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LAW/RWH 6/17/08

§§1-3 -
C.33:1-24.1 to
33:1-24.3
§5 - Note to
§§1-4

P.L. 2007, CHAPTER 351, *approved January 15, 2008*
Senate, No. 2040 (*Fourth Reprint*)

1 AN ACT concerning the issuance of special licenses to serve
2 alcoholic beverages ⁴["³ special concessionaire permits,³"]⁴ ²and
3 certain plenary retail consumption licenses,² and ²amending and²
4 supplementing Title 33 of the Revised Statutes.

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

- 8
9 1. The Legislature finds and declares that¹:
- 10 a. Smart growth is an innovative approach to land use planning
11 that directs the State's resources and funding to projects that
12 enhance the quality of life for New Jersey residents;
- 13 b. Smart **["Growth"]** growth¹ encourages the development of
14 distinctive, attractive communities with mixed use development,
15 walkable town centers and neighborhoods, a range of housing
16 options, and a variety of transportation modes;
- 17 c. Small businesses, including restaurants and other
18 establishments that serve alcoholic beverages, enhance the
19 economic viability of a smart growth community and the quality of
20 life for residents and visitors;
- 21 d. Many municipalities in New Jersey do not have a sufficient
22 number of liquor licenses for all the establishments that wish to
23 serve alcoholic beverages to patrons; and
- 24 e. In order to foster and encourage development in smart
25 growth communities, it is appropriate to create special licenses to
26 serve alcoholic beverages for establishments located in smart
27 growth projects and to provide financial compensation to alcoholic
28 beverage licensees in those communities who already have
29 established businesses and paid market value for their licenses.

- 30
31 2. a. As used in this act:
32 "Smart growth development project" or "project" means a
33 development project that:
34 (1) Is located in smart growth area as defined in section 1 of
35 P.L.2004, c.89 (C.52:27D-10.2); is expected to generate, directly or
36 indirectly, at least ¹**["\$100"]** \$50¹ million of private investments and
37 more than \$25 million annually in new sales and use tax revenue;

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:

¹Senate SEG committee amendments adopted November 27, 2006.

²Senate floor amendments adopted December 11, 2006.

³Assembly ALP committee amendments adopted November 19, 2007.

⁴Assembly floor amendments adopted December 13, 2007.

1 and consists of at least five acres of land under the control of a
2 developer; or

3 (2) Is expected to increase the value of all taxable property in a
4 municipality by not less than 40% over the value of that property
5 for the previous tax year as shown in column six of the abstract of
6 ratables.

7 b. ⁴~~【The Director of the Division of Alcoholic Beverage~~
8 ~~Control, upon approval of the municipality, may issue one or more~~
9 ~~special licenses to one or more individual corporations or other~~
10 ~~types of legal entities ³【operating a premises where alcoholic~~
11 ~~beverages are intended to be served】³ 'that are' ³【located in】~~
12 ~~developing³ a smart growth development project. The license ³may~~
13 ~~be sold by the corporation or entity only to a person operating a~~
14 ~~premises where alcoholic beverages are intended to be served that is~~
15 ~~located in the smart growth development project and³ shall~~
16 ~~authorize the sale of alcoholic beverages for immediate~~
17 ~~consumption on the operator's premises. ³Prior to obtaining a~~
18 ~~license pursuant to the provisions of this act, the corporation or~~
19 ~~entity shall demonstrate to the satisfaction of the issuing authority~~
20 ~~of the municipality where the licensed premises are to be located~~
21 ~~that the corporation or entity has made all reasonable efforts to~~
22 ~~obtain a plenary retail consumption license issued pursuant to the~~
23 ~~provisions of R.S.33:1-12.³ If the project is located within the~~
24 ~~boundaries of two or more municipalities, each municipality shall~~
25 ~~approve the issuance of the license or licenses. The director may~~
26 ~~issue not more than 566 such licenses】 The Director of the Division~~
27 ~~of Alcoholic Beverage Control, upon approval of the municipality,~~
28 ~~may issue one or more special licenses to one or more individual~~
29 ~~corporations or other types of legal entities operating a premises~~
30 ~~where alcoholic beverages are intended to be served that is located~~
31 ~~in a smart growth development project. The license shall authorize~~
32 ~~the sale of alcoholic beverages for immediate consumption on the~~
33 ~~operator's premises. If the project is located within the boundaries~~
34 ~~of two or more municipalities, each municipality shall approve the~~
35 ~~issuance of the license or licenses. The director may issue not more~~
36 ~~than 566 such licenses⁴.~~

37 c. No person who would fail to qualify as a licensee under Title
38 33 of the Revised Statutes shall be permitted to hold an interest in a
39 special license under the provisions of this section.

40 d. Licenses shall be subject to all the provisions of Title 33 of
41 the Revised Statutes, rules and regulations promulgated by the
42 director and municipal ordinances.

43 e. No license issued pursuant to this section shall be transferred
44 to any premises other than a premises located within the same smart
45 growth development project.

46 f. ⁴~~【Application for 'the initial issuance and renewal of' each~~
47 ~~license shall be made to the director on an annual basis. The fee for~~

1 ~~['each]~~ the initial issuance of the¹ license shall be two and one half
2 times the ³~~['average sale price for the three most recent sales of~~
3 plenary retail consumption licenses in the municipality where the
4 license is being issued during the preceding ~~['three]~~ five¹ years. If
5 the project is located within the ~~['boundries]~~ boundaries¹ of two or
6 more municipalities, the highest average sale price of the two ¹or
7 more¹ municipalities shall be used. If ~~['no]~~ less than three¹
8 plenary retail consumption licenses have been sold in the
9 municipality ¹or municipalities, as the case may be,¹ within the
10 previous five years, the municipality ¹or municipalities, as the case
11 may be,¹] appraised value. The municipality³ shall obtain an
12 appraisal ³~~['.]~~³ at the ³~~['applicant's]~~ corporation's or entity's³
13 expense ³~~['.']~~³ to determine the appropriate fee for the license³.
14 The appraisal process shall include an examination of previous
15 transactions in the municipality ³~~['or municipalities, as the case~~
16 may be,¹]³ and shall reflect what a willing buyer, under no
17 pressure to buy, would pay a willing seller, under no pressure to
18 sell, for a plenary retail consumption license in that municipality
19 ³~~['or municipalities, as the case may be']~~³ . One half of the
20 amount of the application fee for the initial issuance of the license
21 shall be paid upon the issuance of the license and the other half of
22 that amount shall be paid one year later. The director shall establish
23 an annual fee for the license which shall not exceed the fee which
24 may be imposed by a municipality for a plenary retail consumption
25 license pursuant to R.S.33:1-12.¹] Application for the initial
26 issuance and renewal of each license shall be made to the director
27 on an annual basis. The fee for the initial issuance of the license
28 shall be two and one half times the average sale price for the three
29 most recent sales of plenary retail consumption licenses in the
30 municipality where the license is being issued during the preceding
31 five years. If the project is located within the boundaries of two or
32 more municipalities, the highest average sale price of the two or
33 more municipalities shall be used. If less than three plenary retail
34 consumption licenses have been sold in the municipality or
35 municipalities, as the case may be, within the previous five years,
36 the municipality or municipalities, as the case may be, shall obtain
37 an appraisal, at the applicant's expense, to determine the
38 appropriate fee for the license. The appraisal process shall include
39 an examination of previous transactions in the municipality or
40 municipalities, as the case may be, and shall reflect what a willing
41 buyer, under no pressure to buy, would pay a willing seller, under
42 no pressure to sell, for a plenary retail consumption license in that
43 municipality or municipalities, as the case may be. One half of the
44 amount of the application fee for the initial issuance of the license
45 shall be paid upon the issuance of the license and the other half of
46 that amount shall be paid one year later. The director shall establish

1 an annual fee for the license which shall not exceed the fee which
2 may be imposed by a municipality for a plenary retail consumption
3 license pursuant to R.S.33:1-12.⁴

4 g. The fee for the 'initial issuance of the' license shall be
5 distributed in the following manner:

6 (1) Twenty-five percent shall be paid to the municipality
7 wherein the smart growth development project is located and if the
8 project is located within the boundaries of two or more
9 municipalities, the fee shall be divided equally among those
10 municipalities;

11 (2) Twenty-five percent shall be paid to the Director of the
12 Division of Alcoholic Beverage Control;

13 (3) Fifty percent shall be divided equally among and paid to the
14 plenary retail consumption licensees in the municipality or
15 municipalities where the licensed premises will be located.

16 h. If the individual corporation or entity holding the license
17 determines to sell a license issued pursuant to this section, the
18 license shall be sold for the sum paid pursuant to paragraph (3) of
19 subsection g. of this section.

20 i. The director shall not issue a special concessionaire permit
21 for any location or premises which is eligible to obtain a license to
22 serve alcoholic beverages under the provisions of this act.

23 j. Pursuant to the "Administrative Procedure Act," P.L.1968,
24 c.410 (C.52:14B-1 et seq.), the director shall adopt rules and
25 regulations to effectuate the 'provision' purposes'¹ of this act.

26

27 ²³. a. Notwithstanding the provisions of section 1 of P.L.1977,
28 c.246 (C.33:1-12.39), a municipality in which is located an urban
29 enterprise zone as designated pursuant to P.L.1983, c.303
30 (C.52:27H-60 et seq.) or any supplement thereto, and a Planning
31 Area 1 (Metropolitan), as designated pursuant to the "State Planning
32 Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et
33 seq.), may acquire ⁴['³pursuant to the provisions of this act³']⁴ any
34 existing plenary retail consumption licenses within the municipality
35 that are inactive and retain any such licenses in an inactive status
36 for a period of up to five years.

37 b. A municipality subject to the provisions of subsection a. of
38 this section may issue at public sale one or more of any such
39 inactive plenary retail consumption licenses in a manner consistent
40 with the provisions of P.L.1975, c.275 (C.33:1-19.1 et seq.), to no
41 more than one corporation or legal entity for each such plenary
42 retail consumption license for use only at a licensed premises that
43 shall be located in a development project within a smart growth
44 area, as defined in section 1 of P.L.2004, c.89 (C.52:27D-10.2), in
45 the municipality. The use of any such plenary retail consumption
46 license shall be in a manner consistent with the provisions of Title

1 33 of the Revised Statutes and any regulations promulgated
 2 thereunder by the director.²

3

4 ²4. Section 1 of P.L.1975, c. 275 (C.33:1-19.1) is amended to
 5 read as follows:

6 1. Whenever a municipality is authorized to issue one or more
 7 new or additional plenary retail consumption, seasonal retail
 8 consumption or plenary retail distribution licenses or a plenary
 9 retail consumption license acquired pursuant to section 3 of P.L. ,
 10 c. (C.)(pending before the Legislature as this bill) and the
 11 governing body by resolution determines to permit the issuance
 12 thereof, the governing body shall cause to be published a notice of
 13 the proposed issuance of said license or licenses and that
 14 applications therefor will be accepted by the governing body or in
 15 municipalities having a municipal board of alcoholic beverage
 16 control or municipal excise commission, by the board or
 17 commission, as the case may be. The notice shall specify a time
 18 and date after which no further applications will be accepted. The
 19 notice shall be published in a newspaper circulating generally in the
 20 municipality by not less than two insertions, 1 week apart, the
 21 second of which shall be made not less than 30 days prior to the
 22 time and date specified in the notice as the time and date after
 23 which no further applications will be accepted.

24 (cf: P.L.1975, c.275, s.1)²

25

26 ⁴[³5. (New section) The director shall have the exclusive power
 27 to issue one or more special concessionaire permits, as appropriate
 28 in the director's discretion, for the retail sale and consumption of
 29 alcoholic beverages for any lawful purpose in, on or about any
 30 project, premises or other property at the New Jersey Sports and
 31 Exposition Authority's Meadowlands Complex on such terms and
 32 conditions as the director establishes.³]⁴

33

34 ²[³.] ³[⁵.²] ⁴[⁶.³] ⁵.⁴ This act shall take effect on the first day
 35 of the third month after ¹the date of enactment; provided however,
 36 the Director of the Division of Alcoholic Beverage Control ¹[, prior
 37 to the effective date,]¹ may take such anticipatory action ¹in
 38 advance thereof¹ as needed for the act's timely implementation.

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42

43 Provides for special licenses to serve alcoholic beverages in
 44 smart growth development projects; allows for sale of certain
 45 plenary retail consumption licenses for use in such projects.

SENATE, No. 2040

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 15, 2006

Sponsored by:
Senator PAUL A. SARLO
District 36 (Bergen, Essex and Passaic)

SYNOPSIS

Provides for special licenses to serve alcoholic beverages in smart growth development projects.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the issuance of special licenses to serve
2 alcoholic beverages and supplementing Title 33 of the Revised
3 Statutes.

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

7
8 1. The Legislature finds and declares:

9 a. Smart growth is an innovative approach to land use planning
10 that directs the State's resources and funding to projects that
11 enhance the quality of life for New Jersey residents;

12 b. Smart Growth encourages the development of distinctive,
13 attractive communities with mixed use development, walkable town
14 centers and neighborhoods, a range of housing options, and a
15 variety of transportation modes;

16 c. Small businesses, including restaurants and other
17 establishments that serve alcoholic beverages, enhance the
18 economic viability of a smart growth community and the quality of
19 life for residents and visitors;

20 d. Many municipalities in New Jersey do not have a sufficient
21 number of liquor licenses for all the establishments that wish to
22 serve alcoholic beverages to patrons; and

23 e. In order to foster and encourage development in smart growth
24 communities, it is appropriate to create special licenses to serve
25 alcoholic beverages for establishments located in smart growth
26 projects and to provide financial compensation to alcoholic
27 beverage licensees in those communities who already have
28 established businesses and paid market value for their licenses.

29
30 2. a. As used in this act:

31 "Smart growth development project" or "project" means a
32 development project that:

33 (1) Is located in smart growth area as defined in section 1 of
34 P.L.2004, c.89 (C.52:27D-10.2); is expected to generate, directly or
35 indirectly, at least \$100 million of private investments and more
36 than \$25 million annually in new sales and use tax revenue; and
37 consists of at least five acres of land under the control of a
38 developer; or

39 (2) Is expected to increase the value of all taxable property in a
40 municipality by not less than 40% over the value of that property
41 for the previous tax year as shown in column six of the abstract of
42 ratables.

43 b. The Director of the Division of Alcoholic Beverage Control,
44 upon approval of the municipality, may issue one or more special
45 licenses to one or more individual corporations or other types of
46 legal entities operating a premises where alcoholic beverages are
47 intended to be served located in a smart growth development
48 project. The license shall authorize the sale of alcoholic beverages

1 for immediate consumption on the operator's premises. If the
2 project is located within the boundaries of two or more
3 municipalities, each municipality shall approve the issuance of the
4 license or licenses. The director may issue not more than 566 such
5 licenses.

6 c. No person who would fail to qualify as a licensee under Title
7 33 of the Revised Statutes shall be permitted to hold an interest in a
8 special license under the provisions of this section.

9 d. Licenses shall be subject to all the provisions of Title 33 of
10 the Revised Statutes, rules and regulations promulgated by the
11 director and municipal ordinances.

12 e. No license issued pursuant to this section shall be transferred
13 to any premises other than a premises located within the same smart
14 growth development project.

15 f. Application for each license shall be made to the director on
16 an annual basis. The fee for each license shall be two and one half
17 times the average sale price for the three most recent sales of
18 plenary retail consumption licenses in the municipality where the
19 license is being issued during the preceding three years. If the
20 project is located within the boundries of two or more
21 municipalities, the highest average sale price of the two
22 municipalities shall be used. If no plenary retail consumption
23 licenses have been sold in the municipality within the previous five
24 years, the municipality shall obtain an appraisal to determine the
25 appropriate fee for the license. The appraisal process shall include
26 an examination of previous transactions in the municipality and
27 shall reflect what a willing buyer, under no pressure to buy, would
28 pay a willing seller, under no pressure to sell, for a plenary retail
29 consumption license in that municipality.

30 g. The fee for the license shall be distributed in the following
31 manner:

32 (1) Twenty-five percent shall be paid to the municipality
33 wherein the smart growth development project is located and if the
34 project is located within the boundaries of two or more
35 municipalities, the fee shall be divided equally among those
36 municipalities;

37 (2) Twenty-five percent shall be paid to the Director of the
38 Division of Alcoholic Beverage Control;

39 (3) Fifty percent shall be divided equally among and paid to the
40 plenary retail consumption licensees in the municipality or
41 municipalities where the licensed premises will be located.

42 h. If the individual corporation or entity holding the license
43 determines to sell a license issued pursuant to this section, the
44 license shall be sold for the sum paid pursuant to paragraph (3) of
45 subsection g. of this section.

46 i. The director shall not issue a special concessionaire permit for
47 any location or premises which is eligible to obtain a license to
48 serve alcoholic beverages under the provisions of this act.

1 j. Pursuant to the "Administrative Procedure Act," P.L.1968,
2 c.410 (C.52:14B-1 et seq.), the director shall adopt rules and
3 regulations to effectuate the provision of this act.

4

5 3. This act shall take effect on the first day of the third month
6 after enactment; provided however, the Director of the Division of
7 Alcoholic Beverage Control, prior to the effective date, may take
8 such anticipatory action as needed for the act's timely
9 implementation.

10

11

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STATEMENT

13

14 This bill establishes a procedure for a municipality to issue
15 special licenses to sell alcoholic beverages to corporations or other
16 legal entities in smart growth development projects.

17 Under current law, a municipality may issue one plenary retail
18 consumption license (for bars and restaurants) for each 3,000 of its
19 population. Because of these restrictions, there is a shortage of
20 these licenses in some municipalities.

21 This bill defines a "smart growth development project" as a
22 development project that: 1) is located in smart growth area as
23 defined in section 1 of P.L.2004, c.89 (C.52:27D-10.2); is expected
24 to generate, directly or indirectly, at least \$100 million of private
25 investments and more than \$25 million annually in new sales and
26 use tax revenue; and consists of at least five acres of land under the
27 control of a developer; or (2) is expected to increase the value of all
28 taxable property in a municipality by not less than 40% over the
29 value of that property for the previous tax year as shown in column
30 six of the abstract of ratables.

31 The bill prohibits the transfer of any license issued under the
32 bill's provisions to any premises other than a premises located
33 within the same smart growth development project.

34 Application for each license is to be made to the director on an
35 annual basis. The fee for each license shall be two and one half
36 times the average sale price for the three most recent sales of
37 plenary retail consumption licenses in the municipality where the
38 license is being issued during the preceding three years. If no
39 plenary retail consumption licenses have been sold in the
40 municipality within the previous five years, the municipality is to
41 obtain an appraisal to determine the appropriate administrative fee
42 for the license. The appraisal process is to include an examination
43 of previous transactions in the municipality and reflect what a
44 willing buyer, under no pressure to buy, would pay a willing seller,
45 under no pressure to sell, for a plenary retail consumption license in
46 that municipality. The fee for the license is to be paid in the following
47 manner: 25% is to be paid to the municipality where the smart
48 growth development project is located and if the project is located

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1 within the boundaries of two or more municipalities, the fee is to be
2 divided equally among those municipalities; 25% is to be paid to
3 the Director of the Division of Alcoholic Beverage Control; and
4 50% is to be divided equally among and paid to the plenary retail
5 consumption licensees in the municipality or municipalities where
6 the licensed premises will be located.

7 The bill provides that a special concessionaire license may not be
8 issued by the director to a person who is eligible to obtain a license
9 to serve alcoholic beverages under the provisions of this bill.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 2040

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 19, 2007

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 2040 2R.

As amended by the committee, this bill establishes a procedure for a municipality to issue special licenses to sell alcoholic beverages to corporations or other legal entities developing smart growth development projects. The corporation or entity may then sell the license to a person who will operate a premises where alcoholic beverages will be served within that smart growth development project.

Under current law, a municipality may issue one plenary retail consumption license (for bars and restaurants) for each 3,000 of its population. Because of these restrictions, there is a shortage of these licenses in some municipalities.

This bill as amended defines a "smart growth development project" as a development project that: (1) is located in smart growth area as defined in section 1 of P.L.2004, c.89 (C.52:27D-10.2); is expected to generate, directly or indirectly, at least \$50 million of private investments and more than \$25 million annually in new sales and use tax revenue; and consists of at least five acres of land under the control of a developer; or (2) is expected to increase the value of all taxable property in a municipality by not less than 40% over the value of that property for the previous tax year as shown in column six of the abstract of ratables.

The bill prohibits the transfer of any license issued under the bill's provisions to any premises other than a premises located within the same smart growth development project.

Under the amended bill, application for each license is to be made to the director on an annual basis. The fee for the initial issuance of the license would be two and one half times the appraised value. The municipality is to obtain an appraisal, at the expense of the corporation or entity, to determine the appropriate administrative fee for the license. The appraisal process is to include an examination of previous transactions in the municipality and reflect what a willing buyer, under

no pressure to buy, would pay a willing seller, under no pressure to sell, for a plenary retail consumption license in that municipality. The initial fee for the license is to be paid in the following manner: 25% is to be paid to the municipality where the smart growth development project is located and if the project is located within the boundaries of two or more municipalities, the fee is to be divided equally among those municipalities; 25% is to be paid to the Director of the Division of Alcoholic Beverage Control; and 50% is to be divided equally among and paid to the plenary retail consumption licensees in the municipality or municipalities where the licensed premises will be located.

The bill provides that a special concessionaire license may not be issued by the director to a person who is eligible to obtain a license to serve alcoholic beverages under the provisions of this bill.

The bill permits a municipality in which is located an urban enterprise zone as designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any supplement thereto, and a Planning Area 1 (Metropolitan), as designated pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.), to acquire any existing plenary retail consumption licenses within the municipality that are inactive and retain any such licenses in an inactive status for a period of up to five years.

Additionally, the bill allows such municipality to issue at public sale one or more of such inactive licenses in a manner consistent with the provisions of P.L.1975, c.275 (C.33:1-19.1 et seq.), to no more than one corporation or legal entity for each such license for use only at a licensed premises that is to be located in a development project within a smart growth area, as defined in section 1 of P.L.2004, c.89 (C.52:27D-10.2), in the municipality. The use of any such license is to be in a manner consistent with the provisions of Title 33 of the Revised Statutes and any regulations promulgated thereunder by the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

1) require that the license initially be sold to the project's developer, who would sell the license to a person who will operate a premises where alcoholic beverages will be served within that smart growth development project;

2) provide that the fee for the initial issuance of the license is to be two and one half times the appraised value and requires the municipality to obtain an appraisal at the cost of the corporation or entity (as received by the committee, the fee would have been two and one half times the average sale price for recent sales);

3) require the corporation or entity, prior to receiving a license under the bill, to demonstrate that reasonable efforts were made to purchase a plenary retail consumption license; and

4) reaffirm the broad, existing authority of the director to issue special concessionaire permits at the New Jersey Sports and Exposition Authority's Meadowlands Complex site in East Rutherford.

As reported by the committee, this bill is identical to Assembly Bill No. 3280 Aca, as amended and reported by the committee on this same date.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 2040

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 27, 2006

The Senate Economic Growth Committee reports favorably Senate Bill, No. 2040 with committee amendments.

This bill, as amended, establishes a procedure for a municipality to issue special licenses to sell alcoholic beverages to corporations or other legal entities in smart growth development projects.

Under current law, a municipality may issue one plenary retail consumption license (for bars and restaurants) for each 3,000 of its population. Because of these restrictions, there is a shortage of these licenses in some municipalities.

This bill defines a "smart growth development project" as a development project that: 1) is located in smart growth area as defined in section 1 of P.L.2004, c.89 (C.52:27D-10.2); is expected to generate, directly or indirectly, at least \$50 million of private investments and more than \$25 million annually in new sales and use tax revenue; and consists of at least five acres of land under the control of a developer; or (2) is expected to increase the value of all taxable property in a municipality by not less than 40% over the value of that property for the previous tax year as shown in column six of the abstract of ratables.

The bill prohibits the transfer of any license issued under the bill's provisions to any premises other than a premises located within the same smart growth development project.

Application for the initial issuance and renewal of each license is to be made to the Director of the Division of Alcoholic Beverage Control ("director") on an annual basis. The fee for the initial issuance of the license shall be two and one half times the average sale price for the three most recent sales of plenary retail consumption licenses in the municipality where the license is being issued during the preceding five years. If less than three plenary retail consumption licenses have been sold in the municipality within the previous five years, the municipality is to obtain an appraisal, at the applicant's expense, to determine the appropriate administrative fee for the license. The appraisal process is to include an examination of previous transactions in the municipality and reflect what a willing buyer, under no pressure to buy, would pay a willing seller, under no pressure to sell, for a

plenary retail consumption license in that municipality. One half of the amount of the application fee for the initial issuance of the license is to be paid upon the issuance of the license and the other half of that amount shall be paid one year later. The director is to establish an annual fee for the license which is not to exceed the fee which may be imposed by a municipality for a plenary retail consumption license pursuant to R.S.33:1-12.

The fee for the initial issuance of the license is to be paid in the following manner: 25% is to be paid to the municipality where the smart growth development project is located and if the project is located within the boundaries of two or more municipalities, the fee is to be divided equally among those municipalities; 25% is to be paid to the director; and 50% is to be divided equally among and paid to the plenary retail consumption licensees in the municipality or municipalities where the licensed premises will be located.

The bill provides that a special concessionaire license may not be issued by the director to a person who is eligible to obtain a license to serve alcoholic beverages under the provisions of this bill.

The committee amended the bill to: 1) change the definition of a project to require that the project is expected to generate, directly or indirectly, at least \$50 million of private investments; 2) clarify that the application for the initial issuance and renewal of each license is to be made to the director on an annual basis; 3) clarify that the fee for the initial issuance of the license is to be two and one half times the average sale price for the three most recent sales of plenary retail consumption licenses in the municipality where the license is being issued during the preceding five years; 4) provide that if less than three plenary retail consumption licenses have been sold in the municipality or more municipalities, as the case may be, within the previous five years, the municipality or more municipalities, as the case may be, shall obtain an appraisal, at the applicant's expense, to determine the appropriate fee for the license; 5) provide that one half of the amount of the application fee for the initial issuance of the license is to be paid upon the issuance of the license and the other half of that amount is to be paid one year later; 6) require the director to establish an annual fee for the license which shall not exceed the fee which may be imposed by a municipality for a plenary retail consumption license pursuant to R.S.33:1-12; and 7) make technical and grammatical corrections.

STATEMENT TO
[First Reprint]
SENATE, No. 2040

with Senate Floor Amendments
(Proposed By Senator SARLO)

ADOPTED: DECEMBER 11, 2006

These Senate amendments would permit a municipality in which is located an urban enterprise zone as designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any supplement thereto, and a Planning Area 1 (Metropolitan), as designated pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.), to acquire any existing plenary retail consumption licenses within the municipality that are inactive and retain any such licenses in an inactive status for a period of up to five years.

Additionally, the amendments would allow such municipality to issue at public sale one or more of such inactive licenses in a manner consistent with the provisions of P.L.1975, c.275 (C.33:1-19.1 et seq.), to no more than one corporation or legal entity for each such license for use only at a licensed premises that is to be located in a development project within a smart growth area, as defined in section 1 of P.L.2004, c.89 (C.52:27D-10.2), in the municipality. The use of any such license is to be in a manner consistent with the provisions of Title 33 of the Revised Statutes and any regulations promulgated thereunder by the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety.

STATEMENT TO
[Third Reprint]
SENATE, No. 2040

with Assembly Floor Amendments
(Proposed By Assemblymen CRYAN and GREGG)

ADOPTED: DECEMBER 13, 2007

Senate Bill No. 2040 (3R) establishes a procedure for a municipality to issue special licenses to sell alcoholic beverages to corporations or other legal entities developing smart growth development projects. Committee amendments adopted by the Assembly Law and Public Safety Committee on November 19, 2007, would have:

1) required that the license initially be sold to the project's developer, who would sell the license to a person who will operate a premises where alcoholic beverages will be served within that smart growth development project;

2) provided that the fee for the initial issuance of the license is to be two and one half times the appraised value and requires the municipality to obtain an appraisal at the cost of the corporation or entity;

3) required the corporation or entity, prior to receiving a license under the bill, to demonstrate that reasonable efforts were made to purchase a plenary retail consumption license; and

4) reaffirmed the broad, existing authority of the director to issue special concessionaire permits at the New Jersey Sports and Exposition Authority's Meadowlands Complex site in East Rutherford.

Under these amendments:

(1) the Director of the Division of Alcoholic Beverage Control (ABC) would issue a license to a corporation or other entity operating a premises where alcoholic beverages are to be served;

(2) the fee for the license is established as two and one half times the average sale price for recent sales;

(3) there is no requirement that the corporation or entity demonstrate reasonable efforts were made to purchase a plenary retail consumption license; and

(4) the director's authority to issue special concessionaire permits continues to be governed by R.S.33:1-42 and regulations promulgated thereto.

ASSEMBLY, No. 3280

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 12, 2006

Sponsored by:

Assemblyman JOSEPH CRYAN

District 20 (Union)

Assemblyman GUY R. GREGG

District 24 (Sussex, Hunterdon and Morris)

SYNOPSIS

Provides for special licenses to serve alcoholic beverages in smart growth development projects.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the issuance of special licenses to serve
2 alcoholic beverages and supplementing Title 33 of the Revised
3 Statutes.

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

7
8 1. The Legislature finds and declares:

9 a. Smart growth is an innovative approach to land use planning
10 that directs the State's resources and funding to projects that
11 enhance the quality of life for New Jersey residents;

12 b. Smart Growth encourages the development of distinctive,
13 attractive communities with mixed use development, walkable town
14 centers and neighborhoods, a range of housing options, and a
15 variety of transportation modes;

16 c. Small businesses, including restaurants and other
17 establishments that serve alcoholic beverages, enhance the
18 economic viability of a smart growth community and the quality of
19 life for residents and visitors;

20 d. Many municipalities in New Jersey do not have a sufficient
21 number of liquor licenses for all the establishments that wish to
22 serve alcoholic beverages to patrons; and

23 e. In order to foster and encourage development in smart growth
24 communities, it is appropriate to create special licenses to serve
25 alcoholic beverages for establishments located in smart growth
26 projects and to provide financial compensation to alcoholic
27 beverage licensees in those communities who already have
28 established businesses and paid market value for their licenses.

29
30 2. a. As used in this act:

31 "Smart growth development project" or "project" means a
32 development project that:

33 (1) Is located in smart growth area as defined in section 1 of
34 P.L.2004, c.89 (C.52:27D-10.2); is expected to generate, directly or
35 indirectly, at least \$100 million of private investments and more
36 than \$25 million annually in new sales and use tax revenue; and
37 consists of at least five acres of land under the control of a
38 developer; or

39 (2) Is expected to increase the value of all taxable property in a
40 municipality by not less than 40% over the value of that property
41 for the previous tax year as shown in column six of the abstract of
42 ratables.

43 b. The Director of the Division of Alcoholic Beverage Control,
44 upon approval of the municipality, may issue one or more special
45 licenses to one or more individual corporations or other types of
46 legal entities operating a premises where alcoholic beverages are
47 intended to be served located in a smart growth development
48 project. The license shall authorize the sale of alcoholic beverages

1 for immediate consumption on the operator's premises. If the
2 project is located within the boundaries of two or more
3 municipalities, each municipality shall approve the issuance of the
4 license or licenses. The director may issue not more than 566 such
5 licenses.

6 c. No person who would fail to qualify as a licensee under Title
7 33 of the Revised Statutes shall be permitted to hold an interest in a
8 special license under the provisions of this section.

9 d. Licenses shall be subject to all the provisions of Title 33 of
10 the Revised Statutes, rules and regulations promulgated by the
11 director and municipal ordinances.

12 e. No license issued pursuant to this section shall be transferred
13 to any premises other than a premises located within the same smart
14 growth development project.

15 f. Application for each license shall be made to the director on
16 an annual basis. The fee for each license shall be two and one half
17 times the average sale price for the three most recent sales of
18 plenary retail consumption licenses in the municipality where the
19 license is being issued during the preceding three years. If the
20 project is located within the boundries of two or more
21 municipalities, the highest average sale price of the two
22 municipalities shall be used. If no plenary retail consumption
23 licenses have been sold in the municipality within the previous five
24 years, the municipality shall obtain an appraisal to determine the
25 appropriate fee for the license. The appraisal process shall include
26 an examination of previous transactions in the municipality and
27 shall reflect what a willing buyer, under no pressure to buy, would
28 pay a willing seller, under no pressure to sell, for a plenary retail
29 consumption license in that municipality.

30 g. The fee for the license shall be distributed in the following
31 manner:

32 (1) Twenty-five percent shall be paid to the municipality
33 wherein the smart growth development project is located and if the
34 project is located within the boundaries of two or more
35 municipalities, the fee shall be divided equally among those
36 municipalities;

37 (2) Twenty-five percent shall be paid to the Director of the
38 Division of Alcoholic Beverage Control;

39 (3) Fifty percent shall be divided equally among and paid to the
40 plenary retail consumption licensees in the municipality or
41 municipalities where the licensed premises will be located.

42 h. If the individual corporation or entity holding the license
43 determines to sell a license issued pursuant to this section, the
44 license shall be sold for the sum paid pursuant to paragraph (3) of
45 subsection g. of this section.

46 i. The director shall not issue a special concessionaire permit for
47 any location or premises which is eligible to obtain a license to
48 serve alcoholic beverages under the provisions of this act.

1 j. Pursuant to the "Administrative Procedure Act," P.L.1968,
2 c.410 (C.52:14B-1 et seq.), the director shall adopt rules and
3 regulations to effectuate the provision of this act.

4
5 3. This act shall take effect on the first day of the third month
6 after enactment; provided however, the Director of the Division of
7 Alcoholic Beverage Control, prior to the effective date, may take
8 such anticipatory action as needed for the act's timely
9 implementation.

10
11
12 STATEMENT
13

14 This bill establishes a procedure for a municipality to issue
15 special licenses to sell alcoholic beverages to corporations or other
16 legal entities in smart growth development projects.

17 Under current law, a municipality may issue one plenary retail
18 consumption license (for bars and restaurants) for each 3,000 of its
19 population. Because of these restrictions, there is a shortage of
20 these licenses in some municipalities.

21 This bill defines a "smart growth development project" as a
22 development project that: 1) is located in smart growth area as
23 defined in section 1 of P.L.2004, c.89 (C.52:27D-10.2); is expected
24 to generate, directly or indirectly, at least \$100 million of private
25 investments and more than \$25 million annually in new sales and
26 use tax revenue; and consists of at least five acres of land under the
27 control of a developer; or (2) is expected to increase the value of all
28 taxable property in a municipality by not less than 40% over the
29 value of that property for the previous tax year as shown in column
30 six of the abstract of ratables.

31 The bill prohibits the transfer of any license issued under the
32 bill's provisions to any premises other than a premises located
33 within the same smart growth development project.

34 Application for each license is to be made to the director on an
35 annual basis. The fee for each license shall be two and one half
36 times the average sale price for the three most recent sales of
37 plenary retail consumption licenses in the municipality where the
38 license is being issued during the preceding three years. If no
39 plenary retail consumption licenses have been sold in the
40 municipality within the previous five years, the municipality is to
41 obtain an appraisal to determine the appropriate administrative fee
42 for the license. The appraisal process is to include an examination
43 of previous transactions in the municipality and reflect what a
44 willing buyer, under no pressure to buy, would pay a willing seller,
45 under no pressure to sell, for a plenary retail consumption license in
46 that municipality. The fee for the license is to be paid in the following
47 manner: 25% is to be paid to the municipality where the smart
48 growth development project is located and if the project is located

1 within the boundaries of two or more municipalities, the fee is to be
2 divided equally among those municipalities; 25% is to be paid to
3 the Director of the Division of Alcoholic Beverage Control; and
4 50% is to be divided equally among and paid to the plenary retail
5 consumption licensees in the municipality or municipalities where
6 the licensed premises will be located.

7 The bill provides that a special concessionaire license may not be
8 issued by the director to a person who is eligible to obtain a license
9 to serve alcoholic beverages under the provisions of this bill.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3280

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 19, 2007

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 3280.

As amended by the committee, this bill establishes a procedure for a municipality to issue special licenses to sell alcoholic beverages to corporations or other legal entities developing smart growth development projects. The purchaser of the license may then sell the license to a person who will operate a premises where alcoholic beverages will be served within that smart growth development project.

Under current law, a municipality may issue one plenary retail consumption license (for bars and restaurants) for each 3,000 of its population. Because of these restrictions, there is a shortage of these licenses in some municipalities.

The amended version of the bill defines a "smart growth development project" as a development project that: (1) is located in smart growth area as defined in section 1 of P.L.2004, c.89 (C.52:27D-10.2); is expected to generate, directly or indirectly, at least \$50 million of private investments and more than \$25 million annually in new sales and use tax revenue; and consists of at least five acres of land under the control of a developer; or (2) is expected to increase the value of all taxable property in a municipality by not less than 40% over the value of that property for the previous tax year as shown in column six of the abstract of ratables.

The bill prohibits the transfer of any license issued under the bill's provisions to any premises other than a premises located within the same smart growth development project.

Under the amended bill, application for each license is to be made to the director on an annual basis. The fee for the initial issuance of the license would be two and one half times the appraised value. The municipality is to obtain an appraisal, at the purchaser's expense, to determine the appropriate administrative fee for the license. The appraisal process is to include an examination of previous transactions in the municipality and reflect what a willing buyer, under no pressure to buy, would pay a willing seller, under no pressure to sell, for a plenary retail consumption license in that municipality. The initial fee

for the license is to be paid in the following manner: 25% is to be paid to the municipality where the smart growth development project is located and if the project is located within the boundaries of two or more municipalities, the fee is to be divided equally among those municipalities; 25% is to be paid to the Director of the Division of Alcoholic Beverage Control; and 50% is to be divided equally among and paid to the plenary retail consumption licensees in the municipality or municipalities where the licensed premises will be located.

The bill provides that a special concessionaire license may not be issued by the director to a person who is eligible to obtain a license to serve alcoholic beverages under the provisions of this bill.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

1) change the definition of a project to require that the project is expected to generate, directly or indirectly, at least \$50 million of private investments;

2) require that the license initially be sold to the project's developer, who would sell the license to a person who will operate a premises where alcoholic beverages will be served within that smart growth development project.

3) clarify that the application for the initial issuance and renewal of each license is to be made to the director on an annual basis;

4) provide that the fee for the initial issuance of the license is to be based on an appraisal obtained by the municipality at the cost of the corporation or entity;

5) provide that one half of the amount of the application fee for the initial issuance of the license is to be paid upon the issuance of the license and the other half of that amount is to be paid one year later;

6) require the corporation and entity, prior to receiving a license under the bill, to demonstrate that reasonable efforts were made to purchase a plenary retail consumption license;

7) require the director to establish an annual fee for the license which shall not exceed the fee which may be imposed by a municipality for a plenary retail consumption license pursuant to R.S.33:1-12;

8) permit a municipality in which an urban enterprise zone and a Planning Area 1 (Metropolitan) are located to acquire any existing plenary retail consumption licenses within the municipality that are inactive and retain any such licenses in an inactive status for a period of up to five years;

9) allow the municipality to issue at public sale one or more of those inactive licenses to no more than one corporation or legal entity for each such license for use only at a licensed premises that is to be located in a development project within a smart growth area in the municipality;

10) reaffirm the broad, existing authority of the director to issue special concessionaire permits at the New Jersey Sports and Exposition Authority's Meadowlands Complex site in East Rutherford; and

11) make technical and grammatical corrections.

As reported by the committee, this bill is identical to Senate Bill No. 2040 2R, as amended and reported by the committee on this same date.

Jan-15-08 Governor Corzine Takes Action on Legislation

NEWS RELEASE

Governor Jon S. Corzine
January 15, 2008

FOR MORE INFORMATION:

Press Office
609-777-2600

GOVERNOR CORZINE TAKES ACTION ON LEGISLATION

TRENTON- Governor Jon S. Corzine signed the following bills into law on Sunday, January 13, with related statements:

S-502/A-1011 w/Statement (Gill/Prieto, Stack, Cohen, Panter) - Requires health benefits coverage by health insurers and SHBP for orthotic and prosthetic appliances and provides reimbursement therefore.

"I commend the sponsors of Senate Bill No. 502 (First Reprint), which I signed today, for recognizing the importance of making sure that persons in need of orthotic or prosthetic appliances obtain them.

"While I have signed this measure in light of the critical nature of the issue for persons who need these appliances, I do have several concerns about elements of the bill which would have led me to conditionally veto the bill had it been presented to me in other circumstances. First, I have a general concern with bills that mandate specific insurance coverage. These bills deal piecemeal with issues of cost and coverage that might better be addressed more comprehensively. In that regard, I commend the work of the New Jersey Mandated Health Insurance Advisory Commission, and I will continue to read its reports with interest.

"In addition, I am concerned that the bill will be read as deviating from standard practice in the health care delivery system by precluding utilization review, which is designed to ensure the medical necessity for such appliances and thereby prevent unnecessary costs. Accordingly, I have asked the Departments of Health and Senior Services and Human Services to periodically review the utilization of orthotic or prosthetic appliances statewide to ensure that those who need such devices obtain them and that the public is bearing no unnecessary costs.

"Finally, I am concerned that the bill sets the reimbursement level for these services at that set by Medicare. While I appreciate the importance of assuring that these appliances are readily available for those who require them, I am

concerned that this aspect of the bill will limit insurers' ability to negotiate price reductions under circumstances that will not reduce access. Accordingly, I am requesting the Departments of Health and Senior Services and Human Services, consulting with the Department of Banking and Insurance, to monitor the effects of this aspect of the bill and report periodically to me."

S-3043/A-4666 w/Statement (Codey, Rice/Pou) - "Urban Transit Hub Tax Credit Act"; allows tax credits to certain businesses for certain capital investments in urban transit hubs.

"Senate Bill No. 3043 (First Reprint), which I approved today, establishes a new tax credit program to spur new capital investment and increased employment in targeted urban rail transit hubs and to catalyze economic development in those areas. The bill supports the revitalization of New Jersey's urban centers by leveraging valuable transit assets that provide a strong foundation for economic growth, while encouraging increased transit ridership.

"This bill provides one more tool to promote economic development in the State. I intend that the bill will serve as a model for our economic development efforts by focusing our resources on targeted, well-defined areas with express job-creation requirements. Because I believe this approach can work in other areas as well, I am asking the Office of Economic Growth to work with the Legislature and craft similar approaches for other appropriate areas in the State."

ACS for A-3572/SCS for SCS for SS for S-554 w/Statement (Gusciora, Barnes, McKeon, Chivukula, Gordon/B.Smith) - "Electronic Waste Recycling Act."

"Assembly Committee Substitute for Assembly Bill No. 3572, which I signed today, establishes a new program for the disposal of electronic devices, including televisions, computers, and related components and subcomponents in New Jersey.

"I commend the sponsors of this bill for putting forward legislation that is designed to address a significant and growing problem, both in New Jersey and nationally. The type of waste generated by televisions and computers, while relatively small in volume, accounts for a significant percentage of this nation's toxic waste. The electronic waste stream that will be required to be recycled

under this bill can contain significant and dangerous levels of a wide variety of materials, including lead, mercury, cadmium, and PCBs.

"In signing this bill, I am cognizant of its impact on a variety of manufacturers, both situated in New Jersey and located elsewhere. It is my understanding and expectation that technical concerns with this legislation, which I would have addressed through a conditional veto had that option been available, will be addressed in the coming session. Notwithstanding these concerns, I know the sponsors share with me a desire not only to move forward on this difficult issue but also to ensure fairness and equity in the application and administration of this important environmental initiative. In this connection, I have asked the Department of Environmental Protection to work with this bill's sponsors in order to further craft and refine this measure."

A-4314/S-2123 w/Statement (Wisniewski, Stack, Vas/Coniglio) - Establishes pilot program for traffic control signal monitoring system.

"Assembly Bill No. 4314 (Second Reprint), which I approved today, establishes a pilot program for traffic control signal monitoring systems. Supporters of this measure point to research showing that traffic control monitoring systems have been successfully employed in numerous other jurisdictions around the country. Many local officials in New Jersey, particularly mayors of our largest municipalities, believe these systems will help reduce traffic accidents at dangerous intersections.

"In light of this support, I believe that it is appropriate to initiate this pilot program to determine the extent to which these systems advance public safety. In doing so, however, I believe that it is important that this be done in a fashion that allows us to assess its value. In particular, I believe that the test should be whether these systems reduce traffic accidents rather than whether they generate local revenue from fines and penalties.

"To that end, I have asked the Commissioner of Transportation to implement the program in a careful and deliberate manner. It is appropriate that implementation be undertaken in a staged fashion so that the number of jurisdictions that utilize these systems may be limited at the outset until we have further information to assess their utility. In addition, I expect that that the

Commissioner of Transportation will evaluate the effectiveness of these systems on a periodic basis and include the status of such evaluations in the annual reports he will be submitting. Finally, I have asked the Commissioner to develop the program so that appropriate action can be taken in the event that operation of the system no longer serves to promote public safety."

Governor Corzine signed the following bills into law on Monday, January 14, with statements:

S-507/A-2730 w/Statement (Gill/Gusciora) - Requires mandatory audit of election results in randomly selected election districts.

"Today, I am signing into law this measure because it furthers the public confidence in the accuracy and conduct of our election process. There is no more important element in our democratic system than the integrity of our elections, and I wholeheartedly support the establishment of an audit team to review the accuracy and conduct of elections in the state. This law contains many critical elements, including (a) that the audit team include independent individuals and professionals capable of ensuring an appropriate statistical approach, (b) that the audits cover federal and statewide elections as well as a selected number of county and municipal elections, and (c) that the audits not prevent or compromise the ability of candidates or other applicant from requesting a recount.

"While I firmly believe that this measure is intended to and will further the integrity of our election system, I do have a number of concerns which I will work with the legislative leadership and sponsors to address, and which would have led me to conditionally veto the bill had it been presented to me in other circumstances. Most significantly, I believe it is important to review the most appropriate method of sampling and selection of election districts to best realize the purposes of election auditing. While cost is not a determinative factor here, it is important that we expend our resources in those races where there is the greatest need to review the integrity of the electoral process. To this end, it will be important to assess whether the approach undertaken by this measure requires sampling at a level that exceeds what is necessary to provide confidence in the electoral result. Finally, it appears that further refinement may

be appropriate to ensure that the audit process can be completed in a timely fashion and not cause problems related to the certification of election results.

"In raising these concerns, I note that no other state has provided an independent audit team with the level of responsibilities and expectations set forth in this legislation. Given that New Jersey will be the first to do so, it is particularly appropriate that we commit to reexamining the approach taken in this legislation, and I will work with the Legislature to do so after we have had an opportunity to learn from the experience of the audit team in at least one statewide primary and general election. In this regard, I also observe that in light of my recent signing of Senate Bill No. 2949 (First Reprint) the deadline for the State to provide voting machines that shall produce an individual permanent paper record for each vote cast has been extended until June 3, 2008, and thus the application of this measure is unlikely to be possible at least until that date.

"Again, I applaud the sponsors and the Legislature for their commitment to ensuring public confidence in the integrity of the electoral process and look forward to working with them to ensure that New Jersey is a leader in this area."

A-2135/S-2748 w/Statement (Cohen/Scutari, Gill) - Increases judicial salaries and prosecutors' salaries.

"Assembly Bill No. 2135 (First Reprint), which I signed today, represents the completion of a three-step increase in judicial salaries that first began with provisions of the FY 2008 Appropriations Act, which was approved last year. Under the legislation I signed today, judicial salaries would increase by five percent effective January 1, 2008, and five percent effective January 1, 2009.

"The bill also would have the effect of increasing the salaries of Administrative Law Judges, Workers' Compensation Judges, and County Sheriffs, Clerks, Surrogates, and Registers of Deeds and Mortgages because the salaries of these officials are statutorily set at a percentage of the salary of a Judge of the Superior Court. This bill also would increase the annual salaries of County Prosecutors. Those salaries would increase from \$141,000 to \$153,000 effective January 1, 2008, and to \$165,000 effective January 1, 2009.

"I support increasing judicial salaries and commend the Legislature for approving an increase in those salaries. As noted in the recent report of the Public Officers Salary Review Commission, which is the statutory body created to study these issues every four years and which recommended an increase in judicial salaries, this increase is vital to ensuring the continued exceptional quality of our Judiciary and the retention of our experienced judges.

"I also recognize that we need to attract and retain high quality professionals to serve as County Prosecutors. Though the additional cost of the salary increase for County Prosecutors is relatively modest, I am concerned that this salary increase will create greater unfairness in the overall compensation structure for State and local government. I note that County Prosecutors now will have salaries that exceed those of State government cabinet officers, including the Attorney General, who is charged under statute with oversight of County Prosecutor offices. This salary differential has the potential over time of making it more difficult to attract and retain high quality prosecutors to serve in the Division of Criminal Justice. I would have tried to address this problem through a conditional veto had circumstances permitted that approach.

"Along with the problem of salary differential among similarly situated officials is the problem created by the fact that salaries of cabinet-level and sub-cabinet officials have remained unchanged for five years. This issue is undermining the stability of leadership of the cabinet departments of State government. We should be addressing this problem, and we would be addressing it now were it not for the financial emergency now confronting State government.

"In the interim, with regard to the specific issues facing the Department of Law and Public Safety, I have asked the Attorney General to work with the Department of the Treasury to develop appropriate recommendations to address those issues."

Governor Corzine signed the following bill on Tuesday, January 15:

S-2040/A-3280 (Sarlo, Sweeney/Cryan, Gregg) - Provides for special licenses to serve alcoholic beverages to smart growth development projects; allows for sale of certain plenary retail consumption licenses for use in such projects.

In addition, Governor Corzine decided not to sign the following bills, which are therefore pocket vetoed, and issued related statements:

SCS for S-176/AS for A-1511 (Doria, Scutari/Oliver, Greenstein, Cruz-Perez, Bramnick) - **POCKET VETO** - Expands wrongful death act to allow recovery for mental anguish, emotional pain and suffering, loss of society and loss of companionship.

"I am filing Senate Committee Substitute for Senate Bill No. 176 in the Division of Archives and Records Management without my approval.

"Under the provisions of Article V, Section I, Paragraph 14 of the Constitution, this bill, which was passed within 10 days preceding the expiration of the second legislative year, does not become law because it was not signed prior to the seventh day following such expiration. In this circumstance, there is no provision for the return of a bill to the Legislature for reconsideration, but I deem it to be in the public interest to state my reasons for deciding not to sign this bill.

"Senate Committee Substitute for Senate Bill No. 176 would expand the types of damages allowed in wrongful death actions beyond "pecuniary" losses to include injuries resulting from 'mental anguish, emotional pain and suffering, loss of society and loss of companionship.'"

"I commend the sponsors for recognizing the need to ensure that the lives of minors, parents who do not work outside the home, and the elderly are not significantly undervalued by a system that limits an individual's worth to his or her financial contribution to the family. On the other hand, unlimited damages based on emotional anguish or pain and suffering could have a significant impact on state and local budgets, since government entities are not infrequently named as defendants in wrongful death suits, and there are similar concerns as the State undertakes efforts to attract and grow businesses here.

"Unfortunately, I do not believe that this bill in its current form strikes a fair balance that would avoid using a strict monetary valuation of a person's life while also addressing the adverse effect of allowing unlimited and unpredictable damages.

"I encourage the Legislature to promptly revisit this important issue. Further, I recommend that the Legislature consider alternative means of striking an appropriate balance, especially by granting more flexibility for courts to reduce excessive non-pecuniary damage awards and defining non-pecuniary damages less expansively.

"Accordingly, I must file Senate Committee Substitute for Senate Bill No. 176 without my approval."

A-3153/S-2209 (Schaer, Scalera/Sarlo) - **POCKET VETO** - Provides certain law enforcement officers cannot be suspended without pay for more than 120 calendar days.

"I am filing Assembly Bill No. 3153 (Third Reprint) in the Division of Archives and Records Management without my approval.

Under the provisions of Article V, Section I, Paragraph 14 of the Constitution, this bill, which was passed within 10 days preceding the expiration of the second legislative year, does not become law because it was not signed prior to the seventh day following such expiration. In this circumstance, there is no provision for the return of a bill to the Legislature for reconsideration, but I deem it to be in the public interest to state my reasons for deciding not to sign this bill.

"This bill would require State and local government agencies to pay salary to certain law enforcement officers and paid firefighters in their employ who have been suspended pending a determination of disciplinary charges against them after certain time periods have passed. Specifically, the bill would require such payment of salary to begin 181 days after the charge resulting in suspension. It further would require repayment from an employee against whom a charge was sustained. Moreover, the 180-day time period would be tolled during any period of postponement that occurs at the request of an employee covered by the bill.

"I certainly understand and agree with the intent of the sponsors of this bill, which is to ensure that law enforcement officers and paid firefighters do not suffer severe financial hardship or dire economic consequences due to the loss of their regular salary during the sometimes lengthy period of time required to determine disciplinary charges that ultimately were dismissed. I also agree that

the procedures currently in place for resolving these cases must be changed to reduce median processing times that in some cases now total nearly two years, and I am committed to working to bring about those changes.

"However, I also understand that cases in which a law enforcement officer or firefighter has been suspended without pay generally involve serious matters with serious implications for the employer and the career of the officer or firefighter. For these reasons, these cases legitimately require sufficient time in order for the appropriate outcome to be reached. I believe that imposition of the 180-day deadline called for in this bill would make it far more difficult to arrive at an appropriate resolution given the complexity of these matters and the stakes involved. I would support legislation that creates a more workable and realistic deadline, such as 365 days."

A-4393/S-2878 (Wisniewski, Cohen/Adler) - **POCKET VETO** - Requires certain public contract bid advertisements to contain certified cost estimates or estimate ranges of projected contract costs and specifies grounds for rejection of all bids.

"I am filing Assembly Bill No. 4393 (Second Reprint) in the Division of Archives and Records Management without my approval.

"Under the provisions of Article V, Section I, Paragraph 14 of the Constitution, this bill, which was passed within 10 days preceding the expiration of the second legislative year, does not become law because it was not signed prior to the seventh day following such expiration. In this circumstance, there is no provision for the return of a bill to the Legislature for reconsideration, but I deem it to be in the public interest to state my reasons for deciding not to sign this bill.

"Assembly Bill No. 4393 would make significant changes to the current statutes governing the contracting process for public construction projects. While the bill has many strong proponents, it has generated a significant volume of passionate opposition from a broad spectrum of State and local government officials, entities, and organizations. These include, but are by no means limited to, the State Comptroller, the Attorney General, the League of Municipalities, the Association of Counties, the Governmental Purchasing Association of New Jersey, and many dozens of counties, municipalities, colleges, universities, school

districts, and other entities that passed resolutions or contacted my office to express serious concerns about this bill.

"While I generally support the sponsors' goals of making our public contracting processes more efficient and transparent, I am advised that this bill, as currently drafted, includes apparent technical errors and other flaws that I have no opportunity to address by way of a conditional veto because the bill was not passed by either House of the 212th Legislature until the last voting session. It is my hope that the proponents of similar future legislation will be willing to work in coordination with the Office of State Comptroller and the Division of Local Government Services in the Department of Community Affairs, as well as with affected public entities and their representatives, to craft an appropriate bill that addresses the concerns that motivated this bill while avoiding the problems associated with this bill.

"Accordingly, I must file Assembly Bill No. 4393 (Second Reprint) without my approval."