

ASSEMBLY STATE AND LOCAL GOVERNMENT  
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2991

**STATE OF NEW JERSEY**

DATED: OCTOBER 19, 2020

The Assembly State and Local Government Committee reports favorably Assembly Bill No. 2991.

This bill would clarify the application of the business personal property tax on local exchange telephone companies that were subject to the tax as of April 1, 1997. This bill clarifies the changes made in 1997 to the business personal property tax that defined local exchange telephone companies that were subject to that tax on April 1, 1997. The Tax Court, in Verizon New Jersey Inc. v. Borough of Hopewell, which was decided on June 26, 2012, incorrectly construed the plain meaning of the language of the statutory change made in 1997 in a manner inconsistent with Legislative intent. That statutory change was intended to *permanently* make part of a municipality's property tax base the business personal property of all incumbent local exchange companies that were then subject to that tax *and* were a telecommunications carrier then meeting the definition of providing dial tone and access to 51 percent of a local telephone exchange. Local exchange telephone companies have taken advantage of the Tax Court's interpretation of the statute and informed municipalities in which their business personal property is located that it will no longer pay tax on that business personal property, such as equipment, utility poles, cables and more in any given municipality where it claims on an annual basis that it does not provide 51 percent or more of landline service to its residents. This unintended erosion of the local property tax base in the affected municipalities impacts all other local property taxpayers in these municipalities.

This bill will restore the local property tax status quo intended to be determined in 1997 by revising the definition of "local exchange telephone company" to mean a telecommunications carrier which held the regional monopoly on landline service before the market was opened to competitive local exchange carriers by the federal Telecommunications Act of 1996, or the corporate successors of such a local exchange telephone company. This will accomplish the following purposes: first, it will require that the dominant telecommunications carrier in each region pay the business personal

property tax on its business personal property regardless of the percentage of a local telephone exchange that it serves, and will permanently include that business personal property in the tax bases of the municipalities in which it is located.

The bill would also require that if a municipality is the prevailing party in a court proceeding between it and a local exchange telephone company concerning the taxation of business personal property pursuant to R.S.54:4-1 following a court decision, settlement, or other resolution of that proceeding, the municipality, and any related amicus entities, shall be awarded attorney's fees as costs to the local exchange telephone company.