

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library ([609\) 278-2640 ext.103](tel:6092782640) or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RH/CL

P.L. 2017, CHAPTER 340, *approved January 16, 2018*
Senate, No. 3603 (*First Reprint*)

1 AN ACT concerning property transactions of certain
2 telecommunications companies and amending R.S.48:3-7.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. R.S.48:3-7 is amended to read as follows:

8 48:3-7. a. Except as otherwise provided by **[subsection]**
9 **subsections** g. **and h.** of this section, **[no]** a public utility shall not,
10 without the approval of the board, sell, lease, mortgage, or
11 otherwise dispose of or encumber its property, franchises,
12 privileges, or rights, or any part thereof; or merge or consolidate its
13 property, franchises, privileges, or rights, or any part thereof, with
14 that of any other public utility.

15 Where, by the proposed sale, lease, or other disposition of all or
16 a substantial portion of its property, any franchise or franchises,
17 privileges, or rights, or any part thereof or merger or consolidation
18 thereof as set forth herein, it appears that the public utility¹ or a
19 wholly owned subsidiary thereof¹ may be unable to fulfill its
20 obligation to any employees thereof with respect to pension benefits
21 previously enjoyed, whether vested or contingent, the board shall
22 not grant its approval unless the public utility seeking the board's
23 approval for **[such]** a sale, lease, or other disposition assumes
24 **[such]** the responsibility as will be sufficient to provide that all
25 such obligations to those employees will be satisfied as they
26 become due.

27 **[Every]** A sale, mortgage, lease, disposition, encumbrance,
28 merger, or consolidation made in violation of this section shall be
29 void.

30 Nothing herein shall prevent the sale, lease, or other disposition
31 by any public utility of any of its property in the ordinary course of
32 business, nor require the approval of the board to any grant,
33 conveyance, or release of any property or interest therein heretofore
34 made or hereafter to be made by any public utility to the United
35 States, State¹, or any county or municipality or any agency,
36 authority, or subdivision thereof, for public use.

37 The approval of the board shall not be required to validate the
38 title of the United States, State, or any county or municipality or
39 any agency, authority, or subdivision thereof, to any lands or
40 interest therein heretofore condemned or hereafter to be condemned

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEG committee amendments adopted December 18, 2017.

1 by the United States, State, or any county or municipality or any
2 agency, authority, or subdivision thereof, for public use.

3 b. Notwithstanding any law, rule, regulation, or order to the
4 contrary, an autobus public utility regulated by and subject to the
5 provisions of Title 48 of the Revised Statutes may, without the
6 approval of the Department of Transportation, sell, lease, mortgage,
7 or otherwise dispose of or encumber its property, or any part
8 thereof, except that approval of the Department of Transportation
9 shall be required for the following:

10 (1) the sale of ~~60%~~ 60 percent or more of its property within a
11 12-month period;

12 (2) a merger or consolidation of its property, franchises,
13 privileges, or rights; or

14 (3) the sale of any of its franchises, privileges, or rights.

15 Notice of the sale, purchase, or lease of any autobus or other
16 vehicle subject to regulation under Title 48 of the Revised Statutes
17 shall be provided to the Department of Transportation as the
18 department shall require.

19 c. Except as otherwise provided in subsection e. of this section,
20 ~~no~~ a solid waste collector as defined in section 3 of P.L.1970,
21 c.40 (C.48:13A-3) shall not, without the approval of the Department
22 of Environmental Protection:

23 (1) sell, lease, mortgage, or otherwise dispose of or encumber its
24 property, including customer lists; or

25 (2) merge or consolidate its property, including customer lists,
26 with that of any other person or business concern, whether or not
27 that person or business concern is engaged in the business of solid
28 waste collection or solid waste disposal pursuant to the provisions
29 of P.L.1970 c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et
30 al.), P.L.1991, c.381 (C.48:13A-7.1 et al.) or any other act.

31 d. Any solid waste collector seeking approval for any
32 transaction enumerated in subsection c. of this section shall file
33 with the ~~department~~ Department of Environmental Protection, on
34 forms and in a manner prescribed by the department, a notice of
35 intent at least 30 days prior to the completion of the transaction.

36 (1) The ~~department~~ Department of Environmental Protection
37 shall promptly review all notices filed pursuant to this subsection.
38 The department may, within 30 days of receipt of a notice of intent,
39 request that the solid waste collector submit additional information
40 to assist in its review if ~~it~~ the department deems that ~~such~~ the
41 information is necessary. If no ~~such~~ request is made, the
42 transaction shall be deemed to have been approved. In the event
43 that additional information is requested, the department shall
44 outline, in writing, why it deems such information necessary to
45 make an informed decision on the impact of the transaction on
46 effective competition.

1 (2) The **【department】** Department of Environmental Protection
2 shall approve or deny a transaction within 60 days of receipt of all
3 requested information. In the event that the department fails to take
4 action on a transaction within the 60-day period specified herein,
5 then the transaction shall be deemed to have been approved.

6 (3) The **【department】** Department of Environmental Protection
7 shall approve a transaction unless it makes a determination pursuant
8 to the provisions of section 19 of P.L.1991, c.381 (C.48:13A-7.19)
9 that the proposed sale, lease, mortgage, disposition, encumbrance,
10 merger, or consolidation would result in a lack of effective
11 competition.

12 The **【department】** Department of Environmental Protection shall
13 prescribe and provide upon request all necessary forms for the
14 implementation of the notification requirements of this subsection.

15 e. (1) Any solid waste collector may, without the approval of
16 the **【department】** Department of Environmental Protection,
17 purchase, finance, or lease any equipment, including collection or
18 haulage vehicles.

19 (2) Any solid waste collector may, without the approval of the
20 **【department】** Department of Environmental Protection, sell or
21 otherwise dispose of its collection or haulage vehicles; except that
22 [no] a solid waste collector shall not, without the approval of the
23 department in the manner provided in subsection d. of this section,
24 sell or dispose of **【33%】** 33 percent or more of its collection or
25 haulage vehicles within a 12-month period.

26 f. (1) The owner or operator of a privately-owned sanitary
27 landfill facility may, without the approval of the Department of
28 Environmental Protection, sell or otherwise dispose of its assets
29 except that the prior approval of the department shall be required:
30 (a) to sell all assets associated with the sanitary landfill facility or a
31 portion thereof sufficient to transfer the operation of the sanitary
32 landfill facility to a new owner or operator; (b) to sell a controlling
33 ownership interest in the sanitary landfill facility; or (c) to merge or
34 consolidate its property with that of any other person or business
35 concern, whether or not that person or business concern is engaged
36 in the business of solid waste disposal pursuant to the provisions of
37 P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et
38 al.) or any other act.

39 (2) Any owner or operator seeking approval for any transaction
40 enumerated in this subsection shall file with the **【department】**
41 Department of Environmental Protection an application therefor, on
42 forms and in a manner prescribed by the department. The
43 department shall promptly review all applications filed pursuant to
44 this subsection and shall serve requests for information regarding
45 any transaction within 30 days following the filing of an application
46 if the department deems that **【such】** the information is necessary.
47 The department shall approve or deny the transaction within 60

1 days of receipt of all requested information. In the event that the
2 department fails to take action on a transaction within the 60-day
3 period specified herein, then the transaction shall be deemed to
4 have been approved.

5 As used in this section, "business concern" means any
6 corporation, association, firm, partnership, sole proprietorship,
7 trust, or other form of commercial organization; and "privately-
8 owned sanitary landfill facility" means a commercial sanitary
9 landfill facility which is owned and operated by a private person,
10 corporation, or other organization and includes all appurtenances
11 and related improvements used at the site for the transfer,
12 processing, or disposal of solid waste.

13 g. Nothing herein shall require the review or approval by the
14 board of any parent or affiliate corporation of a telecommunications
15 company if **[such]** the parent or affiliate corporation does not itself
16 provide regulated telecommunications service or the provision of
17 telephone access line service, in this State, and **[such]** the parent or
18 affiliate corporation seeks to sell, lease, mortgage, or otherwise to
19 dispose of or to permit the encumbrance of any of its property,
20 franchises, privileges or rights, or any part thereof; or to merge, or
21 consolidate its property, franchises, privileges or rights, or any part
22 thereof, with that or those of another corporation or other
23 organization which:

24 (1) does not directly provide regulated telecommunications
25 services or telephone access line service, in this State; and

26 (2) does not directly or through one or more affiliates, own a
27 controlling interest in another corporation or other organization
28 which provides regulated telecommunications service or telephone
29 access line service, in this State.

30 h. Nothing herein shall authorize the board to require any
31 company that provides competitive telecommunications services as
32 determined by the board and operating under an alternative form of
33 regulation pursuant to P.L.1991, c.428 (C.48:2-21.16 et seq.) to
34 submit for the board's review and approval any sale, conveyance, or
35 lease by the corporation of any real or personal property, or any
36 grant of an easement or like interest therein in this State.

37 ¹Notwithstanding anything to the contrary in this section, the
38 board's authority, pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.),
39 to review and approve a sale, conveyance, or lease by the company
40 of its facilities and rights-of-way, including poles, conduits, other
41 equipment, and easements, shall continue and, pursuant to
42 P.L.1972, c.186 (C.48:5A-1 et seq.), the board's jurisdiction over
43 such facilities and rights of way shall continue.¹

44 (cf: P.L.2008, c.87, s.2)

45

46 2. This act shall take effect on the 30th day after the date of
47 enactment, but the Board of Public Utilities may take such

S3603 [1R]

5

1 anticipatory administrative action in advance thereof as shall be
2 necessary for the implementation of this act.

3

4

5

6

7 Prohibits BPU review and approval of property transactions of
8 certain telecommunications companies.

SENATE, No. 3603

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED DECEMBER 7, 2017

Sponsored by:

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Prohibits BPU review and approval of property transactions of certain telecommunications companies.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning property transactions of certain
2 telecommunications companies and amending R.S.48:3-7.

3

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

6

7 1. R.S.48:3-7 is amended to read as follows:

8 48:3-7. a. Except as otherwise provided by **[subsection]**
9 **subsections** g. and h. of this section, **[no]** a public utility shall not,
10 without the approval of the board, sell, lease, mortgage, or
11 otherwise dispose of or encumber its property, franchises,
12 privileges, or rights, or any part thereof; or merge or consolidate its
13 property, franchises, privileges, or rights, or any part thereof, with
14 that of any other public utility.

15 Where, by the proposed sale, lease, or other disposition of all or
16 a substantial portion of its property, any franchise or franchises,
17 privileges, or rights, or any part thereof or merger or consolidation
18 thereof as set forth herein, it appears that the public utility, or a
19 wholly owned subsidiary thereof, may be unable to fulfill its
20 obligation to any employees thereof with respect to pension benefits
21 previously enjoyed, whether vested or contingent, the board shall
22 not grant its approval unless the public utility seeking the board's
23 approval for **[such]** a sale, lease, or other disposition assumes
24 **[such]** the responsibility as will be sufficient to provide that all
25 such obligations to those employees will be satisfied as they
26 become due.

27 **[Every]** A sale, mortgage, lease, disposition, encumbrance,
28 merger, or consolidation made in violation of this section shall be
29 void.

30 Nothing herein shall prevent the sale, lease, or other disposition
31 by any public utility of any of its property in the ordinary course of
32 business, nor require the approval of the board to any grant,
33 conveyance, or release of any property or interest therein heretofore
34 made or hereafter to be made by any public utility to the United
35 States, State, or any county or municipality or any agency,
36 authority, or subdivision thereof, for public use.

37 The approval of the board shall not be required to validate the
38 title of the United States, State, or any county or municipality or
39 any agency, authority, or subdivision thereof, to any lands or
40 interest therein heretofore condemned or hereafter to be condemned
41 by the United States, State, or any county or municipality or any
42 agency, authority, or subdivision thereof, for public use.

43 b. Notwithstanding any law, rule, regulation, or order to the
44 contrary, an autobus public utility regulated by and subject to the
45 provisions of Title 48 of the Revised Statutes may, without 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 approval of the Department of Transportation, sell, lease, mortgage,
2 or otherwise dispose of or encumber its property, or any part
3 thereof, except that approval of the Department of Transportation
4 shall be required for the following:

5 (1) the sale of **【60%】** 60 percent or more of its property within a
6 12-month period;

7 (2) a merger or consolidation of its property, franchises,
8 privileges, or rights; or

9 (3) the sale of any of its franchises, privileges, or rights.

10 Notice of the sale, purchase, or lease of any autobus or other
11 vehicle subject to regulation under Title 48 of the Revised Statutes
12 shall be provided to the Department of Transportation as the
13 department shall require.

14 c. Except as otherwise provided in subsection e. of this section,
15 **【no】** a solid waste collector as defined in section 3 of P.L.1970,
16 c.40 (C.48:13A-3) shall not, without the approval of the Department
17 of Environmental Protection:

18 (1) sell, lease, mortgage, or otherwise dispose of or encumber its
19 property, including customer lists; or

20 (2) merge or consolidate its property, including customer lists,
21 with that of any other person or business concern, whether or not
22 that person or business concern is engaged in the business of solid
23 waste collection or solid waste disposal pursuant to the provisions
24 of P.L.1970 c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et
25 al.), P.L.1991, c.381 (C.48:13A-7.1 et al.) or any other act.

26 d. Any solid waste collector seeking approval for any
27 transaction enumerated in subsection c. of this section shall file
28 with the **【department】** Department of Environmental Protection, on
29 forms and in a manner prescribed by the department, a notice of
30 intent at least 30 days prior to the completion of the transaction.

31 (1) The **【department】** Department of Environmental Protection
32 shall promptly review all notices filed pursuant to this subsection.
33 The department may, within 30 days of receipt of a notice of intent,
34 request that the solid waste collector submit additional information
35 to assist in its review if **【it】** the department deems that **【such】** the
36 information is necessary. If no **【such】** request is made, the
37 transaction shall be deemed to have been approved. In the event
38 that additional information is requested, the department shall
39 outline, in writing, why it deems such information necessary to
40 make an informed decision on the impact of the transaction on
41 effective competition.

42 (2) The **【department】** Department of Environmental Protection
43 shall approve or deny a transaction within 60 days of receipt of all
44 requested information. In the event that the department fails to take
45 action on a transaction within the 60-day period specified herein,
46 then the transaction shall be deemed to have been approved.

1 (3) The **【department】** Department of Environmental Protection
2 shall approve a transaction unless it makes a determination pursuant
3 to the provisions of section 19 of P.L.1991, c.381 (C.48:13A-7.19)
4 that the proposed sale, lease, mortgage, disposition, encumbrance,
5 merger, or consolidation would result in a lack of effective
6 competition.

7 The **【department】** Department of Environmental Protection shall
8 prescribe and provide upon request all necessary forms for the
9 implementation of the notification requirements of this subsection.

10 e. (1) Any solid waste collector may, without the approval of
11 the **【department】** Department of Environmental Protection,
12 purchase, finance, or lease any equipment, including collection or
13 haulage vehicles.

14 (2) Any solid waste collector may, without the approval of the
15 **【department】** Department of Environmental Protection, sell or
16 otherwise dispose of its collection or haulage vehicles; except that
17 **【no】** a solid waste collector shall not, without the approval of the
18 department in the manner provided in subsection d. of this section,
19 sell or dispose of **【33%】** 33 percent or more of its collection or
20 haulage vehicles within a 12-month period.

21 f. (1) The owner or operator of a privately-owned sanitary
22 landfill facility may, without the approval of the Department of
23 Environmental Protection, sell or otherwise dispose of its assets
24 except that the prior approval of the department shall be required:
25 (a) to sell all assets associated with the sanitary landfill facility or a
26 portion thereof sufficient to transfer the operation of the sanitary
27 landfill facility to a new owner or operator; (b) to sell a controlling
28 ownership interest in the sanitary landfill facility; or (c) to merge or
29 consolidate its property with that of any other person or business
30 concern, whether or not that person or business concern is engaged
31 in the business of solid waste disposal pursuant to the provisions of
32 P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et
33 al.) or any other act.

34 (2) Any owner or operator seeking approval for any transaction
35 enumerated in this subsection shall file with the **【department】**
36 Department of Environmental Protection an application therefor, on
37 forms and in a manner prescribed by the department. The
38 department shall promptly review all applications filed pursuant to
39 this subsection and shall serve requests for information regarding
40 any transaction within 30 days following the filing of an application
41 if the department deems that **【such】** the information is necessary.
42 The department shall approve or deny the transaction within 60
43 days of receipt of all requested information. In the event that the
44 department fails to take action on a transaction within the 60-day
45 period specified herein, then the transaction shall be deemed to
46 have been approved.

1 As used in this section, "business concern" means any
2 corporation, association, firm, partnership, sole proprietorship,
3 trust, or other form of commercial organization; and "privately-
4 owned sanitary landfill facility" means a commercial sanitary
5 landfill facility which is owned and operated by a private person,
6 corporation, or other organization and includes all appurtenances
7 and related improvements used at the site for the transfer,
8 processing, or disposal of solid waste.

9 g. Nothing herein shall require the review or approval by the
10 board of any parent or affiliate corporation of a telecommunications
11 company if **【such】** the parent or affiliate corporation does not itself
12 provide regulated telecommunications service or the provision of
13 telephone access line service, in this State, and **【such】** the parent or
14 affiliate corporation seeks to sell, lease, mortgage, or otherwise to
15 dispose of or to permit the encumbrance of any of its property,
16 franchises, privileges or rights, or any part thereof; or to merge, or
17 consolidate its property, franchises, privileges or rights, or any part
18 thereof, with that or those of another corporation or other
19 organization which:

20 (1) does not directly provide regulated telecommunications
21 services or telephone access line service, in this State; and

22 (2) does not directly or through one or more affiliates, own a
23 controlling interest in another corporation or other organization
24 which provides regulated telecommunications service or telephone
25 access line service, in this State.

26 h. Nothing herein shall authorize the board to require any
27 company that provides competitive telecommunications services as
28 determined by the board and operating under an alternative form of
29 regulation pursuant to P.L.1991, c.428 (C.48:2-21.16 et seq.) to
30 submit for the board's review and approval any sale, conveyance, or
31 lease by the corporation of any real or personal property, or any
32 grant of an easement or like interest therein in this State.

33 (cf: P.L.2008, c.87, s.2)

34
35 2. This act shall take effect on the 30th day after the date of
36 enactment, but the Board of Public Utilities may take such
37 anticipatory administrative action in advance thereof as shall be
38 necessary for the implementation of this act.

39
40
41 STATEMENT

42
43 This bill provides that review or approval by the Board of Public
44 Utilities (board) is not required whenever a company that provides
45 competitive telecommunications services, as determined by the
46 board and operating under an alternative form of regulation
47 pursuant to P.L.1991, c.428 (C.48:2-21.16 et seq.), seeks to sell,

S3603 CRUZ-PEREZ, SWEENEY

6

1 convey, or lease any real or personal property, or grant an easement
2 or like interest in such property in this State.

3 Under current board rules, companies are required to submit to
4 the board a detailed and burdensome petition requesting approval
5 before property can be leased or sold. This bill provides that this
6 rule shall not be applied to companies providing competitive
7 telecommunications services that are no longer operating under a
8 traditional rate base, rate of return form of regulation.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 3603

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 18, 2017

The Senate Economic Growth Committee reports favorably and with committee amendments Senate Bill No. 3603.

As amended and reported, this bill provides that a review or approval by the Board of Public Utilities (board) is not required whenever a company providing competitive telecommunications services, as determined by the board and operating under an alternative form of regulation pursuant to N.J.S.A.48:2-21.16 et seq., seeks to sell, convey, or lease any real or personal property, or grant an easement or like interest in that property in this State.

Under current board rules, companies are required to submit to the board a detailed petition requesting approval before property can be leased or sold. This bill provides that this rule is not to be applied to companies providing competitive telecommunications services that are no longer operating under a traditional rate base, rate of return form of regulation.

The committee amended the bill to clarify that the provisions of the bill do not affect the authority of the Board of Public Utilities to: (1) review and approve sales, conveyances, or leases of company facilities and rights-of-way; and (2) exercise jurisdiction over those facilities and rights-of-way which are subject to the "Cable Television Act," N.J.S.A.48:5A-1 et seq.).

ASSEMBLY, No. 1778

STATE OF NEW JERSEY
217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Prohibits BPU review and approval of property transactions of certain telecommunications companies.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A1778 BURZICHELLI

2

1 AN ACT concerning property transactions of certain
2 telecommunications companies and amending R.S.48:3-7.

3

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

6

7 1. R.S.48:3-7 is amended to read as follows:

8 48:3-7. a. Except as otherwise provided by **[subsection]**
9 **subsections g. and h.** of this section, **[no]** a public utility shall not,
10 without the approval of the board, sell, lease, mortgage, or
11 otherwise dispose of or encumber its property, franchises,
12 privileges, or rights, or any part thereof; or merge or consolidate its
13 property, franchises, privileges, or rights, or any part thereof, with
14 that of any other public utility.

15 Where, by the proposed sale, lease, or other disposition of all or
16 a substantial portion of its property, any franchise or franchises,
17 privileges, or rights, or any part thereof or merger or consolidation
18 thereof as set forth herein, it appears that the public utility₂ or a
19 wholly owned subsidiary thereof₂ may be unable to fulfill its
20 obligation to any employees thereof with respect to pension benefits
21 previously enjoyed, whether vested or contingent, the board shall
22 not grant its approval unless the public utility seeking the board's
23 approval for **[such]** a sale, lease, or other disposition assumes
24 **[such]** the responsibility as will be sufficient to provide that all
25 such obligations to those employees will be satisfied as they
26 become due.

27 **[Every]** A sale, mortgage, lease, disposition, encumbrance,
28 merger, or consolidation made in violation of this section shall be
29 void.

30 Nothing herein shall prevent the sale, lease, or other disposition
31 by any public utility of any of its property in the ordinary course of
32 business, nor require the approval of the board to any grant,
33 conveyance, or release of any property or interest therein heretofore
34 made or hereafter to be made by any public utility to the United
35 States, State₂ or any county or municipality or any agency,
36 authority, or subdivision thereof, for public use.

37 The approval of the board shall not be required to validate the
38 title of the United States, State, or any county or municipality or
39 any agency, authority, or subdivision thereof, to any lands or
40 interest therein heretofore condemned or hereafter to be condemned
41 by the United States, State, or any county or municipality or any
42 agency, authority₂ or subdivision thereof₂ for public use.

43 b. Notwithstanding any law, rule, regulation, or order to the
44 contrary, an autobus public utility regulated by and subject to 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 provisions of Title 48 of the Revised Statutes may, without the
2 approval of the Department of Transportation, sell, lease, mortgage,
3 or otherwise dispose of or encumber its property, or any part
4 thereof, except that approval of the Department of Transportation
5 shall be required for the following:

6 (1) the sale of **【60%】** 60 percent or more of its property within a
7 12-month period;

8 (2) a merger or consolidation of its property, franchises,
9 privileges, or rights; or

10 (3) the sale of any of its franchises, privileges, or rights.

11 Notice of the sale, purchase, or lease of any autobus or other
12 vehicle subject to regulation under Title 48 of the Revised Statutes
13 shall be provided to the Department of Transportation as the
14 department shall require.

15 c. Except as otherwise provided in subsection e. of this section,
16 **【no】** a solid waste collector as defined in section 3 of P.L.1970,
17 c.40 (C.48:13A-3) shall not, without the approval of the Department
18 of Environmental Protection:

19 (1) sell, lease, mortgage, or otherwise dispose of or encumber its
20 property, including customer lists; or

21 (2) merge or consolidate its property, including customer lists,
22 with that of any other person or business concern, whether or not
23 that person or business concern is engaged in the business of solid
24 waste collection or solid waste disposal pursuant to the provisions
25 of P.L.1970 c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et
26 al.), P.L.1991, c.381 (C.48:13A-7.1 et al.) or any other act.

27 d. Any solid waste collector seeking approval for any
28 transaction enumerated in subsection c. of this section shall file
29 with the **【department】** Department of Environmental Protection, on
30 forms and in a manner prescribed by the department, a notice of
31 intent at least 30 days prior to the completion of the transaction.

32 (1) The **【department】** Department of Environmental Protection
33 shall promptly review all notices filed pursuant to this subsection.
34 The department may, within 30 days of receipt of a notice of intent,
35 request that the solid waste collector submit additional information
36 to assist in its review if **【it】** the department deems that **【such】** the
37 information is necessary. If no **【such】** request is made, the
38 transaction shall be deemed to have been approved. In the event
39 that additional information is requested, the department shall
40 outline, in writing, why it deems such information necessary to
41 make an informed decision on the impact of the transaction on
42 effective competition.

43 (2) The **【department】** Department of Environmental Protection
44 shall approve or deny a transaction within 60 days of receipt of all
45 requested information. In the event that the department fails to take
46 action on a transaction within the 60-day period specified herein,
47 then the transaction shall be deemed to have been approved.

1 (3) The **【department】** Department of Environmental Protection
2 shall approve a transaction unless it makes a determination pursuant
3 to the provisions of section 19 of P.L.1991, c.381 (C.48:13A-7.19)
4 that the proposed sale, lease, mortgage, disposition, encumbrance,
5 merger, or consolidation would result in a lack of effective
6 competition.

7 The **【department】** Department of Environmental Protection shall
8 prescribe and provide upon request all necessary forms for the
9 implementation of the notification requirements of this subsection.

10 e. (1) Any solid waste collector may, without the approval of
11 the **【department】** Department of Environmental Protection,
12 purchase, finance, or lease any equipment, including collection or
13 haulage vehicles.

14 (2) Any solid waste collector may, without the approval of the
15 **【department】** Department of Environmental Protection, sell or
16 otherwise dispose of its collection or haulage vehicles; except that
17 **【no】** a solid waste collector shall not, without the approval of the
18 department in the manner provided in subsection d. of this section,
19 sell or dispose of **【33%】** 33 percent or more of its collection or
20 haulage vehicles within a 12-month period.

21 f. (1) The owner or operator of a privately-owned sanitary
22 landfill facility may, without the approval of the Department of
23 Environmental Protection, sell or otherwise dispose of its assets
24 except that the prior approval of the department shall be required:
25 (a) to sell all assets associated with the sanitary landfill facility or a
26 portion thereof sufficient to transfer the operation of the sanitary
27 landfill facility to a new owner or operator; (b) to sell a controlling
28 ownership interest in the sanitary landfill facility; or (c) to merge or
29 consolidate its property with that of any other person or business
30 concern, whether or not that person or business concern is engaged
31 in the business of solid waste disposal pursuant to the provisions of
32 P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et
33 al.) or any other act.

34 (2) Any owner or operator seeking approval for any transaction
35 enumerated in this subsection shall file with the **【department】**
36 Department of Environmental Protection an application therefor, on
37 forms and in a manner prescribed by the department. The
38 department shall promptly review all applications filed pursuant to
39 this subsection and shall serve requests for information regarding
40 any transaction within 30 days following the filing of an application
41 if the department deems that **【such】** the information is necessary.
42 The department shall approve or deny the transaction within 60
43 days of receipt of all requested information. In the event that the
44 department fails to take action on a transaction within the 60-day
45 period specified herein, then the transaction shall be deemed to
46 have been approved.

1 As used in this section, "business concern" means any
2 corporation, association, firm, partnership, sole proprietorship,
3 trust, or other form of commercial organization; and "privately-
4 owned sanitary landfill facility" means a commercial sanitary
5 landfill facility which is owned and operated by a private person,
6 corporation, or other organization and includes all appurtenances
7 and related improvements used at the site for the transfer,
8 processing, or disposal of solid waste.

9 g. Nothing herein shall require the review or approval by the
10 board of any parent or affiliate corporation of a telecommunications
11 company if **【such】** the parent or affiliate corporation does not itself
12 provide regulated telecommunications service or the provision of
13 telephone access line service, in this State, and **【such】** the parent or
14 affiliate corporation seeks to sell, lease, mortgage, or otherwise to
15 dispose of or to permit the encumbrance of any of its property,
16 franchises, privileges or rights, or any part thereof; or to merge, or
17 consolidate its property, franchises, privileges or rights, or any part
18 thereof, with that or those of another corporation or other
19 organization which:

20 (1) does not directly provide regulated telecommunications
21 services or telephone access line service, in this State; and

22 (2) does not directly or through one or more affiliates, own a
23 controlling interest in another corporation or other organization
24 which provides regulated telecommunications service or telephone
25 access line service, in this State.

26 h. Nothing herein shall authorize the board to require any
27 company that provides competitive telecommunications services as
28 determined by the board and operating under an alternative form of
29 regulation pursuant to P.L.1991, c.428 (C.48:2-21.16 et seq.) to
30 submit for the board's review and approval any sale, conveyance, or
31 lease by the corporation of any real or personal property, or any
32 grant of an easement or like interest therein in this State.

33 (cf: P.L.2008, c.87, s.2)

34
35 2. This act shall take effect on the 30th day after the date of
36 enactment, but the Board of Public Utilities may take such
37 anticipatory administrative action in advance thereof as shall be
38 necessary for the implementation of this act.

41 STATEMENT

42
43 This bill provides that review or approval by the Board of Public
44 Utilities (board) is not required whenever a company that provides
45 competitive telecommunications services, as determined by the
46 board and operating under an alternative form of regulation
47 pursuant to P.L.1991, c.428 (C.48:2-21.16 et seq.), seeks to sell,

A1778 BURZICHELLI

6

1 convey, or lease any real or personal property, or grant an easement
2 or like interest in such property in this State.

3 Under current board rules, companies are required to submit to
4 the board a detailed and burdensome petition requesting approval
5 before property can be leased or sold. This bill provides that this
6 rule shall not be applied to companies providing competitive
7 telecommunications services that are no longer operating under a
8 traditional rate base, rate of return form of regulation.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1778

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 18, 2017

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1778, with committee amendments.

As amended, this bill provides that a review or approval by the Board of Public Utilities (board) is not required whenever a company providing competitive telecommunications services, as determined by the board and operating under an alternative form of regulation pursuant to N.J.S.A. (C.48:2-21.16 et seq.), seeks to sell, convey, or lease any real or personal property, or grant an easement or like interest in such property in this State.

Under current board rules, companies are required to submit to the board a detailed petition requesting approval before property can be leased or sold. This bill provides that this rule is not to be applied to companies providing competitive telecommunications services that are no longer operating under a traditional rate base, rate of return form of regulation.

FISCAL IMPACT:

This bill has not been certified as requiring a fiscal note.

COMMITTEE AMENDMENTS:

The committee amended the bill to clarify that the provision of the bill do not affect the authority of the Board of Public Utilities to (1) review and approve sales, conveyances, or leases of facilities and rights-of-way; and (2) exercise jurisdiction over such facilities and rights-of-way, which are subject to the Cable Television Act, P.L. 1972, c.186 (C.48:5A-1 et seq.).