

**LEGISLATIVE HISTORY CHECKLIST**  
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**NJSA:** 2A:14-33 (Utility poles—placement)

**LAWS OF:** 1991 **CHAPTER:** 366

**Bill No:** A4107

**Sponsor(s):** McEnroe

**Date Introduced:** October 18, 1990

**Committee: Assembly:** Transportation Authorities

**Senate:** Transportation

**Amended during passage:** No

**Date of Passage: Assembly:** February 21, 1991

**Senate:** December 16, 1991

**Date of Approval:** January 9, 1992

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee Statement: Assembly:** Yes

**Senate:** Yes

**Fiscal Note:** No

**Veto Message:** No

**Message on signing:** No

**Following were printed:**

**Reports:** No

**Hearings:** No

KBG/dgw

P.L.1991, CHAPTER 366, approved January 9, 1992

1990 Assembly No. 4107 (First Reprint)

1 AN ACT concerning public utility poles <sup>1</sup>[, amending  
2 R.S.2A:14-33]<sup>1</sup> and supplementing chapter 3 of Title 48 of the  
3 Revised Statutes.

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

7 <sup>1</sup>[1. R.S.2A:14-33 is amended to read as follows:

8 2A:14-33. Whenever any wire or cable used for any telegraph,  
9 telephone, electric light, or other wire or cable for electric  
10 purposes, is or shall be attached to, or does or shall extend upon  
11 or over any building or land, no lapse of time whatsoever shall  
12 raise a presumption, or justify a prescription of any perpetual  
13 right to such attachment or extension, except as may otherwise  
14 be provided in P.L.1990, c. (C. )(now pending before the  
15 Legislature as this bill).  
16 (cf: N.J.S.2A:14-33)]<sup>1</sup>

17 <sup>1</sup>[2. (New section) a. For purposes of this section, "pole"  
18 means, in addition to its commonly accepted meaning, any wires  
19 or cables connected thereto, and any replacements therefor  
20 which are similar in construction and use.

21 b. A pole used for the supplying and distributing of electricity  
22 for light, heat or power, or for the furnishing of telegraph,  
23 telephone or other telecommunications service, which pole has  
24 been situated and in continuous use for these purposes on private  
25 property for a period of 10 years, shall be presumed to be  
26 situated on that private property with the consent in writing of  
27 the owner of the property, and no suit, action or proceeding shall  
28 lie in any court of this State for the removal of any pole so  
29 placed and in use, unless the suit is instituted before the 10-year  
30 period has expired.

31 c. This section shall apply to a pole described in this section,  
32 whether first situated before or after the effective date of this  
33 section, if the 10-year period concludes after the effective date  
34 of this section; and also shall apply to a pole described in this  
35 section if the 10-year period concluded before the effective date  
36 of this section, provided that, on the effective date of this  
37 section, the pole, or any replacement therefor, has been in the  
38 same location and in continuous use since the date on which the  
39 10-year period concluded.]<sup>1</sup>

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:  
<sup>1</sup> Assembly ATT committee amendments adopted January 14, 1991.

1 <sup>1</sup>[3. (New section)] 1<sup>1</sup> After the effective date of this  
2 <sup>1</sup>[amendatory and supplementary]<sup>1</sup> act, before a public utility  
3 places a pole, used for the supplying and distributing of  
4 electricity for light, heat or power, or for the furnishing of  
5 telegraph, telephone or other telecommunications service, on  
6 <sup>1</sup>[property] a public right of way<sup>1</sup> on which the predominant  
7 method of lighting is gas lighting, a public utility shall<sup>1</sup>, in  
8 addition to any other requirements of law,<sup>1</sup> first acquire the  
9 consent of <sup>1</sup>[the owner of the property and of]<sup>1</sup> the governing  
10 body of the municipality in which the <sup>1</sup>[property] public right of  
11 way<sup>1</sup> is located. For purposes of this <sup>1</sup>[section,] act,<sup>1</sup> "pole"  
12 means, in addition to its commonly accepted meaning, any wires  
13 or cable connected thereto, and any replacements therefor which  
14 are similar in construction and use.  
15 <sup>1</sup>[4.] 2<sup>1</sup> This act shall take effect on the 30th day after  
16 enactment.  
17  
18

#### 19 PUBLIC UTILITIES

20  
21 Changes law with respect to placement of public utility poles  
22 under certain circumstances.

[FIRST REPRINT]  
ASSEMBLY, No. 4107

STATE OF NEW JERSEY

INTRODUCED OCTOBER 18, 1990

By Assemblyman McENROE and Assemblywoman BUSH

1 AN ACT concerning public utility poles <sup>1</sup>[, amending  
2 R.S.2A:14-33]<sup>1</sup> and supplementing chapter 3 of Title 48 of the  
3 Revised Statutes.

4  
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6 State of New Jersey:

7 <sup>1</sup>[1. R.S.2A:14-33 is amended to read as follows:

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9 telephone, electric light, or other wire or cable for electric  
10 purposes, is or shall be attached to, or does or shall extend upon  
11 or over any building or land, no lapse of time whatsoever shall  
12 raise a presumption, or justify a prescription of any perpetual  
13 right to such attachment or extension, except as may otherwise  
14 be provided in P.L.1990, c. (C. )(now pending before the  
15 Legislature as this bill).

16 (cf: N.J.S.2A:14-33)]<sup>1</sup>

17 <sup>1</sup>[2. (New section) a. For purposes of this section, "pole"  
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19 or cables connected thereto, and any replacements therefor  
20 which are similar in construction and use.

21 b. A pole used for the supplying and distributing of electricity  
22 for light, heat or power, or for the furnishing of telegraph,  
23 telephone or other telecommunications service, which pole has  
24 been situated and in continuous use for these purposes on private  
25 property for a period of 10 years, shall be presumed to be  
26 situated on that private property with the consent in writing of  
27 the owner of the property, and no suit, action or proceeding shall  
28 lie in any court of this State for the removal of any pole so  
29 placed and in use, unless the suit is instituted before the 10-year  
30 period has expired.

31 c. This section shall apply to a pole described in this section,  
32 whether first situated before or after the effective date of this  
33 section, if the 10-year period concludes after the effective date  
34 of this section; and also shall apply to a pole described in this  
35 section if the 10-year period concluded before the effective date  
36 of this section, provided that, on the effective date of this  
37 section, the pole, or any replacement therefor, has been in the  
38 same location and in continuous use since the date on which the  
39 10-year period concluded.]<sup>1</sup>

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the  
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Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly ATT committee amendments adopted January 14, 1991.

1       <sup>1</sup>[3. (New section)] 1.<sup>1</sup> After the effective date of this  
2       <sup>1</sup>[amendatory and supplementary]<sup>1</sup> act, before a public utility  
3       places a pole, used for the supplying and distributing of  
4       electricity for light, heat or power, or for the furnishing of  
5       telegraph, telephone or other telecommunications service, on  
6       <sup>1</sup>[property] a public right of way<sup>1</sup> on which the predominant  
7       method of lighting is gas lighting, a public utility shall<sup>1</sup>, in  
8       addition to any other requirements of law,<sup>1</sup> first acquire the  
9       consent of <sup>1</sup>[the owner of the property and of]<sup>1</sup> the governing  
10      body of the municipality in which the <sup>1</sup>[property] public right of  
11      way<sup>1</sup> is located. For purposes of this <sup>1</sup>[section,] act,<sup>1</sup> "pole"  
12      means, in addition to its commonly accepted meaning, any wires  
13      or cable connected thereto, and any replacements therefor which  
14      are similar in construction and use.

15      <sup>1</sup>[4.] 2.<sup>1</sup> This act shall take effect on the 30th day after  
16      enactment.

17

18

19

#### PUBLIC UTILITIES

20

21      Changes law with respect to placement of public utility poles  
22      under certain circumstances.

ASSEMBLY, No. 4107

STATE OF NEW JERSEY

INTRODUCED OCTOBER 18, 1990

By Assemblyman McENROE and Assemblywoman BUSH

1 AN ACT concerning public utility poles, amending R.S.2A:14-33  
2 and supplementing chapter 3 of Title 48 of the Revised  
3 Statutes.

4

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

7 1. R.S.2A:14-33 is amended to read as follows:

8 2A:14-33. Whenever any wire or cable used for any telegraph,  
9 telephone, electric light, or other wire or cable for electric  
10 purposes, is or shall be attached to, or does or shall extend upon  
11 or over any building or land, no lapse of time whatsoever shall  
12 raise a presumption, or justify a prescription of any perpetual  
13 right to such attachment or extension, except as may otherwise  
14 be provided in P.L.1990, c. (C. )(now pending before the  
15 Legislature as this bill).

16 (cf: N.J.S.2A:14-33)

17 2. (New section) a. For purposes of this section, "pole"  
18 means, in addition to its commonly accepted meaning, any wires  
19 or cables connected thereto, and any replacements therefor  
20 which are similar in construction and use.

21 b. A pole used for the supplying and distributing of electricity  
22 for light, heat or power, or for the furnishing of telegraph,  
23 telephone or other telecommunications service, which pole has  
24 been situated and in continuous use for these purposes on private  
25 property for a period of 10 years, shall be presumed to be  
26 situated on that private property with the consent in writing of  
27 the owner of the property, and no suit, action or proceeding shall  
28 lie in any court of this State for the removal of any pole so  
29 placed and in use, unless the suit is instituted before the 10-year  
30 period has expired.

31 c. This section shall apply to a pole described in this section,  
32 whether first situated before or after the effective date of this  
33 section, if the 10-year period concludes after the effective date  
34 of this section; and also shall apply to a pole described in this  
35 section if the 10-year period concluded before the effective date  
36 of this section, provided that, on the effective date of this  
37 section, the pole, or any replacement therefor, has been in the  
38 same location and in continuous use since the date on which the  
39 10-year period concluded.

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 3. (New section) After the effective date of this amendatory  
2 and supplementary act, before a public utility places a pole, used  
3 for the supplying and distributing of electricity for light, heat or  
4 power, or for the furnishing of telegraph, telephone or other  
5 telecommunications service, on property on which the  
6 predominant method of lighting is gas lighting, a public utility  
7 shall first acquire the consent of the owner of the property and of  
8 the governing body of the municipality in which the property is  
9 located. For purposes of this section, "pole" means, in addition  
10 to its commonly accepted meaning, any wires or cables connected  
11 thereto, and any replacements therefor which are similar in  
12 construction and use.

13 4. This act shall take effect on the 30th day after enactment.  
14

15  
16 STATEMENT  
17

18 This bill provides that public utility poles, including the wires  
19 and cables connected thereto, and replacements therefor, placed  
20 on private property for a period of 10 years or more, would be  
21 deemed to be so located with the consent of the property owner,  
22 and could not be removed except at the discretion of the public  
23 utility. The purpose of the bill is to give public utilities, which  
24 have been servicing and replacing poles on private property since  
25 the early part of this century, the legal consent which, in some  
26 cases, was not negotiated at the time the poles were erected.

27 In addition, this bill provides that if a public utility makes a  
28 decision to place a pole used for the supplying and distributing of  
29 electricity for light, heat or power, or for the furnishing of  
30 telegraph, telephone or other telecommunications service, on  
31 property on which the predominant method of lighting is gas  
32 lighting, the public utility shall first acquire the consent of the  
33 owner of the property and of the governing body of the  
34 municipality in which the property is located. The purpose of this  
35 section of the bill is to permit municipalities which have  
36 old-fashioned gas lighting in certain historic districts the right to  
37 refuse to place public utility poles with wires or cables in the  
38 same district, thus preserving the historic character of the  
39 community.

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41  
42 PUBLIC UTILITIES  
43

44 Changes law with respect to placement of public utility poles  
45 under certain circumstances.

ASSEMBLY TRANSPORTATION AUTHORITIES,  
TELECOMMUNICATIONS AND TECHNOLOGY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 4107**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 14, 1991

The Assembly Transportation Authorities, Telecommunications and Technology Committee favorably reports Assembly Bill No. 4107 with committee amendments.

As amended, this bill provides that if a public utility makes a decision to place a pole used for the supplying and distributing of electricity for light, heat or power, or for the furnishing of telegraph, telephone or other telecommunications service, on a public right of way on which the predominant method of lighting is gas lighting, the public utility shall, in addition to any other requirements of law, first acquire the consent of the governing body of the municipality in which the public right of way is located. The bill would permit municipalities which have old-fashioned gas lighting in certain historic districts the right to refuse to place public utility poles with wires or cables in the same district, thus preserving the historic character of the community.

The committee amendments deleted the provisions of the bill which provided that public utility poles, including the wires and cables connected thereto, and replacements therefor, placed on private property for a period of 10 years or more, would be deemed to be so located with the consent of the property owner, and could not be removed except at the discretion of the public utility. The amendments also specify that the bill's provisions would apply only to utility poles in public rights of way.



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AU 0110  
SR 0074  
TR 0074

ASSEMBLY ATT COMMITTEE

AMENDMENTS

to

ASSEMBLY, No. 4107

(Sponsored by Assemblyman McEnroe)

ADOPTED

DATE 1/14/91

REPLACE TITLE TO READ:

AN ACT concerning public utility poles <sup>1</sup>], amending R.S. 2A:14-33]<sup>1</sup> and supplementing chapter 3 of Title 48 of the Revised Statutes.

OMIT SECTIONS 1 AND 2 IN THEIR ENTIRETY

REPLACE SECTION 3 TO READ:

<sup>1</sup>[3. (New section)] 1.<sup>1</sup> After the effective date of this <sup>1</sup>[amendatory and supplementary]<sup>1</sup> act, before a public utility places a pole, used for the supplying and distributing of electricity for light, heat or power, or for the furnishing of telegraph, telephone or other telecommunications service, on <sup>1</sup>[property] a public right of way<sup>1</sup> on which the predominant method of lighting is gas lighting, a public utility shall<sup>1</sup>, in addition to any other requirements of law,<sup>1</sup> first acquire the consent of <sup>1</sup>[the owner of the property and of]<sup>1</sup> the governing body of the municipality in which the <sup>1</sup>[property] public right of way<sup>1</sup> is located. For purposes of this <sup>1</sup>[section,] act,<sup>1</sup> "pole" means, in addition to its commonly accepted meaning, any wires or cable connected thereto, and any replacements therefor which are similar in construction and use.

RENUMBER SECTION 4 AS SECTION 2

SENATE TRANSPORTATION AND PUBLIC UTILITIES  
COMMITTEE

STATEMENT TO

[FIRST REPRINT]  
ASSEMBLY, No. 4107

STATE OF NEW JERSEY

DATED: MAY 20, 1991

The Senate Transportation and Public Utilities Committee favorably reports Assembly Bill No. 4107 (1R).

This bill provides that if a public utility makes a decision to place a pole used for the supplying and distributing of electricity for light, heat or power, or for the furnishing of telegraph, telephone or other telecommunications service, on a public right of way on which the predominant method of lighting is gas lighting, the public utility shall, in addition to any other requirements of law, first acquire the consent of the governing body of the municipality in which the public right of way is located. The bill would permit municipalities which have old-fashioned gas lighting in certain historic districts the right to refuse to place public utility poles with wires or cables in the same district, thus preserving the historic character of the community.