

27:12B-5.2

LEGISLATIVE HISTORY CHECKLIST
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(New Jersey Highway--contracting)

NJSA: 27:12B-5.2

LAWS OF: 1997 **CHAPTER:** 390

BILL NO: S1932

SPONSOR(S): Ewing

DATE INTRODUCED: March 20, 1997

COMMITTEE: ASSEMBLY: Transportation & Communications

SENATE: Transportation

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
Second reprint enacted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: December 18, 1997 Re-enacted 1-12-98

SENATE: June 26, 1997 Re-enacted 1-12-98

DATE OF APPROVAL: January 19, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:
REPORTS: No

HEARINGS: No

KBP:pp

P.L. 1997, CHAPTER 390, *approved January 19, 1998*
Senate, No. 1932 (*Second Reprint*)

1 AN ACT concerning certain contracts of the New Jersey Highway
2 Authority and amending P.L.1968, c.459.

3

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

6

7 1. Section 1 of P.L.1968, c.459 (C.27:12B-5.2) is amended to read
8 as follows:

9 1. a. The New Jersey Highway Authority, in the exercise of its
10 authority to make and enter into contracts and agreements necessary
11 or incidental to the performance of its duties and the execution of its
12 powers, shall adopt standing operating rules and procedures providing
13 that, except as hereinafter provided, no contract on behalf of the
14 authority shall be entered into for the doing of any work, or for the
15 hiring of equipment or vehicles, where the sum to be expended
16 exceeds the sum of \$7,500.00 or, after June 30, 1985, the amount
17 determined pursuant to subsection b. of this section unless the
18 authority shall first publicly advertise for bids therefor, and shall
19 award the contract to the lowest responsible bidder; provided,
20 however, that such advertising shall not be required where the
21 contract to be entered into is one for the furnishing or performing of
22 services of a professional nature or for the supplying of any product
23 or the rendering of any service by a public utility subject to the
24 jurisdiction of the Board of Public [Utility Commissioners]Utilities of
25 this State and tariffs and schedules of the charges, made, charged, or
26 exacted by the public utility for any such products to be supplied or
27 services to be rendered are filed with the said board. Contracts for
28 towing and storage services shall be advertised and awarded pursuant
29 to subsection c. of this section.

30 This subsection shall not prevent the authority from having any

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ATC committee amendments adopted December 11, 1997.

² Senate amendments adopted in accordance with Governor's recommendations January 12, 1998.

1 work done by its own employees, nor shall it apply to repairs, or to
2 the furnishing of materials, supplies or labor, or the hiring of
3 equipment or vehicles, when the safety or protection of its or other
4 public property or the public convenience require, or the exigency of
5 the authority's service will not admit of such advertisement. In such
6 case the authority shall, by resolution, passed by the affirmative vote
7 of a majority of its members, declare the exigency or emergency to
8 exist, and set forth in the resolution the nature thereof and the
9 approximate amount to be so expended.

10 b. Commencing January 1, 1985, the Governor, in consultation
11 with the Department of the Treasury, shall, no later than March 1 of
12 each odd-numbered year, adjust the threshold amount set forth in
13 subsection a. of this section, or subsequent to 1985 the threshold
14 amount resulting from any adjustment under this subsection, in direct
15 proportion to the rise or fall of the consumer price index for all urban
16 consumers in the New York City and the Philadelphia areas as
17 reported by the United States Department of Labor. The Governor
18 shall, no later than June 1 of each odd-numbered year, notify the
19 authority of the adjustment. The adjustment shall become effective
20 on July 1 of each odd-numbered year.

21 c. The authority shall adopt regulations, pursuant to the
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
23 seq.), to provide open and competitive procedures for awarding
24 contracts for towing and storage services. ¹Towing and storage
25 services on a highway project may be provided on a rotating basis,
26 provided that the authority determines that there would be no
27 additional cost to the authority ², excepting administrative costs,² as
28 a result of those services being provided on a rotating basis.¹ The
29 regulations shall fix maximum towing and storage fees, ²[subject to
30 regulations promulgated by the Commissioner of Banking and
31 Insurance pursuant to section 60 of P.L.1990, c.8 (C.17:33B-47).]²
32 and establish objective criteria to be considered in awarding a contract
33 for towing and storage services which shall include, but shall not be
34 limited to, reliability, experience, response time, acceptance of credit
35 cards and prepaid towing contracts, adequate equipment to safely
36 handle a sufficient volume of common vehicle types under a variety of
37 traffic and weather conditions, location of storage and repair facilities,
38 security of vehicles towed or stored, financial return to the authority,
39 ²[and]² maintenance of adequate liability insurance ²and appropriate
40 safeguards to protect the personal safety of customers, including
41 considerations related to the criminal background of employees. The
42 Division of Consumer Affairs in the Department of Law and Public
43 Safety shall provide, at the authority's request, a report to the
44 authority on any prospective contractor for which the Division has
45 information relevant to the prospective contractor's service record,
46 subject to the provisions of the New Jersey consumer fraud act,

1 P.L.1960, c.39 (C. 56:8-1 et. seq.). The Division of Insurance Fraud
2 Prevention in the Department of Banking and Insurance also shall
3 provide, at the authority's request, a report to the authority on any
4 prospective contractor for which the Division has information relevant
5 to the prospective contractor's service record, subject to the "New
6 Jersey Insurance Fraud Prevention Act." P.L.1983, c.320 (C. 17:33A-
7 1 et seq.)². ²[Towing and storage fees, set by the authority, shall not
8 be considered in awarding a contract for towing and storage
9 services.]²

10 (cf: P.L.1984, c.128, s.3)

11

12 2. This act shall take effect immediately and shall apply to
13 contracts entered into on and after the 60th day following the effective
14 date of this act and to renewals of contracts entered into prior to the
15 effective date of this act, which renewals are effectuated after the 60th
16 day following the effective date of this act.

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19

20

21 Requires New Jersey Highway Authority to implement open and
22 competitive contracting procedures for contracts for towing and
23 storage services.

1 the authority's service will not admit of such advertisement. In such
2 case the authority shall, by resolution, passed by the affirmative vote
3 of a majority of its members, declare the exigency or emergency to
4 exist, and set forth in the resolution the nature thereof and the
5 approximate amount to be so expended.

6 b. Commencing January 1, 1985, the Governor, in consultation
7 with the Department of the Treasury, shall, no later than March 1 of
8 each odd-numbered year, adjust the threshold amount set forth in
9 subsection a. of this section, or subsequent to 1985 the threshold
10 amount resulting from any adjustment under this subsection, in direct
11 proportion to the rise or fall of the consumer price index for all urban
12 consumers in the New York City and the Philadelphia areas as
13 reported by the United States Department of Labor. The Governor
14 shall, no later than June 1 of each odd-numbered year, notify the
15 authority of the adjustment. The adjustment shall become effective
16 on July 1 of each odd-numbered year.

17 c. The authority shall adopt regulations, pursuant to the
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
19 seq.), to provide open and competitive procedures for awarding
20 contracts for towing and storage services. The regulations shall fix
21 maximum towing and storage fees, subject to regulations promulgated
22 by the Commissioner of Banking and Insurance pursuant to section 60
23 of P.L.1990, c.8 (C.17:33B-47), and establish objective criteria to be
24 considered in awarding a contract for towing and storage services
25 which shall include, but shall not be limited to, reliability, experience,
26 response time, acceptance of credit cards and prepaid towing
27 contracts, adequate equipment to safely handle a sufficient volume of
28 common vehicle types under a variety of traffic and weather
29 conditions, location of storage and repair facilities, security of vehicles
30 towed or stored, financial return to the authority, and maintenance of
31 adequate liability insurance. Towing and storage fees, set by the
32 authority, shall not be considered in awarding a contract for towing
33 and storage services.

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38 date of this act and to renewals of contracts entered into prior to the
39 effective date of this act, which renewals are effectuated after the 60th
40 day following the effective date of this act.

41
42 STATEMENT

43
44 This bill would require the New Jersey Highway Authority (the
45 authority), which operates the Garden State Parkway, to implement
46 open and competitive procedures and develop objective criteria for

1 awarding contracts for towing and storage services.

2 In N.E.R.I. Corporation v. New Jersey Highway Authority, 147
3 N.J. 223 (1996), the New Jersey Supreme Court ruled that authority
4 contracts for towing and storage services must be competitively bid
5 and awarded to the lowest responsible bidder. This standard does not
6 provide the authority with sufficient discretion in awarding contracts,
7 since factors such as equipment, experience, response time and
8 location of facilities are not necessarily addressed under that bidding
9 process. In his dissent, Justice Stein notes that the court's ruling
10 "overrides the Authority's informed judgment and requires that the
11 Authority award towing contracts only to those towers who bid the
12 lowest rates" and that forcing "the Authority to select towers based on
13 price rather than competence" is a result that "can hardly be
14 understood to advance the best interests of Parkway motorists."
15 Justice Stein further notes that the "Local Public Contracts Law,"
16 N.J.S.40A:11-5(u), contains an exemption for towing and storage
17 contracts and that it would better serve the public interest to also
18 allow the authority to select towers on the basis of reliability rather
19 than rates.

20 This bill would establish an exemption from bidding for the
21 authority similar to exemption provided to local contracting units for
22 towing and storage services under the "Local Public Contracts Law,"
23 N.J.S.40A:11-5(u), when the contracting unit has set the rates and
24 charges for those services.

25 The bill would require the authority to adopt regulations, pursuant
26 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
27 et seq.), to provide open and competitive procedures for awarding
28 contracts for towing and storage services. The regulations would fix
29 maximum towing and storage fees, subject to regulations promulgated
30 by the Commissioner of Banking and Insurance pursuant to section 60
31 of P.L.1990, c.8 (C.17:33B-47), and establish objective criteria to be
32 considered in awarding a contract for towing and storage services.
33 The objective criteria would include, but not be limited to, reliability,
34 experience, response time, acceptance of credit cards and prepaid
35 towing contracts, adequate equipment to safely handle a sufficient
36 volume of common vehicle types under a variety of traffic and weather
37 conditions, location of storage and repair facilities, security of vehicles
38 towed or stored, financial return to the authority, and maintenance of
39 adequate liability insurance. As the bill requires the authority to set
40 towing and storage fees, those fees would not be considered in
41 awarding a contract for towing and storage services.

42 The bill would take effect immediately and would apply to contracts
43 entered into on and after the 60th day following the effective date of
44 the act and to renewals of contracts entered into prior to the effective
45 date of this act which are effectuated after the 60th day following the
46 effective date of the act.

- 1 _____
- 2
- 3 Requires New Jersey Highway Authority to implement open and
- 4 competitive contracting procedures for contracts for towing and
- 5 storage services.

[Passed Both Houses]

[Second Reprint]

SENATE, No. 1932

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1997

By Senator EWING

1 AN ACT concerning certain contracts of the New Jersey Highway
2 Authority and amending P.L.1968, c.459.

3

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

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7 1. Section 1 of P.L.1968, c.459 (C.27:12B-5.2) is amended to read
8 as follows:

9 1. a. The New Jersey Highway Authority, in the exercise of its
10 authority to make and enter into contracts and agreements necessary
11 or incidental to the performance of its duties and the execution of its
12 powers, shall adopt standing operating rules and procedures providing
13 that, except as hereinafter provided, no contract on behalf of the
14 authority shall be entered into for the doing of any work, or for the
15 hiring of equipment or vehicles, where the sum to be expended
16 exceeds the sum of \$7,500.00 or, after June 30, 1985, the amount
17 determined pursuant to subsection b. of this section unless the
18 authority shall first publicly advertise for bids therefor, and shall
19 award the contract to the lowest responsible bidder; provided,
20 however, that such advertising shall not be required where the
21 contract to be entered into is one for the furnishing or performing of
22 services of a professional nature or for the supplying of any product
23 or the rendering of any service by a public utility subject to the
24 jurisdiction of the Board of Public **[Utility Commissioners]**Utilities of
25 this State and tariffs and schedules of the charges, made, charged, or
26 exacted by the public utility for any such products to be supplied or
27 services to be rendered are filed with the said board. Contracts for

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Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ATC committee amendments adopted December 11, 1997.

² Senate amendments adopted in accordance with Governor's recommendations January 12, 1998.

1 towing and storage services shall be advertised and awarded pursuant
2 to subsection c. of this section.

3 This subsection shall not prevent the authority from having any
4 work done by its own employees, nor shall it apply to repairs, or to
5 the furnishing of materials, supplies or labor, or the hiring of
6 equipment or vehicles, when the safety or protection of its or other
7 public property or the public convenience require, or the exigency of
8 the authority's service will not admit of such advertisement. In such
9 case the authority shall, by resolution, passed by the affirmative vote
10 of a majority of its members, declare the exigency or emergency to
11 exist, and set forth in the resolution the nature thereof and the
12 approximate amount to be so expended.

13 b. Commencing January 1, 1985, the Governor, in consultation
14 with the Department of the Treasury, shall, no later than March 1 of
15 each odd-numbered year, adjust the threshold amount set forth in
16 subsection a. of this section, or subsequent to 1985 the threshold
17 amount resulting from any adjustment under this subsection, in direct
18 proportion to the rise or fall of the consumer price index for all urban
19 consumers in the New York City and the Philadelphia areas as
20 reported by the United States Department of Labor. The Governor
21 shall, no later than June 1 of each odd-numbered year, notify the
22 authority of the adjustment. The adjustment shall become effective
23 on July 1 of each odd-numbered year.

24 c. The authority shall adopt regulations, pursuant to the
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
26 seq.), to provide open and competitive procedures for awarding
27 contracts for towing and storage services. ¹Towing and storage
28 services on a highway project may be provided on a rotating basis,
29 provided that the authority determines that there would be no
30 additional cost to the authority ², excepting administrative costs. ² as
31 a result of those services being provided on a rotating basis. ¹ The
32 regulations shall fix maximum towing and storage fees. ²[subject to
33 regulations promulgated by the Commissioner of Banking and
34 Insurance pursuant to section 60 of P.L.1990, c.8 (C.17:33B-47).] ²
35 and establish objective criteria to be considered in awarding a contract
36 for towing and storage services which shall include, but shall not be
37 limited to, reliability, experience, response time, acceptance of credit
38 cards and prepaid towing contracts, adequate equipment to safely
39 handle a sufficient volume of common vehicle types under a variety of
40 traffic and weather conditions, location of storage and repair facilities,
41 security of vehicles towed or stored, financial return to the authority,
42 ²[and] ² maintenance of adequate liability insurance ²and appropriate
43 safeguards to protect the personal safety of customers, including
44 considerations related to the criminal background of employees. The
45 Division of Consumer Affairs in the Department of Law and Public
46 Safety shall provide, at the authority's request, a report to the

1 authority on any prospective contractor for which the Division has
2 information relevant to the prospective contractor's service record,
3 subject to the provisions of the New Jersey consumer fraud act,
4 P.L.1960, c.39 (C. 56:8-1 et. seq.). The Division of Insurance Fraud
5 Prevention in the Department of Banking and Insurance also shall
6 provide, at the authority's request, a report to the authority on any
7 prospective contractor for which the Division has information relevant
8 to the prospective contractor's service record, subject to the "New
9 Jersey Insurance Fraud Prevention Act," P.L.1983, c.320 (C. 17:33A-
10 1 et seq.)². ²[Towing and storage fees, set by the authority, shall not
11 be considered in awarding a contract for towing and storage
12 services.]²

13 (cf: P.L.1984, c.128, s.3)

14

15 2. This act shall take effect immediately and shall apply to
16 contracts entered into on and after the 60th day following the effective
17 date of this act and to renewals of contracts entered into prior to the
18 effective date of this act, which renewals are effectuated after the 60th
19 day following the effective date of this act.

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23

24 Requires New Jersey Highway Authority to implement open and
25 competitive contracting procedures for contracts for towing and
26 storage services.

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO

SENATE, No. 1932

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 11, 1997

The Assembly Transportation and Communications Committee reports favorably Senate Bill No. 1932 with committee amendments.

As amended by the committee, this bill would require the New Jersey Highway Authority (the authority), which operates the Garden State Parkway, to implement open and competitive procedures and develop objective criteria for awarding contracts for towing and storage services. The amended bill also provides that towing and storage services on the Garden State Parkway may be provided on a rotating basis if the authority determines that there would be no additional cost to the authority as a result of those services being provided on a rotating basis.

In N.E.R.I. Corporation v. New Jersey Highway Authority, 147 N.J. 223 (1996), the New Jersey Supreme Court ruled that authority contracts for towing and storage services must be competitively bid and awarded to the lowest responsible bidder. According to the sponsor, this standard does not provide the authority with sufficient discretion in awarding contracts, since factors such as equipment, experience, response time and location of facilities are not necessarily addressed under that bidding process. In his dissent, Justice Stein notes that the court's ruling "overrides the Authority's informed judgment and requires that the Authority award towing contracts only to those towers who bid the lowest rates" and that forcing "the Authority to select towers based on price rather than competence" is a result that "can hardly be understood to advance the best interests of Parkway motorists." Justice Stein further notes that the "Local Public Contracts Law," N.J.S.40A:11-5(u), contains an exemption for towing and storage contracts and that it would better serve the public interest to also allow the authority to select towers on the basis of reliability rather than rates.

This bill would establish an exemption from bidding for the authority similar to the exemption provided to local contracting units for towing and storage services under the "Local Public Contracts

Law," N.J.S.40A:11-5(u), when the contracting unit has set the rates and charges for those services.

The bill would require the authority to adopt regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to provide open and competitive procedures for awarding contracts for towing and storage services. The regulations would fix maximum towing and storage fees, subject to regulations promulgated by the Commissioner of Banking and Insurance pursuant to section 60 of P.L.1990, c.8 (C.17:33B-47), and establish objective criteria to be considered in awarding a contract for towing and storage services. The objective criteria would include, but not be limited to, reliability, experience, response time, acceptance of credit cards and prepaid towing contracts, adequate equipment to safely handle a sufficient volume of common vehicle types under a variety of traffic and weather conditions, location of storage and repair facilities, security of vehicles towed or stored, financial return to the authority, and maintenance of adequate liability insurance. As the bill requires the authority to set towing and storage fees, those fees would not be considered in awarding a contract for towing and storage services.

The bill would take effect immediately and would apply to contracts entered into on and after the 60th day following the effective date of the act and to renewals of contracts entered into prior to the effective date of this act which are effectuated after the 60th day following the effective date of the act.

The committee amended the bill to provide that towing and storage services on the Garden State Parkway may be provided on a rotating basis if the authority determines that there would be no additional cost to the authority as a result of those services being provided on a rotating basis.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 1932

STATE OF NEW JERSEY

DATED: JUNE 12, 1997

The Senate Transportation Committee reports favorably Senate Bill No. 1932.

This bill would require the New Jersey Highway Authority (the authority), which operates the Garden State Parkway, to implement open and competitive procedures and develop objective criteria for awarding contracts for towing and storage services.

In N.E.R.I. Corporation v. New Jersey Highway Authority, 147 N.J. 223 (1996), the New Jersey Supreme Court ruled that authority contracts for towing and storage services must be competitively bid and awarded to the lowest responsible bidder. According to the sponsor, this standard does not provide the authority with sufficient discretion in awarding contracts, since factors such as equipment, experience, response time and location of facilities are not necessarily addressed under that bidding process. In his dissent, Justice Stein notes that the court's ruling "overrides the Authority's informed judgment and requires that the Authority award towing contracts only to those towers who bid the lowest rates" and that forcing "the Authority to select towers based on price rather than competence" is a result that "can hardly be understood to advance the best interests of Parkway motorists." Justice Stein further notes that the "Local Public Contracts Law," N.J.S.40A:11-5(u), contains an exemption for towing and storage contracts and that it would better serve the public interest to also allow the authority to select towers on the basis of reliability rather than rates.

This bill would establish an exemption from bidding for the authority similar to the exemption provided to local contracting units for towing and storage services under the "Local Public Contracts Law," N.J.S.40A:11-5(u), when the contracting unit has set the rates and charges for those services.

The bill would require the authority to adopt regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to provide open and competitive procedures for awarding contracts for towing and storage services. The regulations would fix maximum towing and storage fees, subject to regulations promulgated by the Commissioner of Banking and Insurance pursuant to section 60 of P.L.1990, c.8 (C.17:33B-47), and establish objective criteria to be

considered in awarding a contract for towing and storage services. The objective criteria would include, but not be limited to, reliability, experience, response time, acceptance of credit cards and prepaid towing contracts, adequate equipment to safely handle a sufficient volume of common vehicle types under a variety of traffic and weather conditions, location of storage and repair facilities, security of vehicles towed or stored, financial return to the authority, and maintenance of adequate liability insurance. As the bill requires the authority to set towing and storage fees, those fees would not be considered in awarding a contract for towing and storage services.

The bill would take effect immediately and would apply to contracts entered into on and after the 60th day following the effective date of the act and to renewals of contracts entered into prior to the effective date of this act which are effectuated after the 60th day following the effective date of the act.

SENATE BILL NO. 1932
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 1932 (First Reprint) with my recommendations for reconsideration.

A. Summary of Bill

This bill provides that the New Jersey Highway Authority (the "Authority") shall establish open and competitive procedures in awarding towing and storage contracts on the Garden State Parkway. The bill states that the Authority shall fix maximum towing and storage fees and establish objective criteria to be considered in awarding a contract. The criteria include but are not limited to: reliability, experience, response time, acceptance of credit cards and prepaid towing contracts, adequate equipment to safely handle a sufficient volume of common vehicle types under a variety of traffic and weather conditions, location of storage and repair facilities, security of vehicles towed or stored, financial return to the Authority and maintenance of adequate liability insurance. The bill adds that the Authority may award towing contracts on a rotating basis, provided that the Authority determines that a rotation system will not result in any additional cost to the Authority. Lastly, the bill provides that the Authority shall not consider towing and storage fees in awarding contracts.

The bill was drafted in reaction to the New Jersey Supreme Court's holding in *N.E.R.I. Corp. v. New Jersey Highway Auth.*, 127 N.J. 223 (1996). In *N.E.R.I.*, the Supreme Court held that the Authority was required under N.J.S.A. 27:12B-5.2 to publicly bid its towing and storage contracts for the Garden State Parkway. In short, the Authority was required to award contracts to the lowest responsible bidder. Prior to *N.E.R.I.*, the Authority set towing rates and charges on the Parkway and did not consider price in awarding contracts.

This bill establishes open and competitive procedures for the awarding of contracts but also provides that towing and storage fees,

"set by the Authority, shall not be considered in awarding a contract for towing and storage services." In short, the bill proposes that price should not be a factor in the evaluation of towing and storage companies.

B. Recommended Action

I commend the sponsor for seeking to ensure that the best interests of Garden State Parkway motorists are met. I agree with the sponsor that requiring the Authority to award contracts to the lowest bidder does not adequately protect the safety concerns of stranded motorists because criteria other than towing rates cannot be sufficiently considered. I disagree, however, with the bill's conclusion that price should not be considered at all. The bill states: "Towing and storage fees, set by the authority, shall not be considered in awarding a contract for towing and storage services."

I recommend that the bill be amended to delete the language stating that the Authority shall not consider towing and storage fees in awarding contracts. The deletion of such language will enable the Authority to consider price but also allow the Authority to consider other factors, such as the criteria listed in this bill, e.g., reliability, experience, response time, adequate equipment, etc. Price will continue to be a factor of significance but will not be the decisive determinant in awarding towing and storage contracts.

To further protect the safety of the motoring public, I recommend that additional objective criteria be considered by the Authority. Specifically, I suggest that the Authority be required to consider whether a towing company has implemented appropriate safeguards to protect the personal safety of customers, including considerations of the criminal history of employees.

To better assist the Authority in its consideration of towing companies, I also propose that the Authority consult with the Division of Consumer Safety and Division in the Department of Law and Public Safety

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3

and the Division of Fraud in the Department of Banking and Insurance to ascertain the consumer service record of eligible towing companies.

To remedy the problem of price gouging of Garden State Parkway customers on charges aside from the initial tow, I urge the Authority to require companies to disclose in their bid proposals their proposed towing charges and administrative and repair fees. Such disclosure will enable the Authority to better evaluate the companies and prevent such companies from taking unfair advantage of stranded Parkway motorists.

Finally, I recommend that the Authority have the absolute discretion to decide whether to award towing and storage contracts on a rotating basis. The Authority possesses sufficient expertise to determine whether the benefits of implementing a rotating and thereby more competitive system outweigh its costs.

Therefore, I herewith return Senate Bill No. 1932 (First Reprint) and recommend that it be amended as follows:

Page 2, Section 1, Lines 26:

After "authority" insert the following: "excepting administrative costs"

Page 2, Section 1, Lines 28-30:

Delete after "fees" the following: ", subject to regulations promulgated by the Commissioner of Banking and Insurance pursuant to section 60 of P.L. 1990 C.8 (C.17:33B-47)"

Page 2, Section 1, Line 37:

After "authority" delete "and"

Page 2, Section 2, Line 38:

After "insurance" insert the following: " and appropriate safeguards to protect the personal safety of customers, including considerations related to the criminal background of employees. The Division of Consumer Affairs in the Department of Law and Public Safety shall provide, at the authority's request, a report to the authority on any prospective contractor for which the Division has information relevant to the prospective contractor's service record, subject to the provisions of the New Jersey Consumer Fraud Act (N.J.S.A. 56:801 et. seq.). The division of Fraud in the Department of Banking and Insurance also shall provide, at the authority's request, a report to the authority on any

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EXECUTIVE DEPARTMENT

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prospective contractor for which the Division has information relevant to the prospective contractor's service record, subject to the New Jersey Insurance Fraud Prevention Act (N.J.S.A. 17:33A-1 et. seq.)."

Page 2, Section 1, Lines 38-40:

Delete the following: "Towing and storage fees, set by the authority, shall not be considered in awarding a contract for towing and storage services."

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Michael P. Torpey

Chief Counsel to the Governor