

ASSEMBLY, No. 239

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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SYNOPSIS

Requires Division of Rate Counsel to evaluate NJT fare increases and determine whether increases are necessary and fair to NJT customers.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/22/2021)

1 **AN ACT** expanding the powers of the Division of Rate Counsel to
 2 evaluate New Jersey Transit Corporation fare increases and
 3 amending P.L.2005, c.155 and P.L1979, c.150.

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

7
 8 1. Section 48 of P.L.2005, c.155 (C.52:27EE-48) is amended to
 9 read as follows:

10 48. Division of Rate Counsel; jurisdiction.

11 The Division of the Rate Counsel in, but not of, the Department
 12 of the Treasury shall have the authority to conduct investigations,
 13 initiate studies, conduct research, present comments and testimony
 14 before governmental bodies, issue reports, and produce and
 15 disseminate consumer guides on any matters that fall within the
 16 Rate Counsel's jurisdiction. The Rate Counsel shall also have the
 17 authority to represent the public interest as set forth below.

18 a. Utilities. The Division of Rate Counsel may represent and
 19 protect the public interest as defined in section 12 of P.L.2005,
 20 c.155 (C.52:27EE-12) in proceedings before and appeals from any
 21 State department, commission, authority, council, agency, or board
 22 charged with the regulation or control of any business, industry, or
 23 utility regarding a requirement that the business, industry, or utility
 24 provide a service or regarding the fixing of a rate, toll, fare, or
 25 charge for a product or service. The Division of Rate Counsel may
 26 initiate any such proceedings when the director determines that a
 27 discontinuance or change in a required service or a rate, toll, fare, or
 28 charge for a product or service is in the public interest.

29 b. Insurance; limited jurisdiction. The Division of Rate
 30 Counsel shall represent and protect the public interest with respect
 31 to insurance matters in significant proceedings that pertain solely to
 32 prior approval rate increases for personal lines property casualty
 33 coverages or Medicare supplemental coverages. The Division of
 34 Rate Counsel shall have no jurisdiction or authority to participate or
 35 intervene in (1) expedited prior approval rate filings made by an
 36 insurer or affiliated group of insurers pursuant to section 34 of
 37 P.L.1997, c.151 (C.17:29A-46.6) or section 3 of P.L.2001, c.409
 38 (C.17:36-5.35), or (2) prior approval rate filings of seven percent or
 39 less, or (3) rule or form filings for any other form of insurance.

40 In determining, in his discretion, whether a proceeding is
 41 significant, the Director of the Division of Rate Counsel shall
 42 consider the following factors:

43 (1) the overall dollar impact of the requested increase,
 44 considering the filer's market share and the magnitude of the
 45 requested rate change;

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 (2) whether the increase, if granted, will increase the filer's rates
2 significantly above market norms;

3 (3) whether the filer is advancing a significantly different
4 alternate ratemaking methodology to the standard methodology
5 established pursuant to section 8 of P.L.1988, c.119 (C.17:29A-
6 36.2);

7 (4) whether the insurer is experiencing financial difficulties at
8 its present rate level, as evidenced by the filing of rehabilitation
9 proceedings, recent downgrading by insurance rating services, or
10 significant losses reported on the filer's public financial statement.

11 The Director of the Division of Rate Counsel shall, in addition to
12 the powers set forth in **【this act】** sections 48 through 55 of
13 P.L.2005, c.155 (C.52:27EE-48 through C.52:27EE-55), have the
14 express authority to intervene in public hearings pursuant to section
15 66 of P.L.1998, c.21 (C.17:29A-46.8).

16 c. Within 90 days after receiving notice from the New Jersey
17 Transit Corporation, pursuant to section 8 of P.L.1979, c.150
18 (C.27:25-8) and section 50 of P.L.2005, c.155 (C.52:27EE-50), of
19 the corporation's proposal to implement a fare increase for any
20 motorbus regular route or rail passenger service, the Division of the
21 Rate Counsel shall evaluate the proposed fare increase and
22 determine whether the increase is necessary and fair to New Jersey
23 Transit Corporation customers.
24 (cf: P.L.2010, c.34, s.33)
25

26 2. Section 50 of P.L.2005, c.155 (C.52:27EE-50) is amended to
27 read as follows:

28 50. Division of Rate Counsel; required notices to the division.

29 a. The Division of Rate Counsel shall receive a copy from the
30 filer of any prior approval rate filing seeking consumer insurance
31 rate increases, including any amendments or supplements thereto.
32 A copy of such rate filing shall be received by the Division of Rate
33 Counsel concurrent with any rate filing with the Commissioner of
34 Banking and Insurance; except, however, the filer is not required to
35 provide a copy of such rate filing with the Division of Rate Counsel
36 if: (a) the filing is an expedited prior approval rate filing made
37 pursuant to either section 34 of P.L.1997, c.151 (C.17:29A-46.6) or
38 section 3 of P.L.2001, c.409 (C.17:36-5.35); or (b) the filing is
39 made pursuant to any statutory change in coverage provided under a
40 policy of private passenger automobile insurance; or (c) the filing is
41 a prior approval rate filing of seven percent or less.

42 b. The Division of Rate Counsel shall receive a copy from the
43 New Jersey Transit Corporation of any notice of the corporation's
44 intent to implement a fare increase for any motorbus regular route
45 or rail passenger services, including any amendments or
46 supplements thereto. A copy of such notice shall be received by the

1 Division of Rate Counsel pursuant to section 8 of P.L.1979, c.150
2 (C.27:25-8).

3 (cf: P.L.2005, c.155, s.50)

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5 3. Section 8 of P.L.1979, c.150 (C.27:25-8) is amended to read
6 as follows:

7 8. a. The corporation or any subsidiary thereof shall not be
8 considered a public utility as defined in R.S.48:2-13, and except
9 with regard to subsection c. of this section, subsection b. of
10 R.S.48:3-38, section 2 of P.L.1989, c.291 (C.27:25-15.1), and
11 R.S.48:12-152, the provisions of Title 48 of the Revised Statutes
12 shall not apply to the corporation or any subsidiary thereof.

13 b. The authority hereby given to the corporation pursuant to
14 section 6 of **【this act】** P.L.1979, c.150 (C.27:25-6) with respect to
15 fares and service, shall be exercised without regard or reference to
16 the jurisdiction formerly vested in the Department of Transportation
17 regarding rates and rate schedules under R.S.48:2-21;
18 discontinuance, curtailment, or abandonment of service under
19 R.S.48:2-24; and the issuance of a certificate of public convenience
20 and necessity under R.S.48:4-3, and transferred to the New Jersey
21 Motor Vehicle Commission by P.L.2003, c.13 (C.39:2A-1 et al.).
22 The New Jersey Motor Vehicle Commission shall resume
23 jurisdiction over service and fares upon the termination and
24 discontinuance of a contractual relationship between the corporation
25 and a private or public entity relating to the provision of public
26 transportation services operated under the authority of certificates
27 of public convenience and necessity previously issued by the New
28 Jersey Motor Vehicle Commission or its predecessors; provided,
29 however, that **【no】** a private entity shall not be required to restore
30 any service discontinued or any fare changed during the existence
31 of a contractual relationship with the corporation, unless the New
32 Jersey Motor Vehicle Commission shall determine, after notice and
33 hearing, that the service or fare is required by public convenience
34 and necessity.

35 c. Notwithstanding any other provisions of **【this act】** P.L.1979,
36 c.150 (C.27:25-1 et seq.), all vehicles used by any public or private
37 entity pursuant to contract authorized by **【this act】** P.L.1979, c.150
38 (C.27:25-1 et seq.), and all vehicles operated by the corporation
39 directly, shall be subject to the jurisdiction of the department with
40 respect to maintenance, specifications, and safety to the same extent
41 **【such】** that jurisdiction is conferred upon the department by Title
42 48 of the Revised Statutes.

43 d. Before implementing any fare increase for any motorbus
44 regular route or rail passenger services, or the substantial
45 curtailment or abandonment of **【any such】** those services, the
46 corporation shall hold a public hearing in the area affected during
47 evening hours. Notice of **【such】** the hearing shall be given by the

1 corporation at least 15 days prior to **【such】** the hearing to the
2 governing body of each county whose residents will be affected and
3 to the clerk of each municipality in the county or counties whose
4 residents will be affected; **【such】** the notice shall also be posted at
5 least 15 days prior to **【such】** the hearing in prominent places on the
6 railroad cars and buses serving the routes to be affected.

7 e. Notice of its intent to discontinue, substantially curtail or
8 abandon any motorbus regular route service or rail passenger
9 service shall be given by the corporation to the governing body of
10 each county whose residents will be affected and to the clerk of
11 each municipality in the county or counties whose residents will be
12 affected at least 45 days prior to implementation of **【such】** the
13 change in service.

14 f. Not less than 90 days before implementing a fare increase
15 for any motorbus regular route or rail passenger service, the
16 corporation shall provide notice of the fare increase proposal to the
17 Division of Rate Counsel in the Department of the Treasury
18 pursuant to section 50 of P.L.2005, c.155 (C.52:27EE-50). The
19 corporation shall provide any information that the division shall
20 request in the course of preparing the division's evaluation and
21 determination. Before implementing any fare increase proposal, the
22 corporation shall consider the division's evaluation and
23 determination and shall respond to any objection the division may
24 have to the fare increase proposal.

25 (cf: P.L.2009, c.259, s.1)

26
27 4. This act shall take effect immediately.
28
29

30 STATEMENT

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32 This bill requires the Division of Rate Counsel (rate counsel) in
33 the Department of the Treasury, within 90 days after receiving
34 notice from the New Jersey Transit Corporation (NJ Transit), of any
35 NJ Transit proposal to implement a fare increase for any NJ Transit
36 motorbus regular route or rail passenger service, to evaluate the
37 proposed fare increase and determine whether the increase is
38 necessary and fair to NJ Transit customers. NJ Transit is to provide
39 any information that the rate counsel requests in the course of
40 preparing the rate counsel's evaluation and determination. Before
41 implementing any fare increase proposal, NJ Transit is to consider
42 the rate counsel's evaluation and determination and is to respond to
43 any objection the rate counsel may have to the fare increase
44 proposal.