

[First Reprint]
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.

4
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

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 Senate floor amendments adopted July 25, 1996.

1 to this subsection shall comply with all other applicable State and
2 federal requirements.

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

12 e. Any billboard or outdoor advertising sign licensed and permitted
13 pursuant to the "Roadside Sign Control and Outdoor Advertising
14 Act," P.L.1991, c.413 (C.27:5-5 et seq.), and proposed to be erected
15 on or above any State right-of-way or real property pursuant to the
16 provisions of this section shall be subject to local zoning ordinances
17 [and] , applicable local building permit requirements and in the
18 pinelands area, shall be subject to the provisions of the comprehensive
19 management plan prepared and adopted by the Pinelands Commission
20 pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8) . ¹Any
21 structure, other than a billboard or outdoor advertising sign, proposed
22 to be erected on or above any State right-of-way or real property
23 pursuant to the provisions of this section shall be subject to local
24 zoning ordinances.¹

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

33 g. The commissioner shall include a provision in [the] a lease,
34 license or contract entered into pursuant to this section which would
35 allow the termination of the lease, license or contract upon written
36 notice thereof to the lessee, licensee or contractor prior to the
37 conclusion of the term of the lease, license or contract in accordance
38 with a minimum period of time for that notice, such provision having
39 been the subject of negotiation between the commissioner and the
40 prospective lessee, licensee or contractor so as to ensure that the
41 occupancy of the property does not in any manner interfere with or
42 delay the transportation program or project for which the property is
43 needed. No person, public body or agency shall remain in possession
44 of premises beyond the conclusion of the term of the lease, license or
45 contract or, in the case of a notice of termination, the date fixed by the
46 commissioner in the notice. If the lessee, licensee or contractor

1 remains past conclusion of the term of the lease, license or contract or
2 beyond the date fixed in the notice of termination, the department may
3 institute a summary proceeding in the Superior Court, for an order to
4 show cause as to why the department should not be granted immediate
5 possession of the [leased] property and the property be vacated of its
6 occupants.

7 h. The provisions of this section shall not apply to the occupancy
8 of areas on, above or below any State right-of-way or any real or
9 personal property heretofore or hereafter acquired by the Department
10 of Transportation by the facilities of a public utility as defined in
11 R.S.48:2-13.

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

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

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16 3. This act shall take effect immediately.

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