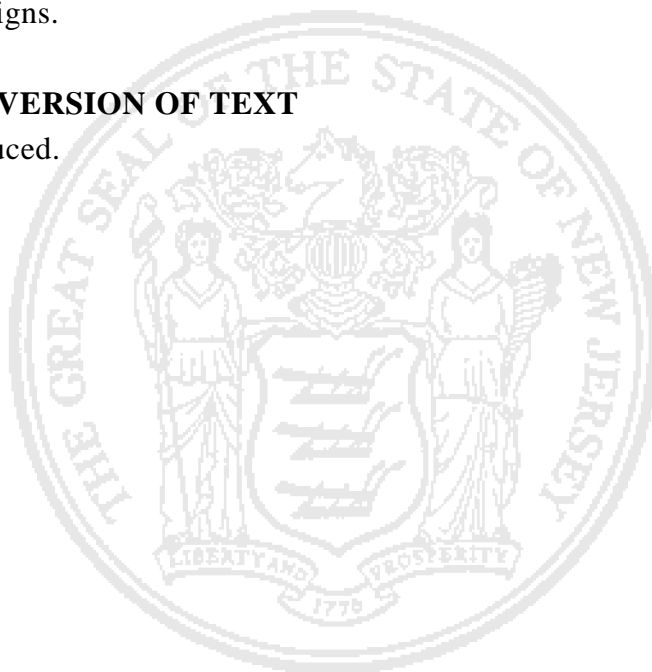
Assemblyman BRIAN P. STACK
District 33 (Hudson)

SYNOPSIS

Revises outdoor advertising law and local tax treatment of certain outdoor advertising signs.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/18/2004)

A3101 MAYER, R. SMITH

2

1 AN ACT concerning signs and outdoor advertising, amending various
2 parts of the statutory law and supplementing Title 27, Title 52 and
3 Title 54 of the Revised Statutes.

4

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

7

8 1. (New section) Notwithstanding any other provision of law or
9 regulation to the contrary, the commissioner shall determine the
10 number of square feet of advertising space authorized on signs which
11 have received permits pursuant to P.L.1991, c.413 (C.27:5-5 et seq.)
12 which are in effect on the effective date of P.L. , c. (C.)
13 (now before the Legislature as this bill), and which signs are located
14 on property owned or controlled by a State entity. The total number
15 of square feet of advertising space authorized for such signs on
16 property owned or controlled by each State entity after the effective
17 date of P.L. , c. (C.) (now before the Legislature as this bill)
18 shall not exceed the total number of square feet authorized on that
19 effective date for signs on such property of each such State entity.
20 The limitation on the total square footage of advertising space
21 authorized on signs on property owned or controlled by each State
22 entity after the effective date of P.L. , c. (C.)(now before
23 the Legislature as this bill) shall not apply to outdoor advertising signs
24 on bus shelters or on railroad station platforms. The commissioner
25 may adjust the total number of square feet of advertising space
26 authorized pursuant to this section if the State entity acquires
27 additional property after the effective date of P.L. , c. (C.)(now
28 before the Legislature as this bill).

29 Each such State entity shall adopt rules and regulations, in
30 accordance with the "Administrative Procedure Act," P.L.1968, c.410
31 (C.52:14B-1 et seq.) providing for a reduction, over time, in the total
32 number of square feet of advertising space authorized for signs subject
33 to the permitting procedures of P.L.1991, c.413 (C.27:5-5 et seq.)
34 located on the property of such State entity.

35 As used in this section, "State entity" means a State department or
36 agency, board, commission, corporation or authority.

37

38 2. (New section) Any person who is the holder of any license to
39 engage in the business of outdoor advertising or of any outdoor
40 advertising permit issued pursuant to the provisions of P.L.1991, c.
41 413 (C.27:5-5 et seq.) which is in effect on or after the effective date
42 of P.L. , c. (C.) (now before the Legislature as this bill) shall be
43 subject to revocation of that license or permit unless that person files

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 a disclosure statement with the Department of Transportation which
2 shall include:

3 a. The full name and business address of the person who is the
4 holder of the outdoor advertising license or permit, as the case may be,
5 and of any officers, directors, or partners thereof and all persons
6 holding any equity in or debt liability of that corporation, association,
7 firm, partnership, sole proprietorship, trust or any other form of
8 commercial organization, or, if the holder is a publicly traded
9 corporation, all persons having more than 10% of the equity in or the
10 debt liability of that corporation, association, firm, partnership, sole
11 proprietorship, trust or any other form of commercial organization,
12 except that where the debt liability is held by a chartered lending
13 institution, the person need only supply the name and business address
14 of the lending institution; and

15 b. The full name and business address of all officers, directors, or
16 partners of any corporation, association, firm, partnership, sole
17 proprietorship, trust or any other form of commercial organization
18 disclosed in the disclosure statement and the names and addresses of
19 all persons holding any equity in or the debt liability of any
20 corporation, association, firm, partnership, sole proprietorship, trust
21 or any other form of commercial organization so disclosed, or, if the
22 corporation, association, firm, partnership, sole proprietorship, trust
23 or any other form of commercial organization is a publicly traded
24 corporation, all persons holding more than 10% of the equity in or the
25 debt liability of that corporation, association, firm, partnership, sole
26 proprietorship, trust or any other form of commercial organization,
27 except that where the debt liability is held by a chartered lending
28 institution, the person need only supply the name and business address
29 of the lending institution.

30 The disclosure statement shall be filed within 60 days of the
31 effective date of P.L. , c. (C.)(now before the Legislature
32 as this bill), except for licenses or permits issued on or after the
33 effective date of P.L. , c. (C.)(now before the Legislature
34 as this bill), in which case the disclosure statement shall be filed within
35 60 days of the issuance of the license or permit.

36

37 3. Section 7 of P.L.1991, c.413 (C.27:5-11) is amended to read as
38 follows:

39 7. a. No permit shall be issued by the commissioner for roadside
40 signs to be erected or maintained in any protected area visible from the
41 main-traveled way of any Interstate or Primary System highway within
42 the State, except as provided herein.

43 (1) In protected areas, only the following signs shall be permitted,
44 subject to the regulations of the commissioner:

45 (a) Directional and other official signs and notices which are
46 required or authorized by law, and which conform to national

A3101 MAYER, R. SMITH

4

1 standards promulgated by the Secretary of Transportation of the
2 United States.

3 (b) Signs located in zoned and unzoned commercial and industrial
4 areas within 660 feet of the nearest edge of the right-of-way, any part
5 of which was acquired on or before July 1, 1956.

6 c. Signs advertising activities conducted on the property on which
7 they are located.

8 (2) In portions of protected areas on the Interstate System the
9 following may also be permitted:

10 (a) Signs located in commercial or industrial zones within the
11 boundaries of incorporated municipalities as those boundaries existed
12 on September 21, 1959, and all other areas where the land use as of
13 September 21, 1959 was clearly established by State law as
14 commercial or industrial within 660 feet of the nearest edge of the
15 right-of-way.

16 (b) Signs located in zoned and unzoned commercial and industrial
17 areas within 660 feet of the nearest edge of the right-of-way, any part
18 of which was acquired on or before July 1, 1956.

19 (3) In protected areas on the Primary System, the following signs
20 may also be permitted:

21 (a) Signs located in areas which are zoned industrial or commercial
22 under the authority of State law.

23 (b) Signs located in areas determined to be industrial or
24 commercial pursuant to State law.

25 b. No permit shall be issued by the commissioner for signs to be
26 erected or maintained in any other area not covered by paragraphs (1),
27 (2) and (3) above, except that permits for the following signs may also
28 be permitted:

29 (1) Signs located in areas which are zoned industrial or commercial
30 under the authority of State law.

31 (2) Signs located in areas determined to be industrial or
32 commercial pursuant to State law.

33 c. In those instances where the commissioner deems it is in the
34 public interest, he may issue a permit for a sign on public property
35 which would not otherwise be permitted under the provisions of this
36 act, and impose conditions as he deems appropriate, provided,
37 however, that the State House Commission shall have previously
38 reviewed and approved the issuance of such a permit.

39 (cf: P.L.1991, c.413, s.7)

40

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

43 4. a. A person shall not erect, maintain or make available to
44 another a roadside sign, or engage in the business of outdoor
45 advertising for profit through the rental or other compensation
46 received for the erection, use or maintenance of signs or other objects

1 upon real property for the display of advertising matter on any
2 stationary object within public view without first obtaining from the
3 commissioner a license to engage in that business, and a permit for the
4 erection, use and maintenance of each sign or other object used for
5 outdoor advertising, except as provided in this act. A permit issued
6 to a person required to obtain a license under this act shall not be valid
7 unless the person has obtained a license which is in full force and
8 effect.

9 b. Notwithstanding any provision of law to the contrary, the
10 commissioner shall not issue a permit, other than a conditional permit,
11 for a new outdoor advertising sign required to be permitted pursuant
12 to P.L.1991, c.413 (C.27:5-7 et seq.) unless a public hearing has been
13 held in accordance with the provisions of section 6 of P.L.1975, c.291
14 (C.40:55D-10) and, where the permit applicant is a private entity, all
15 relevant approvals required by the municipality have been received by
16 the private entity seeking the permit.

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

18

19 5. Section 6 of P.L.1975, c.291 (C.40:55D-10) is amended to read
20 as follows:

21 6. Hearings. a. The municipal agency shall hold a hearing on each
22 application for development, [or] adoption, revision or amendment of
23 the master plan, each application for approval of an outdoor
24 advertising sign submitted to the municipal agency as required
25 pursuant to an ordinance adopted under subsection g. of section 29.1
26 of P.L.1975, c.291 (C.40:55D-39) or any review undertaken by a
27 planning board pursuant to section 22 of P.L.1975, c.291 (C.40:55D-
28 31).

29 b. The municipal agency shall make the rules governing such
30 hearings. Any maps and documents for which approval is sought at a
31 hearing shall be on file and available for public inspection at least 10
32 days before the date of the hearing, during normal business hours in
33 the office of the administrative officer. The applicant may produce
34 other documents, records, or testimony at the hearing to substantiate
35 or clarify or supplement the previously filed maps and documents.

36 c. The officer presiding at the hearing or such person as he may
37 designate shall have power to administer oaths and issue subpoenas to
38 compel the attendance of witnesses and the production of relevant
39 evidence, including witnesses and documents presented by the parties,
40 and the provisions of the "County and Municipal Investigations Law,"
41 P.L.1953, c.38 (C.2A:67A-1 et seq.) shall apply.

42 d. The testimony of all witnesses relating to an application for
43 development shall be taken under oath or affirmation by the presiding
44 officer, and the right of cross-examination shall be permitted to all
45 interested parties through their attorneys, if represented, or directly,
46 if not represented, subject to the discretion of the presiding officer and

1 to reasonable limitations as to time and number of witnesses.

2 e. Technical rules of evidence shall not be applicable to the
3 hearing, but the agency may exclude irrelevant, immaterial or unduly
4 repetitious evidence.

5 f. The municipal agency shall provide for the verbatim recording of
6 the proceedings by either stenographer, mechanical or electronic
7 means. The municipal agency shall furnish a transcript, or duplicate
8 recording in lieu thereof, on request to any interested party at his
9 expense; provided that the governing body may provide by ordinance
10 for the municipality to assume the expense of any transcripts necessary
11 for appeal to the governing body, pursuant to section 8 of this act, of
12 decisions by the zoning board of adjustment pursuant to subsection
13 57d. of this act, up to a maximum amount as specified by the
14 ordinance.

15 The municipal agency, in furnishing a transcript or tape of the
16 proceedings to an interested party at his expense, shall not charge such
17 interested party more than the actual cost of preparing the transcript
18 or tape. Transcripts shall be certified in writing by the transcriber to
19 be accurate.

20 g. The municipal agency shall include findings of fact and
21 conclusions based thereon in each decision on any application for
22 development and shall reduce the decision to writing. The municipal
23 agency shall provide the findings and conclusions through:

24 (1) A resolution adopted at a meeting held within the time period
25 provided in the act for action by the municipal agency on the
26 application for development; or

27 (2) A memorializing resolution adopted at a meeting held not later
28 than 45 days after the date of the meeting at which the municipal
29 agency voted to grant or deny approval. Only the members of the
30 municipal agency who voted for the action taken may vote on the
31 memorializing resolution, and the vote of a majority of such members
32 present at the meeting at which the resolution is presented for
33 adoption shall be sufficient to adopt the resolution. If only one
34 member who voted for the action attends the meeting at which the
35 resolution is presented for adoption, the resolution may be adopted
36 upon the vote of that member. An action pursuant to section 5 of the
37 act (C.40:55D-9) (resulting from the failure of a motion to approve an
38 application) shall be memorialized by resolution as provided above,
39 with those members voting against the motion for approval being the
40 members eligible to vote on the memorializing resolution. The vote on
41 any such resolution shall be deemed to be a memorialization of the
42 action of the municipal agency and not to be an action of the municipal
43 agency; however, the date of the adoption of the resolution shall
44 constitute the date of the decision for purposes of the mailings, filings
45 and publications required by subsections h. and i. of this section
46 (C.40:55D-10). If the municipal agency fails to adopt a resolution or

1 memorializing resolution as hereinabove specified, any interested party
2 may apply to the Superior Court in a summary manner for an order
3 compelling the municipal agency to reduce its findings and conclusions
4 to writing within a stated time, and the cost of the application,
5 including attorney's fees, shall be assessed against the municipality.

6 h. A copy of the decision shall be mailed by the municipal agency
7 within 10 days of the date of decision to the applicant or, if
8 represented, then to his attorney, without separate charge, and to all
9 who request a copy of the decision, for a reasonable fee. A copy of
10 the decision shall also be filed by the municipal agency in the office of
11 the administrative officer. The administrative officer shall make a
12 copy of such filed decision available to any interested party for a
13 reasonable fee and available for public inspection at his office during
14 reasonable hours.

15 i. A brief notice of the decision shall be published in the official
16 newspaper of the municipality, if there be one, or in a newspaper of
17 general circulation in the municipality. Such publication shall be
18 arranged by the applicant unless a particular municipal officer is so
19 designated by ordinance; provided that nothing contained in this act
20 shall be construed as preventing the applicant from arranging such
21 publication if he so desires. The municipality may make a reasonable
22 charge for its publication. The period of time in which an appeal of
23 the decision may be made shall run from the first publication of the
24 decision, whether arranged by the municipality or the applicant.

25 (cf: P.L.1998, c.95, s.2)

26

27 6. Section 7.1 of P.L.1975, c.291 (C.40:55D-12) is amended to
28 read as follows:

29 7.1. Notice pursuant to subsections a., b., d., e., f., g. and h. of this
30 section shall be given by the applicant unless a particular municipal
31 officer is so designated by ordinance; provided that nothing contained
32 herein shall prevent the applicant from giving such notice if he so
33 desires. Notice pursuant to subsections a., b., d., e., f., g. and h. of
34 this section shall be given at least 10 days prior to the date of the
35 hearing.

36 a. Public notice of a hearing shall be given for an extension of
37 approvals for five or more years under subsection d. of section 37 of
38 P.L.1975, c.291 (C.40:55D-49) and subsection b. of section 40 of
39 P.L.1975, c.291 (C.40:55D-52); for modification or elimination of a
40 significant condition or conditions in a memorializing resolution in any
41 situation wherein the application for development for which the
42 memorializing resolution is proposed for adoption required public
43 notice, and for any other applications for development, with the
44 following exceptions: (1) conventional site plan review pursuant to
45 section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor subdivisions
46 pursuant to section 35 of P.L.1975, c.291 (C.40:55D-47) or (3) final

1 approval pursuant to section 38 of P.L.1975, c.291 (C.40:55D-50);
2 notwithstanding the foregoing, the governing body may by ordinance
3 require public notice for such categories of site plan review as may be
4 specified by ordinance, for appeals of determinations of administrative
5 officers pursuant to subsection a. of section 57 of P.L.1975, c.291
6 (C.40:55D-70), and for requests for interpretation pursuant to
7 subsection b. of section 57 of P.L.1975, c.291 (C.40:55D-70). Public
8 notice shall also be given in the event that relief is requested pursuant
9 to section 47 or 63 of P.L.1975, c.291 (C.40:55D-60 or C.40:55D-76)
10 as part of an application for development otherwise excepted herein
11 from public notice.

12 In addition, public notice shall be given by a public entity seeking
13 to erect an outdoor advertising sign on land owned or controlled by a
14 public entity as required pursuant to section 22 of P.L.1975, c.291
15 (C.40:55D-31) or, if so provided by ordinance adopted pursuant to
16 subsection g. of section 29.1 of P.L.1975, c.291 (C.40:55D-39), by a
17 private entity seeking to erect an outdoor advertising sign on public
18 land or on land owned by a private entity.

19 Public notice shall be given by publication in the official newspaper
20 of the municipality, if there be one, or in a newspaper of general
21 circulation in the municipality.

22 b. Notice of a hearing requiring public notice pursuant to
23 subsection a. of this section shall be given to the owners of all real
24 property as shown on the current tax duplicates, located in the State
25 and within 200 feet in all directions of the property which is the
26 subject of such hearing; provided that this requirement shall be deemed
27 satisfied by notice to the (1) condominium association, in the case of
28 any unit owner whose unit has a unit above or below it, or (2)
29 horizontal property regime, in the case of any co-owner whose
30 apartment has an apartment above or below it. Notice shall be given
31 by: (1) serving a copy thereof on the property owner as shown on the
32 said current tax duplicate, or his agent in charge of the property, or (2)
33 mailing a copy thereof by certified mail to the property owner at his
34 address as shown on the said current tax duplicate.

35 Notice to a partnership owner may be made by service upon any
36 partner. Notice to a corporate owner may be made by service upon its
37 president, a vice president, secretary or other person authorized by
38 appointment or by law to accept service on behalf of the corporation.
39 Notice to a condominium association, horizontal property regime,
40 community trust or homeowners' association, because of its ownership
41 of common elements or areas located within 200 feet of the property
42 which is the subject of the hearing, may be made in the same manner
43 as to a corporation without further notice to unit owners, co-owners,
44 or homeowners on account of such common elements or areas.

45 c. Upon the written request of an applicant, the administrative
46 officer of a municipality shall, within seven days, make and certify a

1 list from said current tax duplicates of names and addresses of owners
2 to whom the applicant is required to give notice pursuant to subsection
3 b. of this section. In addition, the administrative officer shall include
4 on the list the names, addresses and positions of those persons who,
5 not less than seven days prior to the date on which the applicant
6 requested the list, have registered to receive notice pursuant to
7 subsection h. of this section. The applicant shall be entitled to rely
8 upon the information contained in such list, and failure to give notice
9 to any owner or to any public utility, cable television company, or
10 local utility not on the list shall not invalidate any hearing or
11 proceeding. A sum not to exceed \$0.25 per name, or \$10.00,
12 whichever is greater, may be charged for such list.

13 d. Notice of hearings on applications for development involving
14 property located within 200 feet of an adjoining municipality shall be
15 given by personal service or certified mail to the clerk of such
16 municipality.

17 e. Notice shall be given by personal service or certified mail to the
18 county planning board of a hearing on an application for development
19 of property adjacent to an existing county road or proposed road
20 shown on the official county map or on the county master plan,
21 adjoining other county land or situated within 200 feet of a municipal
22 boundary.

23 f. Notice shall be given by personal service or certified mail to the
24 Commissioner of Transportation of a hearing on an application for
25 development of property adjacent to a State highway.

26 g. Notice shall be given by personal service or certified mail to the
27 State Planning Commission of a hearing on an application for
28 development of property which exceeds 150 acres or 500 dwelling
29 units. The notice shall include a copy of any maps or documents
30 required to be on file with the municipal clerk pursuant to subsection
31 b. of section 6 of P.L.1975, c.291 (C.40:55D-10).

32 h. Notice of hearings on applications for approval of a major
33 subdivision or a site plan not defined as a minor site plan under this act
34 requiring public notice pursuant to subsection a. of this section shall
35 be given, in the case of a public utility, cable television company or
36 local utility which possesses a right-of-way or easement within the
37 municipality and which has registered with the municipality in
38 accordance with section 5 of P.L.1991, c.412 (C.40:55D-12.1), by (1)
39 serving a copy of the notice on the person whose name appears on the
40 registration form on behalf of the public utility, cable television
41 company or local utility or (2) mailing a copy thereof by certified mail
42 to the person whose name appears on the registration form at the
43 address shown on that form.

44 i. The applicant shall file an affidavit of proof of service with the
45 municipal agency holding the hearing on the application for
46 development in the event that the applicant is required to give notice

1 pursuant to this section.

2 j. Notice pursuant to subsections d., e., f., g. and h. of this section
3 shall not be deemed to be required, unless public notice pursuant to
4 subsection a. and notice pursuant to subsection b. of this section are
5 required.

6 (cf: P.L.1998, c.95, s.4)

7

8 7. Section 22 of P.L.1975, c.291 (C.40:55D-31) is amended to
9 read as follows:

10 22. a. Whenever the planning board shall have adopted any portion
11 of the master plan, the governing body or other public agency having
12 jurisdiction over the subject matter, before taking action necessitating
13 the expenditure of any public funds, incidental to the location,
14 character or extent of such project, shall refer the action involving
15 such specific project to the planning board for review and
16 recommendation in conjunction with such master plan and shall not act
17 thereon, without such recommendation or until 45 days have elapsed
18 after such reference without receiving such recommendation. This
19 requirement shall apply to action by a housing, parking, highway,
20 special district, or other authority, redevelopment agency, school
21 board or other similar public agency, State, county or municipal. In
22 addition, this requirement shall apply to any public entity taking any
23 action to permit the location, erection, use or maintenance of an
24 outdoor advertising sign required to be permitted pursuant to
25 P.L.1991, c.413 (C.27:5-5 et seq.).

26 b. The planning board shall review and issue findings concerning
27 any long-range facilities plan submitted to the board pursuant to the
28 "Educational Facilities Construction and Financing Act," P.L.2000,
29 c.72 (C.18A:7G-1 et al.), for the purpose of review of the extent to
30 which the long-range facilities plan is informed by, and consistent with,
31 at least the land use plan element and the housing element contained
32 within the municipal master plan adopted pursuant to section 19 of
33 P.L.1975, c.291 (C.40:55D-28) and such other elements of the
34 municipal master plan as the planning board deems necessary to
35 determine whether the prospective sites for school facilities contained
36 in the long-range facilities plan promote more effective and efficient
37 coordination of school construction with the development efforts of
38 the municipality. The planning board shall devote at least one full
39 meeting of the board to presentation and review of the long-range
40 facilities plan prior to adoption of a resolution setting forth the board's
41 findings.

42 (cf: P.L.2000, c.72, s.55)

43

44 8. Section 29.1 of P.L.1975, c.291 (C.40:55D-39) is amended to
45 read as follows:

46 29.1 Discretionary contents of ordinance. An ordinance requiring

- 1 approval by the planning board of either subdivisions or site plans or
2 both may include the following:
- 3 a. Provisions for off-tract water, sewer, drainage, and street
4 improvements which are necessitated by a subdivision or land
5 development, subject to the provisions of section 30;
- 6 b. Provisions for standards encouraging and promoting flexibility,
7 and economy in layout and design through the use of planned unit
8 development, planned unit residential development and residential
9 cluster; provided that such standards shall be appropriate to the type
10 of development permitted; and provided further that the ordinance
11 shall set forth the limits and extent of any special provisions applicable
12 to such planned developments, so that the manner in which such
13 special provisions differ from the standards otherwise applicable to
14 subdivisions or site plans can be determined;
- 15 c. Provisions for planned development:
- 16 (1) Authorizing the planning board to grant general development
17 plan approval to provide the increased flexibility desirable to promote
18 mutual agreement between the applicant and the planning board on the
19 basic scheme of a planned development and setting forth any variations
20 from the ordinary standards for preliminary and final approval;
- 21 (2) Requiring that any common open space resulting from the
22 application of standards for density, or intensity of land use, be set
23 aside for the use and benefit of the owners or residents in such
24 development subject to section 31 of this act;
- 25 (3) Setting forth how the amount and location of any common
26 open space shall be determined and how its improvement and
27 maintenance for common open space use shall be secured subject to
28 section 31 of this act;
- 29 (4) Authorizing the planning board to allow for a greater
30 concentration of density, or intensity of land use, within a section or
31 sections of development, whether it be earlier, later or simultaneous
32 in the development, than in others;
- 33 (5) Setting forth any requirement that the approval by the planning
34 board of a greater concentration of density or intensity of land use for
35 any section to be developed be offset by a smaller concentration in any
36 completed prior stage or by an appropriate reservation of common
37 open space on the remaining land by grant of easement or by covenant
38 in favor of the municipality; provided that such reservation shall, as far
39 as practicable, defer the precise location of common open space until
40 an application for final approval is filed, so that flexibility of
41 development can be maintained;
- 42 (6) Setting forth any requirements for timing of development
43 among the various types of uses and subgroups thereunder and, in the
44 case of planned unit development and planned unit residential
45 development, whether some nonresidential uses are required to be built
46 before, after or at the same time as the residential uses.

1 d. Provisions ensuring in the case of a development which proposes
2 construction over a period of years, the protection of the interests of
3 the public and of the residents, occupants and owners of the proposed
4 development in the total completion of the development.

5 e. Provisions that require as a condition for local municipal
6 approval the submission of proof that no taxes or assessments for local
7 improvements are due or delinquent on the property for which any
8 subdivision, site plan, or planned development application is made.

9 f. Provisions for the creation of a Site Plan Review Advisory Board
10 for the purpose of reviewing all site plan applications and making
11 recommendations to the planning board in regard thereto.

12 g. Provisions for standards governing outdoor advertising signs
13 required to be permitted pursuant to P.L.1991, c.413 (C.27:5-5 et
14 seq.) including, but not limited to, the location, placement, size and
15 design thereof.

16 (cf: P.L.1987, c.129, s.2)

17
18 9. Section 3 of P.L.1975, c.217 (C.52:27D-121) is amended to
19 read as follows:

20 3. Definitions. As used in this act:

21 "Building" means a structure enclosed with exterior walls or fire
22 walls, built, erected and framed of component structural parts,
23 designed for the housing, shelter, enclosure and support of individuals,
24 animals or property of any kind.

25 "Business day" means any day of the year, exclusive of Saturdays,
26 Sundays, and legal holidays.

27 "Certificate of occupancy" means the certificate provided for in
28 section 15 of this act, indicating that the construction authorized by
29 the construction permit has been completed in accordance with the
30 construction permit, the State Uniform Construction Code and any
31 ordinance implementing said code.

32 "Commissioner" means the Commissioner of Community Affairs.

33 "Code" means the State Uniform Construction Code.

34 "Commercial farm building" means any building located on a
35 commercial farm which produces not less than \$2,500 worth of
36 agricultural or horticultural products annually, which building's main
37 use or intended use is related to the production of agricultural or
38 horticultural products produced on that farm. A building shall not be
39 regarded as a commercial farm building if more than 1,200 square feet
40 of its floor space is used for purposes other than its main use. A
41 greenhouse constructed in conjunction with the odor control bio-filter
42 of a solid waste or sludge composting facility, which greenhouse
43 produces not less than \$2,500 worth of agricultural or horticultural
44 products in addition to its function as a cover for the bio-filter, shall
45 be considered a commercial farm building for the purposes of this act,
46 provided, however, that the greenhouse is not intended for human

1 occupancy.

2 "Construction" means the construction, erection, reconstruction,
3 alteration, conversion, demolition, removal, repair or equipping of
4 buildings or structures.

5 "Construction board of appeals" means the board provided for in
6 section 9 of this act.

7 "Department" means the Department of Community Affairs.

8 "Enforcing agency" means the municipal construction official and
9 subcode officials provided for in section 8 of this act and assistants
10 thereto.

11 "Equipment" means plumbing, heating, electrical, ventilating, air
12 conditioning, refrigerating and fire prevention equipment, and
13 elevators, dumbwaiters, escalators, boilers, pressure vessels and other
14 mechanical facilities or installations.

15 "Hearing examiner" means a person appointed by the commissioner
16 to conduct hearings, summarize evidence, and make findings of fact.

17 "Maintenance" means the replacement or mending of existing work
18 with equivalent materials or the provision of additional work or
19 material for the purpose of the safety, healthfulness, and upkeep of the
20 structure and the adherence to such other standards of upkeep as are
21 required in the interest of public safety, health and welfare.

22 "Manufactured home" or "mobile home" means a unit of housing
23 which:

24 (1) Consists of one or more transportable sections which are
25 substantially constructed off site and, if more than one section, are
26 joined together on site;

27 (2) Is built on a permanent chassis;

28 (3) Is designed to be used, when connected to utilities, as a
29 dwelling on a permanent or nonpermanent foundation; and

30 (4) Is manufactured in accordance with the standards promulgated
31 for a manufactured home by the Secretary of the United States
32 Department of Housing and Urban Development pursuant to the
33 "National Manufactured Housing Construction and Safety Standards
34 Act of 1974," Pub.L.93-383 (42 U.S.C. s. 5401 et seq.) and the
35 standards promulgated by the commissioner pursuant to P.L.1975,
36 c.217 (C.52:27D-119 et seq.).

37 "Municipality" means any city, borough, town, township or village.

38 "Outdoor advertising sign" means a sign required to be permitted
39 pursuant to P.L.1991. c.413 (C.27:5-5 et seq.).

40 "Owner" means the owner or owners in fee of the property or a
41 lesser estate therein, a mortgagee or vendee in possession, an assignee
42 of rents, receiver, executor, trustee, lessee, or any other person, firm
43 or corporation, directly or indirectly in control of a building, structure,
44 or real property and shall include any subdivision thereof of the State.

45 "Premanufactured system" means an assembly of materials or
46 products that is intended to comprise all or part of a building or

1 structure and that is assembled off site by a repetitive process under
2 circumstances intended to insure uniformity of quality and material
3 content.

4 "Public school facility" means any building, or any part thereof, of
5 a school, under college grade, owned and operated by a local,
6 regional, or county school district.

7 "State sponsored code change proposal" means any proposed
8 amendment or code change adopted by the commissioner in
9 accordance with subsection c. of section 5 of this act for the purpose
10 of presenting such proposed amendment or code change at any of the
11 periodic code change hearings held by the National Model Code
12 Adoption Agencies, the codes of which have been adopted as subcodes
13 under this act.

14 "Stop construction order" means the order provided for in section
15 14 of this act.

16 "State Uniform Construction Code" means the code provided for
17 in section 5 of this act, or any portion thereof, and any modification of
18 or amendment thereto.

19 "Structure" means a combination of materials to form a
20 construction for occupancy, use, or ornamentation, whether installed
21 on, above, or below the surface of a parcel of land; provided the word
22 "structure" shall be construed when used herein as though followed by
23 the words "or part or parts thereof and all equipment therein" unless
24 the context clearly requires a different meaning.

25 (cf: P.L.1992, c.12, s.1)

26

27 10. Section 11 of P.L.1975, c.217 (C.52:27D-129) is amended to
28 read as follows:

29 11. State buildings and buildings of interstate agencies; outdoor
30 advertising signs on public property. a. Notwithstanding any other
31 provision of P.L.1975, c.217 (C.52:27D-119 et seq.), the Department
32 of Community Affairs shall have authority to administer and enforce
33 the code in regard to buildings and structures owned by the State, and
34 any of its departments, divisions, bureaus, boards, councils, authorities
35 or other agencies; provided, however, that the Division of Building
36 and Construction in the Department of the Treasury shall have
37 authority to conduct field inspections for the purpose of enforcing the
38 code in buildings built under its supervision. The Division of Building
39 and Construction shall be authorized to review plans and undertake
40 construction if the Department of Community Affairs cannot approve
41 plans within the 20-day period provided for in P.L.1975, c.217. In an
42 emergency or cost savings situation, the commissioner may delegate,
43 by rule, the authority to conduct field inspections for the purpose of
44 enforcing the code. The Division of Building and Construction and
45 any public or private agency which receives such a delegation shall
46 carry out any review or inspection responsibilities with persons

1 certified by the Commissioner of Community Affairs pursuant to the
2 provisions of P.L.1975, c.217. The Department of Community Affairs
3 shall have ultimate responsibility for insuring that all buildings conform
4 to the requirements of the code.

5 b. Construction, alteration, renovation, rehabilitation, repair,
6 removal or demolition of any building or structure situated wholly
7 within New Jersey by or for an agency created by an interstate
8 compact to which the State of New Jersey is a party shall be subject
9 to the provisions of the code; provided that such interstate agency
10 shall have exclusive authority to administer and enforce the code in
11 regard to such buildings and structures.

12 c. Notwithstanding any other provision of law, rule or regulation
13 to the contrary, except for signs which advertise or otherwise identify
14 activities performed on the property on which the sign is located, the
15 Department of Community Affairs shall be the sole enforcing agency
16 with regard to outdoor advertising signs which exceed 32 square feet
17 in area on any face and which are located on land owned or controlled
18 by any public entity, including but not limited to any State, county or
19 local department, agency, board, commission, authority or
20 instrumentality.

21 (cf: P.L.1991, c.87, s.1)

22

23 11. (New section) Notwithstanding the provisions of any other law
24 to the contrary, a State entity, as defined in section 1 of P.L. , c.
25 (C.)(now before the Legislature as this bill), shall not enter into
26 any contract or agreement for the sale, lease or license of real property
27 owned or controlled by it, or of any interest therein, with any person,
28 firm, partnership or corporation for the purpose of displaying any
29 advertisement, as defined in section 3 of P.L.1991, c.413 (C.27:5-7),
30 without publicly advertising for bids. Notwithstanding the foregoing,
31 any State entity may enter into such a contract or agreement with any
32 of its current contractors, tenants or licensees with respect to the
33 current real property on which they are a contractor, tenant or licensee
34 for the purpose of displaying advertisement, for a period of time not
35 to exceed five years, without publicly advertising for bids. Where,
36 pursuant to the foregoing, a State entity enters into a contract or
37 agreement with such a current contractor, tenant or licensee for a
38 period not exceeding five years, after the completion of that contract
39 or agreement, any future contract or agreement for the same purposes
40 shall be done by publicly advertising for bids.

41

42 12. (New section) Notwithstanding the provisions of any other law
43 to the contrary, a State entity, as defined in section 1 of P.L. , c.
44 (C.)(now before the Legislature as this bill), shall not enter into
45 any contract or agreement for the construction on, or development or
46 maintenance of, real property owned or controlled by it, with any

1 person, firm, partnership or corporation for the purpose of displaying
2 any advertisement, as defined in section 3 of P.L.1991, c.413
3 (C.27:5-7), without publicly advertising for bids. Notwithstanding the
4 foregoing, any State entity may enter into a contract or agreement for
5 the maintenance of (but not the construction on or development of)
6 such real property for the purposes of displaying any advertisement,
7 with any of its current contractors, tenants or licensees with respect to
8 the current real property on which they are a contractor, tenant or
9 licensee for the purpose of displaying advertisement, for a period of
10 time not to exceed five years, without publicly advertising for bids.
11 Where, pursuant to the foregoing, the State enters into a contract or
12 agreement with a current contractor, tenant or licensee for a period
13 not exceeding five years, after the completion of that contract or
14 agreement, any future contract or agreement for the same purposes
15 shall be done by publicly advertising for bids.

16

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

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

1 the county board of taxation, or otherwise, within such time and in
2 such manner as shall be provided by law. Real property taxable under
3 this chapter means all land and improvements thereon and includes
4 personal property affixed to the real property or an appurtenance
5 thereto, unless:

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

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

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

12 b. The personal property so affixed is machinery, apparatus, or
13 equipment used or held for use in business and is neither a structure
14 nor machinery, apparatus or equipment the primary purpose of which
15 is to enable a structure to support, shelter, contain, enclose or house
16 persons or property. For purposes of this subsection, real property
17 shall include pipe racks, and piping and electrical wiring up to the
18 point of connections with the machinery, apparatus, or equipment of
19 a production process as defined in this section.

20 c. [Outdoor advertising signs of steel construction, their
21 supporting steel structures, the primary purpose of which is to support
22 an outdoor advertising sign, and other constituent parts are considered
23 to meet the requirements of subsection a. of this section and do not
24 constitute real property. Provided however, that the cement
25 foundation to which the supporting structure is attached, and all
26 underground piping and electrical wiring, up to the point of
27 connections with the supporting structure, shall be considered real
28 property] (Deleted by amendment, P.L. _____, c. _____)(now before the
29 Legislature as this bill).

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

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

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

43

44 14. (New section) For the purposes of chapter 4 of Title 54 of the
45 Revised Statutes and notwithstanding the provisions of R.S.54:4-1, an
46 outdoor advertising sign required to be permitted pursuant to the

1 "Roadside Sign Control and Outdoor Advertising Act," P.L.1991,
2 c.413 (C.27:5-5 et seq.), the sign's supporting structure having the
3 primary purpose of supporting the outdoor advertising sign, its other
4 constituent parts, and the foundation if any to which the supporting
5 structure is attached, are deemed to be real property.

6
7 15. Section 1 of P.L.2003, c. 124 (C.54:4-11.1) is amended to read
8 as follows:

9 1. a. There is imposed and shall be paid a fee of 6% on the gross
10 amounts collected by a retail seller for **[billboard]** advertising space
11 on an outdoor advertising sign. The fee shall be imposed directly on
12 the retail seller of the advertising space on the outdoor advertising
13 sign.

14 b. For purposes of this section, the following terms shall have the
15 following meanings:

16 "Advertising space" means the placement of advertising on an
17 outdoor sign.

18 "End user" means the person purchasing the advertising space on
19 an outdoor advertising sign for the person's own use.

20 **["Billboard"]** "Outdoor advertising sign" means [any outdoor
21 advertising] a sign required to be permitted pursuant to the "Roadside
22 Sign Control and Outdoor Advertising Act," P.L.1991, c.413
23 (C.27:5-5 et seq.);

24 "Gross amounts collected by a retail seller for **[billboard]**
25 advertising **[space]"** space on an outdoor advertising sign" include,
26 but are not limited to, amounts collected, whether received in money
27 or otherwise, from contracts to place advertising on [billboards]
28 outdoor advertising signs located in this State regardless of the
29 location of the advertiser; provided however, such gross amounts
30 shall not include fees received by an advertising agency that is not a
31 related party of the retail seller and that are not received by the retail
32 seller; [and]

33 "Related party" means any licensee, permittee or other party that
34 has authority to sell advertising space on an outdoor advertising sign.

35 "Retail seller" means **[the person contracting with the customer]** a
36 permit holder or licensee who directly contracts with the end user for
37 outdoor advertising space on an outdoor adverting sign or any party
38 that is authorized on behalf of the permit holder or licensee to sell
39 advertising space on an outdoor advertising sign.

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

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

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

11 f. The fee imposed by subsection a. of this section shall not be
12 imposed on the gross amounts received from advertising space on an
13 outdoor advertising sign if the end user is an entity exempt from the
14 tax imposed under the "Sales and Use Tax Act" pursuant to subsection
15 a. or b. of section 9 of P.L.1966, c.410 (C.52:14B-9).

16 g. The director may require a person who is the holder of any
17 license to engage in the business of outdoor advertising or of any
18 outdoor advertising permit issued pursuant to the provisions of
19 P.L.1991, c.413 (C.27:5-5 et seq.) to supply that person's social
20 security number and other taxpayer identification information to the
21 Division of Taxation. The social security number and other taxpayer
22 identification information supplied shall not be deemed a public record
23 under P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404
24 (C.47:1A-5 et al) or the common law concerning access to public
25 records.

26 (cf: P.L.2003, c.124, s.1)

27
28 16. Section 3 of P.L. 2003, c.124 is amended to read as follows:

29 3. This act shall take effect immediately and section 1 shall apply
30 to collections for any period on or after July 1, 2003 through June 30,
31 [2004] 2007, except that for the period beginning July 1, 2006
32 through June 30, 2007, the fee paid pursuant to section 1 of P.L.2004,
33 c.124 (C.54:4-11.1) shall be 4 percent.

34 (cf: P.L.2003, c.124, s.3)

35
36 17. This act shall take effect immediately and sections 13 and 14
37 shall apply to assessments made after the date of enactment.

38
39
40 STATEMENT

41
42 This bill makes various revisions to the "Roadside Sign Control and
43 Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.), which
44 regulates outdoor advertising signs, and related statute.

45 1. Specifically, the bill limits the total number of square feet of
46 advertising space permitted on outdoor advertising signs located on

1 property owned or controlled by a State entity to the square footage
2 authorized on the effective date of the bill for that State entity.
3 Further, the bill requires each such State entity to adopt rules and
4 regulations reducing, over time, the number of square feet of
5 advertising space located on its property. Bus shelters would be
6 excluded from this limitation on the number of square feet of
7 advertising space as would railroad station platforms. In addition the
8 commissioner may adjust the total number of authorized square feet if
9 the State entity acquires additional property. A State entity is a State
10 department or agency, board, commission, corporation or authority.

11 2. All holders of outdoor advertising licenses and permits are
12 required to submit financial disclosure statements to the Department
13 of Transportation. The Director of the Division of Taxation may
14 require outdoor advertising license and permit holders to submit their
15 social security number and other taxpayer identification information to
16 the Division of Taxation. Such information shall not be subject to
17 disclosure as "public records."

18 3. The Department of Transportation is not to grant a waiver for
19 an outdoor advertising sign on public property unless the State House
20 Commission has reviewed and approved the waiver.

21 4. The Commissioner of Transportation shall not issue an outdoor
22 advertising sign permit for a new outdoor advertising sign, other than
23 a conditional permit, unless a public hearing has been held in
24 accordance with section 6 of P.L.1975, c.291 (C.40:55D-10), or, in
25 the case of a private entity, all relevant municipal approvals have been
26 received.

27 5. The bill provides that the Department of Community Affairs
28 would be the sole enforcing agency for the State Uniform Construction
29 Code for certain outdoor advertising signs located on public property.

30 6. A State entity is not to enter into any contract or agreement for
31 the sale, lease or license of real property owned or controlled by it
32 with any person, firm, partnership or corporation for the purpose of
33 displaying outdoor advertising, without public advertising bids. In like
34 fashion a State entity is not to enter into a contract or agreement for
35 the construction on, or development or maintenance of, real property
36 owned or controlled by it, with any person, firm or partnership for the
37 purpose of displaying outdoor advertising without publicly advertising
38 for bids. Except for construction or the development of real property,
39 current contractors, tenants or licensees are "grandfathered" from
40 these requirements for a period of five years.

41 7. The bill provides that an outdoor advertising sign, the sign's
42 supporting structure having the primary purpose of supporting the
43 sign, its other constituent parts, and the foundation, if any, to which
44 the supporting structure is attached, are deemed real property and are
45 thus subject to local taxation. The bill also deletes subsection c. of
46 R.S.54:4-1 that determines that steel outdoor advertising signs and

1 their steel supporting structures are not real property for local tax
2 purposes.

3 8. The one-year sunset provision in P.L.2003, c.124, which
4 imposes a fee of 6 percent of the gross amounts collected from a retail
5 seller for billboard advertising space, is extended to June 30, 2007, and
6 the fee reduced to 4 percent from July 1, 2006 through June 30, 2007.
7 The bill substitutes the term "outdoor advertising sign" for "billboard,"
8 and makes various changes to the section of law imposing the fee.

9 The provisions of this bill implement the recommendations of the
10 Billboard Policy and Procedure Review Task Force, appointed by
11 Governor McGreevey pursuant to Executive Order No. 59 of 2003.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3101

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 15, 2004

The Assembly Budget Committee reports favorably Assembly Bill No. 3101, with committee amendments.

Assembly Bill No. 3101, as amended makes various revisions to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.) which regulates outdoor advertising signs.

1. The bill limits the total number of square feet of advertising space permitted on outdoor advertising signs located on property owned or controlled by a State entity to the square footage authorized on the effective date of the bill for that State entity. Further, the bill requires each such State entity to adopt rules and regulations reducing, over time, the number of square feet of advertising space located on its property. Bus shelters would be excluded from this limitation on the number of square feet of advertising space as would railroad station platforms. A State entity is a State department or agency, board, commission, corporation or authority.

2. The bill requires all holders of outdoor advertising licenses and permits are required to submit financial disclosure statements to the Department of Transportation. The Director of the Division of Taxation may require outdoor advertising license and permit holders to submit their social security number and other taxpayer identification information to the Division of Taxation. Such information shall not be subject to disclosure as "public records."

3. The bill requires that, before the Department of Transportation may grant a waiver for an outdoor advertising sign on public property, the State House Commission shall review and approve the waiver.

4. The bill requires that, before the Commissioner of Transportation issues an outdoor advertising sign permit, other than a conditional permit, a public hearing be held in accordance with section 6 of P.L.1975, c.291 (C.40:55D-10), or, in the case of a private entity, all relevant municipal approvals be received.

5. The bill provides that the Department of Community Affairs is the sole enforcing agency for the State Uniform Construction Code for certain outdoor advertising signs located on public property.

6. The bill does not allow a State entity to enter into any contract or agreement for the sale, lease or license of real property owned or

controlled by it with any person, firm, partnership or corporation for the purpose of displaying outdoor advertising, without public advertising for bids. In like fashion, the bill does not allow a State entity to enter into a contract or agreement for the construction on, or development or maintenance of, real property owned or controlled by it, with any person, firm or partnership for the purpose of displaying outdoor advertising without publicly advertising for bids. Except for the construction on or the development of real property, current contractors, tenants or licensees are "grandfathered" from these requirements for a period of five years.

7. The bill provides that an outdoor advertising sign, the sign's supporting structure having the primary purpose of supporting the sign, its other constituent parts, and the foundation, if any, to which the supporting structure is attached, are deemed real property and are thus subject to local taxation. The bill also deletes subsection c. of R.S.54:4-1 that determines that steel outdoor advertising signs and their steel supporting structures are not real property for local tax purposes.

The bill also extends the fee imposed on outdoor advertising by P.L.2003, c.124. The bill extends the one-year sunset provision in P.L.2003, c.124, which imposes a fee on the gross amounts collected from a retail seller for billboard advertising space, to June 30, 2007. The bill continues the current fee of 6% through June 30, 2006, reduces the fee to 4 percent from July 1, 2006 through June 30, 2007, and discontinues imposition of the fee thereafter. The bill substitutes the term "outdoor advertising sign" for "billboard," and makes various technical changes to the section of law imposing the fee.

The provisions of this bill implement the recommendations of the Billboard Policy and Procedure Review Task Force, appointed by Governor McGreevey pursuant to Executive Order No. 59 of 2003.

FISCAL IMPACT:

The Governor's proposed FY 2005 budget recommends the extension of the outdoor advertising fee and estimates current fiscal year revenue at \$10 million and estimates the extension of the fee to generate a total of \$10 million in new revenue to the State in FY2005. The Office of Legislative Services notes that actual revenue collections for the current fiscal year as of the date of this statement total just over \$4 million.

The provision in the bill that deems outdoor advertising signs to be real property subject to local property taxes has no impact on State revenue or expenditures; while the change will increase the local property tax base, due to the many difficulties inherent in the appraisal of billboards it is not possible to determine the impact of this provision on property tax rates.

COMMITTEE AMENDMENTS:

The amendments are technical; the amendments change the form

in which the continuation and phase-out of the fee on outdoor advertising are expressed without changing the substance, and change a legal reference.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 3101
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: JUNE 29, 2004

SUMMARY

Synopsis: Revises outdoor advertising law and local tax treatment of certain outdoor advertising signs.

Type of Impact: Revenue increase to General Fund.

Agencies Affected: Department of Transportation, Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue	\$5 million (Approximate)	\$5 million (Approximate)	\$5 million (Approximate)
Local Revenue	Unknown	Unknown	Unknown

! Defines the sign structures as real property subject to taxation, which may result in some unknown but positive local revenue increase.

BILL DESCRIPTION

Assembly Bill No. 3101 of 2004 makes various revisions to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.) which regulates outdoor advertising signs. The primary fiscal component of this bill is section 16, establishing the effective date of the proposal. In this section the one-year sunset provision in P.L.2003, c.124, which imposes a fee of 6 percent of the gross amounts collected from a retail seller for billboard advertising space, is extended to June 30, 2007, and the fee reduced to 4 percent from July 1, 2006 through June 30, 2007. The bill makes other minor changes to the section of law imposing the fee.

Among the other features of the bill are: a limitation on the total number of square feet of advertising space permitted on outdoor advertising signs located on property owned or controlled by a State entity, a requirement that all holders of outdoor advertising licenses and permits submit financial disclosure statements to the Department of Transportation, and a change to the property taxation of billboards. The bill proposes that an outdoor advertising sign and the sign's supporting structure be considered as real property subject to local taxation. The bill also deletes subsection c. of R.S.54:4-1 that determines that steel outdoor advertising signs and their steel supporting structures are not real property for local tax purposes.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The current 6 percent fee, established pursuant to P.L. 2003, c.124 (C.54:4-11.1) has been in place for just less than one fiscal year. Since its enactment, significant revisions of its fiscal impact have been made. When the law was submitted for consideration in 2003, information from the Executive estimated that this fee would generate \$24 million in 2004. Since that time, the Administration has revised its estimate for the fee downward to \$10 million. As of June 14, 2004, the account has received approximately \$4 million. Although the account may receive some remittance for the end of the fiscal year, it is unlikely to reach the current \$10 million estimate. It is reasonable to assume the current 6 percent fee generates approximately \$5 million, and economic factors will be fairly constant. Under the most likely scenario, the proposal could generate about \$5 million for FY2005 and 2006, declining to about \$3.3 million when the fee rate is reduced in FY2007.

The provisions defining the billboards and supporting structures as real property, and therefore subject to property taxation, is expected to result in some tax revenue to local governments. Data are not available to estimate the amount of such revenue at this time.

Section: *Authorities, Utilities, Transportation and Communications*

Analyst: *Mark J. Trease*
Associate Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

SENATE, No. 3101

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 21, 2004

Sponsored by:

Senator FRED MADDEN

District 4 (Camden and Gloucester)

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Senators Karcher and Sacco

SYNOPSIS

Revises outdoor advertising law and local tax treatment of certain outdoor advertising signs.

CURRENT VERSION OF TEXT

As introduced.



S3101 MADDEN, SWEENEY

2

1 AN ACT concerning signs and outdoor advertising, amending various
2 parts of the statutory law and supplementing Title 27, Title 52 and
3 Title 54 of the Revised Statutes.

4

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

7

8 1. (New section) Notwithstanding any other provision of law or
9 regulation to the contrary, the commissioner shall determine the
10 number of square feet of advertising space authorized on signs which
11 have received permits pursuant to P.L.1991, c.413 (C.27:5-5 et seq.)
12 which are in effect on the effective date of P.L. , c. (C.)
13 (now before the Legislature as this bill), and which signs are located
14 on property owned or controlled by a State entity. The total number
15 of square feet of advertising space authorized for such signs on
16 property owned or controlled by each State entity after the effective
17 date of P.L. , c. (C.) (now before the Legislature as this bill)
18 shall not exceed the total number of square feet authorized on that
19 effective date for signs on such property of each such State entity.
20 The limitation on the total square footage of advertising space
21 authorized on signs on property owned or controlled by each State
22 entity after the effective date of P.L. , c. (C.)(now before
23 the Legislature as this bill) shall not apply to outdoor advertising signs
24 on bus shelters or on railroad station platforms. The commissioner
25 may adjust the total number of square feet of advertising space
26 authorized pursuant to this section if the State entity acquires
27 additional property after the effective date of P.L. , c. (C.)(now
28 before the Legislature as this bill).

29 Each such State entity shall adopt rules and regulations, in
30 accordance with the "Administrative Procedure Act," P.L.1968, c.410
31 (C.52:14B-1 et seq.) providing for a reduction, over time, in the total
32 number of square feet of advertising space authorized for signs subject
33 to the permitting procedures of P.L.1991, c.413 (C.27:5-5 et seq.)
34 located on the property of such State entity.

35 As used in this section, "State entity" means a State department or
36 agency, board, commission, corporation or authority.

37

38 2. (New section) Any person who is the holder of any license to
39 engage in the business of outdoor advertising or of any outdoor
40 advertising permit issued pursuant to the provisions of P.L.1991, c.
41 413 (C.27:5-5 et seq.) which is in effect on or after the effective date
42 of P.L. , c. (C.) (now before the Legislature as this bill) shall be
43 subject to revocation of that license or permit unless that person files
44 a disclosure statement with the Department of Transportation which

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 shall include:

2 a. The full name and business address of the person who is the
3 holder of the outdoor advertising license or permit, as the case may be,
4 and of any officers, directors, or partners thereof and all persons
5 holding any equity in or debt liability of that corporation, association,
6 firm, partnership, sole proprietorship, trust or any other form of
7 commercial organization, or, if the holder is a publicly traded
8 corporation, all persons having more than 10% of the equity in or the
9 debt liability of that corporation, association, firm, partnership, sole
10 proprietorship, trust or any other form of commercial organization,
11 except that where the debt liability is held by a chartered lending
12 institution, the person need only supply the name and business address
13 of the lending institution; and

14 b. The full name and business address of all officers, directors, or
15 partners of any corporation, association, firm, partnership, sole
16 proprietorship, trust or any other form of commercial organization
17 disclosed in the disclosure statement and the names and addresses of
18 all persons holding any equity in or the debt liability of any
19 corporation, association, firm, partnership, sole proprietorship, trust
20 or any other form of commercial organization so disclosed, or, if the
21 corporation, association, firm, partnership, sole proprietorship, trust
22 or any other form of commercial organization is a publicly traded
23 corporation, all persons holding more than 10% of the equity in or the
24 debt liability of that corporation, association, firm, partnership, sole
25 proprietorship, trust or any other form of commercial organization,
26 except that where the debt liability is held by a chartered lending
27 institution, the person need only supply the name and business address
28 of the lending institution.

29 The disclosure statement shall be filed within 60 days of the
30 effective date of P.L. , c. (C.)(now before the Legislature
31 as this bill), except for licenses or permits issued on or after the
32 effective date of P.L. , c. (C.)(now before the Legislature
33 as this bill), in which case the disclosure statement shall be filed within
34 60 days of the issuance of the license or permit.

35

36 3. Section 7 of P.L.1991, c.413 (C.27:5-11) is amended to read as
37 follows:

38 7. a. No permit shall be issued by the commissioner for roadside
39 signs to be erected or maintained in any protected area visible from the
40 main-traveled way of any Interstate or Primary System highway within
41 the State, except as provided herein.

42 (1) In protected areas, only the following signs shall be permitted,
43 subject to the regulations of the commissioner:

44 (a) Directional and other official signs and notices which are
45 required or authorized by law, and which conform to national
46 standards promulgated by the Secretary of Transportation of the
47 United States.

S3101 MADDEN, SWEENEY

1 (b) Signs located in zoned and unzoned commercial and industrial
2 areas within 660 feet of the nearest edge of the right-of-way, any part
3 of which was acquired on or before July 1, 1956.

4 c. Signs advertising activities conducted on the property on which
5 they are located.

6 (2) In portions of protected areas on the Interstate System the
7 following may also be permitted:

8 (a) Signs located in commercial or industrial zones within the
9 boundaries of incorporated municipalities as those boundaries existed
10 on September 21, 1959, and all other areas where the land use as of
11 September 21, 1959 was clearly established by State law as
12 commercial or industrial within 660 feet of the nearest edge of the
13 right-of-way.

14 (b) Signs located in zoned and unzoned commercial and industrial
15 areas within 660 feet of the nearest edge of the right-of-way, any part
16 of which was acquired on or before July 1, 1956.

17 (3) In protected areas on the Primary System, the following signs
18 may also be permitted:

19 (a) Signs located in areas which are zoned industrial or commercial
20 under the authority of State law.

21 (b) Signs located in areas determined to be industrial or
22 commercial pursuant to State law.

23 b. No permit shall be issued by the commissioner for signs to be
24 erected or maintained in any other area not covered by paragraphs (1),
25 (2) and (3) above, except that permits for the following signs may also
26 be permitted:

27 (1) Signs located in areas which are zoned industrial or commercial
28 under the authority of State law.

29 (2) Signs located in areas determined to be industrial or
30 commercial pursuant to State law.

31 c. In those instances where the commissioner deems it is in the
32 public interest, he may issue a permit for a sign on public property
33 which would not otherwise be permitted under the provisions of this
34 act, and impose conditions as he deems appropriate, provided,
35 however, that the State House Commission shall have previously
36 reviewed and approved the issuance of such a permit.

37 (cf: P.L.1991, c.413, s.7)

38
39 4. Section 4 of P.L.1991, c.413 (C.27:5-8) is amended to read as
40 follows:

41 4. a. A person shall not erect, maintain or make available to
42 another a roadside sign, or engage in the business of outdoor
43 advertising for profit through the rental or other compensation
44 received for the erection, use or maintenance of signs or other objects
45 upon real property for the display of advertising matter on any
46 stationary object within public view without first obtaining from the
47 commissioner a license to engage in that business, and a permit for the

1 erection, use and maintenance of each sign or other object used for
2 outdoor advertising, except as provided in this act. A permit issued
3 to a person required to obtain a license under this act shall not be valid
4 unless the person has obtained a license which is in full force and
5 effect.

6 b. Notwithstanding any provision of law to the contrary, the
7 commissioner shall not issue a permit, other than a conditional permit,
8 for a new outdoor advertising sign required to be permitted pursuant
9 to P.L.1991, c.413 (C.27:5-5 et seq.) unless a public hearing has been
10 held in accordance with the provisions of section 6 of P.L.1975, c.291
11 (C.40:55D-10) and, where the permit applicant is a private entity, all
12 relevant approvals required by the municipality have been received by
13 the private entity seeking the permit.

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

15
16 5. Section 6 of P.L.1975, c.291 (C.40:55D-10) is amended to read
17 as follows:

18 6. Hearings. a. The municipal agency shall hold a hearing on each
19 application for development, [or] adoption, revision or amendment of
20 the master plan, each application for approval of an outdoor
21 advertising sign submitted to the municipal agency as required
22 pursuant to an ordinance adopted under subsection g. of section 29.1
23 of P.L.1975, c.291 (C.40:55D-39) or any review undertaken by a
24 planning board pursuant to section 22 of P.L.1975, c.291 (C.40:55D-
25 31).

26 b. The municipal agency shall make the rules governing such
27 hearings. Any maps and documents for which approval is sought at a
28 hearing shall be on file and available for public inspection at least 10
29 days before the date of the hearing, during normal business hours in
30 the office of the administrative officer. The applicant may produce
31 other documents, records, or testimony at the hearing to substantiate
32 or clarify or supplement the previously filed maps and documents.

33 c. The officer presiding at the hearing or such person as he may
34 designate shall have power to administer oaths and issue subpoenas to
35 compel the attendance of witnesses and the production of relevant
36 evidence, including witnesses and documents presented by the parties,
37 and the provisions of the "County and Municipal Investigations Law,"
38 P.L.1953, c.38 (C.2A:67A-1 et seq.) shall apply.

39 d. The testimony of all witnesses relating to an application for
40 development shall be taken under oath or affirmation by the presiding
41 officer, and the right of cross-examination shall be permitted to all
42 interested parties through their attorneys, if represented, or directly,
43 if not represented, subject to the discretion of the presiding officer and
44 to reasonable limitations as to time and number of witnesses.

45 e. Technical rules of evidence shall not be applicable to the
46 hearing, but the agency may exclude irrelevant, immaterial or unduly

1 repetitious evidence.

2 f. The municipal agency shall provide for the verbatim recording of
3 the proceedings by either stenographer, mechanical or electronic
4 means. The municipal agency shall furnish a transcript, or duplicate
5 recording in lieu thereof, on request to any interested party at his
6 expense; provided that the governing body may provide by ordinance
7 for the municipality to assume the expense of any transcripts necessary
8 for appeal to the governing body, pursuant to section 8 of this act, of
9 decisions by the zoning board of adjustment pursuant to subsection
10 57d. of this act, up to a maximum amount as specified by the
11 ordinance.

12 The municipal agency, in furnishing a transcript or tape of the
13 proceedings to an interested party at his expense, shall not charge such
14 interested party more than the actual cost of preparing the transcript
15 or tape. Transcripts shall be certified in writing by the transcriber to
16 be accurate.

17 g. The municipal agency shall include findings of fact and
18 conclusions based thereon in each decision on any application for
19 development and shall reduce the decision to writing. The municipal
20 agency shall provide the findings and conclusions through:

21 (1) A resolution adopted at a meeting held within the time period
22 provided in the act for action by the municipal agency on the
23 application for development; or

24 (2) A memorializing resolution adopted at a meeting held not later
25 than 45 days after the date of the meeting at which the municipal
26 agency voted to grant or deny approval. Only the members of the
27 municipal agency who voted for the action taken may vote on the
28 memorializing resolution, and the vote of a majority of such members
29 present at the meeting at which the resolution is presented for
30 adoption shall be sufficient to adopt the resolution. If only one
31 member who voted for the action attends the meeting at which the
32 resolution is presented for adoption, the resolution may be adopted
33 upon the vote of that member. An action pursuant to section 5 of the
34 act (C.40:55D-9) (resulting from the failure of a motion to approve an
35 application) shall be memorialized by resolution as provided above,
36 with those members voting against the motion for approval being the
37 members eligible to vote on the memorializing resolution. The vote on
38 any such resolution shall be deemed to be a memorialization of the
39 action of the municipal agency and not to be an action of the municipal
40 agency; however, the date of the adoption of the resolution shall
41 constitute the date of the decision for purposes of the mailings, filings
42 and publications required by subsections h. and i. of this section
43 (C.40:55D-10). If the municipal agency fails to adopt a resolution or
44 memorializing resolution as hereinabove specified, any interested party
45 may apply to the Superior Court in a summary manner for an order
46 compelling the municipal agency to reduce its findings and conclusions

1 to writing within a stated time, and the cost of the application,
2 including attorney's fees, shall be assessed against the municipality.

3 h. A copy of the decision shall be mailed by the municipal agency
4 within 10 days of the date of decision to the applicant or, if
5 represented, then to his attorney, without separate charge, and to all
6 who request a copy of the decision, for a reasonable fee. A copy of
7 the decision shall also be filed by the municipal agency in the office of
8 the administrative officer. The administrative officer shall make a
9 copy of such filed decision available to any interested party for a
10 reasonable fee and available for public inspection at his office during
11 reasonable hours.

12 i. A brief notice of the decision shall be published in the official
13 newspaper of the municipality, if there be one, or in a newspaper of
14 general circulation in the municipality. Such publication shall be
15 arranged by the applicant unless a particular municipal officer is so
16 designated by ordinance; provided that nothing contained in this act
17 shall be construed as preventing the applicant from arranging such
18 publication if he so desires. The municipality may make a reasonable
19 charge for its publication. The period of time in which an appeal of
20 the decision may be made shall run from the first publication of the
21 decision, whether arranged by the municipality or the applicant.

22 (cf: P.L.1998, c.95, s.2)

23

24 6. Section 7.1 of P.L.1975, c.291 (C.40:55D-12) is amended to
25 read as follows:

26 7.1. Notice pursuant to subsections a., b., d., e., f., g. and h. of this
27 section shall be given by the applicant unless a particular municipal
28 officer is so designated by ordinance; provided that nothing contained
29 herein shall prevent the applicant from giving such notice if he so
30 desires. Notice pursuant to subsections a., b., d., e., f., g. and h. of
31 this section shall be given at least 10 days prior to the date of the
32 hearing.

33 a. Public notice of a hearing shall be given for an extension of
34 approvals for five or more years under subsection d. of section 37 of
35 P.L.1975, c.291 (C.40:55D-49) and subsection b. of section 40 of
36 P.L.1975, c.291 (C.40:55D-52); for modification or elimination of a
37 significant condition or conditions in a memorializing resolution in any
38 situation wherein the application for development for which the
39 memorializing resolution is proposed for adoption required public
40 notice, and for any other applications for development, with the
41 following exceptions: (1) conventional site plan review pursuant to
42 section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor subdivisions
43 pursuant to section 35 of P.L.1975, c.291 (C.40:55D-47) or (3) final
44 approval pursuant to section 38 of P.L.1975, c.291 (C.40:55D-50);
45 notwithstanding the foregoing, the governing body may by ordinance
46 require public notice for such categories of site plan review as may be

1 specified by ordinance, for appeals of determinations of administrative
2 officers pursuant to subsection a. of section 57 of P.L.1975, c.291
3 (C.40:55D-70), and for requests for interpretation pursuant to
4 subsection b. of section 57 of P.L.1975, c.291 (C.40:55D-70). Public
5 notice shall also be given in the event that relief is requested pursuant
6 to section 47 or 63 of P.L.1975, c.291 (C.40:55D-60 or C.40:55D-76)
7 as part of an application for development otherwise excepted herein
8 from public notice.

9 In addition, public notice shall be given by a public entity seeking
10 to erect an outdoor advertising sign on land owned or controlled by a
11 public entity as required pursuant to section 22 of P.L.1975, c.291
12 (C.40:55D-31) or, if so provided by ordinance adopted pursuant to
13 subsection g. of section 29.1 of P.L.1975, c.291 (C.40:55D-39), by a
14 private entity seeking to erect an outdoor advertising sign on public
15 land or on land owned by a private entity.

16 Public notice shall be given by publication in the official newspaper
17 of the municipality, if there be one, or in a newspaper of general
18 circulation in the municipality.

19 b. Notice of a hearing requiring public notice pursuant to
20 subsection a. of this section shall be given to the owners of all real
21 property as shown on the current tax duplicates, located in the State
22 and within 200 feet in all directions of the property which is the
23 subject of such hearing; provided that this requirement shall be deemed
24 satisfied by notice to the (1) condominium association, in the case of
25 any unit owner whose unit has a unit above or below it, or (2)
26 horizontal property regime, in the case of any co-owner whose
27 apartment has an apartment above or below it. Notice shall be given
28 by: (1) serving a copy thereof on the property owner as shown on the
29 said current tax duplicate, or his agent in charge of the property, or (2)
30 mailing a copy thereof by certified mail to the property owner at his
31 address as shown on the said current tax duplicate.

32 Notice to a partnership owner may be made by service upon any
33 partner. Notice to a corporate owner may be made by service upon its
34 president, a vice president, secretary or other person authorized by
35 appointment or by law to accept service on behalf of the corporation.
36 Notice to a condominium association, horizontal property regime,
37 community trust or homeowners' association, because of its ownership
38 of common elements or areas located within 200 feet of the property
39 which is the subject of the hearing, may be made in the same manner
40 as to a corporation without further notice to unit owners, co-owners,
41 or homeowners on account of such common elements or areas.

42 c. Upon the written request of an applicant, the administrative
43 officer of a municipality shall, within seven days, make and certify a
44 list from said current tax duplicates of names and addresses of owners
45 to whom the applicant is required to give notice pursuant to subsection
46 b. of this section. In addition, the administrative officer shall include

1 on the list the names, addresses and positions of those persons who,
2 not less than seven days prior to the date on which the applicant
3 requested the list, have registered to receive notice pursuant to
4 subsection h. of this section. The applicant shall be entitled to rely
5 upon the information contained in such list, and failure to give notice
6 to any owner or to any public utility, cable television company, or
7 local utility not on the list shall not invalidate any hearing or
8 proceeding. A sum not to exceed \$0.25 per name, or \$10.00,
9 whichever is greater, may be charged for such list.

10 d. Notice of hearings on applications for development involving
11 property located within 200 feet of an adjoining municipality shall be
12 given by personal service or certified mail to the clerk of such
13 municipality.

14 e. Notice shall be given by personal service or certified mail to the
15 county planning board of a hearing on an application for development
16 of property adjacent to an existing county road or proposed road
17 shown on the official county map or on the county master plan,
18 adjoining other county land or situated within 200 feet of a municipal
19 boundary.

20 f. Notice shall be given by personal service or certified mail to the
21 Commissioner of Transportation of a hearing on an application for
22 development of property adjacent to a State highway.

23 g. Notice shall be given by personal service or certified mail to the
24 State Planning Commission of a hearing on an application for
25 development of property which exceeds 150 acres or 500 dwelling
26 units. The notice shall include a copy of any maps or documents
27 required to be on file with the municipal clerk pursuant to subsection
28 b. of section 6 of P.L.1975, c.291 (C.40:55D-10).

29 h. Notice of hearings on applications for approval of a major
30 subdivision or a site plan not defined as a minor site plan under this act
31 requiring public notice pursuant to subsection a. of this section shall
32 be given, in the case of a public utility, cable television company or
33 local utility which possesses a right-of-way or easement within the
34 municipality and which has registered with the municipality in
35 accordance with section 5 of P.L.1991, c.412 (C.40:55D-12.1), by (1)
36 serving a copy of the notice on the person whose name appears on the
37 registration form on behalf of the public utility, cable television
38 company or local utility or (2) mailing a copy thereof by certified mail
39 to the person whose name appears on the registration form at the
40 address shown on that form.

41 i. The applicant shall file an affidavit of proof of service with the
42 municipal agency holding the hearing on the application for
43 development in the event that the applicant is required to give notice
44 pursuant to this section.

45 j. Notice pursuant to subsections d., e., f., g. and h. of this section
46 shall not be deemed to be required, unless public notice pursuant to

1 subsection a. and notice pursuant to subsection b. of this section are
2 required.

3 (cf: P.L.1998, c.95, s.4)

4

5 7. Section 22 of P.L.1975, c.291 (C.40:55D-31) is amended to
6 read as follows:

7 22. a. Whenever the planning board shall have adopted any portion
8 of the master plan, the governing body or other public agency having
9 jurisdiction over the subject matter, before taking action necessitating
10 the expenditure of any public funds, incidental to the location,
11 character or extent of such project, shall refer the action involving
12 such specific project to the planning board for review and
13 recommendation in conjunction with such master plan and shall not act
14 thereon, without such recommendation or until 45 days have elapsed
15 after such reference without receiving such recommendation. This
16 requirement shall apply to action by a housing, parking, highway,
17 special district, or other authority, redevelopment agency, school
18 board or other similar public agency, State, county or municipal. In
19 addition, this requirement shall apply to any public entity taking any
20 action to permit the location, erection, use or maintenance of an
21 outdoor advertising sign required to be permitted pursuant to
22 P.L.1991, c.413 (C.27:5-5 et seq.).

23 b. The planning board shall review and issue findings concerning
24 any long-range facilities plan submitted to the board pursuant to the
25 "Educational Facilities Construction and Financing Act," P.L.2000,
26 c.72 (C.18A:7G-1 et al.), for the purpose of review of the extent to
27 which the long-range facilities plan is informed by, and consistent with,
28 at least the land use plan element and the housing element contained
29 within the municipal master plan adopted pursuant to section 19 of
30 P.L.1975, c.291 (C.40:55D-28) and such other elements of the
31 municipal master plan as the planning board deems necessary to
32 determine whether the prospective sites for school facilities contained
33 in the long-range facilities plan promote more effective and efficient
34 coordination of school construction with the development efforts of
35 the municipality. The planning board shall devote at least one full
36 meeting of the board to presentation and review of the long-range
37 facilities plan prior to adoption of a resolution setting forth the board's
38 findings.

39 (cf: P.L.2000, c.72, s.55)

40

41 8. Section 29.1 of P.L.1975, c.291 (C.40:55D-39) is amended to
42 read as follows:

43 29.1 Discretionary contents of ordinance. An ordinance requiring
44 approval by the planning board of either subdivisions or site plans or
45 both may include the following:

46 a. Provisions for off-tract water, sewer, drainage, and street

1 improvements which are necessitated by a subdivision or land
2 development, subject to the provisions of section 30;

3 b. Provisions for standards encouraging and promoting flexibility,
4 and economy in layout and design through the use of planned unit
5 development, planned unit residential development and residential
6 cluster; provided that such standards shall be appropriate to the type
7 of development permitted; and provided further that the ordinance
8 shall set forth the limits and extent of any special provisions applicable
9 to such planned developments, so that the manner in which such
10 special provisions differ from the standards otherwise applicable to
11 subdivisions or site plans can be determined;

12 c. Provisions for planned development:

13 (1) Authorizing the planning board to grant general development
14 plan approval to provide the increased flexibility desirable to promote
15 mutual agreement between the applicant and the planning board on the
16 basic scheme of a planned development and setting forth any variations
17 from the ordinary standards for preliminary and final approval;

18 (2) Requiring that any common open space resulting from the
19 application of standards for density, or intensity of land use, be set
20 aside for the use and benefit of the owners or residents in such
21 development subject to section 31 of this act;

22 (3) Setting forth how the amount and location of any common
23 open space shall be determined and how its improvement and
24 maintenance for common open space use shall be secured subject to
25 section 31 of this act;

26 (4) Authorizing the planning board to allow for a greater
27 concentration of density, or intensity of land use, within a section or
28 sections of development, whether it be earlier, later or simultaneous
29 in the development, than in others;

30 (5) Setting forth any requirement that the approval by the planning
31 board of a greater concentration of density or intensity of land use for
32 any section to be developed be offset by a smaller concentration in any
33 completed prior stage or by an appropriate reservation of common
34 open space on the remaining land by grant of easement or by covenant
35 in favor of the municipality; provided that such reservation shall, as far
36 as practicable, defer the precise location of common open space until
37 an application for final approval is filed, so that flexibility of
38 development can be maintained;

39 (6) Setting forth any requirements for timing of development
40 among the various types of uses and subgroups thereunder and, in the
41 case of planned unit development and planned unit residential
42 development, whether some nonresidential uses are required to be built
43 before, after or at the same time as the residential uses.

44 d. Provisions ensuring in the case of a development which proposes
45 construction over a period of years, the protection of the interests of
46 the public and of the residents, occupants and owners of the proposed

1 development in the total completion of the development.

2 e. Provisions that require as a condition for local municipal
3 approval the submission of proof that no taxes or assessments for local
4 improvements are due or delinquent on the property for which any
5 subdivision, site plan, or planned development application is made.

6 f. Provisions for the creation of a Site Plan Review Advisory Board
7 for the purpose of reviewing all site plan applications and making
8 recommendations to the planning board in regard thereto.

9 g. Provisions for standards governing outdoor advertising signs
10 required to be permitted pursuant to P.L.1991, c.413 (C.27:5-5 et
11 seq.) including, but not limited to, the location, placement, size and
12 design thereof.

13 (cf: P.L.1987, c.129, s.2)

14

15 9. Section 3 of P.L.1975, c.217 (C.52:27D-121) is amended to
16 read as follows:

17 3. Definitions. As used in this act:

18 "Building" means a structure enclosed with exterior walls or fire
19 walls, built, erected and framed of component structural parts,
20 designed for the housing, shelter, enclosure and support of individuals,
21 animals or property of any kind.

22 "Business day" means any day of the year, exclusive of Saturdays,
23 Sundays, and legal holidays.

24 "Certificate of occupancy" means the certificate provided for in
25 section 15 of this act, indicating that the construction authorized by
26 the construction permit has been completed in accordance with the
27 construction permit, the State Uniform Construction Code and any
28 ordinance implementing said code.

29 "Commissioner" means the Commissioner of Community Affairs.

30 "Code" means the State Uniform Construction Code.

31 "Commercial farm building" means any building located on a
32 commercial farm which produces not less than \$2,500 worth of
33 agricultural or horticultural products annually, which building's main
34 use or intended use is related to the production of agricultural or
35 horticultural products produced on that farm. A building shall not be
36 regarded as a commercial farm building if more than 1,200 square feet
37 of its floor space is used for purposes other than its main use. A
38 greenhouse constructed in conjunction with the odor control bio-filter
39 of a solid waste or sludge composting facility, which greenhouse
40 produces not less than \$2,500 worth of agricultural or horticultural
41 products in addition to its function as a cover for the bio-filter, shall
42 be considered a commercial farm building for the purposes of this act,
43 provided, however, that the greenhouse is not intended for human
44 occupancy.

45 "Construction" means the construction, erection, reconstruction,
46 alteration, conversion, demolition, removal, repair or equipping of

1 buildings or structures.

2 "Construction board of appeals" means the board provided for in
3 section 9 of this act.

4 "Department" means the Department of Community Affairs.

5 "Enforcing agency" means the municipal construction official and
6 subcode officials provided for in section 8 of this act and assistants
7 thereto.

8 "Equipment" means plumbing, heating, electrical, ventilating, air
9 conditioning, refrigerating and fire prevention equipment, and
10 elevators, dumbwaiters, escalators, boilers, pressure vessels and other
11 mechanical facilities or installations.

12 "Hearing examiner" means a person appointed by the commissioner
13 to conduct hearings, summarize evidence, and make findings of fact.

14 "Maintenance" means the replacement or mending of existing work
15 with equivalent materials or the provision of additional work or
16 material for the purpose of the safety, healthfulness, and upkeep of the
17 structure and the adherence to such other standards of upkeep as are
18 required in the interest of public safety, health and welfare.

19 "Manufactured home" or "mobile home" means a unit of housing
20 which:

21 (1) Consists of one or more transportable sections which are
22 substantially constructed off site and, if more than one section, are
23 joined together on site;

24 (2) Is built on a permanent chassis;

25 (3) Is designed to be used, when connected to utilities, as a
26 dwelling on a permanent or nonpermanent foundation; and

27 (4) Is manufactured in accordance with the standards promulgated
28 for a manufactured home by the Secretary of the United States
29 Department of Housing and Urban Development pursuant to the
30 "National Manufactured Housing Construction and Safety Standards
31 Act of 1974," Pub.L.93-383 (42 U.S.C. s.5401 et seq.) and the
32 standards promulgated by the commissioner pursuant to P.L.1975,
33 c.217 (C.52:27D-119 et seq.).

34 "Municipality" means any city, borough, town, township or village.

35 "Outdoor advertising sign" means a sign required to be permitted
36 pursuant to P.L.1991. c.413 (C.27:5-5 et seq.).

37 "Owner" means the owner or owners in fee of the property or a
38 lesser estate therein, a mortgagee or vendee in possession, an assignee
39 of rents, receiver, executor, trustee, lessee, or any other person, firm
40 or corporation, directly or indirectly in control of a building, structure,
41 or real property and shall include any subdivision thereof of the State.

42 "Premanufactured system" means an assembly of materials or
43 products that is intended to comprise all or part of a building or
44 structure and that is assembled off site by a repetitive process under
45 circumstances intended to insure uniformity of quality and material
46 content.

1 "Public school facility" means any building, or any part thereof, of
2 a school, under college grade, owned and operated by a local,
3 regional, or county school district.

4 "State sponsored code change proposal" means any proposed
5 amendment or code change adopted by the commissioner in
6 accordance with subsection c. of section 5 of this act for the purpose
7 of presenting such proposed amendment or code change at any of the
8 periodic code change hearings held by the National Model Code
9 Adoption Agencies, the codes of which have been adopted as subcodes
10 under this act.

11 "Stop construction order" means the order provided for in section
12 14 of this act.

13 "State Uniform Construction Code" means the code provided for
14 in section 5 of this act, or any portion thereof, and any modification of
15 or amendment thereto.

16 "Structure" means a combination of materials to form a
17 construction for occupancy, use, or ornamentation, whether installed
18 on, above, or below the surface of a parcel of land; provided the word
19 "structure" shall be construed when used herein as though followed by
20 the words "or part or parts thereof and all equipment therein" unless
21 the context clearly requires a different meaning.

22 (cf: P.L.1992, c.12, s.1)

23

24 10. Section 11 of P.L.1975, c.217 (C.52:27D-129) is amended to
25 read as follows:

26 11. State buildings and buildings of interstate agencies; outdoor
27 advertising signs on public property. a. Notwithstanding any other
28 provision of P.L.1975, c.217 (C.52:27D-119 et seq.), the Department
29 of Community Affairs shall have authority to administer and enforce
30 the code in regard to buildings and structures owned by the State, and
31 any of its departments, divisions, bureaus, boards, councils, authorities
32 or other agencies; provided, however, that the Division of Building
33 and Construction in the Department of the Treasury shall have
34 authority to conduct field inspections for the purpose of enforcing the
35 code in buildings built under its supervision. The Division of Building
36 and Construction shall be authorized to review plans and undertake
37 construction if the Department of Community Affairs cannot approve
38 plans within the 20-day period provided for in P.L.1975, c.217. In an
39 emergency or cost savings situation, the commissioner may delegate,
40 by rule, the authority to conduct field inspections for the purpose of
41 enforcing the code. The Division of Building and Construction and
42 any public or private agency which receives such a delegation shall
43 carry out any review or inspection responsibilities with persons
44 certified by the Commissioner of Community Affairs pursuant to the
45 provisions of P.L.1975, c.217. The Department of Community Affairs
46 shall have ultimate responsibility for insuring that all buildings conform

1 to the requirements of the code.

2 b. Construction, alteration, renovation, rehabilitation, repair,
3 removal or demolition of any building or structure situated wholly
4 within New Jersey by or for an agency created by an interstate
5 compact to which the State of New Jersey is a party shall be subject
6 to the provisions of the code; provided that such interstate agency
7 shall have exclusive authority to administer and enforce the code in
8 regard to such buildings and structures.

9 c. Notwithstanding any other provision of law, rule or regulation
10 to the contrary, except for signs which advertise or otherwise identify
11 activities performed on the property on which the sign is located, the
12 Department of Community Affairs shall be the sole enforcing agency
13 with regard to outdoor advertising signs which exceed 32 square feet
14 in area on any face and which are located on land owned or controlled
15 by any public entity, including but not limited to any State, county or
16 local department, agency, board, commission, authority or
17 instrumentality.

18 (cf: P.L.1991, c.87, s.1)

19

20 11. (New section) Notwithstanding the provisions of any other law
21 to the contrary, a State entity, as defined in section 1 of P.L. , c.
22 (C.)(now before the Legislature as this bill), shall not enter into
23 any contract or agreement for the sale, lease or license of real property
24 owned or controlled by it, or of any interest therein, with any person,
25 firm, partnership or corporation for the purpose of displaying any
26 advertisement, as defined in section 3 of P.L.1991, c.413 (C.27:5-7),
27 without publicly advertising for bids. Notwithstanding the foregoing,
28 any State entity may enter into such a contract or agreement with any
29 of its current contractors, tenants or licensees with respect to the
30 current real property on which they are a contractor, tenant or licensee
31 for the purpose of displaying advertisement, for a period of time not
32 to exceed five years, without publicly advertising for bids. Where,
33 pursuant to the foregoing, a State entity enters into a contract or
34 agreement with such a current contractor, tenant or licensee for a
35 period not exceeding five years, after the completion of that contract
36 or agreement, any future contract or agreement for the same purposes
37 shall be done by publicly advertising for bids.

38

39 12. (New section) Notwithstanding the provisions of any other law
40 to the contrary, a State entity, as defined in section 1 of P.L. , c.
41 (C.)(now before the Legislature as this bill), shall not enter into
42 any contract or agreement for the construction on, or development or
43 maintenance of, real property owned or controlled by it, with any
44 person, firm, partnership or corporation for the purpose of displaying
45 any advertisement, as defined in section 3 of P.L.1991, c.413 (C.27:5-
46 7), without publicly advertising for bids. Notwithstanding the

1 foregoing, any State entity may enter into a contract or agreement for
2 the maintenance of (but not the construction on or development of)
3 such real property for the purposes of displaying any advertisement,
4 with any of its current contractors, tenants or licensees with respect to
5 the current real property on which they are a contractor, tenant or
6 licensee for the purpose of displaying advertisement, for a period of
7 time not to exceed five years, without publicly advertising for bids.
8 Where, pursuant to the foregoing, the State enters into a contract or
9 agreement with a current contractor, tenant or licensee for a period
10 not exceeding five years, after the completion of that contract or
11 agreement, any future contract or agreement for the same purposes
12 shall be done by publicly advertising for bids.

13

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

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

1 personal property affixed to the real property or an appurtenance
2 thereto, unless:

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

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

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

9 b. The personal property so affixed is machinery, apparatus, or
10 equipment used or held for use in business and is neither a structure
11 nor machinery, apparatus or equipment the primary purpose of which
12 is to enable a structure to support, shelter, contain, enclose or house
13 persons or property. For purposes of this subsection, real property
14 shall include pipe racks, and piping and electrical wiring up to the
15 point of connections with the machinery, apparatus, or equipment of
16 a production process as defined in this section.

17 c. **[Outdoor advertising signs of steel construction, their**
18 **supporting steel structures, the primary purpose of which is to support**
19 **an outdoor advertising sign, and other constituent parts are considered**
20 **to meet the requirements of subsection a. of this section and do not**
21 **constitute real property. Provided however, that the cement**
22 **foundation to which the supporting structure is attached, and all**
23 **underground piping and electrical wiring, up to the point of**
24 **connections with the supporting structure, shall be considered real**
25 **property]** (Deleted by amendment, P.L. __, c. __)(now before the
26 Legislature as this bill).

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

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

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

40

41 14. (New section) For the purposes of chapter 4 of Title 54 of the
42 Revised Statutes and notwithstanding the provisions of R.S.54:4-1, an
43 outdoor advertising sign required to be permitted pursuant to the
44 "Roadside Sign Control and Outdoor Advertising Act," P.L.1991,
45 c.413 (C.27:5-5 et seq.), the sign's supporting structure having the
46 primary purpose of supporting the outdoor advertising sign, its other

1 constituent parts, and the foundation if any to which the supporting
2 structure is attached, are deemed to be real property.

3
4 15. Section 1 of P.L.2003, c. 124 (C.54:4-11.1) is amended to read
5 as follows:

6 1. a. (1) There is imposed and shall be paid a fee of **[6%]** the
7 percentage rate for the period determined under paragraph (2) of this
8 subsection on the gross amounts collected by a retail seller for
9 **[billboard]** advertising space on an outdoor advertising sign. The fee
10 shall be imposed directly on the retail seller of the advertising space on
11 the outdoor advertising sign.

12 (2) For the period beginning July 1, 2003 through June 30, 2006,
13 the rate shall be 6%;

14 for the period beginning July 1, 2006 through June 30, 2007, the
15 rate shall be 4%; and

16 for the period beginning July 1, 2007 and thereafter, there shall be
17 no rate of fee imposed.

18 b. For purposes of this section, the following terms shall have the
19 following meanings:

20 “Advertising space” means the placement of advertising on an
21 outdoor sign;

22 “End user” means the person purchasing the advertising space on
23 an outdoor advertising sign for the person’s own use;

24 **["Billboard"]** "Outdoor advertising sign" means [any outdoor
25 advertising] a sign required to be permitted pursuant to the "Roadside
26 Sign Control and Outdoor Advertising Act," P.L.1991, c.413
27 (C.27:5-5 et seq.);

28 "Gross amounts collected by a retail seller for **[billboard]**
29 **advertising [space]** space on an outdoor advertising sign" include,
30 but are not limited to, amounts collected, whether received in money
31 or otherwise, from contracts to place advertising on [billboards]
32 outdoor advertising signs located in this State regardless of the
33 location of the advertiser; provided however, such gross amounts
34 shall not include fees received by an advertising agency that is not a
35 related party of the retail seller and that are not received by the retail
36 seller; [and]

37 “Related party” means any licensee, permittee or other party that
38 has authority to sell advertising space on an outdoor advertising sign.

39 "Retail seller" means **[the person contracting with the customer]** a
40 permit holder or licensee who directly contracts with the end user for
41 outdoor advertising space on an outdoor advertising sign or any party
42 that is authorized on behalf of the permit holder or licensee to sell
43 advertising space on an outdoor advertising sign.

44 c. The Director of the Division of Taxation shall collect and
45 administer the fees imposed pursuant to this section. In carrying out

1 the provisions of this section, the director shall have all of the powers
2 and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The
3 fees shall be reported and paid to the director on a quarterly basis in
4 a manner prescribed by the Director of the Division of Taxation, which
5 may include by electronic means.

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

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

16 f. The fee imposed by subsection a. of this section shall not be
17 imposed on the gross amounts received from advertising space on an
18 outdoor advertising sign if the end user is an entity exempt from the
19 tax imposed under the "Sales and Use Tax Act" pursuant to subsection
20 a. or b. of section 9 of P.L.1966,c.30 (C.54:32B-9).

21 g. The director may require a person who is the holder of any
22 license to engage in the business of outdoor advertising or of any
23 outdoor advertising permit issued pursuant to the provisions of
24 P.L.1991, c.413 (C.27:5-5 et seq.) to supply that person's social
25 security number and other taxpayer identification information to the
26 Division of Taxation. The social security number and other taxpayer
27 identification information supplied shall not be deemed a public record
28 under P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404
29 (C.47:1A-5 et al.) or the common law concerning access to public
30 records.

31 (cf: P.L.2003, c.124, s.1)

32
33 16. Section 3 of P.L.2003, c.124 is amended to read as follows:

34 3. This act shall take effect immediately and section 1 shall apply
35 to collections for any period on or after July 1, 2003 [through June
36 30, 2004].

37 (cf: P.L.2003, c.124, s.3)

38
39 17. This act shall take effect immediately and sections 13 and 14
40 shall apply to assessments made after the date of enactment.

41
42
43 STATEMENT

44
45 This bill makes various revisions to the "Roadside Sign Control and
46 Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.) which

1 regulates outdoor advertising signs.

2 1. The bill limits the total number of square feet of advertising
3 space permitted on outdoor advertising signs located on property
4 owned or controlled by a State entity to the square footage authorized
5 on the effective date of the bill for that State entity. Further, the bill
6 requires each such State entity to adopt rules and regulations reducing,
7 over time, the number of square feet of advertising space located on
8 its property. Bus shelters would be excluded from this limitation on
9 the number of square feet of advertising space as would railroad
10 station platforms. A State entity is a State department or agency,
11 board, commission, corporation or authority.

12 2. The bill requires all holders of outdoor advertising licenses and
13 permits are required to submit financial disclosure statements to the
14 Department of Transportation. The Director of the Division of
15 Taxation may require outdoor advertising license and permit holders
16 to submit their social security number and other taxpayer identification
17 information to the Division of Taxation. Such information shall not be
18 subject to disclosure as "public records."

19 3. The bill requires that, before the Department of Transportation
20 may grant a waiver for an outdoor advertising sign on public property,
21 the State House Commission shall review and approve the waiver.

22 4. The bill requires that, before the Commissioner of
23 Transportation issues an outdoor advertising sign permit, other than
24 a conditional permit, a public hearing be held in accordance with
25 section 6 of P.L.1975, c.291 (C.40:55D-10), or, in the case of a
26 private entity, all relevant municipal approvals be received.

27 5. The bill provides that the Department of Community Affairs is
28 the sole enforcing agency for the State Uniform Construction Code for
29 certain outdoor advertising signs located on public property.

30 6. The bill does not allow a State entity to enter into any contract
31 or agreement for the sale, lease or license of real property owned or
32 controlled by it with any person, firm, partnership or corporation for
33 the purpose of displaying outdoor advertising, without public
34 advertising for bids. In like fashion, the bill does not allow a State
35 entity to enter into a contract or agreement for the construction on,
36 or development or maintenance of, real property owned or controlled
37 by it, with any person, firm or partnership for the purpose of
38 displaying outdoor advertising without publicly advertising for bids.
39 Except for the construction on or the development of real property,
40 current contractors, tenants or licensees are "grandfathered" from
41 these requirements for a period of five years.

42 7. The bill provides that an outdoor advertising sign, the sign's
43 supporting structure having the primary purpose of supporting the
44 sign, its other constituent parts, and the foundation, if any, to which
45 the supporting structure is attached, are deemed real property and are
46 thus subject to local taxation. The bill also deletes subsection c. of

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21

1 R.S.54:4-1 that determines that steel outdoor advertising signs and
2 their steel supporting structures are not real property for local tax
3 purposes.

4 The bill also extends the fee imposed on outdoor advertising by
5 P.L.2003, c.124. The bill extends the one-year sunset provision in
6 P.L.2003, c.124, which imposes a fee on the gross amounts collected
7 from a retail seller for billboard advertising space, to June 30, 2007.
8 The bill continues the current fee of 6% through June 30, 2006,
9 reduces the fee to 4 percent from July 1, 2006 through June 30, 2007,
10 and discontinues imposition of the fee thereafter. The bill substitutes
11 the term "outdoor advertising sign" for "billboard," and makes various
12 technical changes to the section of law imposing the fee.

13 The provisions of this bill implement the recommendations of the
14 Billboard Policy and Procedure Review Task Force, appointed by
15 Governor McGreevey pursuant to Executive Order No. 59 of 2003.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3101

STATE OF NEW JERSEY

DATED: JUNE 23, 2004

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3101.

Senate Bill No. 3101 makes various revisions to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.) which regulates outdoor advertising signs:

1. The bill limits the total number of square feet of advertising space permitted on outdoor advertising signs located on property owned or controlled by a State entity to the square footage authorized on the effective date of the bill for that State entity. Further, the bill requires each such State entity to adopt rules and regulations reducing, over time, the number of square feet of advertising space located on its property. Bus shelters are excluded from this limitation on the number of square feet of advertising space as are railroad station platforms. A State entity is a State department or agency, board, commission, corporation or authority.

2. The bill requires all holders of outdoor advertising licenses and permits are required to submit financial disclosure statements to the Department of Transportation. The Director of the Division of Taxation may require outdoor advertising license and permit holders to submit their social security number and other taxpayer identification information to the Division of Taxation. Such information shall not be subject to disclosure as "public records."

3. The bill requires that, before the Department of Transportation may grant a waiver for an outdoor advertising sign on public property, the State House Commission shall review and approve the waiver.

4. The bill requires that, before the Commissioner of Transportation issues an outdoor advertising sign permit, other than a conditional permit, a public hearing be held in accordance with section 6 of P.L.1975, c.291 (C.40:55D-10), or, in the case of a private entity, all relevant municipal approvals be received.

5. The bill provides that the Department of Community Affairs is the sole enforcing agency for the State Uniform Construction Code for certain outdoor advertising signs located on public property.

6. The bill does not allow a State entity to enter into any contract or agreement for the sale, lease or license of real property owned or controlled by it with any person, firm, partnership or corporation for the purpose of displaying outdoor advertising, without public

advertising for bids. In like fashion, the bill does not allow a State entity to enter into a contract or agreement for the construction on, or development or maintenance of, real property owned or controlled by it, with any person, firm or partnership for the purpose of displaying outdoor advertising without publicly advertising for bids. Except for the construction on or the development of real property, current contractors, tenants or licensees are "grandfathered" from these requirements for a period of five years.

7. The bill provides that an outdoor advertising sign, the sign's supporting structure having the primary purpose of supporting the sign, its other constituent parts, and the foundation, if any, to which the supporting structure is attached, are deemed real property and are thus subject to local taxation. The bill also deletes subsection c. of R.S.54:4-1 that determines that steel outdoor advertising signs and their steel supporting structures are not real property for local tax purposes.

The bill also extends the fee imposed on outdoor advertising by P.L.2003, c.124. The bill extends the one-year sunset provision in P.L.2003, c.124, which imposes a fee on the gross amounts collected from a retail seller for billboard advertising space, to June 30, 2007. The bill continues the current fee of 6% through June 30, 2006, reduces the fee to 4 percent from July 1, 2006 through June 30, 2007, and discontinues imposition of the fee thereafter. The bill substitutes the term "outdoor advertising sign" for "billboard," and makes various technical changes to the section of law imposing the fee.

The provisions of this bill implement the recommendations of the Billboard Policy and Procedure Review Task Force, appointed by Governor McGreevey pursuant to Executive Order No. 59 of 2003.

FISCAL IMPACT

The Governor's proposed FY 2005 budget recommends the extension of the outdoor advertising fee and estimates current fiscal year revenue at \$10 million and estimates the extension of the fee to generate a total of \$10 million in new revenue to the State in FY2005. The Office of Legislative Services notes that actual revenue collections for the current fiscal year as of the date of this statement total just over \$4 million.

The provision in the bill that deems outdoor advertising signs to be real property subject to local property taxes has no impact on State revenue or expenditures. While the change will increase the local property tax base, due to the many difficulties inherent in the appraisal of billboards, it is not possible to determine the impact of this provision on property taxes.