

# SENATE TRANSPORTATION COMMITTEE

## STATEMENT TO

### SENATE, No. 1932

# STATE OF NEW JERSEY

DATED: JUNE 12, 1997

The Senate Transportation Committee reports favorably Senate Bill No. 1932.

This bill would require the New Jersey Highway Authority (the authority), which operates the Garden State Parkway, to implement open and competitive procedures and develop objective criteria for awarding contracts for towing and storage services.

In N.E.R.I. Corporation v. New Jersey Highway Authority, 147 N.J. 223 (1996), the New Jersey Supreme Court ruled that authority contracts for towing and storage services must be competitively bid and awarded to the lowest responsible bidder. According to the sponsor, this standard does not provide the authority with sufficient discretion in awarding contracts, since factors such as equipment, experience, response time and location of facilities are not necessarily addressed under that bidding process. In his dissent, Justice Stein notes that the court's ruling "overrides the Authority's informed judgment and requires that the Authority award towing contracts only to those towers who bid the lowest rates" and that forcing "the Authority to select towers based on price rather than competence" is a result that "can hardly be understood to advance the best interests of Parkway motorists." Justice Stein further notes that the "Local Public Contracts Law," N.J.S.40A:11-5(u), contains an exemption for towing and storage contracts and that it would better serve the public interest to also allow the authority to select towers on the basis of reliability rather than rates.

This bill would establish an exemption from bidding for the authority similar to the exemption provided to local contracting units for towing and storage services under the "Local Public Contracts Law," N.J.S.40A:11-5(u), when the contracting unit has set the rates and charges for those services.

The bill would require the authority to adopt regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to provide open and competitive procedures for awarding contracts for towing and storage services. The regulations would fix maximum towing and storage fees, subject to regulations promulgated by the Commissioner of Banking and Insurance pursuant to section 60 of P.L.1990, c.8 (C.17:33B-47), and establish objective criteria to be

considered in awarding a contract for towing and storage services. The objective criteria would include, but not be limited to, reliability, experience, response time, acceptance of credit cards and prepaid towing contracts, adequate equipment to safely handle a sufficient volume of common vehicle types under a variety of traffic and weather conditions, location of storage and repair facilities, security of vehicles towed or stored, financial return to the authority, and maintenance of adequate liability insurance. As the bill requires the authority to set towing and storage fees, those fees would not be considered in awarding a contract for towing and storage services.

The bill would take effect immediately and would apply to contracts entered into on and after the 60th day following the effective date of the act and to renewals of contracts entered into prior to the effective date of this act which are effectuated after the 60th day following the effective date of the act.