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LAW/RWH 2/26/09

P.L. 2008, CHAPTER 110, *approved December 4, 2008*
Assembly, No. 2731 (*Second Reprint*)

1 AN ACT concerning municipal and county authority over roads and
2 amending R.S.39:4-8, R.S.39:4-197, R.S.39:4-201, P.L.1945,
3 c.284, and P.L.2004, c.107 and supplementing Title 39 of the
4 Revised Statutes.

5

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

8

9 1. R.S.39:4-8 is amended to read as follows:

10 39:4-8. a. Except as otherwise provided in this section, no
11 ordinance **[or]** , resolution , or regulation concerning, regulating, or
12 governing traffic or traffic conditions, adopted or enacted by any
13 board or body having jurisdiction over highways, shall be of any
14 force or effect unless the same is approved by the **[Commissioner**
15 of Transportation] commissioner, according to law. The
16 commissioner shall not be required to approve any such ordinance,
17 resolution, or regulation, unless, after investigation by **[him]** the
18 commissioner, the same shall appear to be in the interest of safety
19 and the expedition of traffic on the public highways. The
20 commissioner's investigation need not include more than a review
21 of the ordinance, resolution, or regulation, and the supporting
22 documentation submitted by a board or body having jurisdiction
23 over highways, unless the commissioner determines that additional
24 investigation is warranted.

25 Prior to the adoption of any municipal or county ordinance,
26 resolution, or regulation, which places ¹[an undue traffic burden
27 or] ¹any¹ impact on roadways in an adjoining municipality or county
28 ¹[, or affects the flow of traffic therein]¹ , the governing board or
29 body of the municipality or county shall ¹[consult with, and obtain,
30 a concurring resolution from the affected] provide appropriate
31 notice to the¹ adjoining municipality or county.

32 Notwithstanding any other provision of this section to the
33 contrary, any municipal or county ordinance, resolution, or
34 regulation which places ¹[an undue traffic burden or] ¹any¹ impact
35 on a State roadway ¹[, or affects the flow of traffic on a State
36 roadway,]¹ shall require the approval of the commissioner.

37 Where the commissioner's approval is required, a certified copy
38 of the adopted ordinance, resolution, or regulation shall be

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:

¹Assembly ATR committee amendments adopted June 12, 2008.

²Assembly floor amendments adopted June 16, 2008.

1 transmitted by the clerk of the municipality or county, as applicable,
2 to the commissioner within 30 days of adoption, together with: a
3 copy of the municipal or county engineer's certification, a statement
4 of the reasons for the municipal or county engineer's decision,
5 detailed information as to the location of streets, intersections, and
6 signs affected by the ordinance, resolution, or regulation, and traffic
7 count, crash, and speed sampling data, when appropriate. The
8 commissioner may invalidate the provisions of the ordinance,
9 resolution, or regulation if the commissioner finds that the
10 provisions of the ordinance, resolution, or regulation are
11 inconsistent with the Manual on Uniform Traffic Control Devices
12 for Streets and Highways, inconsistent with accepted engineering
13 standards, are not based on the results of an accurate traffic and
14 engineering survey, or place an undue traffic burden or impact on
15 the State highway system, or affect the flow of traffic on the State
16 highway system.

17 b. (1) A municipality may, without the approval of the
18 **[Commissioner of Transportation]** commissioner, and consistent
19 with the current standards prescribed by the Manual on Uniform
20 Traffic Control Devices for Streets and Highways, [do the
21 following] establish by ordinance [or] , resolution, [as
22 appropriate:] or regulation, any of the provisions contained in
23 R.S.39:4-197.

24 (a) **[designate parking restrictions, no passing zones, mid-block**
25 **crosswalks, and crosswalks at intersections, and erect appropriate**
26 **signs and install appropriate markings, on streets under municipal**
27 **jurisdiction which are totally self-contained within that municipality**
28 **and have no direct connection with any street in any other**
29 **municipality;]** (Deleted by amendment, P.L. _____, c. _____) (pending
30 before the Legislature as this bill)

31 (b) **[designate reasonable and safe speed limits and erect**
32 **appropriate signs, on any street under municipal jurisdiction;]**
33 (Deleted by amendment, P.L. _____, c. _____) (pending before the
34 Legislature as this bill)

35 (c) **[designate any intersection as a stop or yield intersection**
36 **and erect appropriate signs, on streets under municipal jurisdiction**
37 **which are totally self-contained within that municipality and have**
38 **no direct connection with any street in any other municipality; and]**
39 (Deleted by amendment, P.L. _____, c. _____) (pending before the
40 Legislature as this bill)

41 (d) **[designate any intersection as a stop intersection and erect**
42 **appropriate signs, on streets under municipal jurisdiction if that**
43 **intersection is located within 500 feet of a school, or of a**
44 **playground or youth recreational facility and the street on which the**
45 **stop sign will be erected is contiguous to that school, or playground**
46 **or youth recreational facility. The municipal engineer shall certify**
47 **to the following in regard to the designated site in which a stop**

1 intersection is being designated: (i) that both intersecting streets are
2 under municipal jurisdiction; (ii) that the intersection is within 500
3 feet of a school, or of a playground or youth recreational facility as
4 defined herein; and (iii) that the intersection is on a street
5 contiguous to a school, or playground or youth recreational facility.
6 A claim against a municipality for damage or injury under this
7 subparagraph for a wrongful act or omission shall be dismissed if
8 the municipality is deemed to have conformed to the provisions
9 contained in this subparagraph.】 (Deleted by amendment, P.L. _____,
10 c. _____) (pending before the Legislature as this bill)

11 (2) A county may, without the approval of the **【Commissioner**
12 **of Transportation】** commissioner, and consistent with the current
13 standards prescribed by the Manual on Uniform Traffic Control
14 Devices for Streets and Highways, **【do the following】** establish by
15 ordinance **【or】** , resolution, **【as appropriate, on streets which are**
16 totally self-contained within the county and have no direct
17 connection with any street in any other county:】 or regulation, any
18 of the provisions contained in R.S.39:4-197.

19 (a) **【designate parking restrictions, no passing zones, mid-block**
20 **crosswalks, and crosswalks at intersections and erect appropriate**
21 **signs;】** (Deleted by amendment, P.L. _____, c. _____) (pending before
22 the Legislature as this bill)

23 (b) **【designate reasonable and safe speed limits and erect**
24 **appropriate signs;】** (Deleted by amendment, P.L. _____, c. _____)
25 (pending before the Legislature as this bill)

26 (c) **【designate any intersection as a stop or yield intersection**
27 **and erect appropriate signs; and】** (Deleted by amendment, P.L. _____,
28 c. _____) (pending before the Legislature as this bill)

29 (d) **【place longitudinal pavement marking delineating the**
30 **separation of traffic flows and the edge of the pavement and erect**
31 **appropriate signs.】** (Deleted by amendment, P.L. _____, c. _____)
32 (pending before the Legislature as this bill)

33 (3) **【Except with respect to subparagraph (d) of paragraph 1 of**
34 **this subsection, the】** The municipal or county engineer shall, under
35 his seal as a licensed professional engineer, certify to the governing
36 body of the municipality or county, as appropriate, that any
37 designation or erections of signs or placement **【or】** of pavement
38 makings has been approved by the engineer after investigation of
39 the circumstances, appears to the engineer to be in the interest of
40 safety and the expedition of traffic on the public highways , and
41 conforms to the current standards prescribed by the Manual **【of】** on
42 Uniform Traffic Control Devices for Streets and Highways, as
43 adopted by the commissioner.

44 **【A certified copy of the adopted ordinance or resolution, as**
45 **appropriate, shall be transmitted by the clerk of the municipality or**
46 **county, as appropriate, to the commissioner within 30 days of**

1 adoption, together with a copy of the engineer's certification; a
 2 statement of the reasons for the engineer's decision; detailed
 3 information as to the location of streets, intersections and signs
 4 affected by any designation or erection of signs or placement of
 5 markings; and traffic count, accident and speed sampling data,
 6 when appropriate. The commissioner, at his discretion, may
 7 invalidate the provisions of the ordinance or resolution within 90
 8 days of receipt of the certified copy if he reviews it and finds that
 9 the] The provisions of the ordinance [or] , resolution [are
 10 inconsistent] , or regulation shall be consistent with the Manual
 11 [of] on Uniform Traffic Control Devices for Streets [or] and
 12 Highways [; are inconsistent] , consistent with accepted
 13 engineering standards [; are not] , based on the results of an
 14 accurate traffic and engineering survey [; or] , and not place an
 15 undue traffic burden or impact on streets in an adjoining
 16 municipality or negatively affect the flow of traffic on the State
 17 highway system.

18 Nothing in this subsection shall allow municipalities to designate
 19 any intersection with any highway under State or county
 20 jurisdiction as a stop or yield intersection or counties to designate
 21 any intersection with any highway under State or municipal
 22 jurisdiction as a stop or yield intersection.

23 c. Subject to the provisions of R.S.39:4-138, in the case of any
 24 street under municipal or county jurisdiction, a municipality or
 25 county may, without the approval of the [Commissioner of
 26 Transportation, do the following] commissioner, and consistent
 27 with the current standards prescribed by the Manual on Uniform
 28 Traffic Control Devices for Streets and Highways, by ordinance,
 29 resolution, or regulation:

30 **【By ordinance or resolution:】**

31 (1) prohibit or restrict general parking;
 32 (2) designate restricted parking under section 1 of P.L.1977,
 33 c.309 (C.39:4-197.6);

34 (3) designate time limit parking;

35 (4) install parking meters[.

36 By ordinance, resolution or regulation:

37 (1) ~~;~~(5) designate loading and unloading zones and taxi stands;

38 **【(2)】** (6) approve street closings for periods up to 48 continuous
 39 hours; **【and**

40 (3) **【(7)】** (7) designate restricted parking under section 1 of P.L.1977,
 41 c.202 (C.39:4-197.5);

42 (8) establish single parking; and

43 (9) reinstate or add parking on any street.

44 **【Nothing in this subsection shall allow municipalities or counties**
 45 **to establish angle parking or to reinstate or add parking on any**
 46 **street, or approve the closure of streets for more than 48 continuous**

1 hours, without the approval of the Commissioner of
2 Transportation.]

3 d. A municipality or county may, without the approval of the
4 commissioner, and consistent with the current standards prescribed
5 by the Manual on Uniform Traffic Control Devices for Streets and
6 Highways, by ordinance [or] , resolution, [as appropriate, in] or
7 regulation, regarding any street under its jurisdiction, install or
8 place an in-street pedestrian crossing right-of-way sign at a marked
9 crosswalk or unmarked crosswalk at an intersection. The
10 installation shall be subject to guidelines [that shall be] issued by
11 the [Commissioner of Transportation] commissioner after
12 consultation with the Director of the Office of Highway Traffic
13 Safety in the Department of Law and Public Safety. The guidelines
14 shall be aimed at ensuring safety to both pedestrians and motorists
15 including, but not limited to, the proper method of sign installation,
16 dimensions, composition of material, proper placement points and
17 maintenance. [A certified copy of the adopted ordinance or
18 resolution shall be transmitted to the commissioner within 30 days
19 of adoption. The commissioner, at his discretion, may invalidate
20 the provisions of the ordinance or resolution within 90 days of
21 receipt of the certified copy if he reviews it and finds that the
22 provisions of the ordinance or resolution are inconsistent with the
23 guidelines issued pursuant to this subsection.] A claim against the
24 State or a municipality or county for damage or injury under this
25 subsection for a wrongful act or omission shall be dismissed if the
26 municipality or county is deemed to have conformed to the
27 guidelines required hereunder.

28 e. A municipality or county may, without the approval of the
29 commissioner, and consistent with the current standards prescribed
30 by the Manual on Uniform Traffic Control Devices for Streets and
31 Highways, by ordinance, resolution, or regulation in any street
32 under its jurisdiction, designate stops, stations , or stands for
33 omnibuses. The designation shall be subject to guidelines [that
34 shall be] issued by the [Commissioner of Transportation]
35 commissioner. The guidelines shall be aimed at ensuring safety to
36 both pedestrians and motorists including, but not limited to, the
37 proper method of sign installation, dimensions, composition of
38 material, proper placement points, and maintenance. [A certified
39 copy of the adopted resolution shall be transmitted to the
40 commissioner within 30 days of adoption. The commissioner, at his
41 discretion, may invalidate the provisions of the ordinance or
42 resolution within 90 days of receipt of the certified copy if he
43 reviews it and finds that the provisions of the ordinance or
44 resolution are inconsistent with the guidelines issued pursuant to
45 this subsection.] A claim against the State or a municipality or
46 county for damage or injury under this subsection for a wrongful act

1 or omission shall be dismissed if the municipality or county is
2 deemed to have conformed to the guidelines required hereunder.

3 (cf: P.L.2004, c.169, s.1)

4

5 2. R.S.39:4-197 is amended to read as follows:

6 39:4-197. Except as otherwise provided in R.S.39:4-8, no
7 municipality shall pass an ordinance or resolution on a matter
8 covered by or which alters or in any way nullifies the provisions of
9 this chapter or any supplement to this chapter; except that a
10 municipality may pass , without the approval of the commissioner,
11 and consistent with the current standards prescribed by the Manual
12 on Uniform Traffic Control Devices for Streets and Highways,
13 ordinances or resolutions, or by ordinances or resolutions may
14 authorize the adoption of regulations by the board, body, or official
15 having control of traffic in the public streets, regulating special
16 conditions existent in the municipality on the subjects and within
17 the limitations following:

18 (1) Ordinance[.] :

19 a. Altering speed limitations as provided in R.S.39:4-98;

20 b. Limiting use of streets to certain class of vehicles ², except
21 that nothing in this paragraph shall permit a municipality to pass an
22 ordinance or resolution limiting use of streets by commercial motor
23 vehicles without the approval of the commissioner² ;

24 c. Designating one-way streets;

25 d. Regulating the stopping or starting of street cars at special
26 places, such as railroad stations, public squares or in front of certain
27 public buildings;

28 e. Regulating the passage or stopping of traffic at certain
29 congested street corners or other designated points , including the
30 establishment of multi-way stop controls;

31 f. Regulating the parking of vehicles on streets and portions
32 thereof, including angle parking as provided in R.S.39:4-135;

33 g. Regulating the parking of vehicles upon land owned or
34 leased and maintained by the municipality, a parking authority or
35 the board of education of a school district, including any lands
36 devoted to the public parking of vehicles, the entrances thereto and
37 exits therefrom;

38 h. Regulating the entrances to and exits from parking yards and
39 parking places which are open to the public or to which the public
40 is invited, except that this shall not apply to entrances or exits to
41 and from State highways;

42 i. Designating streets or roads upon which buses and trucks over
43 four tons gross weight may be required not to exceed specially fixed
44 limits based on engineering and traffic investigation and to use a
45 lower gear in descending steep declivities having a grade in excess
46 of 5% fixing such special speed limits and providing for the use of
47 such a gear thereon[.]; and

1 j. Designating any intersection as a stop intersection and
 2 erecting appropriate signs, on streets under municipal jurisdiction if
 3 that intersection is located within 500 feet of a school, or of a
 4 playground or youth recreational facility and the street on which the
 5 stop sign will be erected is contiguous to that school, playground, or
 6 youth recreational facility. The municipal engineer shall certify to
 7 the following in regard to the designated site in which a stop
 8 intersection is being designated: (i) that both intersecting streets are
 9 under municipal jurisdiction; (ii) that the intersection is within 500
 10 feet of a school, playground, or youth recreational facility as
 11 defined herein; and (iii) that the intersection is on a street
 12 contiguous to a school, playground, or youth recreational facility.
 13 A claim against a municipality for damage or injury under this
 14 subparagraph for a wrongful act or omission shall be dismissed if
 15 the municipality is deemed to have conformed to the provisions
 16 contained in this subparagraph.

17 (2) Ordinance or resolution[.] :

18 a. Designating through streets, as provided in article 17 of this
 19 chapter (R.S.39:4-140 et seq.); and

20 b. Designating and providing for the maintenance as "no
 21 passing" zones of portions of highway where overtaking and
 22 passing or driving to the left of the roadway is deemed especially
 23 hazardous.

24 (3) Ordinance, resolution , or regulation[.] :

25 a. Designating stops, stations, or stands for omnibuses and
 26 taxis;

27 b. Designating curb loading zones; and

28 c. Designating restricted parking spaces for use by persons who
 29 have been issued special vehicle identification cards by the Division
 30 of Motor Vehicles pursuant to the provisions of P.L.1949, c.280
 31 (C.39:4-204 et seq.) and section 1 of P.L.1977, c.202 (C.39:4-
 32 197.5). Any person parking a motor vehicle in a restricted parking
 33 space without a special vehicle identification card shall be liable to
 34 a fine of \$250 for the first offense and, for subsequent offenses, a
 35 fine of at least \$250 and up to 90 days' community service on such
 36 terms and in such form as the court shall deem appropriate, or any
 37 combination thereof.

38 (cf: P.L.2003, c.161, s.1)

39

40 3. R.S.39:4-201 is amended to read as follows:

41 39:4-201. Except as otherwise provided in R.S.39:4-8, no
 42 governing body of any county in this State may adopt resolutions
 43 **[or]** , ordinances , or regulations on a matter covered by or which
 44 alters or in any way nullifies the provisions of this chapter or of any
 45 supplement thereto, except that , without the approval of the
 46 commissioner, and consistent with the current standards prescribed
 47 by the Manual on Uniform Traffic Control Devices for Streets and
 48 Highways, ordinances **[or]** , resolutions , or regulations may be

1 passed by a governing body for the supervision and regulation of
2 traffic on any county roads of the county upon the subject matter
3 and within the limitations prescribed in R.S.39:4-197, and the
4 governing body may prescribe penalties for violations of the
5 resolutions **【or】** , ordinances~~【;】~~ , or regulations; provided,
6 however, that a fine of not less than \$50.00 be imposed upon the
7 violator of an ordinance, resolution, or regulation, as the case may
8 be, establishing parking spaces for the handicapped.

9 Matters pertaining to the supervision and regulation of traffic, to
10 be established by ordinance **【or】** , resolution , or regulation
11 pursuant to R.S.39:4-197, shall in counties operating under the
12 "Optional County Charter Law" (P.L.1972, c. 154, C. 40:41A-1 et
13 seq.) be established by ordinance.

14 No ordinance **【or】** , resolution , or regulation adopted pursuant
15 to this section shall be effective unless due notice to the public is
16 given as provided in R.S.39:4-198.

17 The penalties may be enforced by the proper method of
18 procedure before a magistrate. In default of the payment of the
19 penalty, the magistrate may commit the offender to the county jail
20 for a period not exceeding 5 days.

21 (cf: P.L.1983, c.227, s.5)

22
23 4. Section 1 of P.L.2004, c.107 (C.39:4-9) is amended to read as
24 follows:

25 1. As used in this act:

26 "Department" means the Department of Transportation.

27 "Private roads" means semipublic or private roads, streets,
28 driveways, parkways, parking areas, or other roadways owned by a
29 private person, corporation or institution open to or used by the
30 public for the purposes of vehicular travel by permission of such
31 persons, corporations or institutions and not as a matter of public
32 right.

33 "Speed hump" means **【a physical alteration to the horizontal and**
34 **vertical alignment of a road surface used as a traffic calming**
35 **measure and conforming to the technical standards established by**
36 **the Department of Transportation】** one of several traffic calming
37 measures which use forces of vertical acceleration to discourage
38 speeding. For purposes of this chapter, speed humps means all
39 vertical speed deflectors, including but not limited to, speed tables,
40 raised crosswalks, raised intersections, and modified speed humps.

41 "Vertical speed deflector" means a raised area in the roadway
42 pavement surface extending transversely across the travel way.

43 (cf: P.L.2004, c.107, s.1)

44
45 5. Section 2 of P.L.2004, c.107 (C.39:4-8.10) is amended to read
46 as follows:

1 2. a. Pursuant to the provisions of section 3 of **[this act]** P.L.
2 2004, c.107 (C.39:4-8.11), a municipality or county may , without
3 the approval of the commissioner, construct a speed hump on
4 **[totally self-contained]** two-lane residential streets and on **[totally**
5 **self-contained]** one-way residential streets under municipal or
6 county jurisdiction with a posted speed of 30 mph or less and
7 which **[have no direct connection with any street in any other**
8 **municipality,]** have fewer than 3,000 vehicles per day **[, with a**
9 **posted speed of 30 mph or less , and on one-way streets connecting**
10 **to county roads]**. The board of directors of any corporation, or the
11 board of trustees of any corporation or other institution of a public
12 or semipublic nature not for pecuniary profit, having control over
13 private roads, may construct or provide for the construction of a
14 speed hump on any private road subject to the provisions of Title 39
15 of the Revised Statutes, pursuant to P.L.1945, c.284 (C.39:5A-1 et
16 seq.).

17 b. Pursuant to the provisions of section 3 of P.L.2004, c.107
18 (C.39:4-8.11), a municipality or county may , without the approval
19 of the commissioner, construct traffic calming measures where
20 appropriate, which may include, but are not limited to, speed humps
21 on streets under municipal or county jurisdiction with a posted
22 speed of 30 mph or less and which **[have no direct connection with**
23 **any street in any other municipality,]** have fewer than 3,000
24 vehicles per day**[, with a posted speed of 30 mph or less, and on**
25 **one-way streets connecting to county roads,]** when any road
26 construction project or repair of a street set forth in this subsection
27 is undertaken and located within 500 feet of that street is a school or
28 any property used for school purposes.

29 c. Prior to a municipality or county constructing a speed hump
30 which places ' [an undue traffic burden or] any' impact on
31 roadways in an adjoining municipality or county ' [, or affects the
32 flow of traffic therein]' , the governing board or body of the
33 municipality or county shall ' [consult with, and obtain, a
34 concurring resolution from the affected] provide appropriate notice
35 to the' adjoining municipality or county.

36 d. Prior to a municipality or county constructing a speed hump
37 which places ' [an undue traffic burden or] any' impact on a State
38 roadway ' [, or affects the flow of traffic on a State roadway]' , the
39 county or municipality shall obtain the approval of the
40 commissioner.

41 (cf: P.L.2005, c.221, s.1)

42

43 6. Section 1 of P.L.1945, c.284 (C.39:5A-1) is amended to read
44 as follows:

45 1. Upon the filing of a written request by a person, or by the
46 board of directors of any corporation, or by the board of trustees of

1 any corporation or other institution of a public or semipublic
2 character not for pecuniary profit, incorporated under Title 15 of the
3 Revised Statutes, with the clerk of any municipality of this State
4 within which the property of such person, corporation or institution
5 is situate, that the provisions of subtitle 1, Title 39, of the Revised
6 Statutes shall be made applicable to the semipublic or private roads,
7 streets, driveways, trails, terraces, bridle paths, parkways, parking
8 areas, or other roadways open to or used by the public, tenants,
9 employees, and the members of such institutions for purposes of
10 vehicular travel by permission of such persons, corporations, or
11 institutions and not as matter of public right, the provisions of
12 subtitle 1, Title 39, of the Revised Statutes, shall, in the discretion
13 of the municipal authorities vested with the police powers in the
14 locality within which the property of such persons, corporations, or
15 institutions is situate [, and with the approval of the Commissioner
16 of Transportation of this State], be made applicable thereto. Such
17 written request shall contain the name and post office address of the
18 person, corporation or institution and shall designate with
19 reasonable accuracy the semipublic or private roads, streets,
20 driveways, trails, terraces, bridle paths, parkways, parking areas, or
21 other roadway open to or used by vehicular traffic, to be affected
22 thereby.

23 (cf: P.L.1970, c.315, s.1)

24

25 7. (New Section) a. Notwithstanding the provisions of R.S.39:4-8,
26 a municipality or county may request the commissioner's review and
27 non-binding recommendation regarding any proposed municipal or
28 county ordinance, resolution, or regulation that would concern,
29 regulate, or otherwise govern traffic or traffic conditions, and for
30 which the approval of the commissioner is not required pursuant to
31 R.S.39:4-8, prior to the adoption or enactment of that proposed
32 ordinance, resolution, or regulation. Any ordinance, resolution, or
33 regulation submitted for the commissioner's review shall include a
34 municipal or county traffic engineer's recommendation regarding the
35 proposed traffic regulation. The commissioner shall assess a
36 municipality or a county a non-refundable fee for the commissioner's
37 review. All fees collected by the commissioner for the review shall be
38 utilized by the department to offset costs incurred by the department in
39 processing the request.

40 b. The commissioner shall adopt, pursuant to the "Administrative
41 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and
42 regulations necessary to effectuate the purposes of this section,
43 including but not limited to, establishing guidelines for the review
44 process and applicable fees.

45

46 8. This act shall take effect immediately.

1

2

3

4

Permits municipalities and counties to make certain traffic engineering decisions without DOT approval.

ASSEMBLY, No. 2731

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED MAY 19, 2008

Sponsored by:

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblyman SCOTT RUDDER

District 8 (Burlington)

SYNOPSIS

Permits municipalities and counties to make certain traffic engineering decisions without DOT approval.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/13/2008)

A2731 WISNIEWSKI, GREENSTEIN

2

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2 amending R.S.39:4-8, R.S.39:4-197, R.S.39:4-201, P.L.1945,
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12 governing traffic or traffic conditions, adopted or enacted by any
13 board or body having jurisdiction over highways, shall be of any
14 force or effect unless the same is approved by the **[Commissioner**
15 of Transportation] commissioner, according to law. The
16 commissioner shall not be required to approve any such ordinance,
17 resolution, or regulation, unless, after investigation by **[him]** the
18 commissioner, the same shall appear to be in the interest of safety
19 and the expedition of traffic on the public highways. The
20 commissioner's investigation need not include more than a review
21 of the ordinance, resolution, or regulation, and the supporting
22 documentation submitted by a board or body having jurisdiction
23 over highways, unless the commissioner determines that additional
24 investigation is warranted.

25 Prior to the adoption of any municipal or county ordinance,
26 resolution, or regulation, which places an undue traffic burden or
27 impact on roadways in an adjoining municipality or county, or
28 affects the flow of traffic therein, the governing board or body of
29 the municipality or county shall consult with, and obtain, a
30 concurring resolution from the affected adjoining municipality or
31 county.

32 Notwithstanding any other provision of this section to the
33 contrary, any municipal or county ordinance, resolution, or
34 regulation which places an undue traffic burden or impact on a State
35 roadway, or affects the flow of traffic on a State roadway, shall
36 require the approval of the commissioner.

37 Where the commissioner's approval is required, a certified copy
38 of the adopted ordinance, resolution, or regulation shall be
39 transmitted by the clerk of the municipality or county, as applicable,
40 to the commissioner within 30 days of adoption, together with: a
41 copy of the municipal or county engineer's certification, a statement
42 of the reasons for the municipal or county engineer's decision,
43 detailed information as to the location of streets, intersections, and
44 signs affected by the ordinance, resolution, or regulation, and traffic
45 count, crash, and speed sampling data, when appropriate. 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.

1 commissioner may invalidate the provisions of the ordinance,
2 resolution, or regulation if the commissioner finds that the
3 provisions of the ordinance, resolution, or regulation are
4 inconsistent with the Manual on Uniform Traffic Control Devices
5 for Streets and Highways, inconsistent with accepted engineering
6 standards, are not based on the results of an accurate traffic and
7 engineering survey, or place an undue traffic burden or impact on
8 the State highway system, or affect the flow of traffic on the State
9 highway system.

10 b. (1) A municipality may, without the approval of the
11 **【Commissioner of Transportation】** commissioner, and consistent
12 with the current standards prescribed by the Manual on Uniform
13 Traffic Control Devices for Streets and Highways, 【do the
14 following】 establish by ordinance **【or】** , resolution, 【as
15 appropriate:】 or regulation, any of the provisions contained in
16 R.S.39:4-197.

17 (a) **【designate parking restrictions, no passing zones, mid-block**
18 **crosswalks, and crosswalks at intersections, and erect appropriate**
19 **signs and install appropriate markings, on streets under municipal**
20 **jurisdiction which are totally self-contained within that municipality**
21 **and have no direct connection with any street in any other**
22 **municipality;】** (Deleted by amendment, P.L. _____, c. _____) (pending
23 before the Legislature as this bill)

24 (b) **【designate reasonable and safe speed limits and erect**
25 **appropriate signs, on any street under municipal jurisdiction;】**
26 (Deleted by amendment, P.L. _____, c. _____) (pending before the
27 Legislature as this bill)

28 (c) **【designate any intersection as a stop or yield intersection**
29 **and erect appropriate signs, on streets under municipal jurisdiction**
30 **which are totally self-contained within that municipality and have**
31 **no direct connection with any street in any other municipality; and】**
32 (Deleted by amendment, P.L. _____, c. _____) (pending before the
33 Legislature as this bill)

34 (d) **【designate any intersection as a stop intersection and erect**
35 **appropriate signs, on streets under municipal jurisdiction if that**
36 **intersection is located within 500 feet of a school, or of a**
37 **playground or youth recreational facility and the street on which the**
38 **stop sign will be erected is contiguous to that school, or playground**
39 **or youth recreational facility. The municipal engineer shall certify**
40 **to the following in regard to the designated site in which a stop**
41 **intersection is being designated: (i) that both intersecting streets are**
42 **under municipal jurisdiction; (ii) that the intersection is within 500**
43 **feet of a school, or of a playground or youth recreational facility as**
44 **defined herein; and (iii) that the intersection is on a street**
45 **contiguous to a school, or playground or youth recreational facility.**
46 **A claim against a municipality for damage or injury under this**
47 **subparagraph for a wrongful act or omission shall be dismissed if**

1 the municipality is deemed to have conformed to the provisions
2 contained in this subparagraph.】 (Deleted by amendment, P.L. _____,
3 c. _____) (pending before the Legislature as this bill)

4 (2) A county may, without the approval of the 【Commissioner
5 of Transportation】 commissioner, and consistent with the current
6 standards prescribed by the Manual on Uniform Traffic Control
7 Devices for Streets and Highways, 【do the following】 establish
8 ordinance 【or】 , resolution, 【as appropriate, on streets which are
9 totally self-contained within the county and have no direct
10 connection with any street in any other county:】 or regulation, any
11 of the provisions contained in R.S.39:4-197.

12 (a) 【designate parking restrictions, no passing zones, mid-block
13 crosswalks, and crosswalks at intersections and erect appropriate
14 signs;】 (Deleted by amendment, P.L. _____, c. _____) (pending before
15 the Legislature as this bill)

16 (b) 【designate reasonable and safe speed limits and erect
17 appropriate signs;】 (Deleted by amendment, P.L. _____, c. _____)
18 (pending before the Legislature as this bill)

19 (c) 【designate any intersection as a stop or yield intersection
20 and erect appropriate signs; and】 (Deleted by amendment, P.L. _____,
21 c. _____) (pending before the Legislature as this bill)

22 (d) 【place longitudinal pavement marking delineating the
23 separation of traffic flows and the edge of the pavement and erect
24 appropriate signs.】 (Deleted by amendment, P.L. _____, c. _____)
25 (pending before the Legislature as this bill)

26 (3) 【Except with respect to subparagraph (d) of paragraph 1 of
27 this subsection, the】 The municipal or county engineer shall, under
28 his seal as a licensed professional engineer, certify to the governing
29 body of the municipality or county, as appropriate, that any
30 designation or erections of signs or placement 【or】 of pavement
31 makings has been approved by the engineer after investigation of
32 the circumstances, appears to the engineer to be in the interest of
33 safety and the expedition of traffic on the public highways , and
34 conforms to the current standards prescribed by the Manual 【of】 on
35 Uniform Traffic Control Devices for Streets and Highways, as
36 adopted by the commissioner.

37 【A certified copy of the adopted ordinance or resolution, as
38 appropriate, shall be transmitted by the clerk of the municipality or
39 county, as appropriate, to the commissioner within 30 days of
40 adoption, together with a copy of the engineer's certification; a
41 statement of the reasons for the engineer's decision; detailed
42 information as to the location of streets, intersections and signs
43 affected by any designation or erection of signs or placement of
44 markings; and traffic count, accident and speed sampling data,
45 when appropriate. The commissioner, at his discretion, may
46 invalidate the provisions of the ordinance or resolution within 90

1 days of receipt of the certified copy if he reviews it and finds that
2 the] The provisions of the ordinance [or] , resolution [are
3 inconsistent] , or regulation shall be consistent with the Manual
4 [of] on Uniform Traffic Control Devices for Streets [or] and
5 Highways [; are inconsistent] , consistent with accepted
6 engineering standards [; are not] , based on the results of an
7 accurate traffic and engineering survey [; or] , and not place an
8 undue traffic burden or impact on streets in an adjoining
9 municipality or negatively affect the flow of traffic on the State
10 highway system.

11 Nothing in this subsection shall allow municipalities to designate
12 any intersection with any highway under State or county
13 jurisdiction as a stop or yield intersection or counties to designate
14 any intersection with any highway under State or municipal
15 jurisdiction as a stop or yield intersection.

16 c. Subject to the provisions of R.S.39:4-138, in the case of any
17 street under municipal or county jurisdiction, a municipality or
18 county may, without the approval of the [Commissioner of
19 Transportation, do the following] commissioner, and consistent
20 with the current standards prescribed by the Manual on Uniform
21 Traffic Control Devices for Streets and Highways, by ordinance,
22 resolution, or regulation:

23 [By ordinance or resolution:]

- 24 (1) prohibit or restrict general parking;
25 (2) designate restricted parking under section 1 of P.L.1977,
26 c.309 (C.39:4-197.6);
27 (3) designate time limit parking;
28 (4) install parking meters[.

29 By ordinance, resolution or regulation:

- 30 (1)] ; (5) designate loading and unloading zones and taxi stands;
31 [(2)] (6) approve street closings for periods up to 48 continuous
32 hours; [and
33 (3)] (7) designate restricted parking under section 1 of P.L.1977,
34 c.202 (C.39:4-197.5);
35 (8) establish single parking; and
36 (9) reinstate or add parking on any street.

37 [Nothing in this subsection shall allow municipalities or counties
38 to establish angle parking or to reinstate or add parking on any
39 street, or approve the closure of streets for more than 48 continuous
40 hours, without the approval of the Commissioner of
41 Transportation.]

42 d. A municipality or county may, without the approval of the
43 commissioner, and consistent with the current standards prescribed
44 by the Manual on Uniform Traffic Control Devices for Streets and
45 Highways, by ordinance [or] , resolution, [as appropriate, in] or
46 regulation, regarding any street under its jurisdiction, install or

1 place an in-street pedestrian crossing right-of-way sign at a marked
2 crosswalk or unmarked crosswalk at an intersection. The
3 installation shall be subject to guidelines **[that shall be]** issued by
4 the **[Commissioner of Transportation]** commissioner after
5 consultation with the Director of the Office of Highway Traffic
6 Safety in the Department of Law and Public Safety. The guidelines
7 shall be aimed at ensuring safety to both pedestrians and motorists
8 including, but not limited to, the proper method of sign installation,
9 dimensions, composition of material, proper placement points and
10 maintenance. **[A certified copy of the adopted ordinance or**
11 **resolution shall be transmitted to the commissioner within 30 days**
12 **of adoption. The commissioner, at his discretion, may invalidate**
13 **the provisions of the ordinance or resolution within 90 days of**
14 **receipt of the certified copy if he reviews it and finds that the**
15 **provisions of the ordinance or resolution are inconsistent with the**
16 **guidelines issued pursuant to this subsection.]** A claim against the
17 State or a municipality or county for damage or injury under this
18 subsection for a wrongful act or omission shall be dismissed if the
19 municipality or county is deemed to have conformed to the
20 guidelines required hereunder.

21 e. A municipality or county may, without the approval of the
22 commissioner, and consistent with the current standards prescribed
23 by the Manual on Uniform Traffic Control Devices for Streets and
24 Highways, by ordinance, resolution, or regulation in any street
25 under its jurisdiction, designate stops, stations, or stands for
26 omnibuses. The designation shall be subject to guidelines **[that**
27 **shall be]** issued by the **[Commissioner of Transportation]**
28 commissioner. The guidelines shall be aimed at ensuring safety to
29 both pedestrians and motorists including, but not limited to, the
30 proper method of sign installation, dimensions, composition of
31 material, proper placement points, and maintenance. **[A certified**
32 **copy of the adopted resolution shall be transmitted to the**
33 **commissioner within 30 days of adoption. The commissioner, at his**
34 **discretion, may invalidate the provisions of the ordinance or**
35 **resolution within 90 days of receipt of the certified copy if he**
36 **reviews it and finds that the provisions of the ordinance or**
37 **resolution are inconsistent with the guidelines issued pursuant to**
38 **this subsection.]** A claim against the State or a municipality or
39 county for damage or injury under this subsection for a wrongful act
40 or omission shall be dismissed if the municipality or county is
41 deemed to have conformed to the guidelines required hereunder.

42 (cf: P.L.2004, c.169, s.1)

43

44 2. R.S.39:4-197 is amended to read as follows:

45 39:4-197. Except as otherwise provided in R.S.39:4-8, no
46 municipality shall pass an ordinance or resolution on a matter
47 covered by or which alters or in any way nullifies the provisions of

1 this chapter or any supplement to this chapter; except that a
2 municipality may pass without the approval of the commissioner,
3 and consistent with the current standards prescribed by the Manual
4 on Uniform Traffic Control Devices for Streets and Highways,
5 ordinances or resolutions, or by ordinances or resolutions may
6 authorize the adoption of regulations by the board, body, or official
7 having control of traffic in the public streets, regulating special
8 conditions existent in the municipality on the subjects and within
9 the limitations following:

10 (1) Ordinance[.] :

11 a. Altering speed limitations as provided in R.S.39:4-98;

12 b. Limiting use of streets to certain class of vehicles;

13 c. Designating one-way streets;

14 d. Regulating the stopping or starting of street cars at special
15 places, such as railroad stations, public squares or in front of certain
16 public buildings;

17 e. Regulating the passage or stopping of traffic at certain
18 congested street corners or other designated points including the
19 establishment of multi-way stop controls;

20 f. Regulating the parking of vehicles on streets and portions
21 thereof, including angle parking as provided in R.S.39:4-135;

22 g. Regulating the parking of vehicles upon land owned or
23 leased and maintained by the municipality, a parking authority or
24 the board of education of a school district, including any lands
25 devoted to the public parking of vehicles, the entrances thereto and
26 exits therefrom;

27 h. Regulating the entrances to and exits from parking yards and
28 parking places which are open to the public or to which the public
29 is invited, except that this shall not apply to entrances or exits to
30 and from State highways;

31 i. Designating streets or roads upon which buses and trucks over
32 four tons gross weight may be required not to exceed specially fixed
33 limits based on engineering and traffic investigation and to use a
34 lower gear in descending steep declivities having a grade in excess
35 of 5% fixing such special speed limits and providing for the use of
36 such a gear thereon[.]; and

37 j. Designating any intersection as a stop intersection and
38 erecting appropriate signs, on streets under municipal jurisdiction if
39 that intersection is located within 500 feet of a school, or of a
40 playground or youth recreational facility and the street on which the
41 stop sign will be erected is contiguous to that school, playground, or
42 youth recreational facility. The municipal engineer shall certify to
43 the following in regard to the designated site in which a stop
44 intersection is being designated: (i) that both intersecting streets are
45 under municipal jurisdiction; (ii) that the intersection is within 500
46 feet of a school, playground, or youth recreational facility as
47 defined herein; and (iii) that the intersection is on a street
48 contiguous to a school, playground, or youth recreational facility.

1 A claim against a municipality for damage or injury under this
2 subparagraph for a wrongful act or omission shall be dismissed if
3 the municipality is deemed to have conformed to the provisions
4 contained in this subparagraph.

5 (2) Ordinance or resolution[.] :

6 a. Designating through streets, as provided in article 17 of this
7 chapter (R.S.39:4-140 et seq.); and

8 b. Designating and providing for the maintenance as "no
9 passing" zones of portions of highway where overtaking and
10 passing or driving to the left of the roadway is deemed especially
11 hazardous.

12 (3) Ordinance, resolution , or regulation[.] :

13 a. Designating stops, stations, or stands for omnibuses and
14 taxis;

15 b. Designating curb loading zones; and

16 c. Designating restricted parking spaces for use by persons who
17 have been issued special vehicle identification cards by the Division
18 of Motor Vehicles pursuant to the provisions of P.L.1949, c.280
19 (C.39:4-204 et seq.) and section 1 of P.L.1977, c.202 (C.39:4-
20 197.5). Any person parking a motor vehicle in a restricted parking
21 space without a special vehicle identification card shall be liable to
22 a fine of \$250 for the first offense and, for subsequent offenses, a
23 fine of at least \$250 and up to 90 days' community service on such
24 terms and in such form as the court shall deem appropriate, or any
25 combination thereof.

26 (cf: P.L.2003, c.161, s.1)

27

28 3. R.S.39:4-201 is amended to read as follows:

29 39:4-201. Except as otherwise provided in R.S.39:4-8, no
30 governing body of any county in this State may adopt resolutions
31 **[or]** , ordinances , or regulations on a matter covered by or which
32 alters or in any way nullifies the provisions of this chapter or of any
33 supplement thereto, except that , without the approval of the
34 commissioner, and consistent with the current standards prescribed
35 by the Manual on Uniform Traffic Control Devices for Streets and
36 Highways, ordinances **[or]** , resolutions , or regulations may be
37 passed by a governing body for the supervision and regulation of
38 traffic on any county roads of the county upon the subject matter
39 and within the limitations prescribed in R.S.39:4-197, and the
40 governing body may prescribe penalties for violations of the
41 resolutions **[or]** , ordinances[;] , or regulations; provided,
42 however, that a fine of not less than \$50.00 be imposed upon the
43 violator of an ordinance, resolution, or regulation, as the case may
44 be, establishing parking spaces for the handicapped.

45 Matters pertaining to the supervision and regulation of traffic, to
46 be established by ordinance **[or]** , resolution , or regulation
47 pursuant to R.S.39:4-197, shall in counties operating under the

1 "Optional County Charter Law" (P.L.1972, c. 154, C. 40:41A-1 et
2 seq.) be established by ordinance.

3 No ordinance **[or]** , resolution , or regulation adopted pursuant
4 to this section shall be effective unless due notice to the public is
5 given as provided in R.S.39:4-198.

6 The penalties may be enforced by the proper method of
7 procedure before a magistrate. In default of the payment of the
8 penalty, the magistrate may commit the offender to the county jail
9 for a period not exceeding 5 days.

10 (cf: P.L.1983, c.227, s.5)

11

12 4. Section 1 of P.L.2004, c.107 (C.39:4-9) is amended to read as
13 follows:

14 1. As used in this act:

15 "Department" means the Department of Transportation.

16 "Private roads" means semipublic or private roads, streets,
17 driveways, parkways, parking areas, or other roadways owned by a
18 private person, corporation or institution open to or used by the
19 public for the purposes of vehicular travel by permission of such
20 persons, corporations or institutions and not as a matter of public
21 right.

22 "Speed hump" means **[a physical alteration to the horizontal and**
23 **vertical alignment of a road surface used as a traffic calming**
24 **measure and conforming to the technical standards established by**
25 **the Department of Transportation]** one of several traffic calming
26 measures which use forces of vertical acceleration to discourage
27 speeding. For purposes of this chapter, speed humps means all
28 vertical speed deflectors, including but not limited to, speed tables,
29 raised crosswalks, raised intersections, and modified speed humps.

30 "Vertical speed deflector" means a raised area in the roadway
31 pavement surface extending transversely across the travel way.

32 (cf: P.L.2004, c.107, s.1)

33

34 5. Section 2 of P.L.2004, c.107 (C.39:4-8.10) is amended to read
35 as follows:

36 2. a. Pursuant to the provisions of section 3 of **[this act]** P.L.
37 2004, c.107 (C.39:4-8.11), a municipality or county may , without
38 the approval of the commissioner, construct a speed hump on
39 **[totally self-contained]** two-lane residential streets and on **[totally**
40 **self-contained]** one-way residential streets under municipal or
41 county jurisdiction with a posted speed of 30 mph or less and
42 which [have no direct connection with any street in any other
43 municipality,] have fewer than 3,000 vehicles per day [, with a
44 posted speed of 30 mph or less , and on one-way streets connecting
45 to county roads]. The board of directors of any corporation, or the
46 board of trustees of any corporation or other institution of a public
47 or semipublic nature not for pecuniary profit, having control over

1 private roads, may construct or provide for the construction of a
2 speed hump on any private road subject to the provisions of Title 39
3 of the Revised Statutes, pursuant to P.L.1945, c.284 (C.39:5A-1 et
4 seq.).

5 b. Pursuant to the provisions of section 3 of P.L.2004, c.107
6 (C.39:4-8.11), a municipality or county may, without the approval
7 of the commissioner, construct traffic calming measures where
8 appropriate, which may include, but are not limited to, speed humps
9 on streets under municipal or county jurisdiction with a posted
10 speed of 30 mph or less and which [have no direct connection with
11 any street in any other municipality,] have fewer than 3,000
12 vehicles per day[, with a posted speed of 30 mph or less, and on
13 one-way streets connecting to county roads,] when any road
14 construction project or repair of a street set forth in this subsection
15 is undertaken and located within 500 feet of that street is a school or
16 any property used for school purposes.

17 c. Prior to a municipality or county constructing a speed hump
18 which places an undue traffic burden or impact on roadways in an
19 adjoining municipality or county, or affects the flow of traffic
20 therein, the governing board or body of the municipality or county
21 shall consult with, and obtain, a concurring resolution from the
22 affected adjoining municipality or county.

23 d. Prior to a municipality or county constructing a speed hump
24 which places an undue traffic burden or impact on a State roadway,
25 or affects the flow of traffic on a State roadway, the county or
26 municipality shall obtain the approval of the commissioner.

27 (cf: P.L.2005, c.221, s.1)

28

29 6. Section 1 of P.L.1945, c.284 (C.39:5A-1) is amended to read
30 as follows:

31 1. Upon the filing of a written request by a person, or by the
32 board of directors of any corporation, or by the board of trustees of
33 any corporation or other institution of a public or semipublic
34 character not for pecuniary profit, incorporated under Title 15 of the
35 Revised Statutes, with the clerk of any municipality of this State
36 within which the property of such person, corporation or institution
37 is situate, that the provisions of subtitle 1, Title 39, of the Revised
38 Statutes shall be made applicable to the semipublic or private roads,
39 streets, driveways, trails, terraces, bridle paths, parkways, parking
40 areas, or other roadways open to or used by the public, tenants,
41 employees, and the members of such institutions for purposes of
42 vehicular travel by permission of such persons, corporations, or
43 institutions and not as matter of public right, the provisions of
44 subtitle 1, Title 39, of the Revised Statutes, shall, in the discretion
45 of the municipal authorities vested with the police powers in the
46 locality within which the property of such persons, corporations, or
47 institutions is situate [, and with the approval of the Commissioner

1 of Transportation of this State], be made applicable thereto. Such
2 written request shall contain the name and post office address of the
3 person, corporation or institution and shall designate with
4 reasonable accuracy the semipublic or private roads, streets,
5 driveways, trails, terraces, bridle paths, parkways, parking areas, or
6 other roadway open to or used by vehicular traffic, to be affected
7 thereby.

8 (cf: P.L.1970, c.315, s.1)

9
10 7. (New Section) a. Notwithstanding the provisions of R.S.39:4-8,
11 a municipality or county may request the commissioner's review and
12 non-binding recommendation regarding any proposed municipal or
13 county ordinance, resolution, or regulation that would concern,
14 regulate, or otherwise govern traffic or traffic conditions, and for
15 which the approval of the commissioner is not required pursuant to
16 R.S.39:4-8, prior to the adoption or enactment of that proposed
17 ordinance, resolution, or regulation. Any ordinance, resolution, or
18 regulation submitted for the commissioner's review shall include a
19 municipal or county traffic engineer's recommendation regarding the
20 proposed traffic regulation. The commissioner shall assess a
21 municipality or a county a non-refundable fee for the commissioner's
22 review. All fees collected by the commissioner for the review shall be
23 utilized by the department to offset costs incurred by the department in
24 processing the request.

25 b. The commissioner shall adopt, pursuant to the "Administrative
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and
27 regulations necessary to effectuate the purposes of this section,
28 including but not limited to, establishing guidelines for the review
29 process and applicable fees.

30
31 8. This act shall take effect immediately.

32
33

34 STATEMENT

35
36 This bill would provide municipalities and counties with the
37 authority to make traffic engineering decisions in keeping with the
38 provisions of the Manual on Uniform Traffic Control Devices for
39 Streets and Highways, based upon the expertise of their municipal
40 or county engineer, without obtaining prior approval of the
41 Department of Transportation. Under current law, the commissioner
42 is required to approve certain municipal ordinances and resolutions
43 concerning traffic management on local roads.

44 This bill also permits a municipality or county to request the
45 commissioner's review and non-binding recommendation regarding
46 any proposed municipal or county ordinance, resolution, or
47 regulation that would concern, regulate, or otherwise govern traffic
48 or traffic conditions, for which the commissioner's approval is not

1 required prior to the adoption or enactment of that proposed
2 ordinance, resolution, or regulation. Any ordinance, resolution, or
3 regulation submitted for the commissioner's review shall include a
4 municipal or county traffic engineer's recommendation regarding
5 the proposed traffic regulation. Finally, this bill allows the
6 commissioner to assess a municipality or a county a non-refundable
7 fee for the commissioner's review of the ordinance, resolution, or
8 regulation to offset costs incurred by the department in processing
9 the request.

ASSEMBLY TRANSPORTATION, PUBLIC WORKS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2731

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 12, 2008

The Assembly Transportation, Public Works and Independent Authorities Committee reports favorably and with committee amendments Assembly Bill No. 2731.

Under current law, the commissioner is required to approve certain municipal ordinances and resolutions concerning traffic management on local roads. As reported, this amended bill would provide municipalities and counties with the authority to make traffic engineering decisions in keeping with the provisions of the Manual on Uniform Traffic Control Devices for Streets and Highways, based upon the expertise of their municipal or county engineer, without obtaining prior approval of the Department of Transportation.

This amended bill provides that prior to the adoption of any municipal or county ordinance, resolution, or regulation concerning traffic or traffic conditions, or any municipality or county constructing a speed hump, either of which places any impact on roadways in an adjoining municipality or county, the governing board or body of the municipality or county shall provide appropriate notice to the adjoining municipality or county. Any municipal or county ordinance, resolution, or regulation concerning traffic or traffic conditions, or any municipality or county constructing a speed hump, either of which places any impact on a State roadway, shall require the approval of the commissioner.

This amended bill also permits a municipality or county to request the commissioner's review and non-binding recommendation regarding any proposed municipal or county ordinance, resolution, or regulation that would concern, regulate, or otherwise govern traffic or traffic conditions, for which the commissioner's approval is not required, prior to the adoption or enactment of that proposed ordinance, resolution, or regulation. Any ordinance, resolution, or regulation submitted for the commissioner's review shall include a municipal or county traffic engineer's recommendation regarding the proposed traffic regulation. This amended bill allows the commissioner to assess a municipality or a county a non-refundable

fee for the commissioner's review of the ordinance, resolution, or regulation to offset costs incurred by the department in processing the request.

This bill also amends the definition of speed hump to reflect use as a vertical speed deflector.

It is the understanding of the committee that it is not the intent of this bill to allow municipalities to regulate commercial motor vehicles without the approval of the commissioner.

COMMITTEE AMENDMENTS

The committee amended the bill to require municipalities and counties to provide appropriate notice to an adjoining municipality or county where local action concerning traffic conditions or construction of speed humps has any impact on an adjoining municipality or county. The committee also amended the bill to require municipalities and counties to obtain the approval of the commissioner where local action concerning traffic conditions or construction of speed humps has any impact on a State roadway.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

[Second Reprint]
ASSEMBLY, No. 2731

STATE OF NEW JERSEY

DATED: OCTOBER 6, 2008

The Senate Transportation Committee reports favorably Assembly Bill No. 2731(2R).

Under current law, the commissioner is required to approve certain municipal ordinances and resolutions concerning traffic management on local roads. This bill would provide municipalities and counties with the authority to make traffic engineering decisions in keeping with the provisions of the Manual on Uniform Traffic Control Devices for Streets and Highways, based upon the expertise of their municipal or county engineer, without obtaining prior approval of the Department of Transportation. However, a municipality may not pass an ordinance or resolution limiting use of streets by commercial motor vehicles without approval of the commissioner.

This bill provides that prior to the adoption of any municipal or county ordinance, resolution, or regulation concerning traffic or traffic conditions, or any municipality or county constructing a speed hump, either of which places any impact on roadways in an adjoining municipality or county, the governing board or body of the municipality or county shall provide appropriate notice to the adjoining municipality or county. Any municipal or county ordinance, resolution, or regulation concerning traffic or traffic conditions, or any municipality or county constructing a speed hump, either of which places any impact on a State roadway, shall require the approval of the commissioner.

This bill also permits a municipality or county to request the commissioner's review and non-binding recommendation regarding any proposed municipal or county ordinance, resolution, or regulation that would concern, regulate, or otherwise govern traffic or traffic conditions, for which the commissioner's approval is not required, prior to the adoption or enactment of that proposed ordinance, resolution, or regulation. Any ordinance, resolution, or regulation submitted for the commissioner's review shall include a municipal or county traffic engineer's recommendation regarding the proposed traffic regulation. This bill allows the commissioner to assess a municipality or a county a non-refundable fee for the commissioner's

review of the ordinance, resolution, or regulation to offset costs incurred by the department in processing the request.

This bill also amends the definition of speed hump to reflect use as a vertical speed deflector.

This bill is identical to S-1908, as amended and released by the committee on this date.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 2731

with Assembly Floor Amendments
(Proposed By Assemblyman WISNIEWSKI)

ADOPTED: JUNE 16, 2008

This amendment requires a municipality to obtain the approval of the Commissioner of Transportation prior to passing an ordinance or resolution limiting use of streets by commercial motor vehicles.

SENATE, No. 1908

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JUNE 5, 2008

Sponsored by:

Senator BARBARA BUONO

District 18 (Middlesex)

Senator STEVEN V. OROHO

District 24 (Sussex, Hunterdon and Morris)

Co-Sponsored by:

Senator Haines

SYNOPSIS

Permits municipalities and counties to make certain traffic engineering decisions without DOT approval.

CURRENT VERSION OF TEXT

As introduced.



S1908 BUONO, OROHO

2

1 AN ACT concerning municipal and county authority over roads and
2 amending R.S.39:4-8, R.S.39:4-197, R.S.39:4-201, P.L.1945,
3 c.284, and P.L.2004, c.107 and supplementing Title 39 of the
4 Revised Statutes.

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

8
9 1. R.S.39:4-8 is amended to read as follows:

10 39:4-8. a. Except as otherwise provided in this section, no
11 ordinance **[or]**, resolution, or regulation concerning, regulating, or
12 governing traffic or traffic conditions, adopted or enacted by any
13 board or body having jurisdiction over highways, shall be of any
14 force or effect unless the same is approved by the **[Commissioner**
15 of Transportation] commissioner, according to law. The
16 commissioner shall not be required to approve any such ordinance,
17 resolution, or regulation, unless, after investigation by **[him]** the
18 commissioner, the same shall appear to be in the interest of safety
19 and the expedition of traffic on the public highways. The
20 commissioner's investigation need not include more than a review
21 of the ordinance, resolution, or regulation, and the supporting
22 documentation submitted by a board or body having jurisdiction
23 over highways, unless the commissioner determines that additional
24 investigation is warranted.

25 Prior to the adoption of any municipal or county ordinance,
26 resolution, or regulation, which places an undue traffic burden or
27 impact on roadways in an adjoining municipality or county, or
28 affects the flow of traffic therein, the governing board or body of
29 the municipality or county shall consult with, and obtain, a
30 concurring resolution from the affected adjoining municipality or
31 county.

32 Notwithstanding any other provision of this section to the
33 contrary, any municipal or county ordinance, resolution, or
34 regulation which places an undue traffic burden or impact on a State
35 roadway, or affects the flow of traffic on a State roadway, shall
36 require the approval of the commissioner.

37 Where the commissioner's approval is required, a certified copy
38 of the adopted ordinance, resolution, or regulation shall be
39 transmitted by the clerk of the municipality or county, as applicable,
40 to the commissioner within 30 days of adoption, together with: a
41 copy of the municipal or county engineer's certification, a statement
42 of the reasons for the municipal or county engineer's decision,
43 detailed information as to the location of streets, intersections, and
44 signs affected by the ordinance, resolution, or regulation, and traffic
45 count, crash, and speed sampling data, when appropriate. 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.

1 commissioner may invalidate the provisions of the ordinance,
2 resolution, or regulation if the commissioner finds that the
3 provisions of the ordinance, resolution, or regulation are
4 inconsistent with the Manual on Uniform Traffic Control Devices
5 for Streets and Highways, inconsistent with accepted engineering
6 standards, are not based on the results of an accurate traffic and
7 engineering survey, or place an undue traffic burden or impact on
8 the State highway system, or affect the flow of traffic on the State
9 highway system.

10 b. (1) A municipality may, without the approval of the
11 **【Commissioner of Transportation】** commissioner, and consistent
12 with the current standards prescribed by the Manual on Uniform
13 Traffic Control Devices for Streets and Highways, 【do the
14 following】 establish by ordinance **【or】** , resolution, 【as
15 appropriate:】 or regulation, any of the provisions contained in
16 R.S.39:4-197.

17 (a) **【designate parking restrictions, no passing zones, mid-block**
18 **crosswalks, and crosswalks at intersections, and erect appropriate**
19 **signs and install appropriate markings, on streets under municipal**
20 **jurisdiction which are totally self-contained within that municipality**
21 **and have no direct connection with any street in any other**
22 **municipality;】** (Deleted by amendment, P.L. _____, c. _____) (pending
23 before the Legislature as this bill)

24 (b) **【designate reasonable and safe speed limits and erect**
25 **appropriate signs, on any street under municipal jurisdiction;】**
26 (Deleted by amendment, P.L. _____, c. _____) (pending before the
27 Legislature as this bill)

28 (c) **【designate any intersection as a stop or yield intersection**
29 **and erect appropriate signs, on streets under municipal jurisdiction**
30 **which are totally self-contained within that municipality and have**
31 **no direct connection with any street in any other municipality; and】**
32 (Deleted by amendment, P.L. _____, c. _____) (pending before the
33 Legislature as this bill)

34 (d) **【designate any intersection as a stop intersection and erect**
35 **appropriate signs, on streets under municipal jurisdiction if that**
36 **intersection is located within 500 feet of a school, or of a**
37 **playground or youth recreational facility and the street on which the**
38 **stop sign will be erected is contiguous to that school, or playground**
39 **or youth recreational facility. The municipal engineer shall certify**
40 **to the following in regard to the designated site in which a stop**
41 **intersection is being designated: (i) that both intersecting streets are**
42 **under municipal jurisdiction; (ii) that the intersection is within 500**
43 **feet of a school, or of a playground or youth recreational facility as**
44 **defined herein; and (iii) that the intersection is on a street**
45 **contiguous to a school, or playground or youth recreational facility.**
46 **A claim against a municipality for damage or injury under this**
47 **subparagraph for a wrongful act or omission shall be dismissed if**

1 the municipality is deemed to have conformed to the provisions
2 contained in this subparagraph.】 (Deleted by amendment, P.L. _____,
3 c. _____) (pending before the Legislature as this bill)

4 (2) A county may, without the approval of the 【Commissioner
5 of Transportation】 commissioner, and consistent with the current
6 standards prescribed by the Manual on Uniform Traffic Control
7 Devices for Streets and Highways, 【do the following】 establish by
8 ordinance 【or】 , resolution, 【as appropriate, on streets which are
9 totally self-contained within the county and have no direct
10 connection with any street in any other county:】 or regulation, any
11 of the provisions contained in R.S.39:4-197.

12 (a) 【designate parking restrictions, no passing zones, mid-block
13 crosswalks, and crosswalks at intersections and erect appropriate
14 signs;】 (Deleted by amendment, P.L. _____, c. _____) (pending before
15 the Legislature as this bill)

16 (b) 【designate reasonable and safe speed limits and erect
17 appropriate signs;】 (Deleted by amendment, P.L. _____, c. _____)
18 (pending before the Legislature as this bill)

19 (c) 【designate any intersection as a stop or yield intersection
20 and erect appropriate signs; and】 (Deleted by amendment, P.L. _____,
21 c. _____) (pending before the Legislature as this bill)

22 (d) 【place longitudinal pavement marking delineating the
23 separation of traffic flows and the edge of the pavement and erect
24 appropriate signs.】 (Deleted by amendment, P.L. _____, c. _____)
25 (pending before the Legislature as this bill)

26 (3) 【Except with respect to subparagraph (d) of paragraph 1 of
27 this subsection, the】 The municipal or county engineer shall, under
28 his seal as a licensed professional engineer, certify to the governing
29 body of the municipality or county, as appropriate, that any
30 designation or erections of signs or placement 【or】 of pavement
31 makings has been approved by the engineer after investigation of
32 the circumstances, appears to the engineer to be in the interest of
33 safety and the expedition of traffic on the public highways , and
34 conforms to the current standards prescribed by the Manual 【of】 on
35 Uniform Traffic Control Devices for Streets and Highways, as
36 adopted by the commissioner.

37 【A certified copy of the adopted ordinance or resolution, as
38 appropriate, shall be transmitted by the clerk of the municipality or
39 county, as appropriate, to the commissioner within 30 days of
40 adoption, together with a copy of the engineer's certification; a
41 statement of the reasons for the engineer's decision; detailed
42 information as to the location of streets, intersections and signs
43 affected by any designation or erection of signs or placement of
44 markings; and traffic count, accident and speed sampling data,
45 when appropriate. The commissioner, at his discretion, may
46 invalidate the provisions of the ordinance or resolution within 90

1 days of receipt of the certified copy if he reviews it and finds that
 2 the] The provisions of the ordinance [or] , resolution [are
 3 inconsistent] , or regulation shall be consistent with the Manual
 4 [of] on Uniform Traffic Control Devices for Streets [or] and
 5 Highways [; are inconsistent] , consistent with accepted
 6 engineering standards [; are not] , based on the results of an
 7 accurate traffic and engineering survey [; or] , and not place an
 8 undue traffic burden or impact on streets in an adjoining
 9 municipality or negatively affect the flow of traffic on the State
 10 highway system.

11 Nothing in this subsection shall allow municipalities to designate
 12 any intersection with any highway under State or county
 13 jurisdiction as a stop or yield intersection or counties to designate
 14 any intersection with any highway under State or municipal
 15 jurisdiction as a stop or yield intersection.

16 c. Subject to the provisions of R.S.39:4-138, in the case of any
 17 street under municipal or county jurisdiction, a municipality or
 18 county may, without the approval of the [Commissioner of
 19 Transportation, do the following] commissioner, and consistent
 20 with the current standards prescribed by the Manual on Uniform
 21 Traffic Control Devices for Streets and Highways, by ordinance,
 22 resolution, or regulation:

23 **[By ordinance or resolution:]**

24 (1) prohibit or restrict general parking;

25 (2) designate restricted parking under section 1 of P.L.1977,
 26 c.309 (C.39:4-197.6);

27 (3) designate time limit parking;

28 (4) install parking meters[.

29 By ordinance, resolution or regulation:

30 (1)] ; (5) designate loading and unloading zones and taxi stands;

31 [(2)] (6) approve street closings for periods up to 48 continuous
 32 hours; [and

33 (3)] (7) designate restricted parking under section 1 of P.L.1977,
 34 c.202 (C.39:4-197.5);

35 (8) establish single parking; and

36 (9) reinstate or add parking on any street.

37 **[Nothing in this subsection shall allow municipalities or counties**
 38 **to establish angle parking or to reinstate or add parking on any**
 39 **street, or approve the closure of streets for more than 48 continuous**
 40 **hours, without the approval of the Commissioner of**
 41 **Transportation.]**

42 d. A municipality or county may, without the approval of the
 43 commissioner, and consistent with the current standards prescribed
 44 by the Manual on Uniform Traffic Control Devices for Streets and
 45 Highways, by ordinance [or] , resolution, [as appropriate, in] or
 46 regulation, regarding any street under its jurisdiction, install or

1 place an in-street pedestrian crossing right-of-way sign at a marked
2 crosswalk or unmarked crosswalk at an intersection. The
3 installation shall be subject to guidelines **[that shall be]** issued by
4 the **[Commissioner of Transportation]** commissioner after
5 consultation with the Director of the Office of Highway Traffic
6 Safety in the Department of Law and Public Safety. The guidelines
7 shall be aimed at ensuring safety to both pedestrians and motorists
8 including, but not limited to, the proper method of sign installation,
9 dimensions, composition of material, proper placement points and
10 maintenance. **[A certified copy of the adopted ordinance or**
11 **resolution shall be transmitted to the commissioner within 30 days**
12 **of adoption. The commissioner, at his discretion, may invalidate**
13 **the provisions of the ordinance or resolution within 90 days of**
14 **receipt of the certified copy if he reviews it and finds that the**
15 **provisions of the ordinance or resolution are inconsistent with the**
16 **guidelines issued pursuant to this subsection.]** A claim against the
17 State or a municipality or county for damage or injury under this
18 subsection for a wrongful act or omission shall be dismissed if the
19 municipality or county is deemed to have conformed to the
20 guidelines required hereunder.

21 e. A municipality or county may, without the approval of the
22 commissioner, and consistent with the current standards prescribed
23 by the Manual on Uniform Traffic Control Devices for Streets and
24 Highways, by ordinance, resolution, or regulation in any street
25 under its jurisdiction, designate stops, stations, or stands for
26 omnibuses. The designation shall be subject to guidelines **[that**
27 **shall be]** issued by the **[Commissioner of Transportation]**
28 commissioner. The guidelines shall be aimed at ensuring safety to
29 both pedestrians and motorists including, but not limited to, the
30 proper method of sign installation, dimensions, composition of
31 material, proper placement points, and maintenance. **[A certified**
32 **copy of the adopted resolution shall be transmitted to the**
33 **commissioner within 30 days of adoption. The commissioner, at his**
34 **discretion, may invalidate the provisions of the ordinance or**
35 **resolution within 90 days of receipt of the certified copy if he**
36 **reviews it and finds that the provisions of the ordinance or**
37 **resolution are inconsistent with the guidelines issued pursuant to**
38 **this subsection.]** A claim against the State or a municipality or
39 county for damage or injury under this subsection for a wrongful act
40 or omission shall be dismissed if the municipality or county is
41 deemed to have conformed to the guidelines required hereunder.

42 (cf: P.L.2004, c.169, s.1)

43

44 2. R.S.39:4-197 is amended to read as follows:

45 39:4-197. Except as otherwise provided in R.S.39:4-8, no
46 municipality shall pass an ordinance or resolution on a matter
47 covered by or which alters or in any way nullifies the provisions of

1 this chapter or any supplement to this chapter; except that a
2 municipality may pass without the approval of the commissioner,
3 and consistent with the current standards prescribed by the Manual
4 on Uniform Traffic Control Devices for Streets and Highways,
5 ordinances or resolutions, or by ordinances or resolutions may
6 authorize the adoption of regulations by the board, body, or official
7 having control of traffic in the public streets, regulating special
8 conditions existent in the municipality on the subjects and within
9 the limitations following:

10 (1) Ordinance[.] :

11 a. Altering speed limitations as provided in R.S.39:4-98;

12 b. Limiting use of streets to certain class of vehicles;

13 c. Designating one-way streets;

14 d. Regulating the stopping or starting of street cars at special
15 places, such as railroad stations, public squares or in front of certain
16 public buildings;

17 e. Regulating the passage or stopping of traffic at certain
18 congested street corners or other designated points including the
19 establishment of multi-way stop controls;

20 f. Regulating the parking of vehicles on streets and portions
21 thereof, including angle parking as provided in R.S.39:4-135;

22 g. Regulating the parking of vehicles upon land owned or
23 leased and maintained by the municipality, a parking authority or
24 the board of education of a school district, including any lands
25 devoted to the public parking of vehicles, the entrances thereto and
26 exits therefrom;

27 h. Regulating the entrances to and exits from parking yards and
28 parking places which are open to the public or to which the public
29 is invited, except that this shall not apply to entrances or exits to
30 and from State highways;

31 i. Designating streets or roads upon which buses and trucks over
32 four tons gross weight may be required not to exceed specially fixed
33 limits based on engineering and traffic investigation and to use a
34 lower gear in descending steep declivities having a grade in excess
35 of 5% fixing such special speed limits and providing for the use of
36 such a gear thereon[.]; and

37 j. Designating any intersection as a stop intersection and
38 erecting appropriate signs, on streets under municipal jurisdiction if
39 that intersection is located within 500 feet of a school, or of a
40 playground or youth recreational facility and the street on which the
41 stop sign will be erected is contiguous to that school, playground, or
42 youth recreational facility. The municipal engineer shall certify to
43 the following in regard to the designated site in which a stop
44 intersection is being designated: (i) that both intersecting streets are
45 under municipal jurisdiction; (ii) that the intersection is within 500
46 feet of a school, playground, or youth recreational facility as
47 defined herein; and (iii) that the intersection is on a street
48 contiguous to a school, playground, or youth recreational facility.

1 A claim against a municipality for damage or injury under this
2 subparagraph for a wrongful act or omission shall be dismissed if
3 the municipality is deemed to have conformed to the provisions
4 contained in this subparagraph.

5 (2) Ordinance or resolution~~;~~ :

6 a. Designating through streets, as provided in article 17 of this
7 chapter (R.S.39:4-140 et seq.); and

8 b. Designating and providing for the maintenance as "no
9 passing" zones of portions of highway where overtaking and
10 passing or driving to the left of the roadway is deemed especially
11 hazardous.

12 (3) Ordinance, resolution ~~,~~ or regulation~~;~~ :

13 a. Designating stops, stations~~,~~ or stands for omnibuses and
14 taxis;

15 b. Designating curb loading zones; and

16 c. Designating restricted parking spaces for use by persons who
17 have been issued special vehicle identification cards by the Division
18 of Motor Vehicles pursuant to the provisions of P.L.1949, c.280
19 (C.39:4-204 et seq.) and section 1 of P.L.1977, c.202 (C.39:4-
20 197.5). Any person parking a motor vehicle in a restricted parking
21 space without a special vehicle identification card shall be liable to
22 a fine of \$250 for the first offense and, for subsequent offenses, a
23 fine of at least \$250 and up to 90 days' community service on such
24 terms and in such form as the court shall deem appropriate, or any
25 combination thereof.

26 (cf: P.L.2003, c.161, s.1)

27

28 3. R.S.39:4-201 is amended to read as follows:

29 39:4-201. Except as otherwise provided in R.S.39:4-8, no
30 governing body of any county in this State may adopt resolutions
31 **[or]** ~~,~~ ordinances , or regulations on a matter covered by or which
32 alters or in any way nullifies the provisions of this chapter or of any
33 supplement thereto, except that ~~,~~ without the approval of the
34 commissioner, and consistent with the current standards prescribed
35 by the Manual on Uniform Traffic Control Devices for Streets and
36 Highways, ordinances **[or]** ~~,~~ resolutions , or regulations may be
37 passed by a governing body for the supervision and regulation of
38 traffic on any county roads of the county upon the subject matter
39 and within the limitations prescribed in R.S.39:4-197, and the
40 governing body may prescribe penalties for violations of the
41 resolutions **[or]** ~~,~~ ordinances~~;~~ , or regulations; provided,
42 however, that a fine of not less than \$50.00 be imposed upon the
43 violator of an ordinance, resolution, or regulation, as the case may
44 be, establishing parking spaces for the handicapped.

45 Matters pertaining to the supervision and regulation of traffic, to
46 be established by ordinance **[or]** ~~,~~ resolution , or regulation
47 pursuant to R.S.39:4-197, shall in counties operating under the

1 "Optional County Charter Law" (P.L.1972, c. 154, C. 40:41A-1 et
2 seq.) be established by ordinance.

3 No ordinance **[or]** , resolution , or regulation adopted pursuant
4 to this section shall be effective unless due notice to the public is
5 given as provided in R.S.39:4-198.

6 The penalties may be enforced by the proper method of
7 procedure before a magistrate. In default of the payment of the
8 penalty, the magistrate may commit the offender to the county jail
9 for a period not exceeding 5 days.

10 (cf: P.L.1983, c. 227, s. 5)

11

12 4. Section 1 of P.L.2004, c.107 (C.39:4-9) is amended to read as
13 follows:

14 1. As used in this act:

15 "Department" means the Department of Transportation.

16 "Private roads" means semipublic or private roads, streets,
17 driveways, parkways, parking areas, or other roadways owned by a
18 private person, corporation or institution open to or used by the
19 public for the purposes of vehicular travel by permission of such
20 persons, corporations or institutions and not as a matter of public
21 right.

22 "Speed hump" means **[a physical alteration to the horizontal and**
23 **vertical alignment of a road surface used as a traffic calming**
24 **measure and conforming to the technical standards established by**
25 **the Department of Transportation]** one of several traffic calming
26 measures which use forces of vertical acceleration to discourage
27 speeding. For purposes of this chapter, speed humps means all
28 vertical speed deflectors, including but not limited to, speed tables,
29 raised crosswalks, raised intersections, and modified speed humps.

30 "Vertical speed deflector" means a raised area in the roadway
31 pavement surface extending transversely across the travel way.

32 (cf: P.L.2004, c.107, s.1)

33

34 5. Section 2 of P.L.2004, c.107 (C.39:4-8.10) is amended to read
35 as follows:

36 2. a. Pursuant to the provisions of section 3 of **[this act]** P.L.
37 2004, c.107 (C.39:4-8.11), a municipality or county may , without
38 the approval of the commissioner, construct a speed hump on
39 **[totally self-contained]** two-lane residential streets and on **[totally**
40 **self-contained]** one-way residential streets under municipal or
41 county jurisdiction with a posted speed of 30 mph or less and
42 which [have no direct connection with any street in any other
43 municipality,] have fewer than 3,000 vehicles per day [, with a
44 posted speed of 30 mph or less , and on one-way streets connecting
45 to county roads]. The board of directors of any corporation, or the
46 board of trustees of any corporation or other institution of a public
47 or semipublic nature not for pecuniary profit, having control over

1 private roads, may construct or provide for the construction of a
2 speed hump on any private road subject to the provisions of Title 39
3 of the Revised Statutes, pursuant to P.L.1945, c.284 (C.39:5A-1 et
4 seq.).

5 b. Pursuant to the provisions of section 3 of P.L.2004, c.107
6 (C.39:4-8.11), a municipality or county may, without the approval
7 of the commissioner, construct traffic calming measures where
8 appropriate, which may include, but are not limited to, speed humps
9 on streets under municipal or county jurisdiction with a posted
10 speed of 30 mph or less and which [have no direct connection with
11 any street in any other municipality,] have fewer than 3,000
12 vehicles per day[, with a posted speed of 30 mph or less, and on
13 one-way streets connecting to county roads,] when any road
14 construction project or repair of a street set forth in this subsection
15 is undertaken and located within 500 feet of that street is a school or
16 any property used for school purposes.

17 c. Prior to a municipality or county constructing a speed hump
18 which places an undue traffic burden or impact on roadways in an
19 adjoining municipality or county, or affects the flow of traffic
20 therein, the governing board or body of the municipality or county
21 shall consult with, and obtain, a concurring resolution from the
22 affected adjoining municipality or county.

23 d. Prior to a municipality or county constructing a speed hump
24 which places an undue traffic burden or impact on a State roadway,
25 or affects the flow of traffic on a State roadway, the county or
26 municipality shall obtain the approval of the commissioner.

27 (cf: P.L.2005, c.221, s.1)

28

29 6. Section 1 of P.L.1945, c.284 (C.39:5A-1) is amended to read
30 as follows:

31 1. Upon the filing of a written request by a person, or by the
32 board of directors of any corporation, or by the board of trustees of
33 any corporation or other institution of a public or semipublic
34 character not for pecuniary profit, incorporated under Title 15 of the
35 Revised Statutes, with the clerk of any municipality of this State
36 within which the property of such person, corporation or institution
37 is situate, that the provisions of subtitle 1, Title 39, of the Revised
38 Statutes shall be made applicable to the semipublic or private roads,
39 streets, driveways, trails, terraces, bridle paths, parkways, parking
40 areas, or other roadways open to or used by the public, tenants,
41 employees, and the members of such institutions for purposes of
42 vehicular travel by permission of such persons, corporations, or
43 institutions and not as matter of public right, the provisions of
44 subtitle 1, Title 39, of the Revised Statutes, shall, in the discretion
45 of the municipal authorities vested with the police powers in the
46 locality within which the property of such persons, corporations, or
47 institutions is situate [, and with the approval of the Commissioner

1 of Transportation of this State], be made applicable thereto. Such
2 written request shall contain the name and post office address of the
3 person, corporation or institution and shall designate with
4 reasonable accuracy the semipublic or private roads, streets,
5 driveways, trails, terraces, bridle paths, parkways, parking areas, or
6 other roadway open to or used by vehicular traffic, to be affected
7 thereby.

8 (cf: P.L.1970, c.315, s.1)

9
10 7. (New Section) a. Notwithstanding the provisions of R.S.39:4-8,
11 a municipality or county may request the commissioner's review and
12 non-binding recommendation regarding any proposed municipal or
13 county ordinance, resolution, or regulation that would concern,
14 regulate, or otherwise govern traffic or traffic conditions, and for
15 which the approval of the commissioner is not required pursuant to
16 R.S.39:4-8, prior to the adoption or enactment of that proposed
17 ordinance, resolution, or regulation. Any ordinance, resolution, or
18 regulation submitted for the commissioner's review shall include a
19 municipal or county traffic engineer's recommendation regarding the
20 proposed traffic regulation. The commissioner shall assess a
21 municipality or a county a non-refundable fee for the commissioner's
22 review. All fees collected by the commissioner for the review shall be
23 utilized by the department to offset costs incurred by the department in
24 processing the request.

25 b. The commissioner shall adopt, pursuant to the "Administrative
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and
27 regulations necessary to effectuate the purposes of this section,
28 including but not limited to, establishing guidelines for the review
29 process and applicable fees.

30

31 8. This act shall take effect immediately.

32

33

34

STATEMENT

35

36 This bill would provide municipalities and counties with the
37 authority to make traffic engineering decisions in keeping with the
38 provisions of the Manual on Uniform Traffic Control Devices for
39 Streets and Highways, based upon the expertise of their municipal
40 or county engineer, without obtaining prior approval of the
41 Department of Transportation. Under current law, the commissioner
42 is required to approve certain municipal ordinances and resolutions
43 concerning traffic management on local roads.

44 This bill also permits a municipality or county to request the
45 commissioner's review and non-binding recommendation regarding
46 any proposed municipal or county ordinance, resolution, or
47 regulation that would concern, regulate, or otherwise govern traffic
48 or traffic conditions, for which the commissioner's approval is not

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1 required prior to the adoption or enactment of that proposed
2 ordinance, resolution, or regulation. Any ordinance, resolution, or
3 regulation submitted for the commissioner's review shall include a
4 municipal or county traffic engineer's recommendation regarding
5 the proposed traffic regulation. Finally, this bill allows the
6 commissioner to assess a municipality or a county a non-refundable
7 fee for the commissioner's review of the ordinance, resolution, or
8 regulation to offset costs incurred by the department in processing
9 the request.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 1908

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 6, 2008

The Senate Transportation Committee reports favorably Senate Bill No. 1908 with committee amendments.

Under current law, the commissioner is required to approve certain municipal ordinances and resolutions concerning traffic management on local roads. This amended bill would provide municipalities and counties with the authority to make traffic engineering decisions in keeping with the provisions of the Manual on Uniform Traffic Control Devices for Streets and Highways, based upon the expertise of their municipal or county engineer, without obtaining prior approval of the Department of Transportation. However, a municipality may not pass an ordinance or resolution limiting use of streets by commercial motor vehicles without approval of the commissioner.

This amended bill provides that prior to the adoption of any municipal or county ordinance, resolution, or regulation concerning traffic or traffic conditions, or any municipality or county constructing a speed hump, either of which places any impact on roadways in an adjoining municipality or county, the governing board or body of the municipality or county shall provide appropriate notice to the adjoining municipality or county. Any municipal or county ordinance, resolution, or regulation concerning traffic or traffic conditions, or any municipality or county constructing a speed hump, either of which places any impact on a State roadway, shall require the approval of the commissioner.

This amended bill also permits a municipality or county to request the commissioner's review and non-binding recommendation regarding any proposed municipal or county ordinance, resolution, or regulation that would concern, regulate, or otherwise govern traffic or traffic conditions, for which the commissioner's approval is not required, prior to the adoption or enactment of that proposed ordinance, resolution, or regulation. Any ordinance, resolution, or regulation submitted for the commissioner's review shall include a municipal or county traffic engineer's recommendation regarding the proposed traffic regulation. This amended bill allows the commissioner to assess a municipality or a county a non-refundable fee for the commissioner's review of the ordinance, resolution, or

regulation to offset costs incurred by the department in processing the request.

This bill also amends the definition of speed hump to reflect use as a vertical speed deflector.

The committee amended the bill to require municipalities and counties to provide appropriate notice to an adjoining municipality or county where local action concerning traffic conditions or construction of speed humps has any impact on an adjoining municipality or county. The committee amended the bill to require municipalities and counties to obtain the approval of the commissioner where local action concerning traffic conditions or construction of speed humps has any impact on a State roadway. The committee also amended the bill to prohibit municipalities from limiting use of streets by commercial motor vehicles without approval of the commissioner.

With these amendments, this bill is identical to A-2731(2R), released by the committee on this date.