

SENATE, No. 1326

STATE OF NEW JERSEY

INTRODUCED JUNE 13, 1996

By Senator HAINES

1 AN ACT concerning the leasing of Department of Transportation
2 property and amending P.L.1967, c.268 and repealing section 3 of
3 P.L.1967, c.268.

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

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8 1. Section 1 of P.L.1967, c.288 (C.27:7-21.4) is amended to read
9 as follows:

10 1. a. [Any] The Commissioner of Transportation may lease,
11 license or contract for the use, management or operation of areas on,
12 above or below [state] any State right-of-way or any real or personal
13 property heretofore or hereafter acquired by the Department of
14 Transportation for a transportation or transportation related program
15 [or] a project or purpose [may be leased by the Commissioner of
16 Transportation] to any person or public body or agency [on a
17 temporary basis] in such manner as to produce revenue for the support
18 of the State.

19 b. The revenues from a lease, license or contract entered into
20 pursuant to the provisions of this section shall be deposited into a
21 special account in the General Fund. All expenses incident to the
22 lease, license, use or operation of any such property shall be paid from
23 the special account and shall not be a charge against the State.

24 c. In entering into a lease, license or contract authorized by this
25 section, the commissioner may set a fee for the lease, license or
26 contract which fee shall yield at least a fair rental value for the use of
27 the property. Alternatively, the lease, license or contract may be
28 awarded on the basis of competitive public bids or competitive
29 proposals to the responsible bidder or proposer whose bid or proposal
30 is determined to be in the best interest of the State, price and other
31 factors considered. A lease, license or contract entered into pursuant
32 to this subsection shall comply with all other applicable State and
33 federal requirements.

34 d. The commissioner shall adopt regulations, pursuant to the

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.

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
2 providing the procedures and standards for the awarding of a lease,
3 license or contract on the basis of competitive public bids or
4 proposals. The regulations shall provide that a brief description of the
5 property to be leased, licensed or contracted for and a summary of the
6 terms and conditions of the proposed lease, license or contract shall be
7 published in at least one newspaper in the municipality in which the
8 property is located.

9 e. Any billboard or outdoor advertising sign licensed and permitted
10 pursuant to the "Roadside Sign Control and Outdoor Advertising
11 Act," P.L.1991, c.413 (C.27:5-5 et seq.), and proposed to be erected
12 on or above any State right-of-way or real property pursuant to the
13 provisions of this section shall be subject to local zoning ordinances
14 [and] , applicable local building permit requirements and in the
15 pinelands area, shall be subject to the provisions of the comprehensive
16 management plan prepared and adopted by the Pinelands Commission
17 pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8) .

18 f. The commissioner is authorized to enter into a revenue sharing
19 agreement with a municipality in which fibre optic facilities are
20 erected on, above, or below any State right-of-way or real property
21 pursuant to the provisions of this section. A revenue sharing
22 agreement may proportionately allocate to a municipality in which
23 these fibre optic facilities are located 5% of net State revenues, after
24 the deduction of State expenses incident to such lease, license, use or
25 operation.

26 g. The commissioner shall include a provision in [the] a lease,
27 license or contract entered into pursuant to this section which would
28 allow the termination of the lease, license or contract upon written
29 notice thereof to the lessee, licensee or contractor prior to the
30 conclusion of the term of the lease, license or contract in accordance
31 with a minimum period of time for that notice, such provision having
32 been the subject of negotiation between the commissioner and the
33 prospective lessee, licensee or contractor so as to ensure that the
34 occupancy of the property does not in any manner interfere with or
35 delay the transportation program or project for which the property is
36 needed. No person, public body or agency shall remain in possession
37 of premises beyond the conclusion of the term of the lease, license or
38 contract or, in the case of a notice of termination, the date fixed by the
39 commissioner in the notice. If the lessee, licensee or contractor
40 remains past conclusion of the term of the lease, license or contract or
41 beyond the date fixed in the notice of termination, the department may
42 institute a summary proceeding in the Superior Court, for an order to
43 show cause as to why the department should not be granted immediate
44 possession of the [leased] property and the property be vacated of its
45 occupants.

46 h. The provisions of this section shall not apply to the occupancy

1 of areas on, above or below any State right-of-way or any real or
2 personal property heretofore or hereafter acquired by the Department
3 of Transportation by the facilities of a public utility as defined in
4 R.S.48:2-13.

5 (cf: P.L.1993, c.231, s.3)

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7 2. Section 3 of P.L.1967, c.268 (C.27:7-21.6) is repealed.

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9 3. This act shall take effect immediately.

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12 STATEMENT

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14 This bill would authorize the Department of Transportation to
15 lease, license or contract for the use of department property in such
16 manner as to produce revenues for the support of the State.

17 The bill would authorize the commissioner to set a fee for the lease,
18 license or contract, provided that the fee yields at least a fair rental
19 value for the use of the property. A lease, license or contract may also
20 be awarded on the basis of competitive public bids or competitive
21 proposals. A competitively bid or proposed lease, license or contract
22 would be awarded to the bidder or proposer whose bid or proposal is
23 determined to be in the best interest of the State, price and other
24 factors considered. The bill provides that any such lease, license or
25 contract shall comply with all applicable State and federal
26 requirements.

27 The bill requires the commissioner to adopt regulations providing
28 procedures and standards for the awarding of a lease, license or
29 contract on the basis of competitive public bids or competitive
30 proposals. The regulations would provide a brief description of the
31 property to be leased, licensed or contracted for and a summary of the
32 terms and conditions of the proposed lease, license or contract be
33 published in at least one newspaper in the municipality in which the
34 property is located.

35 The bill further provides that any billboard or outdoor sign erected
36 on or above any State right-of-way or real property pursuant to the
37 provisions of this act shall be subject to local zoning ordinance and
38 applicable local building permit requirements. A billboard or outdoor
39 advertising sign proposed to be erected on or above a State right-of-
40 way or real property within the pinelands area would be subject to the
41 provisions of the comprehensive management plan adopted by the
42 Pinelands Commission.

43 The bill also authorizes the commissioner to enter into a revenue
44 sharing agreement with a municipality in which fibre optic facilities are
45 erected on, above or below any State right-of-way or real property to
46 proportionately allocate to the municipality 5% of net State revenues

1 after the deduction of State expenses incident to the lease, license, use
2 or operation.

3 The bill also exempts from its provisions the occupancy of areas on,
4 above or below any State right-of-way or any real or personal property
5 of the department by the facilities of a public utility as defined in
6 R.S.48:2-13

7 The bill repeals section 3 of P.L.1967, c.268 (C.27:7-21.6).

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12 Authorizes lease of DOT property in such manner as to produce
13 revenues for the support of the State.