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No

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

Yes

"Corzine signs ethics bill," The Philadelphia Inquirer, 9-5-07, p.4

"Amid criticism, Corzine signs anti-corruption bills," The Press, 9-5-07, p. A7

Corzine signs ethics measure, ban on dual-office holding," Courier-Post, 9-5-07, p. \_

"Gov bans dual-office holding, inks 3 other ethics bills," Asbury Park Press, 9-5-07, p. \_\_

"Corzine bans double-dipping," Home News Tribune, 9-5-07, p. \_\_

"Corzine gives reluctant approval to stripped-down ethics bills," The Star Ledger, 9-5-07, p.19

"Corzine signs bill on ethics reform," The Record, 9-5-07, p. A03

"Trenton: Corzine signs ethics bills," The New York Times, 9-5-07, p.B4

"New law bars holding more than one office," Daily Record, 9-5-07, p. News02.

P.L. 2007, CHAPTER 158, *approved September 4, 2007*  
Senate, No. 1192 (*First Reprint*)

1 AN ACT concerning the corruption of public resources and  
2 supplementing chapter 27 of Title 2C of the of the New Jersey  
3 Statutes.

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

7  
8 1. a. A person commits the crime of corruption of public  
9 resources if, with respect to a public resource which is subject to an  
10 obligation to be used for a specified purpose or purposes, the person  
11 knowingly uses or makes disposition of that public resource or any  
12 portion thereof for an unauthorized purpose.

13 (1) If the public resource involved is subject to an obligation to  
14 be used to perform or facilitate the performance of a governmental  
15 function or public service, corruption of public resources constitutes  
16 a crime of the first degree if the amount or value of the public  
17 resource involved is \$500,000 or more; the offense constitutes a  
18 crime of the second degree if the amount or value involved is  
19 \$75,000 or more but is less than \$500,000; and the offense  
20 constitutes a crime of the third degree if the amount or value  
21 involved is less than \$75,000.

22 (2) If the public resource involved is not subject to an obligation  
23 to be used for a purpose to perform or facilitate the performance of  
24 a governmental function or public service, corruption of public  
25 resources constitutes a crime of the second degree if the amount or  
26 value of the public resource involved is \$500,000 or more; the  
27 offense constitutes a crime of the third degree if the amount or  
28 value involved is \$75,000 or more but is less than \$500,000; and the  
29 offense constitutes a crime of the fourth degree if the amount or  
30 value involved is less than \$75,000.

31 b. Except as otherwise provided in section 97 of P.L.1999, c.440  
32 (C.2C:21-34), a person commits a crime if he makes a <sup>1</sup>**[false]**  
33 material <sup>1</sup>**[misrepresentation]** representation that is false<sup>1</sup> to a  
34 government agency, officer or employee (1) with the purpose to  
35 obtain or retain a public resource, or (2) with the purpose to mislead  
36 or deceive any person as to the use or disposition of a public  
37 resource. This offense constitutes a crime of the second degree if  
38 the amount or value of the public resource involved is \$500,000 or  
39 more; the offense constitutes a crime of the third degree if the  
40 amount or value involved is \$75,000 or more but is less than  
41 \$500,000; and the offense constitutes a crime of the fourth degree if  
42 the amount or value involved is less than \$75,000.

43 c. For purposes of this section, "public resource" means any

**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:

<sup>1</sup>Senate SJU committee amendments adopted November 13, 2006.

1 funds or property provided by the government, or a person acting on  
2 behalf of the government, which shall include but is not limited to:  
3 (1) money or the equivalent of money paid by the government  
4 directly or indirectly to or on behalf of a person or his employer; (2)  
5 transfer by the government of an asset of value for less than fair  
6 market price; (3) fees, costs, rents, insurance or bond premiums,  
7 loans, interest rates or other obligations that would normally be  
8 required in the execution of the contract, that are paid, reduced,  
9 charged at less than fair market value, waived, or forgiven by the  
10 government; (4) money loaned by the government that is to be  
11 repaid on a contingent basis; (5) money loaned by an entity based  
12 upon or in accordance with a guarantee provided by the  
13 government; (6) grants awarded by the government or an entity  
14 acting on behalf of the government; and (7) credits that are applied  
15 by the government against repayment obligations to the  
16 government. For purposes of this section, a purpose is unauthorized  
17 if it is not the specified purpose or purposes for which a public  
18 resource is obligated to be used, and the government agency having  
19 supervision of or jurisdiction over the person or public resource has  
20 not given its approval for such use.

21 d. Each act of corruption of public resources shall constitute an  
22 additional, separate and distinct offense, except that the amounts or  
23 values of public resources used for an unauthorized purpose in  
24 separate acts of corruption of public resources may be aggregated  
25 for the purpose of establishing liability pursuant to this section.

26 e. Proof that a person made a false statement, prepared a false  
27 report or if the government agency having supervision of or  
28 jurisdiction over the person or public resource required a report to  
29 be prepared, failed to prepare a report concerning the conduct that is  
30 the subject of the prosecution, shall give rise to an inference that the  
31 actor knew that the public resource was used for an unauthorized  
32 purpose.

33 f. Nothing in this act shall preclude an indictment and  
34 conviction for any other offense defined by the laws of this State.

35 g. Nothing in this act shall preclude an assignment judge from  
36 dismissing a prosecution under this section if the assignment judge  
37 determines, pursuant to N.J.S.2C:2-11, the conduct charged to be a  
38 de minimis infraction.

39

40 2. This act shall take effect immediately.

41

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43

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45

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Establishes the crime of corruption of public resources.

# SENATE, No. 1192

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 30, 2006

**Sponsored by:**

**Senator JOHN H. ADLER**

**District 6 (Camden)**

**Senator ELLEN KARCHER**

**District 12 (Mercer and Monmouth)**

**SYNOPSIS**

Establishes the crime of corruption of public resources.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 3/22/2006)

1 AN ACT concerning the corruption of public resources and  
2 supplementing chapter 27 of Title 2C of the of the New Jersey  
3 Statutes.

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

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8 1. a. A person commits the crime of corruption of public  
9 resources if, with respect to a public resource which is subject to an  
10 obligation to be used for a specified purpose or purposes, the person  
11 knowingly uses or makes disposition of that public resource or any  
12 portion thereof for an unauthorized purpose.

13 (1) If the public resource involved is subject to an obligation to  
14 be used to perform or facilitate the performance of a governmental  
15 function or public service, corruption of public resources constitutes  
16 a crime of the first degree if the amount or value of the public  
17 resource involved is \$500,000 or more; the offense constitutes a  
18 crime of the second degree if the amount or value involved is  
19 \$75,000 or more but is less than \$500,000; and the offense  
20 constitutes a crime of the third degree if the amount or value  
21 involved is less than \$75,000.

22 (2) If the public resource involved is not subject to an obligation  
23 to be used for a purpose to perform or facilitate the performance of  
24 a governmental function or public service, corruption of public  
25 resources constitutes a crime of the second degree if the amount or  
26 value of the public resource involved is \$500,000 or more; the  
27 offense constitutes a crime of the third degree if the amount or  
28 value involved is \$75,000 or more but is less than \$500,000; and the  
29 offense constitutes a crime of the fourth degree if the amount or  
30 value involved is less than \$75,000.

31 b. Except as otherwise provided in section 97 of P.L.1999, c.440  
32 (C.2C:21-34), a person commits a crime if he makes a false  
33 material misrepresentation to a government agency, officer or  
34 employee (1) with the purpose to obtain or retain a public resource,  
35 or (2) with the purpose to mislead or deceive any person as to the  
36 use or disposition of a public resource. This offense constitutes a  
37 crime of the second degree if the amount or value of the public  
38 resource involved is \$500,000 or more; the offense constitutes a  
39 crime of the third degree if the amount or value involved is \$75,000  
40 or more but is less than \$500,000; and the offense constitutes a  
41 crime of the fourth degree if the amount or value involved is less  
42 than \$75,000.

43 c. For purposes of this section, "public resource" means any  
44 funds or property provided by the government, or a person acting on  
45 behalf of the government, which shall include but is not limited to:  
46 (1) money or the equivalent of money paid by the government  
47 directly or indirectly to or on behalf of a person or his employer; (2)  
48 transfer by the government of an asset of value for less than fair

1 market price; (3) fees, costs, rents, insurance or bond premiums,  
2 loans, interest rates or other obligations that would normally be  
3 required in the execution of the contract, that are paid, reduced,  
4 charged at less than fair market value, waived, or forgiven by the  
5 government; (4) money loaned by the government that is to be  
6 repaid on a contingent basis; (5) money loaned by an entity based  
7 upon or in accordance with a guarantee provided by the  
8 government; (6) grants awarded by the government or an entity  
9 acting on behalf of the government; and (7) credits that are applied  
10 by the government against repayment obligations to the  
11 government. For purposes of this section, a purpose is unauthorized  
12 if it is not the specified purpose or purposes for which a public  
13 resource is obligated to be used, and the government agency having  
14 supervision of or jurisdiction over the person or public resource has  
15 not given its approval for such use.

16 d. Each act of corruption of public resources shall constitute an  
17 additional, separate and distinct offense, except that the amounts or  
18 values of public resources used for an unauthorized purpose in  
19 separate acts of corruption of public resources may be aggregated  
20 for the purpose of establishing liability pursuant to this section.

21 e. Proof that a person made a false statement, prepared a false  
22 report or if the government agency having supervision of or  
23 jurisdiction over the person or public resource required a report to  
24 be prepared, failed to prepare a report concerning the conduct that is  
25 the subject of the prosecution, shall give rise to an inference that the  
26 actor knew that the public resource was used for an unauthorized  
27 purpose.

28 f. Nothing in this act shall preclude an indictment and  
29 conviction for any other offense defined by the laws of this State.

30 g. Nothing in this act shall preclude an assignment judge from  
31 dismissing a prosecution under this section if the assignment judge  
32 determines, pursuant to N.J.S.2C:2-11, the conduct charged to be a  
33 de minimis infraction.

34

35 2. This act shall take effect immediately.

36

37

38

#### STATEMENT

39

40 In the allocation of public resources subject to a known  
41 obligation to be used for a particular purpose, there must be reliance  
42 upon the integrity of the public and private individuals and entities  
43 to whom the use or disposition of such resources is entrusted, and  
44 the public interest is furthered by laws designed to ensure the full  
45 realization of the beneficial purposes for which public resources are  
46 provided. Given the importance of maximizing the salutary  
47 utilization of public resources, it is imperative that funds and assets  
48 intended by the government for use in a particular manner are

1 utilized appropriately in accordance with that purpose, and that  
2 those who would obtain and then knowingly misuse such resources  
3 are held accountable for subverting such resources. Where  
4 dishonest and unscrupulous actors subvert or divert such public  
5 resources through misappropriation or conversion, the public is not  
6 only deprived of the fiscal value of the misdirected funds or assets  
7 but is denied the benefits of the intended use of such resources.  
8 Further, other qualified or interested individuals who would have  
9 properly utilized the public resources in accordance with the  
10 purpose for which they were provided are denied the opportunity to  
11 utilize the resources for the intended purpose.

12 This bill makes it a crime, with respect to a public resource  
13 which is subject to an obligation to be used for a specified purpose  
14 or purposes, to knowingly use or make disposition of that public  
15 resource or any portion thereof for an unauthorized purpose. The  
16 bill defines "public resource" as any funds or property provided by  
17 the government, or a person acting on behalf of the government,  
18 including (1) money or the equivalent of money paid by the  
19 government directly or indirectly to or on behalf of a person or his  
20 employer; (2) transfer by the government of an asset of value for  
21 less than fair market price; (3) fees, costs, rents, insurance or bond  
22 premiums, loans, interest rates, or other obligations that would  
23 normally be required in the execution of the contract, that are paid,  
24 reduced, charged at less than fair market value, waived, or forgiven  
25 by the government; (4) money loaned by the government that is to  
26 be repaid on a contingent basis; (5) money loaned by any entity  
27 based upon or in accordance with a guarantee provided by the  
28 government; (6) grants awarded by the government or an entity  
29 acting on behalf of the government; and (7) credits that are applied  
30 by the government against repayment obligations to the  
31 government. Under the bill, a purpose is unauthorized if it is not  
32 the specified purpose or purposes for which a public resources is  
33 obligated to be used, and the government agency having supervision  
34 of or jurisdiction over the person or public resource has not given  
35 its approval for such use. The bill creates an inference that an actor  
36 knew that a public resource was used for an unauthorized purpose if  
37 there is proof of a false statement or report or failure to prepare a  
38 required report.

39 If the public resource involved is subject to an obligation to be  
40 used to perform or facilitate the performance of a governmental  
41 function or public service, corruption of public resources constitutes  
42 a crime of the first degree if the amount or value of the public  
43 resource involved is \$500,000 or more; the offense constitutes a  
44 crime of the second degree if the amount or value involved is  
45 \$75,000 or more but is less than \$500,000 ; and the offense  
46 constitutes a crime of the third degree if the amount or value  
47 involved is less than \$75,000. If the public resource involved is not  
48 subject to an obligation to be used for a purpose to perform or



**S1192 ADLER, KARCHER**

1 facilitate the performance of a governmental function or public  
2 service, corruption of public resources constitutes a crime of the  
3 second degree if the amount or value of the public resource  
4 involved is \$500,000 or more; the offense constitutes a crime of the  
5 third degree if the amount or value involved is \$75,000 or more but  
6 is less than \$500,000; and the offense constitutes a crime of the  
7 fourth degree if the amount or value involved is less than \$75,000.

8 The bill further establishes additional criminal penalties for  
9 making a false material misrepresentation to a government agency,  
10 officer or employee for the purpose of obtaining or retaining a  
11 public resource, or for the purpose of misleading or deceiving any  
12 person as to the use or disposition of a public resource.

13 These provisions, which apply to both public and private actors,  
14 are intended to complement existing applicable criminal laws such  
15 as those pertaining to official misconduct, theft, fraud and public  
16 contracting.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 1192**

# **STATE OF NEW JERSEY**

DATED: MAY 14, 2007

The Assembly Judiciary Committee reports favorably Senate Bill No. 1192 (1R).

This bill makes it a crime, with respect to a public resource which is subject to an obligation to be used for a specified purpose or purposes, to knowingly use or make disposition of that public resource or any portion thereof for an unauthorized purpose. These provisions, which apply to both public and private actors, are intended to complement existing applicable criminal laws such as those pertaining to official misconduct, theft, fraud and public contracting.

The bill defines "public resource" in subsection c. of section 1 as any funds or property provided by the government, or a person acting on behalf of the government, including: (1) money or the equivalent of money paid by the government directly or indirectly to or on behalf of a person or his employer; (2) transfer by the government of an asset of value for less than fair market price; (3) fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the government; (4) money loaned by the government that is to be repaid on a contingent basis; (5) money loaned by any entity based upon or in accordance with a guarantee provided by the government; (6) grants awarded by the government or an entity acting on behalf of the government; and (7) credits that are applied by the government against repayment obligations to the government.

Under the bill, a purpose is unauthorized if it is not the specified purpose or purposes for which a public resource is obligated to be used, and the government agency having supervision of or jurisdiction over the person or public resource has not given its approval for such use. The bill creates an inference that an actor knew that a public resource was used for an unauthorized purpose if there is proof of a false statement or report or failure to prepare a required report. See subsection e. of section 1.

If the public resource involved is subject to an obligation to be used to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a

crime of the first degree if the amount or value of the public resource involved is \$500,000 or more; a crime of the second degree if the amount or value is \$75,000 or more but is less than \$500,000; and a crime of the third degree if the amount or value is less than \$75,000. If the public resource involved is not subject to an obligation to be used for a purpose to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the second degree if the amount or value of the public resource involved is \$500,000 or more; a crime of the third degree if the amount or value is \$75,000 or more but is less than \$500,000; and a crime of the fourth degree if the amount or value is less than \$75,000.

The bill establishes additional criminal penalties for making a material representation that is false to a government agency, officer or employee for the purpose of obtaining or retaining a public resource, or for the purpose of misleading or deceiving any person as to the use or disposition of a public resource.

This bill is identical to Assembly Bill No.2465 (1R).

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### **SENATE, No. 1192**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 13, 2006

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1192.

This bill makes it a crime, with respect to a public resource which is subject to an obligation to be used for a specified purpose or purposes, to knowingly use or make disposition of that public resource or any portion thereof for an unauthorized purpose. These provisions, which apply to both public and private actors, are intended to complement existing applicable criminal laws such as those pertaining to official misconduct, theft, fraud and public contracting.

The bill defines "public resource" in subsection c. of section 1 as any funds or property provided by the government, or a person acting on behalf of the government, including (1) money or the equivalent of money paid by the government directly or indirectly to or on behalf of a person or his employer; (2) transfer by the government of an asset of value for less than fair market price; (3) fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the government; (4) money loaned by the government that is to be repaid on a contingent basis; (5) money loaned by any entity based upon or in accordance with a guarantee provided by the government; (6) grants awarded by the government or an entity acting on behalf of the government; and (7) credits that are applied by the government against repayment obligations to the government.

Under the bill, a purpose is unauthorized if it is not the specified purpose or purposes for which a public resource is obligated to be used, and the government agency having supervision of or jurisdiction over the person or public resource has not given its approval for such use. The bill creates an inference that an actor knew that a public resource was used for an unauthorized purpose if there is proof of a false statement or report or failure to prepare a required report. See subsection e. of section 1.

If the public resource involved is subject to an obligation to be used to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a

crime of the first degree if the amount or value of the public resource involved is \$500,000 or more; a crime of the second degree if the amount or value is \$75,000 or more but is less than \$500,000 ; and a crime of the third degree if the amount or value is less than \$75,000. If the public resource involved is not subject to an obligation to be used for a purpose to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the second degree if the amount or value of the public resource involved is \$500,000 or more; a crime of the third degree if the amount or value is \$75,000 or more but is less than \$500,000; and a crime of the fourth degree if the amount or value is less than \$75,000.

The bill establishes additional criminal penalties for making a material representation that is false to a government agency, officer or employee for the purpose of obtaining or retaining a public resource, or for the purpose of misleading or deceiving any person as to the use or disposition of a public resource. See subsection b. of section 1. The committee amendments are technical in nature to remove the reference to a “false misrepresentation” and refer to a material “representation that is false.”

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 1192**

# **STATE OF NEW JERSEY**

DATED: MARCH 5, 2007

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1192 (1R).

Senate Bill No. 1192 (1R) makes it a crime to knowingly use or make disposition of a public resource or any portion thereof for an unauthorized purpose with respect to a public resource which is subject to an obligation to be used for a specified purpose or purposes. The bill is intended to complement existing applicable criminal laws such as those pertaining to official misconduct, theft, fraud and public contracting.

The bill defines "public resource" as any funds or property provided by the government, or a person acting on behalf of the government, including (1) money or the equivalent of money paid by the government directly or indirectly to or on behalf of a person or his employer; (2) transfer by the government of an asset of value for less than fair market price; (3) fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the government; (4) money loaned by the government that is to be repaid on a contingent basis; (5) money loaned by any entity based upon or in accordance with a guarantee provided by the government; (6) grants awarded by the government or an entity acting on behalf of the government; and (7) credits that are applied by the government against repayment obligations to the government.

Under the bill, a purpose is unauthorized if it is not the specified purpose or purposes for which a public resource is obligated to be used, and the government agency having supervision of or jurisdiction over the person or public resource has not given its approval for such use. The bill creates an inference that an actor knew that a public resource was used for an unauthorized purpose if there is proof of a false statement or report or failure to prepare a required report.

If the public resource involved is subject to an obligation to be used to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the first degree if the amount or value of the public resource

involved is \$500,000 or more; a crime of the second degree if the amount or value is \$75,000 or more but is less than \$500,000 ; and a crime of the third degree if the amount or value is less than \$75,000. If the public resource involved is not subject to an obligation to be used for a purpose to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the second degree if the amount or value of the public resource involved is \$500,000 or more; a crime of the third degree if the amount or value is \$75,000 or more but is less than \$500,000; and a crime of the fourth degree if the amount or value is less than \$75,000.

The bill establishes additional criminal penalties for making a material representation that is false to a government agency, officer or employee for the purpose of obtaining or retaining a public resource, or for the purpose of misleading or deceiving any person as to the use or disposition of a public resource.

FISCAL IMPACT:

In a Fiscal Note prepared for the bill as introduced the Office of Legislative Services (OLS) concurred with the Executive that it is not possible to accurately determine the fiscal impact of this bill. While the Department of Corrections can provide data on the cost of constructing additional prison bed space, and for the annual, ongoing operational expenses for housing a State prison inmate, it is not possible to determine the number of additional individuals who would be incarcerated for convictions under this bill. Also, while the Administrative Office of the Courts states that it is probable that the new offenses would result in an increase in trial rates, it is not possible to extrapolate the number of cases that would be created under the bill.

**FISCAL NOTE**  
**SENATE, No. 1192**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: NOVEMBER 27, 2006

**SUMMARY**

**Synopsis:** Establishes the crime of corruption of public resources.

**Type of Impact:** General Fund expenditure

**Agencies Affected:** Department of Corrections, Judiciary

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Cannot be determined – See comments below		

- The Office of Legislative Services (OLS) **concurs** with the Executive estimate.
- The OLS adds that while there is no way to determine the number of individuals who would be affected by this bill, Department of Corrections data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.
- The bill makes it a crime to knowingly use or make disposition of a public resource or any portion thereof for an unauthorized purpose.
- The bill establishes additional criminal penalties for making a false material misrepresentation to a government agency, officer or employee for the purpose of obtaining or retaining a public resource, or for the purpose of misleading or deceiving any person as to the use or disposition of a public resource.
- The Administrative Office of the Courts states that although it is probable that the new offenses would result in an increase in the trial rate, it is not possible for the Judiciary to extrapolate the number of cases which would be created under the proposed legislation. In



this regard, the Judiciary is unable to accurately determine the fiscal impact of this legislation.

### **BILL DESCRIPTION**

Senate Bill No. 1192 of 2006 makes it a crime to knowingly use or make disposition of a public resource or any portion thereof for an unauthorized purpose. The bill defines "public resource" as any funds or property provided by the government, or a person acting on behalf of the government, including (1) money or the equivalent of money paid by the government directly or indirectly to or on behalf of a person or his employer; (2) transfer by the government of an asset of value for less than fair market price; (3) fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the government; (4) money loaned by the government that is to be repaid on a contingent basis; (5) money loaned by any entity based upon or in accordance with a guarantee provided by the government; (6) grants awarded by the government or an entity acting on behalf of the government; and (7) credits that are applied by the government against repayment obligations to the government.

Under the bill, a purpose is unauthorized if it is not the specified purpose or purposes for which a public resources is obligated to be used, and the government agency having supervision of or jurisdiction over the person or public resource has not given its approval for such use. The bill creates an inference that an actor knew that a public resource was used for an unauthorized purpose if there is proof of a false statement or report or failure to prepare a required report.

If the public resource involved is subject to an obligation to be used to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the first degree if the amount or value of the public resource involved is \$500,000 or more; the offense constitutes a crime of the second degree if the amount or value involved is \$75,000 or more but is less than \$500,000; and the offense constitutes a crime of the third degree if the amount or value involved is less than \$75,000. If the public resource involved is not subject to an obligation to be used for a purpose to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the second degree if the amount or value of the public resource involved is \$500,000 or more; the offense constitutes a crime of the third degree if the amount or value involved is \$75,000 or more but is less than \$500,000; and the offense constitutes a crime of the fourth degree if the amount or value involved is less than \$75,000.

The bill establishes additional criminal penalties for making a false material misrepresentation to a government agency, officer or employee for the purpose of obtaining or retaining a public resource, or for the purpose of misleading or deceiving any person as to the use or disposition of a public resource.

These provisions, which apply to both public and private actors, are intended to complement existing applicable criminal laws such as those pertaining to official misconduct, theft, fraud and public contracting.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

#### **Department of Corrections**

None received.

#### **Judiciary**

The Administrative Office of the Courts states that although it is probable that the new offenses would result in an increase in the trial rate, it is not possible for the Judiciary to extrapolate the number of cases which would be created under the proposed legislation. In this regard, the Judiciary is unable to accurately determine the fiscal impact of this legislation.

### *OFFICE OF LEGISLATIVE SERVICES*

The OLS concurs with the Executive estimate. The OLS adds that the penalty for a second degree crime is a fine of up to \$150,000 and a term or imprisonment of up to 5-10 years, or both; the penalty for a third degree crime is a fine of up to \$15,000 and a term of imprisonment of up to 3-5 years, or both; and the penalty for a fourth degree crime is a fine of up to \$10,000 and a term or imprisonment of up to 18 months or both. It must also be noted that convictions for third and fourth degree offenses carry with them the presumption of non-incarceration for first time offenders.

The OLS also notes that while there is no way to determine the number of individuals who would be affected by this bill, Department of Corrections data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.

*Section: Judiciary*

*Analyst: Anne C. Raughley  
Principal Fiscal Analyst*

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

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

**FISCAL NOTE**  
 [First Reprint]  
**SENATE, No. 1192**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: JUNE 20, 2007

**SUMMARY**

**Synopsis:** Establishes the crime of corruption of public resources.

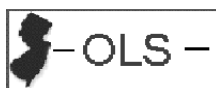
**Type of Impact:** General Fund expenditure.

**Agencies Affected:** Department of Corrections, Judiciary.

**Executive Estimate**

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
<b>State Cost</b>	Cannot Be Determined - See Comments Below		

- The Office of Legislative Services (OLS) **concurs** with the Executive estimate.
- The bill establishes additional criminal penalties for making a material representation that is false to a government agency, officer or employee for the purpose of obtaining or retaining a public resource, or for the purpose of misleading or deceiving any person as to the use or disposition of a public resource.
- The OLS adds that the penalty for a second degree crime is a fine of up to \$150,000 and a term or imprisonment of up to 5-10 years, or both; the penalty for a third degree crime is a fine of up to \$15,000 and a term of imprisonment of up to 3-5 years, or both; and the penalty for a fourth degree crime is a fine of up to \$10,000 and a term or imprisonment of up to 18 months or both. It must also be noted that convictions for third and fourth degree offenses carry with them the presumption of non-incarceration for first time offenders.
- The OLS also notes that while there is no way to determine the number of individuals who would be affected by this bill, Department of Corrections data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.
- The Administrative Office of the Courts states that although it is probable that the new offenses would result in an increase in the trial rate, it is not possible for the Judiciary to



extrapolate the number of cases which would be created under the proposed legislation. In this regard, the Judiciary is unable to accurately determine the fiscal impact of this legislation.

## **BILL DESCRIPTION**

Senate Bill No. 1192 (1R) of 2006 makes it a crime, with respect to a public resource which is subject to an obligation to be used for a specified purpose or purposes, to knowingly use or make disposition of that public resource or any portion thereof for an unauthorized purpose.

The bill defines "public resource" as any funds or property provided by the government, or a person acting on behalf of the government, including: (1) money or the equivalent of money paid by the government directly or indirectly to or on behalf of a person or his employer; (2) transfer by the government of an asset of value for less than fair market price; (3) fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the government; (4) money loaned by the government that is to be repaid on a contingent basis; (5) money loaned by any entity based upon or in accordance with a guarantee provided by the government; (6) grants awarded by the government or an entity acting on behalf of the government; and (7) credits that are applied by the government against repayment obligations to the government.

Under the bill, a purpose is unauthorized if it is not the specified purpose or purposes for which a public resource is obligated to be used, and the government agency having supervision of or jurisdiction over the person or public resource has not given its approval for such use. The bill creates an inference that an actor knew that a public resource was used for an unauthorized purpose if there is proof of a false statement or report or failure to prepare a required report.

If the public resource involved is subject to an obligation to be used to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the first degree if the amount or value of the public resource involved is \$500,000 or more; a crime of the second degree if the amount or value is \$75,000 or more but is less than \$500,000; and a crime of the third degree if the amount or value is less than \$75,000.

If the public resource involved is not subject to an obligation to be used for a purpose to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the second degree if the amount or value of the public resource involved is \$500,000 or more; a crime of the third degree if the amount or value is \$75,000 or more but is less than \$500,000; and a crime of the fourth degree if the amount or value is less than \$75,000.

The bill establishes additional criminal penalties for making a material representation that is false to a government agency, officer or employee for the purpose of obtaining or retaining a public resource, or for the purpose of misleading or deceiving any person as to the use or disposition of a public resource.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

#### **Department of Corrections**

None received.

**Judiciary**

The Administrative Office of the Courts states that although it is probable that the new offenses would result in an increase in the trial rate, it is not possible for the Judiciary to extrapolate the number of cases which would be created under the proposed legislation. In this regard, the Judiciary is unable to accurately determine the fiscal impact of this legislation.

***OFFICE OF LEGISLATIVE SERVICES***

The OLS concurs with the Executive estimate. The OLS adds that the penalty for a second degree crime is a fine of up to \$150,000 and a term or imprisonment of up to 5-10 years, or both; the penalty for a third degree crime is a fine of up to \$15,000 and a term of imprisonment of up to 3-5 years, or both; and the penalty for a fourth degree crime is a fine of up to \$10,000 and a term or imprisonment of up to 18 months or both. It must also be noted that convictions for third and fourth degree offenses carry with them the presumption of non-incarceration for first time offenders.

The OLS also notes that while there is no way to determine the number of individuals who would be affected by this bill, Department of Corrections data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.

*Section: Judiciary*

*Analyst: Anne Raughley*  
*Principal Fiscal Analyst*

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

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

# ASSEMBLY, No. 2465

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED FEBRUARY 6, 2006

**Sponsored by:**

**Assemblyman NEIL M. COHEN**

**District 20 (Union)**

**Assemblyman KEVIN J. O'TOOLE**

**District 40 (Bergen, Essex and Passaic)**

**SYNOPSIS**

Establishes the crime of corruption of public resources.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/12/2006)**

1 AN ACT concerning the corruption of public resources and  
2 supplementing chapter 27 of Title 2C of the New Jersey Statutes.

3

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

6

7 1. a. A person commits the crime of corruption of public  
8 resources if, with respect to a public resource which is subject to an  
9 obligation to be used for a specified purpose or purposes, the person  
10 knowingly uses or makes disposition of that public resource or any  
11 portion thereof for an unauthorized purpose.

12 (1) If the public resource involved is subject to an obligation to  
13 be used to perform or facilitate the performance of a governmental  
14 function or public service, corruption of public resources constitutes  
15 a crime of the first degree if the amount or value of the public  
16 resource involved is \$500,000 or more; the offense constitutes a  
17 crime of the second degree if the amount or value involved is  
18 \$75,000 or more but is less than \$500,000; and the offense  
19 constitutes a crime of the third degree if the amount or value  
20 involved is less than \$75,000.

21 (2) If the public resource involved is not subject to an obligation  
22 to be used for a purpose to perform or facilitate the performance of  
23 a governmental function or public service, corruption of public  
24 resources constitutes a crime of the second degree if the amount or  
25 value of the public resource involved is \$500,000 or more; the  
26 offense constitutes a crime of the third degree if the amount or  
27 value involved is \$75,000 or more but is less than \$500,000; and the  
28 offense constitutes a crime of the fourth degree if the amount or  
29 value involved is less than \$75,000.

30 b. Except as otherwise provided in section 97 of P.L.1999, c.440  
31 (C.2C:21-34), a person commits a crime if he makes a false  
32 material misrepresentation to a government agency, officer or  
33 employee (1) with the purpose to obtain or retain a public resource,  
34 or (2) with the purpose to mislead or deceive any person as to the  
35 use or disposition of a public resource. This offense constitutes a  
36 crime of the second degree if the amount or value of the public  
37 resource involved is \$500,000 or more; the offense constitutes a  
38 crime of the third degree if the amount or value involved is \$75,000  
39 or more but is less than \$500,000; and the offense constitutes a  
40 crime of the fourth degree if the amount or value involved is less  
41 than \$75,000.

42 c. For purposes of this section, "public resource" means any  
43 funds or property provided by the government, or a person acting on  
44 behalf of the government, which shall include but is not limited to:  
45 (1) money or the equivalent of money paid by the government  
46 directly or indirectly to or on behalf of a person or his employer; (2)  
47 transfer by the government of an asset of value for less than fair  
48 market price; (3) fees, costs, rents, insurance or bond premiums,

1 loans, interest rates or other obligations that would normally be  
2 required in the execution of the contract, that are paid, reduced,  
3 charged at less than fair market value, waived, or forgiven by the  
4 government; (4) money loaned by the government that is to be  
5 repaid on a contingent basis; (5) money loaned by an entity based  
6 upon or in accordance with a guarantee provided by the  
7 government; (6) grants awarded by the government or an entity  
8 acting on behalf of the government; and (7) credits that are applied  
9 by the government against repayment obligations to the  
10 government. For purposes of this section, a purpose is unauthorized  
11 if it is not the specified purpose or purposes for which a public  
12 resource is obligated to be used, and the government agency having  
13 supervision of or jurisdiction over the person or public resource has  
14 not given its approval for such use.

15 d. Each act of corruption of public resources shall constitute an  
16 additional, separate and distinct offense, except that the amounts or  
17 values of public resources used for an unauthorized purpose in  
18 separate acts of corruption of public resources may be aggregated  
19 for the purpose of establishing liability pursuant to this section.

20 e. Proof that a person made a false statement, prepared a false  
21 report or if the government agency having supervision of or  
22 jurisdiction over the person or public resource required a report to  
23 be prepared, failed to prepare a report concerning the conduct that is  
24 the subject of the prosecution, shall give rise to an inference that the  
25 actor knew that the public resource was used for an unauthorized  
26 purpose.

27 f. Nothing in this act shall preclude an indictment and  
28 conviction for any other offense defined by the laws of this State.

29 g. Nothing in this act shall preclude an assignment judge from  
30 dismissing a prosecution under this section if the assignment judge  
31 determines, pursuant to N.J.S.2C:2-11, the conduct charged to be a  
32 de minimis infraction.

33

34 2. This act shall take effect immediately.

35

36

37

#### STATEMENT

38

39 In the allocation of public resources subject to a known  
40 obligation to be used for a particular purpose, there must be reliance  
41 upon the integrity of the public and private individuals and entities  
42 to whom the use or disposition of such resources is entrusted, and  
43 the public interest is furthered by laws designed to ensure the full  
44 realization of the beneficial purposes for which public resources are  
45 provided. Given the importance of maximizing the salutary  
46 utilization of public resources, it is imperative that funds and assets  
47 intended by the government for use in a particular manner are  
48 utilized appropriately in accordance with that purpose, and that



1 those who would obtain and then knowingly misuse such resources  
2 are held accountable for subverting such resources. Where  
3 dishonest and unscrupulous actors subvert or divert such public  
4 resources through misappropriation or conversion, the public is not  
5 only deprived of the fiscal value of the misdirected funds or assets  
6 but is denied the benefits of the intended use of such resources.  
7 Further, other qualified or interested individuals who would have  
8 properly utilized the public resources in accordance with the  
9 purpose for which they were provided are denied the opportunity to  
10 utilize the resources for the intended purpose.

11 This bill makes it a crime, with respect to a public resource  
12 which is subject to an obligation to be used for a specified purpose  
13 or purposes, to knowingly use or make disposition of that public  
14 resource or any portion thereof for an unauthorized purpose. The  
15 bill defines "public resource" as any funds or property provided by  
16 the government, or a person acting on behalf of the government,  
17 including (1) money or the equivalent of money paid by the  
18 government directly or indirectly to or on behalf of a person or his  
19 employer; (2) transfer by the government of an asset of value for  
20 less than fair market price; (3) fees, costs, rents, insurance or bond  
21 premiums, loans, interest rates, or other obligations that would  
22 normally be required in the execution of the contract, that are paid,  
23 reduced, charged at less than fair market value, waived, or forgiven  
24 by the government; (4) money loaned by the government that is to  
25 be repaid on a contingent basis; (5) money loaned by any entity  
26 based upon or in accordance with a guarantee provided by the  
27 government; (6) grants awarded by the government or an entity  
28 acting on behalf of the government; and (7) credits that are applied  
29 by the government against repayment obligations to the  
30 government. Under the bill, a purpose is unauthorized if it is not  
31 the specified purpose or purposes for which a public resources is  
32 obligated to be used, and the government agency having supervision  
33 of or jurisdiction over the person or public resource has not given  
34 its approval for such use. The bill creates an inference that an actor  
35 knew that a public resource was used for an unauthorized purpose if  
36 there is proof of a false statement or report or failure to prepare a  
37 required report.

38 If the public resource involved is subject to an obligation to be  
39 used to perform or facilitate the performance of a governmental  
40 function or public service, corruption of public resources constitutes  
41 a crime of the first degree if the amount or value of the public  
42 resource involved is \$500,000 or more; the offense constitutes a  
43 crime of the second degree if the amount or value involved is  
44 \$75,000 or more but is less than \$500,000 ; and the offense  
45 constitutes a crime of the third degree if the amount or value  
46 involved is less than \$75,000. If the public resource involved is not  
47 subject to an obligation to be used for a purpose to perform or  
48 facilitate the performance of a governmental function or public

1 service, corruption of public resources constitutes a crime of the  
2 second degree if the amount or value of the public resource  
3 involved is \$500,000 or more; the offense constitutes a crime of the  
4 third degree if the amount or value involved is \$75,000 or more but  
5 is less than \$500,000; and the offense constitutes a crime of the  
6 fourth degree if the amount or value involved is less than \$75,000.

7 The bill further establishes additional criminal penalties for  
8 making a false material misrepresentation to a government agency,  
9 officer or employee for the purpose of obtaining or retaining a  
10 public resource, or for the purpose of misleading or deceiving any  
11 person as to the use or disposition of a public resource.

12 These provisions, which apply to both public and private actors,  
13 are intended to complement existing applicable criminal laws such  
14 as those pertaining to official misconduct, theft, fraud and public  
15 contracting.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 2465**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 14, 2007

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2465.

This bill makes it a crime, with respect to a public resource which is subject to an obligation to be used for a specified purpose or purposes, to knowingly use or make disposition of that public resource or any portion thereof for an unauthorized purpose. These provisions, which apply to both public and private actors, are intended to complement existing applicable criminal laws such as those pertaining to official misconduct, theft, fraud and public contracting.

The bill defines "public resource" in subsection c. of section 1 as any funds or property provided by the government, or a person acting on behalf of the government, including: (1) money or the equivalent of money paid by the government directly or indirectly to or on behalf of a person or his employer; (2) transfer by the government of an asset of value for less than fair market price; (3) fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the government; (4) money loaned by the government that is to be repaid on a contingent basis; (5) money loaned by any entity based upon or in accordance with a guarantee provided by the government; (6) grants awarded by the government or an entity acting on behalf of the government; and (7) credits that are applied by the government against repayment obligations to the government.

Under the bill, a purpose is unauthorized if it is not the specified purpose or purposes for which a public resource is obligated to be used, and the government agency having supervision of or jurisdiction over the person or public resource has not given its approval for such use. The bill creates an inference that an actor knew that a public resource was used for an unauthorized purpose if there is proof of a false statement or report or failure to prepare a required report. See subsection e. of section 1.

If the public resource involved is subject to an obligation to be used to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a

crime of the first degree if the amount or value of the public resource involved is \$500,000 or more; a crime of the second degree if the amount or value is \$75,000 or more but is less than \$500,000; and a crime of the third degree if the amount or value is less than \$75,000. If the public resource involved is not subject to an obligation to be used for a purpose to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the second degree if the amount or value of the public resource involved is \$500,000 or more; a crime of the third degree if the amount or value is \$75,000 or more but is less than \$500,000; and a crime of the fourth degree if the amount or value is less than \$75,000.

The bill establishes additional criminal penalties for making a material representation that is false to a government agency, officer or employee for the purpose of obtaining or retaining a public resource, or for the purpose of misleading or deceiving any person as to the use or disposition of a public resource.

These amendments make this bill identical to Senate Bill No. 1192 (1R).

#### COMMITTEE AMENDMENTS

The committee amendments remove the reference to a “false misrepresentation” to clarify that a person commits a crime under the bill if he makes *a material representation that is false* to a government agency, officer or employee with the purpose to obtain or retain a public resource or with the purpose to mislead or deceive any person as to the use or disposition of a public resource.

**FISCAL NOTE**  
**ASSEMBLY, No. 2465**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: NOVEMBER 27, 2006

**SUMMARY**

**Synopsis:** Establishes the crime of corruption of public resources.

**Type of Impact:** General Fund expenditure

**Agencies Affected:** Department of Corrections, Judiciary

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Cannot Be Determined - See Comments Below		

- The Office of Legislative Services (OLS) **concurs** with the Executive estimate.
- The OLS adds that while there is no way to determine the number of individuals who would be affected by this bill, Department of Corrections data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.
- The bill makes it a crime to knowingly use or make disposition of a public resource or any portion thereof for an unauthorized purpose.
- The bill establishes additional criminal penalties for making a false material misrepresentation to a government agency, officer or employee for the purpose of obtaining or retaining a public resource, or for the purpose of misleading or deceiving any person as to the use or disposition of a public resource.
- The Administrative Office of the Courts states that although it is probable that the new offenses would result in an increase in the trial rate, it is not possible for the Judiciary to extrapolate the number of cases which would be created under the proposed legislation. In

this regard, the Judiciary is unable to accurately determine the fiscal impact of this legislation.

### **BILL DESCRIPTION**

Assembly Bill No. 2465 of 2006 makes it a crime to knowingly use or make disposition of a public resource or any portion thereof for an unauthorized purpose. The bill defines "public resource" as any funds or property provided by the government, or a person acting on behalf of the government, including (1) money or the equivalent of money paid by the government directly or indirectly to or on behalf of a person or his employer; (2) transfer by the government of an asset of value for less than fair market price; (3) fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the government; (4) money loaned by the government that is to be repaid on a contingent basis; (5) money loaned by any entity based upon or in accordance with a guarantee provided by the government; (6) grants awarded by the government or an entity acting on behalf of the government; and (7) credits that are applied by the government against repayment obligations to the government.

Under the bill, a purpose is unauthorized if it is not the specified purpose or purposes for which a public resources is obligated to be used, and the government agency having supervision of or jurisdiction over the person or public resource has not given its approval for such use. The bill creates an inference that an actor knew that a public resource was used for an unauthorized purpose if there is proof of a false statement or report or failure to prepare a required report.

If the public resource involved is subject to an obligation to be used to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the first degree if the amount or value of the public resource involved is \$500,000 or more; the offense constitutes a crime of the second degree if the amount or value involved is \$75,000 or more but is less than \$500,000; and the offense constitutes a crime of the third degree if the amount or value involved is less than \$75,000. If the public resource involved is not subject to an obligation to be used for a purpose to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the second degree if the amount or value of the public resource involved is \$500,000 or more; the offense constitutes a crime of the third degree if the amount or value involved is \$75,000 or more but is less than \$500,000; and the offense constitutes a crime of the fourth degree if the amount or value involved is less than \$75,000.

The bill establishes additional criminal penalties for making a false material misrepresentation to a government agency, officer or employee for the purpose of obtaining or retaining a public resource, or for the purpose of misleading or deceiving any person as to the use or disposition of a public resource.

These provisions, which apply to both public and private actors, are intended to complement existing applicable criminal laws such as those pertaining to official misconduct, theft, fraud and public contracting.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

#### **Department of Corrections**

None received.

#### **Judiciary**

The Administrative Office of the Courts states that although it is probable that the new offenses would result in an increase in the trial rate, it is not possible for the Judiciary to extrapolate the number of cases which would be created under the proposed legislation. In this regard, the Judiciary is unable to accurately determine the fiscal impact of this legislation.

### *OFFICE OF LEGISLATIVE SERVICES*

The OLS concurs with the Executive estimate. The OLS adds that the penalty for a second degree crime is a fine of up to \$150,000 and a term or imprisonment of up to 5-10 years, or both; the penalty for a third degree crime is a fine of up to \$15,000 and a term of imprisonment of up to 3-5 years, or both; and the penalty for a fourth degree crime is a fine of up to \$10,000 and a term or imprisonment of up to 18 months or both. It must also be noted that convictions for third and fourth degree offenses carry with them the presumption of non-incarceration for first time offenders.

The OLS also notes that while there is no way to determine the number of individuals who would be affected by this bill, Department of Corrections data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.

*Section: Judiciary*

*Analyst: Anne C. Raughley  
Principal Fiscal Analyst*

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

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

**FISCAL NOTE**  
[First Reprint]  
**ASSEMBLY, No. 2465**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: JUNE 25, 2007

**SUMMARY**

**Synopsis:** Establishes the crime of corruption of public resources.

**Type of Impact:** General Fund expenditure.

**Agencies Affected:** Department of Corrections, Judiciary.

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Cannot Be Determined - See Comments Below		

- The Office of Legislative Services (OLS) **concurs** with the Executive estimate.
- The bill establishes additional criminal penalties for making a material representation that is false to a government agency, officer or employee for the purpose of obtaining or retaining a public resource, or for the purpose of misleading or deceiving any person as to the use or disposition of a public resource.
- The OLS adds that the penalty for a second degree crime is a fine of up to \$150,000 and a term or imprisonment of up to 5-10 years, or both; the penalty for a third degree crime is a fine of up to \$15,000 and a term of imprisonment of up to 3-5 years, or both; and the penalty for a fourth degree crime is a fine of up to \$10,000 and a term or imprisonment of up to 18 months or both. It must also be noted that convictions for third and fourth degree offenses carry with them the presumption of non-incarceration for first time offenders.
- The OLS also notes that while there is no way to determine the number of individuals who would be affected by this bill, Department of Corrections data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.



- The Administrative Office of the Courts states that although it is probable that the new offenses would result in an increase in the trial rate, it is not possible for the Judiciary to extrapolate the number of cases which would be created under the proposed legislation. In this regard, the Judiciary is unable to accurately determine the fiscal impact of this legislation.

## **BILL DESCRIPTION**

Assembly Bill No. 2465 (1R) of 2006 makes it a crime, with respect to a public resource which is subject to an obligation to be used for a specified purpose or purposes, to knowingly use or make disposition of that public resource or any portion thereof for an unauthorized purpose.

The bill defines "public resource" as any funds or property provided by the government, or a person acting on behalf of the government, including: (1) money or the equivalent of money paid by the government directly or indirectly to or on behalf of a person or his employer; (2) transfer by the government of an asset of value for less than fair market price; (3) fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the government; (4) money loaned by the government that is to be repaid on a contingent basis; (5) money loaned by any entity based upon or in accordance with a guarantee provided by the government; (6) grants awarded by the government or an entity acting on behalf of the government; and (7) credits that are applied by the government against repayment obligations to the government.

Under the bill, a purpose is unauthorized if it is not the specified purpose or purposes for which a public resource is obligated to be used, and the government agency having supervision of or jurisdiction over the person or public resource has not given its approval for such use. The bill creates an inference that an actor knew that a public resource was used for an unauthorized purpose if there is proof of a false statement or report or failure to prepare a required report.

If the public resource involved is subject to an obligation to be used to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the first degree if the amount or value of the public resource involved is \$500,000 or more; a crime of the second degree if the amount or value is \$75,000 or more but is less than \$500,000; and a crime of the third degree if the amount or value is less than \$75,000.

If the public resource involved is not subject to an obligation to be used for a purpose to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the second degree if the amount or value of the public resource involved is \$500,000 or more; a crime of the third degree if the amount or value is \$75,000 or more but is less than \$500,000; and a crime of the fourth degree if the amount or value is less than \$75,000.

The bill establishes additional criminal penalties for making a material representation that is false to a government agency, officer or employee for the purpose of obtaining or retaining a public resource, or for the purpose of misleading or deceiving any person as to the use or disposition of a public resource.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

#### **Department of Corrections**

None received.

**Judiciary**

The Administrative Office of the Courts states that although it is probable that the new offenses would result in an increase in the trial rate, it is not possible for the Judiciary to extrapolate the number of cases which would be created under the proposed legislation. In this regard, the Judiciary is unable to accurately determine the fiscal impact of this legislation.

***OFFICE OF LEGISLATIVE SERVICES***

The OLS concurs with the Executive estimate. The OLS adds that the penalty for a second degree crime is a fine of up to \$150,000 and a term or imprisonment of up to 5-10 years, or both; the penalty for a third degree crime is a fine of up to \$15,000 and a term of imprisonment of up to 3-5 years, or both; and the penalty for a fourth degree crime is a fine of up to \$10,000 and a term or imprisonment of up to 18 months or both. It must also be noted that convictions for third and fourth degree offenses carry with them the presumption of non-incarceration for first time offenders.

The OLS also notes that while there is no way to determine the number of individuals who would be affected by this bill, Department of Corrections data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.

*Section: Judiciary*

*Analyst: Anne Raughley*  
*Principal Fiscal Analyst*

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

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

**PRESS RELEASE**

**GOVERNOR CORZINE SIGNS ETHICS LEGISLATION**

By **Governors Press...** - September 4, 2007 - 3:03pm  
Governor Jon S. Corzine,  
Release Date: Sep 4 2007

MARLBORO – Governor Jon S. Corzine signed a package of bills today designed to further improve the ethical climate in New Jersey by eliminating dual office holding for elected officials and – for the first time – creating a specific crime to target individuals who use public resources for unauthorized purposes and increase penalties for those found guilty of public corruption. The Governor also signed legislation requiring the Office of Legislative Services to post all legislators’ voting records online.

“I am committed to giving the people of our state the kind of open, transparent and accountable government they deserve, and these bills go a long way towards accomplishing that goal,” Governor Corzine said. “These reforms will only further demonstrate our commitment to ensuring that government serves only the public trust, and I want to thank the Legislature, and Senator Karcher in particular, for their efforts on this issue.”

“We’ve made enormous progress in banning pay-to-play, removing taxpayer funded pensions from convicted officials and imposing mandatory criminal sentences on corrupt politicians,” added Senator Ellen Karcher (D-Mercer/Monmouth), who sponsored three of the bills in the Senate. “Together these bills will further chip away at New Jersey’s image of a haven for the corrupt.”

"Today is a historic day in our efforts to restore the public's trust in its elected officials," said Assemblyman Panter (D-Mercer/Monmouth), who authored the ban on dual office holding in the Assembly. "We will no longer accept business as usual to dominate Trenton. Instead, we're taking major steps towards real transparency in New Jersey."

The ethics bills signed today are:

· A-4326/ S-3008, sponsored in the Assembly by Assemblymembers Panter (D-Mercer/Monmouth) and Greenstein (D-Mercer/Middlesex), and in the Senate by Senators

James (D-Essex), Karcher (D-Mercer/Monmouth) and Turner (D-Mercer): Prohibits newly elected public office holders from simultaneously holding more than one elective office.

- S-1192/A-2465, sponsored in the Senate by Senators Adler (D-Camden) and Karcher (D-Mercer/Monmouth), and in the Assembly by Assemblymembers Cohen (D-Union), O'Toole (R-Bergen/Essex/Passaic), Panter (D-Mercer, Monmouth), and Greenstein (D-Mercer, Middlesex): Creates the crime of Corruption of Public Resources, which makes it illegal to knowingly misuse taxpayer dollars and other public resources. Violations could result in up to 20 years in prison, a fine of \$200,000, or both.

- S-1318/A-3005, the "Public Corruption Profiteering Penalty Act," sponsored in the Senate by Senators Karcher (D-Mercer/Monmouth) and Madden (D-Camden, Gloucester), and in the Assembly by Assemblymembers O'Toole (R-Bergen/Essex/Passaic), Handlin (R-Middlesex/Monmouth), Panter (D-Mercer, Monmouth), Greenstein (D-Mercer, Middlesex), and Van Drew (D-Cape May, Atlantic, Cumberland): Authorizes courts to assess extra fines in corruption cases that involve any aspect of award or payment of local, county or State contracts. Penalties could be as high as \$500,000, or three times the value of the property stolen.

- S-1662/A-3252, sponsored in the Senate by Senators Martin (R-Morris/Passaic) and Weinberg (D-Bergen) and in the Assembly by Assemblymembers Vainieri Huttle (D-Bergen), Conners (D-Burlington, Camden), Hackett (D-Essex), and Gordon (D-Bergen): Requires the Office of Legislative Services to make available online the complete voting records of state legislators. The data must be updated daily and remain posted on the site for two legislative sessions.

Governor Corzine also signed the following joint resolution today:

**SJR-16/AJR-76** (Martin, Weinberg/ Bodine, Chatzidakis, Manzo) – Designates third full week of September in each year as "Mitochondrial Disease Awareness Week."