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IS 4/10/08

P.L. 2007, CHAPTER 102, *approved June 28, 2007*
Assembly, No. 5004

1 AN ACT imposing personal liability on certain persons required to
2 collect certain taxes, fees, and assessments, amending various
3 parts of the statutory law.
4

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

8 1. Section 9 of P.L.1992, c.165 (C.40:54D-9) is amended to read
9 as follows:

10 9. a. (1) A vendor required to collect the tax upon predominantly
11 tourism related retail receipts or tourism assessment imposed
12 pursuant to this act shall on or before the dates required pursuant to
13 section 17 of P.L.1966, c.30 (C.54:32B-17), forward to the director
14 the tax and assessments collected in the preceding month and make
15 and file a return for the preceding month with the director on any
16 form and containing any information as the Director of the Division
17 of Taxation in the Department of the Treasury shall prescribe by
18 rule or regulation as necessary to determine liability for the tax and
19 assessment in the preceding month during which the person was
20 required to collect the tax.

21 (2) A vendor required to collect the tax upon predominantly
22 tourism related retail receipts and the tourism assessment shall be
23 personally liable for the tax or assessment imposed, collected, or
24 required to be paid, collected, or remitted under section 4 of
25 P.L.1992, c.165 (C.40:54D-4). Any such vendor shall have the
26 same right in respect to collecting the tax or assessment from that
27 vendor's customer or in respect to non-payment of the tax or
28 assessment by the customer as if the tax or assessment were a part
29 of the purchase price of the property or service, amusement charge
30 or rent, as the case may be, and payable at the same time; provided
31 however, that the director shall be joined as a party in any action or
32 proceeding brought to collect the tax or assessment.

33 For purposes of this paragraph, "vendor" includes: an
34 individual, partnership, corporation, or an officer, director,
35 stockholder, or employee of a corporation, or a member or
36 employee of a partnership, who as such officer, director,
37 stockholder, employee, or member is under the duty to perform the
38 act in respect of which the violation occurs.

39 b. The director may permit or require returns to be made
40 covering other periods and upon any dates as the director may
41 specify. In addition, the director may require payments of tax and
42 assessment liability at any intervals and based upon any
43 classifications as the director may designate. In prescribing any
44 other periods to be covered by the return or intervals or

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 classifications for payment of tax and assessment liability, the
2 director may take into account the dollar volume of tax and
3 assessment involved as well as the need for ensuring the prompt and
4 orderly collection of the tax imposed.

5 c. The director may require amended returns to be filed within
6 20 days after notice and to contain the information specified in the
7 notice.

8 d. The director shall inform the authority for each month in
9 which this tax and assessment is collected and returns made of the
10 amount so collected in each month.

11 (cf: P.L.2002, c.72, s.6)

12

13 2. Section 2 of P.L.2004, c.48 (C.52:17C-18) is amended to read
14 as follows:

15 2. a. (1) There is imposed on each mobile telecommunications
16 service customer, charged by a mobile telecommunications
17 company for mobile telecommunications service for each voice
18 grade access telephone number provided to the customer billed by
19 or for the customer's home service provider and provided to a
20 customer with a place of primary use in this State, a fee of \$0.90 on
21 any periodic bill received by the customer for each voice grade
22 access service number provided as part of the mobile
23 telecommunications service.

24 (2) There is imposed on each customer charged by a telephone
25 exchange company for each voice grade access service line
26 provided to that customer that has a service address in this State, a
27 fee of \$0.90 on any periodic bill received by the customer for each
28 voice grade access service line provided as part of that telephone
29 exchange service. Each Private Branch Exchange (PBX) trunk or
30 Centrex trunk equivalent shall constitute an individual and separate
31 subscribed service line. Any customer that has been determined by
32 its telephone exchange company to be enrolled in the Lifeline
33 Telecommunication program, or in receipt of Lifeline
34 Telecommunication or Universal Service Fund benefits for a
35 periodic bill shall be exempt from the fee on that periodic bill.
36 State government agencies, and county and municipal governments
37 and their agencies, and school districts shall be exempt from the fee
38 imposed on customers of telephone exchange companies for each
39 voice grade access service line provided as part of telephone
40 exchange service provided to that customer at a service address in
41 this State for periodic bills issued to those customers on and after
42 January 1, 2005.

43 b. The fee imposed by paragraphs (1) and (2) of subsection a.
44 of this section shall be collected by the mobile telecommunications
45 company or telephone exchange company providing the applicable
46 service to its customers upon payment of any periodic bill for such
47 service. This section shall not be deemed as extending to a
48 telephone exchange company or mobile telecommunications

1 company any obligation or authority otherwise not provided
2 pursuant to law, to take legal action to enforce the collection of the
3 fee imposed upon the customer. Any such action shall be brought
4 by the State against the customer with any cooperation requested by
5 the State of the telephone exchange company or mobile
6 telecommunications company as the State deems necessary.

7 c. (1) The fees collected pursuant to subsection b. of this
8 section shall be collected monthly and reported and paid to the
9 director on a quarterly basis in a manner prescribed by the Director
10 of the Division of Taxation in the Department of the Treasury,
11 which notwithstanding the provisions of subsection b. of section 1
12 of P.L.1992, c.140 (C.54:48-4.1) if any, to the contrary, shall be
13 subject to the provisions of P.L.1992, c.140 as the director shall
14 prescribe, and the State Treasurer shall credit the fee revenue to the
15 "9-1-1 System and Emergency Response Trust Fund Account"
16 established pursuant to section 3 of P.L.2004, c.48 (C.52:17C-19).
17 The administration, collection and enforcement of the fee imposed
18 by this act shall be subject to the provisions of the State Uniform
19 Tax Procedure Law, R.S.54:48-1 et seq., to the extent that the
20 provisions of such law are not inconsistent with any provision of
21 this act.

22 (2) Each mobile telecommunications company and telephone
23 exchange company shall be liable for the fee imposed, collected, or
24 required to be paid, collected, or remitted under the provisions of
25 paragraphs (1) and (2) of subsection a. of this section. Any such
26 company shall have the same right in respect to collecting the fee
27 from that company's customer or in respect to non-payment of the
28 fee by the customer as if the fee were a part of the purchase price of
29 the applicable telecommunications service or telephone exchange
30 service, as the case may be, and payable at the same time; provided
31 however, that the director shall be joined as a party in any action or
32 proceeding brought to collect the fee.

33 For purposes of this paragraph, "company" includes: an
34 individual, partnership, corporation, or an officer, director,
35 stockholder, or employee of a corporation, or a member or
36 employee of a partnership, who as such officer, director,
37 stockholder, employee, or member is under the duty to perform the
38 act in respect of which the violation occurs.

39 d. A telephone exchange company that provides telephone
40 exchange service to the State government or any State government
41 agency, a county or municipal government or any of its agencies, or
42 a school district that is exempt for bills issued on and after January
43 1, 2005, shall be entitled after that date to a credit in an amount as
44 the Director of the Division of Taxation shall determine within 60
45 days of application, against the amount of fees collected during and
46 due to be paid over for the calendar quarter commencing on that
47 date, for the reasonable costs certified by the telephone exchange
48 company to have been incurred by the company for changes made

1 to its billing system that are necessary to implement the exemption.
2 The director shall consult with the Board of Public Utilities to
3 ascertain from the board the reasonableness of the costs claimed to
4 be incurred. The director and the board may adopt regulations
5 necessary to administer the credit.

6 (cf: P.L.2004, c.48, s.2)

7

8 3. Section 1 of P.L.1980, c.60 (C.54:32B-24.1) is amended to
9 read as follows:

10 1. a. The director shall collect and administer any tax imposed
11 pursuant to the provisions of P.L.1947, c. 71, (C. 40:48-8.15 et
12 seq.), amended and supplemented by P.L.1979, c. 273,
13 notwithstanding the provisions of any other law or ordinance to the
14 contrary. In carrying out the provisions of this supplementary act
15 the director shall have all the powers granted in P.L.1966, c. 30 (C.
16 54:32B-1 et seq.).

17 b. The director shall determine and certify to the State Treasurer
18 on a monthly basis the amount of revenues payable to any
19 municipality which has enacted a tax pursuant to P.L.1947, c. 71
20 (C. 40:48-8.15 et seq.) and collected by the director pursuant to this
21 supplementary act. The State Treasurer upon the certification of the
22 director and upon the warrant of the State Comptroller, shall pay
23 and distribute on a monthly basis to each municipality the amount
24 so determined and certified.

25 c. The director may furnish to a municipality, at his discretion,
26 copies of tax reports or returns relating to taxes imposed under any
27 municipal ordinance heretofore adopted by that municipality
28 pursuant to P.L.1947, c. 71 (C. 40:48-8.15 et seq.).

29 d. (1) Each vendor required to collect the tax imposed by a
30 municipal ordinance which was adopted pursuant to the provisions
31 of P.L.1947, c. 71 (C. 40:48-8.15 et seq.) shall be personally liable
32 for the tax imposed, collected, or required to be paid, collected, or
33 remitted under the ordinance. Any such vendor shall have the same
34 right in respect to collecting the tax from that vendor's customer or
35 in respect to non-payment of the tax by the customer as if the tax
36 were a part of the purchase price of the property or service,
37 amusement charge or rent, as the case may be, and payable at the
38 same time; provided however, that the director shall be joined as a
39 party in any action or proceeding brought to collect the tax.

40 (2) For purposes of this subsection, "vendor" includes: an
41 individual, partnership, corporation, or an officer, director,
42 stockholder, or employee of a corporation, or a member or
43 employee of a partnership, who as such officer, director,
44 stockholder, employee, or member is under the duty to perform the
45 act in respect of which the violation occurs.

46 (cf: P.L.1980, c.60, s.1)

1 4. Section 2 of P.L.2003, c.11 (C.54:32D-2) is amended to read
2 as follows:

3 2. a. The Director of the Division of Taxation shall collect and
4 administer the fee imposed pursuant to section 1 of P.L.2003, c.114
5 (C.54:32D-1). The fees collected shall be deposited to the General
6 Fund, and shall be allocated as follows:

7 (1) of the fees collected for occupancies during State Fiscal
8 Year 2004: \$16,000,000 shall be allocated for appropriation to the
9 New Jersey State Council on the Arts for cultural projects;
10 \$2,700,000 shall be allocated for appropriation to the New Jersey
11 Historical Commission for the purposes of subsection a. of section 3
12 of P.L.1999, c.131 (C.18A:73-22.3); \$9,000,000 shall be allocated
13 for appropriation to the New Jersey Commerce and Economic
14 Growth Commission for tourism advertising and promotion; and
15 \$500,000 shall be allocated for appropriation to the New Jersey
16 Cultural Trust; and

17 (2) of the fees collected for occupancies during State Fiscal
18 Year 2005 and thereafter: 22.68 percent shall be annually allocated
19 for appropriation to the New Jersey State Council on the Arts for
20 cultural projects, provided that the amount allocated shall not be
21 less than \$22,680,000; 3.84 percent shall be allocated for
22 appropriation to the New Jersey Historical Commission for the
23 purposes of subsection a. of section 3 of P.L.1999, c.131
24 (C.18A:73-22.3), provided that the amount allocated shall not be
25 less than \$3,840,000; 12.76 percent shall be allocated for
26 appropriation to the New Jersey Commerce and Economic Growth
27 Commission for tourism advertising and promotion, provided that
28 the amount allocated shall not be less than \$12,760,000; and .72
29 percent shall be allocated for appropriation to the New Jersey
30 Cultural Trust, provided that the amount allocated shall not be less
31 than \$720,000.

32 b. (1) In carrying out the provisions of section 1 of P.L.2003,
33 c.114 (C.54:32D-1) and this section, the director shall have all of
34 the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et
35 seq.). The tax shall be filed and paid in a manner prescribed by the
36 Director of the Division of Taxation. The director shall promulgate
37 such rules and regulations as the director determines are necessary
38 to effectuate the provisions of section 1 of P.L.2003, c.114
39 (C.54:32D-1) and this section.

40 (2) Each person required to collect the hotel and motel
41 occupancy fee shall be personally liable for the fee imposed,
42 collected, or required to be paid, collected, or remitted under
43 section 1 of P.L.2003, c.114 (C.54:32D-1). Any such person shall
44 have the same right in respect to collecting the fee from that
45 person's customer or in respect to non-payment of the fee by the
46 customer as if the fee were a part of the purchase price of the
47 occupancy or rent, as the case may be, and payable at the same

1 time; provided however, that the director shall be joined as a party
2 in any action or proceeding brought to collect the fee.

3 For purposes of this paragraph, "person" includes: an individual,
4 partnership, corporation, or an officer, director, stockholder, or
5 employee of a corporation, or a member or employee of a
6 partnership, who as such officer, director, stockholder, employee, or
7 member is under the duty to perform the act in respect of which the
8 violation occurs.

9 c. The annual appropriations act for each State Fiscal Year,
10 commencing with fiscal year 2005, shall appropriate and distribute
11 during that fiscal year amounts not less than the amounts otherwise
12 specified for State Fiscal Year 2004 in paragraph (1) of subsection
13 a. of this section for the purposes specified in paragraph (1) of
14 subsection a. of this section.

15 d. If the provisions of subsection c. of this section are not met
16 on the effective date of an annual appropriations act for the State
17 fiscal year, or if an amendment or supplement to an annual
18 appropriations act for the State fiscal year should violate the
19 provisions of subsection c. of this section, the Director of the
20 Division of Budget and Accounting in the Department of the
21 Treasury shall, not later than five days after the enactment of the
22 annual appropriations act, or an amendment or supplement thereto,
23 that violates the provisions of subsection c. of this section, certify to
24 the Director of the Division of Taxation that the requirements of
25 subsection c. of this section have not been met.

26 e. The Director of the Division of Taxation shall, no later than
27 five days after certification by the Director of the Division of
28 Budget and Accounting in the Department of the Treasury pursuant
29 to subsection d. of this section that the provisions of subsection c.
30 of this section have not been met or have been violated by an
31 amendment or supplement to the annual appropriations act, notify
32 each person required to collect tax of the certification and that the
33 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1)
34 shall no longer be paid or collected.

35 (cf: P.L.2003, c.114, s. 2)

36

37 5. Section 1 of P.L.2004, c.53 (C.54:32E-1) is amended to read
38 as follows:

39 1. a. There is imposed and shall be paid a tax of 6% on the gross
40 receipts from a cosmetic medical procedure, which shall be paid by
41 the subject of the cosmetic medical procedure, and which shall be
42 collected from the procedure subject by the person billing the gross
43 receipts from the cosmetic medical procedure when collecting the
44 payment for the cosmetic medical procedure. If more than one
45 person bills gross receipts from a single cosmetic medical
46 procedure, each person shall be responsible for the collection of the
47 gross receipts tax on the portion of the gross receipts billed.

1 b. For the purposes of this section, the following terms shall
2 have the following meanings:

3 "Cosmetic medical procedure" means any medical procedure
4 performed on a individual which is directed at improving the
5 procedure subject's appearance and which does not meaningfully
6 promote the proper function of the body or prevent or treat illness
7 or disease. "Cosmetic medical procedure" includes but is not
8 limited to cosmetic surgery, hair transplants, cosmetic injections,
9 cosmetic soft tissue fillers, dermabrasion and chemical peel, laser
10 hair removal, laser skin resurfacing, laser treatment of leg veins,
11 sclerotherapy, and cosmetic dentistry. "Cosmetic medical
12 procedure" does not include reconstructive surgery or dentistry;

13 "Cosmetic surgery" means the surgical reshaping of normal
14 structures on the body to improve the body image, self-esteem or
15 appearance of an individual;

16 "Gross receipts from a cosmetic medical procedure" means all
17 amounts paid for services, property or occupancy required for or
18 associated with the performance of a cosmetic medical procedure
19 and billed to the procedure subject's account;

20 "Reconstructive surgery or dentistry" includes any surgery or
21 dentistry performed on abnormal structures caused by or related to
22 congenital defects, developmental abnormalities, trauma, infection,
23 tumors or disease, including procedures to improve function or give
24 a more normal appearance.

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

32 (2) Each person billing the gross receipts from a cosmetic
33 medical procedure shall be personally liable for the tax imposed,
34 collected, or required to be paid, collected, or remitted under this
35 section. Any such person shall have the same right in respect to
36 collecting the tax from that person's customer or in respect to non-
37 payment of the tax by the customer as if the tax were a part of the
38 purchase price of the procedure and payable at the same time;
39 provided however, that the director shall be joined as a party in any
40 action or proceeding brought to collect the tax.

41 For purposes of this paragraph, "person billing the gross receipts
42 from a cosmetic medical procedure" includes: an individual,
43 partnership, corporation, or an officer, director, stockholder, or
44 employee of a corporation, or a member or employee of a
45 partnership, who as such officer, director, stockholder, employee, or
46 member is under the duty to perform the act in respect of which the
47 violation occurs.

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

4 e. Notwithstanding any provision of P.L.1968, c.410
5 (C.52:14B-1 et seq.) to the contrary, the director may adopt
6 immediately upon filing with the Office of Administrative Law
7 such regulations as the director deems necessary to implement the
8 provisions of this act, which shall be effective for a period not to
9 exceed 180 days following enactment of P.L.2004, 53 (C.54:32E-1)
10 and may thereafter be amended, adopted or readopted by the
11 director in accordance with the requirements of P.L.1968, c.410.
12 (cf: P.L.2004, c.53, s.1)

13
14 6. This act shall take effect immediately, but sections 1 through 5
15 shall remain inoperative until the first day of the fourth month
16 following the date of enactment.

17
18
19 STATEMENT

20
21 This bill amends the current law to impose personal liability on
22 certain persons who are required to collect certain State taxes, fees,
23 and assessments. Under the provisions of this bill, partnerships and
24 corporations, vendors and companies, as well as individuals and
25 entities that act as the State's "fiduciary agents" are responsible and
26 may be held accountable for the collection of: (1) the Cape May
27 tourism assessment and the tax on predominantly tourism related
28 retail receipts, P.L.1992, c.165 (C.40:54D-1 et seq.); (2) the 9-1-1
29 emergency response fee, P.L.2004, c.48 (C.52:17C-1 et seq.); (3)
30 the Atlantic City luxury tax, P.L.1947, c.71 (C.40:48-8.15 et seq.);
31 (4) the State hotel and motel occupancy fee, P.L.2003, c.114
32 (C54:32D-1); and (5) the cosmetic medical procedures gross
33 receipts tax, P.L.2004, c.53 (C.54:32E-1 et seq.).

34 As outlined by the Governor's fiscal year 2008 proposed budget,
35 the changes provided by this bill ensure small business compliance
36 and provide consistency with the provisions of other State taxes,
37 fees, and assessments. In May of 2007, the Executive estimated
38 that these measures had the potential to generate recurring annual
39 revenue of approximately \$1 million.

40
41
42 _____
43
44 Imposes personal liability on certain persons required to collect
45 certain taxes, fees, and assessments.

ASSEMBLY, No. 5004

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 14, 2007

Sponsored by:

Assemblyman LOUIS M. MANZO

District 31 (Hudson)

Assemblyman CHARLES T. EPPS, JR.

District 31 (Hudson)

Co-Sponsored by:

Senator Turner

SYNOPSIS

Imposes personal liability on certain persons required to collect certain taxes, fees, and assessments.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2007)

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5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
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15 and file a return for the preceding month with the director on any
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17 of Taxation in the Department of the Treasury shall prescribe by
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19 assessment in the preceding month during which the person was
20 required to collect the tax.

21 (2) A vendor required to collect the tax upon predominantly
22 tourism related retail receipts and the tourism assessment shall be
23 personally liable for the tax or assessment imposed, collected, or
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25 P.L.1992, c.165 (C.40:54D-4). Any such vendor shall have the
26 same right in respect to collecting the tax or assessment from that
27 vendor's customer or in respect to non-payment of the tax or
28 assessment by the customer as if the tax or assessment were a part
29 of the purchase price of the property or service, amusement charge
30 or rent, as the case may be, and payable at the same time; provided
31 however, that the director shall be joined as a party in any action or
32 proceeding brought to collect the tax or assessment.

33 For purposes of this paragraph, "vendor" includes: an
34 individual, partnership, corporation, or an officer, director,
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36 employee of a partnership, who as such officer, director,
37 stockholder, employee, or member is under the duty to perform the
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42 assessment liability at any intervals and based upon any
43 classifications as the director may designate. In prescribing any
44 other periods to be covered by the return or intervals or
45 classifications for payment of tax and assessment liability, the

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3 orderly collection of the tax imposed.

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5 20 days after notice and to contain the information specified in the
6 notice.

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8 which this tax and assessment is collected and returns made of the
9 amount so collected in each month.

10 (cf: P.L.2002, c.72, s.6)

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15 service customer, charged by a mobile telecommunications
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17 grade access telephone number provided to the customer billed by
18 or for the customer's home service provider and provided to a
19 customer with a place of primary use in this State, a fee of \$0.90 on
20 any periodic bill received by the customer for each voice grade
21 access service number provided as part of the mobile
22 telecommunications service.

23 (2) There is imposed on each customer charged by a telephone
24 exchange company for each voice grade access service line
25 provided to that customer that has a service address in this State, a
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27 voice grade access service line provided as part of that telephone
28 exchange service. Each Private Branch Exchange (PBX) trunk or
29 Centrex trunk equivalent shall constitute an individual and separate
30 subscribed service line. Any customer that has been determined by
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32 Telecommunication program, or in receipt of Lifeline
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34 periodic bill shall be exempt from the fee on that periodic bill.
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36 and their agencies, and school districts shall be exempt from the fee
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40 this State for periodic bills issued to those customers on and after
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42 b. The fee imposed by paragraphs (1) and (2) of subsection a.
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44 company or telephone exchange company providing the applicable
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48 company any obligation or authority otherwise not provided

1 pursuant to law, to take legal action to enforce the collection of the
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15 established pursuant to section 3 of P.L.2004, c.48 (C.52:17C-19).
16 The administration, collection and enforcement of the fee imposed
17 by this act shall be subject to the provisions of the State Uniform
18 Tax Procedure Law, R.S.54:48-1 et seq., to the extent that the
19 provisions of such law are not inconsistent with any provision of
20 this act.

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40 agency, a county or municipal government or any of its agencies, or
41 a school district that is exempt for bills issued on and after January
42 1, 2005, shall be entitled after that date to a credit in an amount as
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46 date, for the reasonable costs certified by the telephone exchange
47 company to have been incurred by the company for changes made
48 to its billing system that are necessary to implement the exemption.

1 The director shall consult with the Board of Public Utilities to
2 ascertain from the board the reasonableness of the costs claimed to
3 be incurred. The director and the board may adopt regulations
4 necessary to administer the credit.

5 (cf: P.L.2004, c.48, s.2)

6

7 3. Section 1 of P.L.1980, c.60 (C.54:32B-24.1) is amended to
8 read as follows:

9 1. a. The director shall collect and administer any tax imposed
10 pursuant to the provisions of P.L.1947, c. 71, (C. 40:48-8.15 et
11 seq.), amended and supplemented by P.L.1979, c. 273,
12 notwithstanding the provisions of any other law or ordinance to the
13 contrary. In carrying out the provisions of this supplementary act
14 the director shall have all the powers granted in P.L.1966, c. 30 (C.
15 54:32B-1 et seq.).

16 b. The director shall determine and certify to the State Treasurer
17 on a monthly basis the amount of revenues payable to any
18 municipality which has enacted a tax pursuant to P.L.1947, c. 71
19 (C. 40:48-8.15 et seq.) and collected by the director pursuant to this
20 supplementary act. The State Treasurer upon the certification of the
21 director and upon the warrant of the State Comptroller, shall pay
22 and distribute on a monthly basis to each municipality the amount
23 so determined and certified.

24 c. The director may furnish to a municipality, at his discretion,
25 copies of tax reports or returns relating to taxes imposed under any
26 municipal ordinance heretofore adopted by that municipality
27 pursuant to P.L.1947, c. 71 (C. 40:48-8.15 et seq.).

28 d. (1) Each vendor required to collect the tax imposed by a
29 municipal ordinance which was adopted pursuant to the provisions
30 of P.L.1947, c. 71 (C. 40:48-8.15 et seq.) shall be personally liable
31 for the tax imposed, collected, or required to be paid, collected, or
32 remitted under the ordinance. Any such vendor shall have the same
33 right in respect to collecting the tax from that vendor's customer or
34 in respect to non-payment of the tax by the customer as if the tax
35 were a part of the purchase price of the property or service,
36 amusement charge or rent, as the case may be, and payable at the
37 same time; provided however, that the director shall be joined as a
38 party in any action or proceeding brought to collect the tax.

39 (2) For purposes of this subsection, "vendor" includes: an
40 individual, partnership, corporation, or an officer, director,
41 stockholder, or employee of a corporation, or a member or
42 employee of a partnership, who as such officer, director,
43 stockholder, employee, or member is under the duty to perform the
44 act in respect of which the violation occurs.

45 (cf: P.L.1980, c.60, s.1)

46

47 4. Section 2 of P.L.2003, c.11 (C.54:32D-2) is amended to read
48 as follows:

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6

1 2. a. The Director of the Division of Taxation shall collect and
2 administer the fee imposed pursuant to section 1 of P.L.2003, c.114
3 (C.54:32D-1). The fees collected shall be deposited to the General
4 Fund, and shall be allocated as follows:

5 (1) of the fees collected for occupancies during State Fiscal
6 Year 2004: \$16,000,000 shall be allocated for appropriation to the
7 New Jersey State Council on the Arts for cultural projects;
8 \$2,700,000 shall be allocated for appropriation to the New Jersey
9 Historical Commission for the purposes of subsection a. of section 3
10 of P.L.1999, c.131 (C.18A:73-22.3); \$9,000,000 shall be allocated
11 for appropriation to the New Jersey Commerce and Economic
12 Growth Commission for tourism advertising and promotion; and
13 \$500,000 shall be allocated for appropriation to the New Jersey
14 Cultural Trust; and

15 (2) of the fees collected for occupancies during State Fiscal
16 Year 2005 and thereafter: 22.68 percent shall be annually allocated
17 for appropriation to the New Jersey State Council on the Arts for
18 cultural projects, provided that the amount allocated shall not be
19 less than \$22,680,000; 3.84 percent shall be allocated for
20 appropriation to the New Jersey Historical Commission for the
21 purposes of subsection a. of section 3 of P.L.1999, c.131
22 (C.18A:73-22.3), provided that the amount allocated shall not be
23 less than \$3,840,000; 12.76 percent shall be allocated for
24 appropriation to the New Jersey Commerce and Economic Growth
25 Commission for tourism advertising and promotion, provided that
26 the amount allocated shall not be less than \$12,760,000; and .72
27 percent shall be allocated for appropriation to the New Jersey
28 Cultural Trust, provided that the amount allocated shall not be less
29 than \$720,000.

30 b. (1) In carrying out the provisions of section 1 of P.L.2003,
31 c.114 (C.54:32D-1) and this section, the director shall have all of
32 the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et
33 seq.). The tax shall be filed and paid in a manner prescribed by the
34 Director of the Division of Taxation. The director shall promulgate
35 such rules and regulations as the director determines are necessary
36 to effectuate the provisions of section 1 of P.L.2003, c.114
37 (C.54:32D-1) and this section.

38 (2) Each person required to collect the hotel and motel
39 occupancy fee shall be personally liable for the fee imposed,
40 collected, or required to be paid, collected, or remitted under
41 section 1 of P.L.2003, c.114 (C.54:32D-1). Any such person shall
42 have the same right in respect to collecting the fee from that
43 person's customer or in respect to non-payment of the fee by the
44 customer as if the fee were a part of the purchase price of the
45 occupancy or rent, as the case may be, and payable at the same
46 time; provided however, that the director shall be joined as a party
47 in any action or proceeding brought to collect the fee.

1 For purposes of this paragraph, "person" includes: an individual,
2 partnership, corporation, or an officer, director, stockholder, or
3 employee of a corporation, or a member or employee of a
4 partnership, who as such officer, director, stockholder, employee, or
5 member is under the duty to perform the act in respect of which the
6 violation occurs.

7 c. The annual appropriations act for each State Fiscal Year,
8 commencing with fiscal year 2005, shall appropriate and distribute
9 during that fiscal year amounts not less than the amounts otherwise
10 specified for State Fiscal Year 2004 in paragraph (1) of subsection
11 a. of this section for the purposes specified in paragraph (1) of
12 subsection a. of this section.

13 d. If the provisions of subsection c. of this section are not met
14 on the effective date of an annual appropriations act for the State
15 fiscal year, or if an amendment or supplement to an annual
16 appropriations act for the State fiscal year should violate the
17 provisions of subsection c. of this section, the Director of the
18 Division of Budget and Accounting in the Department of the
19 Treasury shall, not later than five days after the enactment of the
20 annual appropriations act, or an amendment or supplement thereto,
21 that violates the provisions of subsection c. of this section, certify to
22 the Director of the Division of Taxation that the requirements of
23 subsection c. of this section have not been met.

24 e. The Director of the Division of Taxation shall, no later than
25 five days after certification by the Director of the Division of
26 Budget and Accounting in the Department of the Treasury pursuant
27 to subsection d. of this section that the provisions of subsection c.
28 of this section have not been met or have been violated by an
29 amendment or supplement to the annual appropriations act, notify
30 each person required to collect tax of the certification and that the
31 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1)
32 shall no longer be paid or collected.

33 (cf: P.L.2003, c.114, s. 2)

34

35 5. Section 1 of P.L.2004, c.53 (C.54:32E-1) is amended to read
36 as follows:

37 1. a. There is imposed and shall be paid a tax of 6% on the gross
38 receipts from a cosmetic medical procedure, which shall be paid by
39 the subject of the cosmetic medical procedure, and which shall be
40 collected from the procedure subject by the person billing the gross
41 receipts from the cosmetic medical procedure when collecting the
42 payment for the cosmetic medical procedure. If more than one
43 person bills gross receipts from a single cosmetic medical
44 procedure, each person shall be responsible for the collection of the
45 gross receipts tax on the portion of the gross receipts billed.

46 b. For the purposes of this section, the following terms shall
47 have the following meanings:

1 "Cosmetic medical procedure" means any medical procedure
2 performed on a individual which is directed at improving the
3 procedure subject's appearance and which does not meaningfully
4 promote the proper function of the body or prevent or treat illness
5 or disease. "Cosmetic medical procedure" includes but is not
6 limited to cosmetic surgery, hair transplants, cosmetic injections,
7 cosmetic soft tissue fillers, dermabrasion and chemical peel, laser
8 hair removal, laser skin resurfacing, laser treatment of leg veins,
9 sclerotherapy, and cosmetic dentistry. "Cosmetic medical
10 procedure" does not include reconstructive surgery or dentistry;

11 "Cosmetic surgery" means the surgical reshaping of normal
12 structures on the body to improve the body image, self-esteem or
13 appearance of an individual;

14 "Gross receipts from a cosmetic medical procedure" means all
15 amounts paid for services, property or occupancy required for or
16 associated with the performance of a cosmetic medical procedure
17 and billed to the procedure subject's account;

18 "Reconstructive surgery or dentistry" includes any surgery or
19 dentistry performed on abnormal structures caused by or related to
20 congenital defects, developmental abnormalities, trauma, infection,
21 tumors or disease, including procedures to improve function or give
22 a more normal appearance.

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

30 (2) Each person billing the gross receipts from a cosmetic
31 medical procedure shall be personally liable for the tax imposed,
32 collected, or required to be paid, collected, or remitted under this
33 section. Any such person shall have the same right in respect to
34 collecting the tax from that person's customer or in respect to non-
35 payment of the tax by the customer as if the tax were a part of the
36 purchase price of the procedure and payable at the same time;
37 provided however, that the director shall be joined as a party in any
38 action or proceeding brought to collect the tax.

39 For purposes of this paragraph, "person billing the gross receipts
40 from a cosmetic medical procedure" includes: an individual,
41 partnership, corporation, or an officer, director, stockholder, or
42 employee of a corporation, or a member or employee of a
43 partnership, who as such officer, director, stockholder, employee, or
44 member is under the duty to perform the act in respect of which the
45 violation occurs.

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

1 e. Notwithstanding any provision of P.L.1968, c.410
2 (C.52:14B-1 et seq.) to the contrary, the director may adopt
3 immediately upon filing with the Office of Administrative Law
4 such regulations as the director deems necessary to implement the
5 provisions of this act, which shall be effective for a period not to
6 exceed 180 days following enactment of P.L.2004, 53 (C.54:32E-1)
7 and may thereafter be amended, adopted or readopted by the
8 director in accordance with the requirements of P.L.1968, c.410.
9 (cf: P.L.2004, c.53, s.1)

10

11 6. This act shall take effect immediately, but sections 1 through 5
12 shall remain inoperative until the first day of the fourth month
13 following the date of enactment.

14

15

16

STATEMENT

17

18 This bill amends the current law to impose personal liability on
19 certain persons who are required to collect certain State taxes, fees,
20 and assessments. Under the provisions of this bill, partnerships and
21 corporations, vendors and companies, as well as individuals and
22 entities that act as the State's "fiduciary agents" are responsible and
23 may be held accountable for the collection of: (1) the Cape May
24 tourism assessment and the tax on predominantly tourism related
25 retail receipts, P.L.1992, c.165 (C.40:54D-1 et seq.); (2) the 9-1-1
26 emergency response fee, P.L.2004, c.48 (C.52:17C-1 et seq.); (3)
27 the Atlantic City luxury tax, P.L.1947, c.71 (C.40:48-8.15 et seq.);
28 (4) the State hotel and motel occupancy fee, P.L.2003, c.114
29 (C54:32D-1); and (5) the cosmetic medical procedures gross
30 receipts tax, P.L.2004, c.53 (C.54:32E-1 et seq.).

31

32 As outlined by the Governor's fiscal year 2008 proposed budget,
33 the changes provided by this bill ensure small business compliance
34 and provide consistency with the provisions of other State taxes,
35 fees, and assessments. In May of 2007, the Executive estimated
36 that these measures had the potential to generate recurring annual
revenue of approximately \$1 million.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5004

STATE OF NEW JERSEY

DATED: JUNE 18, 2007

The Assembly Budget Committee reports favorably Assembly Bill No. 5004.

The bill imposes personal liability on certain persons who are required to collect certain State taxes, fees, and assessments.

Under the provisions of this bill, partnerships and corporations, vendors and companies, as well as individuals and entities that act as the State's "fiduciary agents" are responsible and may be held liable for the collection of: (1) the Cape May tourism assessment and the Cape May tax on predominantly tourism related retail receipts, P.L.1992, c.165 (C.40:54D-1 et seq.); (2) the 9-1-1 emergency response fee, P.L.2004, c.48 (C.52:17C-1 et seq.); (3) the Atlantic City luxury tax, P.L.1947, c.71 (C.40:48-8.15 et seq.); (4) the State hotel and motel occupancy fee, P.L.2003, c.114 (C54:32D-1); and (5) the cosmetic medical procedures gross receipts tax, P.L.2004, c.53 (C.54:32E-1 et seq.).

As outlined by the Governor's fiscal year 2008 proposed budget, the changes provided by this bill are necessary to ensure small business compliance and to provide consistency with the provisions of other State taxes, fees, and assessments.

FISCAL IMPACT:

The Executive has estimated that the cumulative effect of these measures has the potential to generate recurring annual revenue of approximately \$1 million.

FISCAL NOTE
ASSEMBLY, No. 5004
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JULY 9, 2007

SUMMARY

Synopsis: Imposes personal liability on certain persons required to collect certain taxes, fees, and assessments.

Type of Impact: Annual Increase in General Fund Revenue.

Agencies Affected: Department of the Treasury.

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue	Approximately \$1,000,000 per Fiscal Year		

- The Office of Legislative Services **concurs** with the estimate provided by the Executive.

BILL DESCRIPTION

Assembly Bill No. 5004 of 2007 imposes personal liability on certain persons who are required to collect certain State taxes, fees, and assessments.

Under the provisions of the bill, partnerships and corporations, vendors and companies, as well as individuals and entities that serve as the State's "fiduciary agents" are responsible and may be held liable for the collection of: (1) the Cape May tourism assessment and the Cape May tax on predominately tourism related retail receipts; (2) the 9-1-1 emergency response fee; (3) the Atlantic City luxury tax; (4) the State hotel and motel occupancy fee; and (5) the cosmetic medical procedures gross receipts tax.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Executive has estimated that the cumulative effect of these measures has the potential to generate recurring annual revenue of approximately \$1 million. As outlined by the Governor's Fiscal Year 2008 Budget Recommendation, the changes provided by Assembly Bill No. 5004 are

necessary to ensure small businesses compliance and to provide consistency with respect to other State taxes, fees, and assessments.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the estimate provided by the Executive. Without precise tax data or specific information related to the amount of revenue generated by the personal liability provisions of other State taxes, fees, and assessments, an independent analysis is unattainable. However, the Executive's \$1 million estimate is consistent with the proportional size of the taxes, fees, and assessments that are amended under the provisions of Assembly Bill No. 5004.

Section: Revenue, Finance and Appropriations

*Analyst: Luke E. Wolff
Assistant Research Analyst*

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

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

SENATE, No. 3002

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 14, 2007

Sponsored by:
Senator SHIRLEY K. TURNER
District 15 (Mercer)

SYNOPSIS

Imposes personal liability on certain persons required to collect certain taxes, fees, and assessments.

CURRENT VERSION OF TEXT

As introduced.



S3002 TURNER

2

1 AN ACT imposing personal liability on certain persons required to
2 collect certain taxes, fees, and assessments, amending various
3 parts of the statutory law.

4

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

7

8 1. Section 9 of P.L.1992, c.165 (C.40:54D-9) is amended to read
9 as follows:

10 9. a. (1) A vendor required to collect the tax upon predominantly
11 tourism related retail receipts or tourism assessment imposed
12 pursuant to this act shall on or before the dates required pursuant to
13 section 17 of P.L.1966, c.30 (C.54:32B-17), forward to the director
14 the tax and assessments collected in the preceding month and make
15 and file a return for the preceding month with the director on any
16 form and containing any information as the Director of the Division
17 of Taxation in the Department of the Treasury shall prescribe by
18 rule or regulation as necessary to determine liability for the tax and
19 assessment in the preceding month during which the person was
20 required to collect the tax.

21 (2) A vendor required to collect the tax upon predominantly
22 tourism related retail receipts and the tourism assessment shall be
23 personally liable for the tax or assessment imposed, collected, or
24 required to be paid, collected, or remitted under section 4 of
25 P.L.1992, c.165 (C.40:54D-4). Any such vendor shall have the
26 same right in respect to collecting the tax or assessment from that
27 vendor's customer or in respect to non-payment of the tax or
28 assessment by the customer as if the tax or assessment were a part
29 of the purchase price of the property or service, amusement charge
30 or rent, as the case may be, and payable at the same time; provided
31 however, that the director shall be joined as a party in any action or
32 proceeding brought to collect the tax or assessment.

33 For purposes of this paragraph, "vendor" includes: an
34 individual, partnership, corporation, or an officer, director,
35 stockholder, or employee of a corporation, or a member or
36 employee of a partnership, who as such officer, director,
37 stockholder, employee, or member is under the duty to perform the
38 act in respect of which the violation occurs.

39 b. The director may permit or require returns to be made
40 covering other periods and upon any dates as the director may
41 specify. In addition, the director may require payments of tax and
42 assessment liability at any intervals and based upon any
43 classifications as the director may designate. In prescribing any
44 other periods to be covered by the return or intervals or
45 classifications for payment of tax and assessment liability, the

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.

S3002 TURNER

1 director may take into account the dollar volume of tax and
2 assessment involved as well as the need for ensuring the prompt and
3 orderly collection of the tax imposed.

4 c. The director may require amended returns to be filed within
5 20 days after notice and to contain the information specified in the
6 notice.

7 d. The director shall inform the authority for each month in
8 which this tax and assessment is collected and returns made of the
9 amount so collected in each month.

10 (cf: P.L.2002, c.72, s.6)

11

12 2. Section 2 of P.L.2004, c.48 (C.52:17C-18) is amended to read
13 as follows:

14 2. a. (1) There is imposed on each mobile telecommunications
15 service customer, charged by a mobile telecommunications
16 company for mobile telecommunications service for each voice
17 grade access telephone number provided to the customer billed by
18 or for the customer's home service provider and provided to a
19 customer with a place of primary use in this State, a fee of \$0.90 on
20 any periodic bill received by the customer for each voice grade
21 access service number provided as part of the mobile
22 telecommunications service.

23 (2) There is imposed on each customer charged by a telephone
24 exchange company for each voice grade access service line
25 provided to that customer that has a service address in this State, a
26 fee of \$0.90 on any periodic bill received by the customer for each
27 voice grade access service line provided as part of that telephone
28 exchange service. Each Private Branch Exchange (PBX) trunk or
29 Centrex trunk equivalent shall constitute an individual and separate
30 subscribed service line. Any customer that has been determined by
31 its telephone exchange company to be enrolled in the Lifeline
32 Telecommunication program, or in receipt of Lifeline
33 Telecommunication or Universal Service Fund benefits for a
34 periodic bill shall be exempt from the fee on that periodic bill.
35 State government agencies, and county and municipal governments
36 and their agencies, and school districts shall be exempt from the fee
37 imposed on customers of telephone exchange companies for each
38 voice grade access service line provided as part of telephone
39 exchange service provided to that customer at a service address in
40 this State for periodic bills issued to those customers on and after
41 January 1, 2005.

42 b. The fee imposed by paragraphs (1) and (2) of subsection a.
43 of this section shall be collected by the mobile telecommunications
44 company or telephone exchange company providing the applicable
45 service to its customers upon payment of any periodic bill for such
46 service. This section shall not be deemed as extending to a
47 telephone exchange company or mobile telecommunications
48 company any obligation or authority otherwise not provided

S3002 TURNER

1 pursuant to law, to take legal action to enforce the collection of the
2 fee imposed upon the customer. Any such action shall be brought
3 by the State against the customer with any cooperation requested by
4 the State of the telephone exchange company or mobile
5 telecommunications company as the State deems necessary.

6 c. (1) The fees collected pursuant to subsection b. of this
7 section shall be collected monthly and reported and paid to the
8 director on a quarterly basis in a manner prescribed by the Director
9 of the Division of Taxation in the Department of the Treasury,
10 which notwithstanding the provisions of subsection b. of section 1
11 of P.L.1992, c.140 (C.54:48-4.1) if any, to the contrary, shall be
12 subject to the provisions of P.L.1992, c.140 as the director shall
13 prescribe, and the State Treasurer shall credit the fee revenue to the
14 "9-1-1 System and Emergency Response Trust Fund Account"
15 established pursuant to section 3 of P.L.2004, c.48 (C.52:17C-19).
16 The administration, collection and enforcement of the fee imposed
17 by this act shall be subject to the provisions of the State Uniform
18 Tax Procedure Law, R.S.54:48-1 et seq., to the extent that the
19 provisions of such law are not inconsistent with any provision of
20 this act.

21 (2) Each mobile telecommunications company and telephone
22 exchange company shall be liable for the fee imposed, collected, or
23 required to be paid, collected, or remitted under the provisions of
24 paragraphs (1) and (2) of subsection a. of this section. Any such
25 company shall have the same right in respect to collecting the fee
26 from that company's customer or in respect to non-payment of the
27 fee by the customer as if the fee were a part of the purchase price of
28 the applicable telecommunications service or telephone exchange
29 service, as the case may be, and payable at the same time; provided
30 however, that the director shall be joined as a party in any action or
31 proceeding brought to collect the fee.

32 For purposes of this paragraph, "company" includes: an
33 individual, partnership, corporation, or an officer, director, or
34 stockholder, or employee of a corporation, or a member or
35 employee of a partnership, who as such officer, director,
36 stockholder, employee, or member is under the duty to perform the
37 act in respect of which the violation occurs.

38 d. A telephone exchange company that provides telephone
39 exchange service to the State government or any State government
40 agency, a county or municipal government or any of its agencies, or
41 a school district that is exempt for bills issued on and after January
42 1, 2005, shall be entitled after that date to a credit in an amount as
43 the Director of the Division of Taxation shall determine within 60
44 days of application, against the amount of fees collected during and
45 due to be paid over for the calendar quarter commencing on that
46 date, for the reasonable costs certified by the telephone exchange
47 company to have been incurred by the company for changes made
48 to its billing system that are necessary to implement the exemption.

S3002 TURNER

1 The director shall consult with the Board of Public Utilities to
2 ascertain from the board the reasonableness of the costs claimed to
3 be incurred. The director and the board may adopt regulations
4 necessary to administer the credit.

5 (cf: P.L.2004, c.48, s.2)

6

7 3. Section 1 of P.L.1980, c.60 (C.54:32B-24.1) is amended to
8 read as follows:

9 1. a. The director shall collect and administer any tax imposed
10 pursuant to the provisions of P.L.1947, c. 71, (C. 40:48-8.15 et
11 seq.), amended and supplemented by P.L.1979, c. 273,
12 notwithstanding the provisions of any other law or ordinance to the
13 contrary. In carrying out the provisions of this supplementary act
14 the director shall have all the powers granted in P.L.1966, c. 30 (C.
15 54:32B-1 et seq.).

16 b. The director shall determine and certify to the State Treasurer
17 on a monthly basis the amount of revenues payable to any
18 municipality which has enacted a tax pursuant to P.L.1947, c. 71
19 (C. 40:48-8.15 et seq.) and collected by the director pursuant to this
20 supplementary act. The State Treasurer upon the certification of the
21 director and upon the warrant of the State Comptroller, shall pay
22 and distribute on a monthly basis to each municipality the amount
23 so determined and certified.

24 c. The director may furnish to a municipality, at his discretion,
25 copies of tax reports or returns relating to taxes imposed under any
26 municipal ordinance heretofore adopted by that municipality
27 pursuant to P.L.1947, c. 71 (C. 40:48-8.15 et seq.).

28 d. (1) Each vendor required to collect the tax imposed by a
29 municipal ordinance which was adopted pursuant to the provisions
30 of P.L.1947, c. 71 (C. 40:48-8.15 et seq.) shall be personally liable
31 for the tax imposed, collected, or required to be paid, collected, or
32 remitted under the ordinance. Any such vendor shall have the same
33 right in respect to collecting the tax from that vendor's customer or
34 in respect to non-payment of the tax by the customer as if the tax
35 were a part of the purchase price of the property or service,
36 amusement charge or rent, as the case may be, and payable at the
37 same time; provided however, that the director shall be joined as a
38 party in any action or proceeding brought to collect the tax.

39 (2) For purposes of this subsection, "vendor" includes: an
40 individual, partnership, corporation, or an officer, director,
41 stockholder, or employee of a corporation, or a member or
42 employee of a partnership, who as such officer, director,
43 stockholder, employee, or member is under the duty to perform the
44 act in respect of which the violation occurs.

45 (cf: P.L.1980, c.60, s.1)

46

47 4. Section 2 of P.L.2003, c.11 (C.54:32D-2) is amended to read
48 as follows:

S3002 TURNER

1 2. a. The Director of the Division of Taxation shall collect and
2 administer the fee imposed pursuant to section 1 of P.L.2003, c.114
3 (C.54:32D-1). The fees collected shall be deposited to the General
4 Fund, and shall be allocated as follows:

5 (1) of the fees collected for occupancies during State Fiscal
6 Year 2004: \$16,000,000 shall be allocated for appropriation to the
7 New Jersey State Council on the Arts for cultural projects;
8 \$2,700,000 shall be allocated for appropriation to the New Jersey
9 Historical Commission for the purposes of subsection a. of section 3
10 of P.L.1999, c.131 (C.18A:73-22.3); \$9,000,000 shall be allocated
11 for appropriation to the New Jersey Commerce and Economic
12 Growth Commission for tourism advertising and promotion; and
13 \$500,000 shall be allocated for appropriation to the New Jersey
14 Cultural Trust; and

15 (2) of the fees collected for occupancies during State Fiscal
16 Year 2005 and thereafter: 22.68 percent shall be annually allocated
17 for appropriation to the New Jersey State Council on the Arts for
18 cultural projects, provided that the amount allocated shall not be
19 less than \$22,680,000; 3.84 percent shall be allocated for
20 appropriation to the New Jersey Historical Commission for the
21 purposes of subsection a. of section 3 of P.L.1999, c.131
22 (C.18A:73-22.3), provided that the amount allocated shall not be
23 less than \$3,840,000; 12.76 percent shall be allocated for
24 appropriation to the New Jersey Commerce and Economic Growth
25 Commission for tourism advertising and promotion, provided that
26 the amount allocated shall not be less than \$12,760,000; and .72
27 percent shall be allocated for appropriation to the New Jersey
28 Cultural Trust, provided that the amount allocated shall not be less
29 than \$720,000.

30 b. (1) In carrying out the provisions of section 1 of P.L.2003,
31 c.114 (C.54:32D-1) and this section, the director shall have all of
32 the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et
33 seq.). The tax shall be filed and paid in a manner prescribed by the
34 Director of the Division of Taxation. The director shall promulgate
35 such rules and regulations as the director determines are necessary
36 to effectuate the provisions of section 1 of P.L.2003, c.114
37 (C.54:32D-1) and this section.

38 (2) Each person required to collect the hotel and motel
39 occupancy fee shall be personally liable for the fee imposed,
40 collected, or required to be paid, collected, or remitted under
41 section 1 of P.L.2003, c.114 (C.54:32D-1). Any such person shall
42 have the same right in respect to collecting the fee from that
43 person's customer or in respect to non-payment of the fee by the
44 customer as if the fee were a part of the purchase price of the
45 occupancy or rent, as the case may be, and payable at the same
46 time; provided however, that the director shall be joined as a party
47 in any action or proceeding brought to collect the fee.

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1 For purposes of this paragraph, "person" includes: an individual,
2 partnership, corporation, or an officer, director, stockholder, or
3 employee of a corporation, or a member or employee of a
4 partnership, who as such officer, director, stockholder, employee, or
5 member is under the duty to perform the act in respect of which the
6 violation occurs.

7 c. The annual appropriations act for each State Fiscal Year,
8 commencing with fiscal year 2005, shall appropriate and distribute
9 during that fiscal year amounts not less than the amounts otherwise
10 specified for State Fiscal Year 2004 in paragraph (1) of subsection
11 a. of this section for the purposes specified in paragraph (1) of
12 subsection a. of this section.

13 d. If the provisions of subsection c. of this section are not met
14 on the effective date of an annual appropriations act for the State
15 fiscal year, or if an amendment or supplement to an annual
16 appropriations act for the State fiscal year should violate the
17 provisions of subsection c. of this section, the Director of the
18 Division of Budget and Accounting in the Department of the
19 Treasury shall, not later than five days after the enactment of the
20 annual appropriations act, or an amendment or supplement thereto,
21 that violates the provisions of subsection c. of this section, certify to
22 the Director of the Division of Taxation that the requirements of
23 subsection c. of this section have not been met.

24 e. The Director of the Division of Taxation shall, no later than
25 five days after certification by the Director of the Division of
26 Budget and Accounting in the Department of the Treasury pursuant
27 to subsection d. of this section that the provisions of subsection c.
28 of this section have not been met or have been violated by an
29 amendment or supplement to the annual appropriations act, notify
30 each person required to collect tax of the certification and that the
31 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1)
32 shall no longer be paid or collected.

33 (cf: P.L.2003, c.114, s. 2)

34

35 5. Section 1 of P.L.2004, c.53 (C.54:32E-1) is amended to read
36 as follows:

37 1. a. There is imposed and shall be paid a tax of 6% on the gross
38 receipts from a cosmetic medical procedure, which shall be paid by
39 the subject of the cosmetic medical procedure, and which shall be
40 collected from the procedure subject by the person billing the gross
41 receipts from the cosmetic medical procedure when collecting the
42 payment for the cosmetic medical procedure. If more than one
43 person bills gross receipts from a single cosmetic medical
44 procedure, each person shall be responsible for the collection of the
45 gross receipts tax on the portion of the gross receipts billed.

46 b. For the purposes of this section, the following terms shall
47 have the following meanings:

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8

1 "Cosmetic medical procedure" means any medical procedure
2 performed on a individual which is directed at improving the
3 procedure subject's appearance and which does not meaningfully
4 promote the proper function of the body or prevent or treat illness
5 or disease. "Cosmetic medical procedure" includes but is not
6 limited to cosmetic surgery, hair transplants, cosmetic injections,
7 cosmetic soft tissue fillers, dermabrasion and chemical peel, laser
8 hair removal, laser skin resurfacing, laser treatment of leg veins,
9 sclerotherapy, and cosmetic dentistry. "Cosmetic medical
10 procedure" does not include reconstructive surgery or dentistry;

11 "Cosmetic surgery" means the surgical reshaping of normal
12 structures on the body to improve the body image, self-esteem or
13 appearance of an individual;

14 "Gross receipts from a cosmetic medical procedure" means all
15 amounts paid for services, property or occupancy required for or
16 associated with the performance of a cosmetic medical procedure
17 and billed to the procedure subject's account;

18 "Reconstructive surgery or dentistry" includes any surgery or
19 dentistry performed on abnormal structures caused by or related to
20 congenital defects, developmental abnormalities, trauma, infection,
21 tumors or disease, including procedures to improve function or give
22 a more normal appearance.

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

30 (2) Each person billing the gross receipts from a cosmetic
31 medical procedure shall be personally liable for the tax imposed,
32 collected, or required to be paid, collected, or remitted under this
33 section. Any such person shall have the same right in respect to
34 collecting the tax from that person's customer or in respect to non-
35 payment of the tax by the customer as if the tax were a part of the
36 purchase price of the procedure and payable at the same time;
37 provided however, that the director shall be joined as a party in any
38 action or proceeding brought to collect the tax.

39 For purposes of this paragraph, "person billing the gross receipts
40 from a cosmetic medical procedure" includes: an individual,
41 partnership, corporation, or an officer, director, stockholder, or
42 employee of a corporation, or a member or employee of a
43 partnership, who as such officer, director, stockholder, employee, or
44 member is under the duty to perform the act in respect of which the
45 violation occurs.

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

1 e. Notwithstanding any provision of P.L.1968, c.410
2 (C.52:14B-1 et seq.) to the contrary, the director may adopt
3 immediately upon filing with the Office of Administrative Law
4 such regulations as the director deems necessary to implement the
5 provisions of this act, which shall be effective for a period not to
6 exceed 180 days following enactment of P.L.2004, 53 (C.54:32E-1)
7 and may thereafter be amended, adopted or readopted by the
8 director in accordance with the requirements of P.L.1968, c.410.

9 (cf: P.L.2004, c.53, s.1)

10
11 6. This act shall take effect immediately, but sections 1 through 5
12 shall remain inoperative until the first day of the fourth month
13 following the date of enactment.

14
15
16 STATEMENT

17
18 This bill amends the current law to specify that certain persons
19 who serve as the State's "fiduciary agents" are personally liable for
20 the collection of certain State taxes, fees, and assessments. In
21 particular, this bill provides personal liability to partnerships and
22 corporations, vendors and companies, as well as individuals and
23 entities that are required to collect: (1) the Cape May tourism
24 assessment and the tax on predominantly tourism related retail
25 receipts, P.L.1992, c.165 (C.40:54D-1 et seq.); (2) the 9-1-1
26 emergency response fee, P.L.2004, c.48 (C.52:17C-1 et seq.); (3)
27 the Atlantic City luxury tax, P.L.1947, c.71 (C.40:48-8.15 et seq.);
28 (4) the State hotel and motel occupancy fee, P.L.2003, c.114
29 (C54:32D-1); and (5) the cosmetic medical procedures gross
30 receipts tax, P.L.2004, c.53 (C.54:32E-1 et seq.).

31 As outlined by the Governor's fiscal year 2008 proposed budget,
32 the changes provided by this bill ensure small business compliance
33 and provide consistency with the provisions of other State taxes,
34 fees, and assessments. In May of 2007, the Executive estimated
35 that these measures had the potential to generate recurring annual
36 revenue of approximately \$1 million.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3002

STATE OF NEW JERSEY

DATED: JUNE 18, 2007

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3002.

This bill imposes personal liability on certain persons who are required to collect certain State taxes, fees, and assessments.

Under the provisions of this bill, partnerships and corporations, vendors and companies, as well as individuals and entities that act as the State's "fiduciary agents" are responsible and may be held liable for the collection of: (1) the Cape May tourism assessment and the Cape May tax on predominantly tourism related retail receipts, P.L.1992, c.165 (C.40:54D-1 et seq.); (2) the 9-1-1 emergency response fee, P.L.2004, c.48 (C.52:17C-1 et seq.); (3) the Atlantic City luxury tax, P.L.1947, c.71 (C.40:48-8.15 et seq.); (4) the State hotel and motel occupancy fee, P.L.2003, c.114 (C54:32D-1); and (5) the cosmetic medical procedures gross receipts tax, P.L.2004, c.53 (C.54:32E-1 et seq.).

As outlined by the Governor's fiscal year 2008 proposed budget, the changes provided by this bill are necessary to ensure small business compliance and to provide consistency with the provisions of other State taxes, fees, and assessments.

FISCAL IMPACT:

The Executive has estimated that the cumulative effect of these measures has the potential to generate recurring annual revenue of approximately \$1 million.

FISCAL NOTE
SENATE, No. 3002
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JULY 9, 2007

SUMMARY

Synopsis: Imposes personal liability on certain persons required to collect certain taxes, fees, and assessments.

Type of Impact: Annual Increase in General Fund Revenue.

Agencies Affected: Department of the Treasury.

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue	Approximately \$1,000,000 per Fiscal Year		

- The Office of Legislative Services **concurs** with the estimate provided by the Executive.

BILL DESCRIPTION

Senate Bill No. 3002 of 2007 imposes personal liability on certain persons who are required to collect certain State taxes, fees, and assessments.

Under the provisions of the bill, partnerships and corporations, vendors and companies, as well as individuals and entities that serve as the State's "fiduciary agents" are responsible and may be held liable for the collection of: (1) the Cape May tourism assessment and the Cape May tax on predominately tourism related retail receipts; (2) the 9-1-1 emergency response fee; (3) the Atlantic City luxury tax; (4) the State hotel and motel occupancy fee; and (5) the cosmetic medical procedures gross receipts tax.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Executive has estimated that the cumulative effect of these measures has the potential to generate recurring annual revenue of approximately \$1 million. As outlined by the Governor's Fiscal Year 2008 Budget Recommendation, the changes provided by Senate Bill No. 3002 are

necessary to ensure small businesses compliance and to provide consistency with respect to other State taxes, fees, and assessments.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the estimate provided by the Executive. Without precise tax data or specific information related to the amount of revenue generated by the personal liability provisions of other State taxes, fees, and assessments, an independent analysis is unattainable. However, the Executive's \$1 million estimate is consistent with the proportional size of the taxes, fess, and assessments that are amended under the provisions of Senate Bill No. 3002.

Section: Revenue, Finance and Appropriations
Analyst: Luke E. Wolff
Assistant Research Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

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