VETO MESSAGES

OF

HON. RICHARD J. HUGHES

Governor of New Jersey

SUBMITTED TO THE SENATE AND THE GENERAL ASSEMBLY OF THE STATE OF NEW JERSEY

1963

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STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

SENATE BILL NO. 1

STATEMENT

I am filing Senate Bill No. 1 (1963) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

Senate Bill No. 1 would authorize the formation of dental service corporations organized for the purpose of establishing, maintaining and operating nonprofit dental service plans supervised by the Commissioner of Banking and Insurance. Under such a plan, the expense of dental services to subscribers and covered dependents would be paid in whole or in part by the corporation to dentists participating in the plan and to certain others as provided in the bill.

Like the Medical Service Corporations Law, which it closely parallels, this bill would require corporations functioning thereunder to obtain from the Commissioner a certificate of authority to "transact business" on a county-by-county basis. Just as the Medical Service Corporations Law conditions the right of a medical service corporation to "transact business" in a given county upon the participation of 51% of the eligible physicians in that county, the bill before me would specify that:

> "A certificate may be issued or amended to authorize a corporation to transact business in a county only if, at the time of authorization, the corporation has 45% or more of the eligible dentists in that county as participating dentists. The certificate shall be amended to cancel the authority of the corporation as to any county in which, throughout any 12-month period after

the time of authorization, it has less than 51% of the eligible dentists as participating dentists.''

On July 1, 1963, and subsequent to the passage of Senate Bill No. 1, the Supreme Court struck down as unconstitutional the section of the Medical Service Corporations Law pertaining to the election and qualifications of trustees of medical service corporations. *Group Health Ins. of N. J. v. Howell,* 40 N. J. 436 (1963). Not then decided, but expressly reserved by the Court for future determination, was the validity of the section of that Law which imposes the 51% participation requirement mentioned above. The Court, characterizing the question as ''whether this requirement is reasonably related to any permissible objective of the police power * * *'' (40 N. J. at 452), retained jurisdiction of the appeal and remanded the cause to the Commissioner of Banking and Insurance for his reception of further evidence pertaining to that issue. Additionally, the Court called for further argument on the question ''whether * * * a requirement that a medical service corporation must secure the participation of *any* percentage of physicians as a condition to the issuance of a certificate of authority to transact business is valid,'' together with a number of further questions of substance which the Court took some pains to delineate. (40 N. J. at 454-456.) The proceeding is currently poised for rehearing by the Court.

In such circumstances, I am foreclosed from acting on Senate Bill No. 1 as a matter of proper constitutional deference to a coequal branch of our government. The participation requirement set forth by this bill as an integral part thereof is indistinguishable in principle from the thrust of the provision of the Medical Service Corporations Law which is now before the Supreme Court. Any expression on my part of approval, or disapproval, would constitute an unwarranted intrusion upon the deliberations of the Court. In view of the novel, complex and substantial issues pending for determination in *Group Health Ins. of N. J. v. Howell, supra,* I feel that it would be far better for all concerned to await the decision of the Supreme Court in that case. Only then will we be able to assess knowledgeably the precise extent to which it is within the power of the Legislature to prescribe a condition of this type.

After the Supreme Court has decided the issues posed by the participation requirement of the Medical Service Corporations Law, I shall be glad to entertain further legis-

lation concerning the establishment of dental service plans, provided that it conforms with the guidelines to be laid down by the Court in the forthcoming decision. In that connection, the Legislature should reexamine the provision of Senate Bill No. 1 concerning the selection of "elected directors" (section 5) to determine whether, in the light of the Supreme Court's treatment of section 2 of the Medical Service Corporations Law, that provision would withstand constitutional scrutiny if included in future legislation on this subject.

/s/ RICHARD J. HUGHES,
Governor.

Dated: March 6, 1964

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
January 14, 1964.

SENATE BILL No. 33

To the Senate:

I herewith return Senate Bill No. 33, without my approval, for the following reasons:

State employees in the classified civil service are now entitled, in addition to annual paid vacations, to a maximum of 15 working days of sick leave per calendar year. Forbearance from abuse of this privilege carries its own continuing reward, for the law permits unlimited accumulation of unused sick leave against the contingency of future protracted disability. The present statutory policy thus reflects a fair concession to human frailty, and is designed to relieve faithful employees from financial setbacks caused by circumstances beyond their control.

Senate Bill No. 33, however, would introduce an entirely different dimension to this concept by authorizing the transmutation of accumulated sick leave into a pecuniary benefit payable upon retirement as "terminal pay" without regard to illness. Such payments, intended to supplement existing pension and retirement benefits, would be computed on the

basis of the employee's daily compensation or salary at the time of retirement, with full commutation of accumulated time not exceeding 16 weeks and the equivalent of 3 days' pay for each additional 5 days of unused leave up to an aggregate maximum of 26 weeks. The bill would take into account the time already accumulated by current employees, and to that substantial extent would be retroactive in its operation.

Similar legislation was vetoed in 1954, 1955 and 1959. Statements filed with the earlier bills based the vetoes principally on the ground that such a law would retrospectively convert a privilege designed to alleviate actual hardship into a vested pecuniary right having no relation to that objective. I concur in this view, for I am convinced that the enactment of Senate Bill No. 33 would undermine the very principles which justify the expenditure of State funds in the form of sick leave benefits.

The statement appended to the bill recites that "it would give recognition to the conscientious employee for the many years of service." As I am certain that this language is not meant to characterize the genuinely ill employee who avails himself of sick leave as less than "conscientious" for that reason, I take it that the reference is to those employees, hopefully in the vast majority, who have commendably refrained throughout their years of service from claiming the privilege while in good health. Thus viewed, the bill would purport to grant extra benefits, heretofore attainable only by abusing the sick leave privilege, as a suitable reward for those who have not abused such a privilege, thereby effectively eliminating any consequential distinction between proper and improper conduct in this area. I cannot subscribe to the notion that law-abiding persons should be reimbursed for whatever illicit advantages they may have forsaken by their adherence to a proper course. Considering our sick leave program as a form of health insurance, such payments would be equivalent to conferring benefits upon a healthy insured in appreciation for his forbearance from filing false claims. So long as the Legislature continues to regard sick leave as a beneficence intended to meet actual needs, there is no room in the statutory scheme for a law designed to reward non-abuse of the privilege.

Proponents of the bill have also urged that its enactment would enhance the efficiency of the classified service by inducing the chronically ill employee who has reached

voluntary retirement age not to prolong his tenure by the use of accumulated sick leave, but to step aside for a permanent replacement who can occupy the position more vigorously. Without impugning the desirability of this objective, I disagree that Senate Bill No. 33 would achieve it. The statutory span between voluntary and mandatory retirement age is 10 years. The terminal benefits authorized by this bill would be limited to the equivalent of 110 days' pay. I cannot believe that such payments are reasonably calculated to entice employees between voluntary and mandatory age to forego the possibility of several or more years of continued employment with correspondingly increasing retirement benefits. The bill would more likely offer a true retirement incentive only to those who have exhausted all but the specified 26 weeks of accumulated sick leave and will soon be ready or required to retire in any event. Any benefit to the State service would be minimal at best. If the projected problem exists, the answer must be found elsewhere.

Finally, it has been maintained for much the same reason that the effect of this bill "will reflect a considerable saving to the State * * *." This assertion is based upon the assumption, flatly characterized as such by the fiscal note to the bill, that its relatively limited benefits would in fact motivate older employees to retire earlier than anticipated in favor of younger persons who would fill the same positions at lower salaries. As stated above, however, it is doubtful whether a surrender of the right to continued employment for any meaningful period in exchange for the benefits of this bill would appeal to our older employees. Such a proposal would be attractive only to the employee whose accumulated sick leave does not exceed the bill's 26-week total, and whose retirement is imminent anyhow. The replacement of that employee by a lower-salaried successor manifestly would not be of financial advantage to the State if both must be paid for the accelerated period of transition.

In conclusion, I wish to emphasize that I have the greatest respect for those who have devoted their working lives to the service of the State. I remain entirely receptive to legislation designed to further their welfare, provided that funds are available and that the proposed benefits are justifiable in terms of our overall policy toward State employment. In this instance, I simply cannot find such jus-

tification for the conversion of sick leave benefits into cold cash.

There are indications that the Legislature may undertake a review of the entire problem of employee compensation and benefits. Such a study, if undertaken, should give careful attention to both the subject of sick leave benefits and the proposal for terminal leave rights.

Accordingly, I feel that I must return Senate Bill No. 33 without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

SENATE BILL NO. 46
STATEMENT

I am filing Senate Bill No. 46 (1963) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

Senate Bill No. 46 would amend the State Employees Health Benefits Act to permit participation in the health program by counties, municipalities school districts and certain governmental authorities.

I have no objection to the fundamental concepts of this bill. The State Health Benefits Commission, which has the responsibility for the administration of this program, however, has raised several objections to the present form of the

bill. The Commission is particularly concerned that any proposed expansion of the health benefits program should require the Commission to maintain claim experiences separately for the State and local groups both as to employees and dependents.

A series of conferences have been held with the proponents of this measure and the Commission in an effort to reach an agreeable settlement. I am confident that the present difficulties can be resolved and a substitute measure introduced in the current session of the Legislature.

/s/ RICHARD J. HUGHES,
Governor.

Dated: March 6, 1964

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963.

SENATE BILL No. 64

To the Senate:

Pursuant to Article V, Section I, paragraph 14 (b) of the Constitution, I herewith return Senate Bill No. 64, with my objections, for reconsideration.

This bill would amend R. S. 39:3–20 and N. J. S. A. 39:3–84.3 so as to make it clear that the fine to be paid by the owner, lessee and bailee of any commercial motor vehicle, tractor, trailer or semitrailer, for carrying a load in excess of the gross weight limitation for vehicle and load permitted by the certificate of registration for the vehicle or any other gross weight limitation for vehicle and load imposed by Title 39 or the axle weight limitation as set forth by law in Title 39, would be levied for a violation of only one weight limitation where it is found that the defendant has violated two or more of the aforesaid limitations. For example, if a truck is found to exceed the axle weight limitation and, therefore, also exceeds the gross weight limitation for vehicle and load, the violator would pay only the fine for the greater weight violation.

The criterion for determining the amount of the fine remains unchanged by the bill, except with respect to weight violations of a tractor, trailer or semitrailer registered in New Jersey when operated in combination with a tractor, trailer or semitrailer registered in another state or federal district, which would at present be covered by specific language appearing in R. S. 39:3–20. It is this exception which renders the bill defective.

The deletion of the penalty language of R. S. 39:3–20, with no further provision for treatment of weight violations by this type combination of vehicles, results in there being applicable to such violations only the general penalty provisions of R. S. 39:3–86. Because of this, the maximum penalty applicable, regardless of the extent of the violation, would be a fine of $50.00 or imprisonment for 15 days or both, instead of the penalty criteria presently found in the statute, to wit: a fine of $0.02 per pound for each pound of excess weight if the excess does not exceed 10,000 pounds, and $0.03 per pound for each pound of excess weight if the excess weight exceeds 10,000 pounds, but in no event less than $50.00.

The latter penalty criteria would still apply to all other weight limitation violations. I believe the penalties for weight violation should be consistent. Carriers, operating vehicles in combinations such as above described, who violate the weight limitations of our law should not be granted unequal treatment tantamount to special privilege.

Accordingly I herewith return Senate Bill No. 64 for reconsideration and recommend that it be amended as follows:

On page 6, section 2, line 52, after the period insert a new sentence as follows:

"The owner, lessee and bailee of a tractor, trailer or semitrailer registered under this act and found on a highway in combination with a tractor, trailer or semitrailer duly registered in any other state or federal district and in violation of the weight limitations of R. S. 39:3–20 shall be fined an amount equal to $0.02 for each pound by which ½ of the combined gross weight of both vehicles and load shall exceed the gross weight registration of the unit registered under this act, if the excess is not greater than 10,000 pounds,

and $0.03 for each pound of the excess if it is greater than 10,000 pounds, but in no event less than $50.00.''

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963.

SENATE BILL NO. 74

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 74, with my objections, for reconsideration.

Chapter 185, P. L. 1960, authorizes county boards of chosen freeholders to permit certain mental health associations and other similar organizations to use, without charge, county facilities and employees in conducting day care centers or schools for severely disturbed children or for giving assistance to the mentally retarded. Senate Bill No. 74 has as its very laudable purpose the expansion of this authorization in Chapter 185 to include the mentally ill as well as the mentally retarded.

I am in full accord with the purposes of this legislation. Unfortunately, Senate Bill No. 74, as drafted, would inadvertently restrict a part of the existing authorization through the use of the term ''mentally retarded or mentally ill children.'' The use of the word ''children'' in this instance may result in the curtailment of existing programs for the mentally retarded under the present provisions of Chapter 185, which are in effect for these groups without regard to age. I feel certain that this was not the intention of the sponsors and, therefore, suggest the bill be reenacted with the following amendments:

Page 1, Title, line 11, delete ''the use''.

Page 1, Title, delete lines 12 through 16 in their entirety and insert in lieu thereof "certain organizations providing aid or assistance to mentally retarded or mentally ill persons to use county facilities and to supply them with the services".

Page 2, section 1, line 4, delete "the use of space or rooms, together with".

Page 2, section 1, delete lines 5 through 9 in their entirety and insert in lieu thereof "certain organizations providing aid or assistance to mentally retarded or mentally ill persons to use county facilities".

Page 2, section 2, line 7, delete "children" and insert in lieu thereof "persons".

Page 2, section 2, lines 10 and 11, delete "children" and insert in lieu thereof "persons".

Respectfully,

RICHARD J. HUGHES,
Governor.

Attest:

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963.

SENATE BILL No. 76

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 76, with my objections, for reconsideration.

Senate Bill No. 76 authorizes boards of chosen freeholders to appropriate annually to "any approved, privately operated, nonprofit organization whose services are nonsectarian" funds to defray certain costs of such organizations in their programs for mentally retarded or mentally ill children. This bill is substantially similar to chapter 186,

P. L. 1960 but differs in two respects. The application of the 1960 law is limited to the New Jersey Association for Retarded Children and the funds are available only for the benefit of mentally retarded persons.

This bill presents much the same problem as its companion measure, Senate Bill No. 74. Here again the purpose of the legislation is laudable and one with which I am in full agreement. The bill, however, creates the question whether it will have the legal or practical effect of replacing the 1960 law. To the extent that Senate Bill No. 76 is broader in extending its application to many organizations, this is a desirable result. Restricting the use of funds to mentally retarded or mentally ill children, however, can have an adverse impact upon existing programs which are being conducted without regard to age. Indeed, the very language of Senate Bill No. 76 would seem to imply that it should have application to persons other than children when it speaks in terms of sheltered workshops since this program, as developed in this State, has almost exclusive application to persons above the age generally considered the upper limit of childhood.

I, therefore, am returning this bill with the recommendation that it be reenacted with the following amendments:

On page 1, Title, line 2, delete "children and" and insert in lieu thereof "persons, repealing Chapter 186, P. L. 1960, and".

On page 1, section 1, line 5, delete "children" and insert in lieu thereof "persons".

On page 1, section 2, line 1, delete this section in its entirety and insert in lieu thereof:

"2. Chapter 186, P. L. 1960, approved January 18, 1961, is hereby repealed but any appropriation made pursuant to the provisions thereof shall be valid and shall be deemed to be authorized by the provisions of this act.

"3. This act shall take effect immediately."

Respectfully,

RICHARD J. HUGHES,
Governor.

Attest:

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963

SENATE BILL No. 98

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 98, with my objections, for reconsideration.

Title 39 of the Revised Statutes now empowers local, county and State authorities to erect and maintain appropriate official traffic signs on highways or at intersections within their respective jurisdictions where traffic movements are regulated and controlled by safety zones, traffic islands, traffic circles, grade separations and other physical structures erected by the authority involved. Senate Bill No. 98 would expand this power to permit the erection and maintenance of "railroad advance warning signs and such other appropriate official traffic signs, including stop signs," wherever any highway crosses the tracks of a railroad at grade.

In concept, the bill represents a logical and salutary extension of existing State and local authority in the area of traffic safety control. As drawn, however, it departs from the basic scheme of Title 39 by requiring the "recommendation" of the Board of Public Utility Commissioners as a condition precedent to the governmental exercise of the discretionary power to place official traffic signs at grade crossings. Basically, it is this feature of the bill which impels me to return it for further consideration.

The powers and duties of the Board of Public Utility Commissioners since its creation have been confined to "general supervision and regulation of and jurisdiction and control over all public utilities * * *." R. S. 48:2–13. Thus the Board is properly concerned with the regulation of railroad traffic over highway crossings and, as a pertinent example, may require railroad companies to maintain warning signs designed to the Board's approval "at each highway crossing at grade." R. S. 48:12–58. But Senate Bill No. 98, which would amend and supplement chapter 4

of Title 39, the Motor Vehicle Act, deals with the very different objective of regulating highway traffic over railroad crossings. Like any other subject of highway traffic control, this problem falls most naturally within the province of the Director of the Division of Motor Vehicles and, conversely, is beyond the traditional purview of the Board of Public Utility Commissioners' mandate to regulate "public utilities." In my judgment, it would be unwise to interject the influence of the Board into the hitherto exclusive statutory domain of the Director of the Division of Motor Vehicles. Any such overlapping of authority can only lead to confusion and conflict.

Additionally, it may be observed that not even the Director now enjoys the centralized power to initiate by "recommendation" or otherwise the erection of official traffic signs by State, county and local authorities. The approach of the motor vehicle law is permissive in this respect, leaving it to the authorities themselves to determine whether a given traffic problem warrants or requires the placement of a traffic sign. While the efficacy of that approach is not at issue here, it does manifest a flexible policy of allowing the local authority most immediately concerned to detect and correct local traffic hazards. It would be a substantial departure from that policy to render local action dependent upon the "recommendation" of a State agency which may not be equipped to appreciate local needs. The power to "recommend", as conferred by Senate Bill No. 98, would correlatively entail the power of veto. In view of the basic *rationale* of the motor vehicle law with respect to local responsibility for the erection of traffic signs in general, I can discern no reason why traffic signs at grade crossings should be particularly singled out as a subject for central control.

For the reasons stated above, the power of State, county and local authorities to erect and maintain traffic signs at grade crossings should not be conditioned upon the recommendation of the Board of Public Utility Commissioners. I suggest that the bill be amended to delete that provision.

Finally, various objections have been voiced to the express inclusion of stop signs among the "appropriate official traffic signs" which the bill would permit to be erected at grade crossings. There is widespread feeling that existing law governs the stoppage of motor vehicles at railroad crossings thoroughly and adequately (see N. J. S. A.

39:4–127.1, 39:4–127.2 and 39:4–128), and that the erection of stop signs at grade crossings is calculated to produce more accidents than it will prevent. While these observations are not without force, I would be reluctant to impose an absolute ban on the use of any official traffic sign at any location. It would be generally unwise, however, to actively encourage the erection of stop signs at grade crossings by way of undue emphasis thereon in the enabling legislation. Since the catchall provision for the erection of "other appropriate official traffic signs" would in a proper case include stop signs, I recommend that the additional express reference to such devices be deleted from the bill.

Accordingly, I am returning Senate Bill No. 98 for reconsideration, with the recommendation that the bill be amended as follows:

On page 1, section 1, lines 11 and 12, delete ", upon recommendation of the Board of Public Utility Commissioners,"

On page 1, section 1, line 13, delete "such".

On page 1, section 1, line 13, delete ", including stop signs,"

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
May 6, 1963.

SENATE BILL No. 102

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 102, with my objections, for reconsideration.

Section 38:23–2 of the Revised Statutes now contains a list of 20 organizations, primarily veterans' groups, the

duly authorized representatives of which must be granted leaves of absence with pay from State, county or municipal employment to attend state or national conventions of such organizations. This bill, the tenth supplementation of the list in recent years, would add 6 additional organizations.

No objection can be found to appropriate recognition of worthwhile and respected veteran organizations and, obviously, the privilege which this statute accords should be uniformly available to all groups of a similar character. In this respect, I would suggest that the Navy League and the Veterans of World War I of the United States of America, for whose benefit a similar bill is presently pending, might also be added to the list at this time.

However, as the list of organizations grows it becomes apparent that an abuse of the privilege extended, to the detriment of the employer and the public, is made increasingly possible. Qualifications for membership in the various organizations referred to are such that a given individual might readily be a representative of three or four, and perhaps as many as ten, of these organizations. The amount of time that might be involved in attendance at state and national conventions, with necessary travel, could well assume proportions not contemplated by the Legislature. For this reason I suggest that every public employee, who is a representative of one or more of these organizations, be limited to a total of 5 days absence with pay each year for attendance at state or national conventions of all organizations he represents.

Accordingly, I am returning Senate Bill No. 102 for reconsideration, with the recommendation that the bill be amended as follows:

> On page 2, section 1, line 20, after the words "United States," insert "Navy League, Veterans of World War I of the United States of America".
>
> On page 2, section 1, line 27, after the word "convention." insert the following sentences:
>
> "No person shall be entitled to a total of more than 5 days leave of absence with pay each calendar year for the purpose of attending, as authorized representative, the state or national convention of one or more of the above enumerated organizations. The leaves of absence authorized hereunder shall not be cumulative

and any unused leaves shall be cancelled at the end of any given year.''

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

SENATE BILL No. 137

STATEMENT

I am filing Senate Bill No. 137 (1963) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill would permit members of the Prison Officers' Pension Fund to purchase service credit for temporary State service rendered prior to November 1, 1945. It further provides that each member electing to purchase such credit shall pay the entire cost thereof.

It has been apparent for some time that the Prison Officers' Pension Fund is in serious financial straits and it was for this reason that the membership was statutorily closed as of December 31, 1959. Although the Fund was actuarially sound when established, members' contributions are currently insufficient to meet prospective claims against its assets—liabilities which are constantly increasing as more members become eligible to retire. This situation has become so acute that it is anticipated all of the Fund's assets will be exhausted by next year. In view of this, I

do not see how any statutory change which may increase the liabilities of the Fund can properly be approved, regardless of its merit.

Under the provisions of the Fund, a member who is 55 years old or over may retire after 20 years of creditable service. By permitting the crediting of prior temporary service, the bill allows many members to retire earlier than presently anticipated thereby lengthening the time over which such members may anticipate receiving a retirement allowance. This will automatically increase the potential liability of the Fund.

Additionally, the bill states that "the State shall not be liable for any payment to the system" as a consequence of the purchase of such credit for prior temporary service. Even a close look at the operation of the Fund demonstrates there is no assurance, and little likelihood, that this would be the case. Under the usual procedures involved in the purchase of prior service credits, the amount to be paid by the employee is based upon the present contribution rate for the member plus the equivalent of the State's share for such member. This procedure does not take into account the possibility that the member may shortly be eligible for retirement at a significantly higher earning level. Furthermore, since it has already been shown that present contributions are not actuarially sufficient, to sustain existing liabilities, the State as the party statutorily responsible for any deficiencies would be liable for the additional deficiency.

I have been informed that the intent of this bill is to permit members to purchase credit for service rendered prior to November 1, 1945, because during World War II they were, for reasons beyond their control, unable to obtain permanent status. But the bill, as drafted, is not even limited to the period of that conflict. Nor does the bill prescribe any time limitation on the member's right to purchase such credit, a circumstance which would permit him to do so at any time prior to retirement, despite the administrative burden thereby created.

As established, the Prison Officers' Pension Fund was intended to reward penal officers for long and dedicated service to the State. The fact that it provided a more attractive benefit formula than that available under the Public Employees' Retirement System was an obvious recognition of the hazards and dangers entailed in service

of this type. Consistent with this intention, the present law permits the crediting of only that service performed as a prison officer. This bill proposes a departure from that qualification by permitting the purchase of credit for any type of temporary service rendered to the State.

For all the foregoing reasons, I am obliged to file this bill without my approval.

/s/ RICHARD J. HUGHES,

Governor.

Dated: March 6, 1964

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963.

SENATE BILL No. 154

To the Senate:

I herewith return Senate Bill No. 154, without my approval, for the following reasons:

This bill would amend Section 40:52–1 of the Revised Statutes to condition the existing power of a municipality to regulate the opening and closing of barber shops upon the presentation of a petition by 75% or more of the operators of the barber shops in the municipality.

The basic justification for granting local governmental authorities the power to regulate business activities must be the protection of the health and welfare of the general community. This bill, by removing from the municipal authorities their regulatory powers over barber shops unless a substantial element of the group to be regulated itself seeks such regulation, fails to meet this basic test. It would appear, therefore, to be a highly questionable legislative enactment.

Even from the viewpoint of the barbering profession, Senate Bill No. 154 seems to be of doubtful utility. I have been informed that some elements of the barbering profession have supported this legislation in the hope that it would standardize working hours where there is substantial agree-

ment on the subject throughout the municipality. The bill, however, not only prevents local officials from regulating the operating hours of barber shops unless a proper petition has been presented, but it also lacks any assurances that the local officials will undertake the regulation of working hours even upon the presentation of such a petition. Thus, the bill has the incongruous effect of restricting the long established local authority to regulate barber shop operations until such regulation is requested by the shop operators themselves without assuring such a group that the type action they are seeking will be taken. Senate Bill No. 154 accommodates neither the legitimate interests of the general public nor the barbering profession.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963.

SENATE BILL No. 161

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 161, with my objections, for reconsideration.

Senate Bill No. 161 would authorize the establishment of "horizontal property regimes" characterized by exclusive individual ownership of each unit of a multi-unit building, together with common ownership in proportionate undivided shares of all other features of the building and the land on which it is located. While not limited to dwelling units, this bill undoubtedly is designed to stimulate the development of moderately priced housing for the benefit of our citizens. Although the novelty of the "condominium" approach to housing in this country necessarily renders its effectiveness a matter for conjecture, it does provide an-

other tool for the implementation of a highly desirable objective. I, therefore, have no fundamental objection to its introduction into law. Nevertheless, the bill as drawn contains certain defects, both substantive and technical, which have led me to conclude that it should not be signed in its present form.

Consistent with its overall treatment of each apartment as a subject of individual ownership, the bill provides that local property taxes shall be assessed against and collected on each individual apartment, "and not on the building or property as a whole." No express reference is made, however, to the assessment of the proportionate undivided interest of each apartment in the land and other commonly held appurtenances of the building, designated elsewhere by the bill as the "common elements." While I am certain that this provision is not intended to place the interest of each apartment in the common elements beyond the reach of the taxing authority, its silence regarding assessment of the common elements coupled with its injunction against assessment of "the building or property as a whole" might well inspire litigation which, at the very least, would require the courts to supply the procedure for the assessment of common elements. Since that procedure can be readily specified by the bill itself, I recommend that the bill be amended to clearly express its implicit mandate that the assessment against each apartment shall include the value of the proportionate undivided interest of that apartment in the common elements of the property.

In this connection, the bill presently grants to the owner of each apartment a proportionate share in the common elements equivalent to the percentage representing the value of his apartment "with relation to the value of the whole property." This formula fails to recognize that the "whole property" may include limited common elements which the bill permits to be reserved by agreement for the use of some apartments to the exclusion of others. Since the formula is aimed at establishing the proportionate interest of each apartment in the common elements to be used by all, i.e., the general common elements, the value of the limited common elements would seem to have no proper place in this computation. It would appear that the most accurate measure of the interest of each apartment owner in the general common elements is the percentage of the aggregate value of all the apartments represented by the value of his own apartment. Likewise, the proportionate interest of an owner

in the limited common elements can best be established by the percentage representing the value of his apartment with relation to the aggregate value of all apartments entitled to the use of those elements. I propose that the bill be amended accordingly.

In the interests of clarity, and to give meaning to the word "value", the bill should also include a provision that the necessary valuations be made by the owners of the property on the basis of fair market value at the time when the "horizontal property regime" is established. These valuations would serve the sole purpose of establishing the proportionate interest of each apartment in the common elements, and need not be expressed in the master deed or elsewhere.

The remainder of the amendments here proposed deal primarily with self-explanatory technical errors and lapses in consistency of expression. They require no particular discussion. As a final word, however, I might add that the phrase "horizontal property regime", as used in the title and throughout the text of the bill in conjunction with a variety of predicates, strikes me as achieving something less than an artistic success. Although I have not insisted upon the substitution of a more meaningful and clearly descriptive designation at this time, the Legislature should consider the adoption of a more suitable term.

For the reasons stated above, I herewith return Senate Bill No. 161 for reconsideration, with the recommendation that the bill be amended as follows:

On page 2, section 1, line 37, delete the word "basic".

On page 2, section 1, lines 37 to 38A, delete the words ", in accordance with the percentages computed in accordance with the provisions of section 6 of this act".

On page 3, section 6, lines 1 to 15, delete Section 6 in its entirety and insert in lieu thereof:

> "6. An apartment owner shall have the exclusive ownership of his apartment and shall have a proportionate undivided interest in the general common elements, equivalent to the percentage of the aggregate value of all the apartments represented by the value of his own apartment. Where limited common elements have been reserved for the use of his apartment, his proportionate undivided interest therein shall be equivalent to the percentage of the aggregate value of all

apartments entitled to the use of said limited common elements represented by the value of his own apartment.

"For the sole purpose of establishing said percentages, the value of each apartment and the aggregate value of all the apartments shall be fixed by the owner or co-owners of the property making up the regime, and shall be computed on the basis of the fair market value of said apartments at the time when the regime is established, *provided, however,* that nothing herein contained shall prevent the owner of each apartment from attributing a different circumstantial value to his apartment in all types of acts and contracts. Said percentages once established shall have a permanent character, and shall not be altered without the acquiescence of the co-owners representing all the apartments of the building."

On page 4, section 9, line 2, delete the word "real".

On page 4, section 9, line 10, delete the word "building" and insert in lieu thereof "property".

On page 4, section 9, line 14, delete "The percentage appertaining to the co-owners in" and insert in lieu thereof "The respective percentage appertaining to each apartment in".

On page 4, section 9, line 15, after the words "the elements held in common" insert ", both general and limited".

On page 5, section 11, line 7, after the words "Any conveyance of" insert "or other instrument affecting title to".

On page 5, section 12, line 1, delete the words "a building" and insert in lieu thereof "property".

On page 5, section 14, lines 1 and 2, delete the words "The administration of every building constituted into horizontal property" and insert in lieu thereof "The administration of every property constituted into a horizontal property regime".

On page 6, section 15, line 9E, delete the word "basic".

On page 6, section 15, line 16, delete the word "building" and insert in lieu thereof "property".

On page 6, section 15, line 17, delete the word "building" and insert in lieu thereof "property".

On page 7, section 18, line 5, delete the word "building" and insert in lieu thereof "property".

On page 9, section 21, line 3, delete the words "section 17" and insert in lieu thereof "section 18".

On page 9, section 22, line 2, delete the words "section 17" and insert in lieu thereof "section 18".

On page 10, section 26, line 4, after "whole." insert "Such assessments shall include the value of the proportionate undivided interest of each apartment in the general common elements, and in the limited common elements where such interest exists. The proportionate undivided interest of each apartment in said common elements shall be computed in accordance with the procedure established by section 6 of this act."

On page 10, section 26, line 5, after the words "exemptions from taxation" insert "or deductions from tax bills".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963.

SENATE BILL No. 173

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 173, with my objections, for reconsideration.

This bill would provide for the registration of physical therapists by the State Board of Medical Examiners and would establish, to assist the Board, an advisory committee made up of professional physical therapists. As originally introduced, the bill authorized the State Board to issue

rules and regulations establishing standards governing the practice of physical therapy and provided a penalty for violation of the provisions of the act or such rules and regulations. During the legislative process, however, both of these features were deleted.

The public generally attaches a high degree of significance to the fact that a person performing functions in the healing arts, such as a physical therapist, is licensed by the State. By virtue of such license, the qualifications and performance of the practitioner have impliedly received the imprimatur of the State. It is natural and proper for the public to assume that the act of licensing brings to bear on the licensee an effective system of regulation and control. The failure in this instance to give the Board of Medical Examiners the authority to establish and enforce appropriate standards renders Senate Bill No. 173 purposeless. Absent such authority, the licensee may receive a benefit but the public does not.

An additional opportunity for advancing the public's welfare is presented here. Throughout the years, groups interested in securing the advantages of State licensing and centralized regulation have submitted, and secured passage of, legislation providing for the establishment of regulatory boards and advisory committees composed entirely of members actively engaged in the profession, trade or occupation to be regulated. In the past, some of these boards and committees have given the appearance of representing the group to be regulated rather than the interests of the general public. While it is without question true that the State and the people owe a debt of gratitude to the many dedicated board and commission members who give unselfishly of their time and effort, this experience has indicated the wisdom of requiring the inclusion of impartial public membership wherever possible. In this fashion the vital public interest in effective functioning by regulatory bodies should be more adequately reflected.

Accordingly, I am returning Senate Bill No. 173 for reconsideration, with the recommendation that the bill be amended as follows:

On page 3, section 3, line 1, after "3." insert "(a)".

On page 4, section 3, following line 11, insert a new paragraph as follows:

"(b) The board, by rules and regulations and after consultation with the physical therapy advisory com-

mittee, shall establish standards governing the practice of physical therapy which standards shall be adhered to by persons registered under this act.''

On page 5, section 8, line 23, after the word ''physician'' delete the period and insert '' ; or''.

On page 5, section 8, following line 23, insert a new subsection as follows:

''(i) Who has violated the provisions of this act or the rules or regulations adopted hereunder.''

On page 6, section 10, line 4, delete ''3'' and insert in lieu thereof ''5''.

On page 6, section 10, line 4, delete ''who'' and insert in lieu thereof '', 3 of whom''.

On page 6, section 10, line 13, delete ''member'' and insert in lieu thereof ''of the 3 registered physical therapist members''.

On page 6, section 10, line 14A, after the word ''of'' insert ''any''.

On page 6, section 10, line 14A, delete ''apointments'' and insert in lieu thereof ''appointments''.

On page 6, section 10, line 15, delete ''The persons'' and insert in lieu thereof ''The 3 physical therapists''.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

SENATE BILL No. 199

STATEMENT

I am filing Senate Bill No. 199 (1963) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

N. J. S. A. 45:9–14.5 now declares it unlawful for any person, not duly licensed in this State to practice chiropractic, "to use terms, titles, words or letters which would designate or imply that he or she is qualified to practice chiropractic, or to hold himself or herself out as being able to practice chiropractic, or offer or attempt to practice chiropractic." Senate Bill No. 199 would amend this law to provide that "these prohibitions shall not apply to any person performing technical ancillary services under the direct supervision of a duly licensed chiropractor of this State while employed in an establishment maintained for the practice of chiropractic." In other words, the bill would operate to authorize activities virtually amounting to the plenary practice of chiropractic by individuals holding no professional license of any kind, and possessing no qualifications other than employment to perform unspecified "technical ancillary services" under the supervision of a licensed chiropractor.

No extensive exposition is needed to demonstrate that the enactment of this bill would accomplish a grave disservice to the health, safety and welfare of our citizens. The public policy of the State in this area has always been keyed to protection of the public from the professional ministrations of unqualified persons, through a properly rigorous system of licensing and regulation. Thus R. S. 45:9–22, of which the bill before me takes no note, provides that any person who practices medicine and/or surgery or chiropractic without a license, or who employs another unlicensed person to do so, is liable to a penalty recoverable in a summary proceeding instituted by the State Board of Medical Examiners. While certain persons licensed to pursue their own skilled callings, such as chiropodists and professional nurses, are exempted from this prohibition while functioning under the specific direction of a licensed physician or surgeon, the Legislature has taken pains to state that the exemption "shall not apply to such assistants of persons who are licensed * * * chiropractors * * *." R. S.

45:9–21(k). The instant bill likewise fails to take any cognizance of this provision. It is apparent, in short, that Senate Bill No. 199 by its terms could be interpreted as an implicit repudiation of long-standing statutory safeguards against the unlicensed practice of chiropractic, to the manifest peril of the public at large. Notwithstanding that the bill passed both Houses of the Legislature by unanimous vote, I am unwilling to ascribe so patently undesirable a purpose to any member of that body.

It seems far more likely that the bill's proponents were concerned with the entirely different objective of shielding chiropractors and their employees from charges of unauthorized practice arising out of the performance by such employees of ministerial duties which are in fact merely ancillary to the actual practice of chiropractic. Since there is no existing prohibition against unlicensed conduct which does not constitute the practice of chiropractic, such legislation would be meaningful only to the extent that certain "technical ancillary services" may border on the practice of the profession itself. I therefore suggest that any future legislative consideration of a bill on this subject should be attended by a serious and thoroughgoing study and delineation of the exact nature of the services involved, and the probable impact of such a law upon the health and safety of those who require chiropractic treatment. The overriding interest of the public in this field demands no less.

/s/ RICHARD J. HUGHES,
Governor.

Dated: March 6, 1964

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

SENATE BILL NO. 200

STATEMENT

I am filing Senate Bill No. 200 (1963) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law

if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill would amend the law concerning the issuance of notes or temporary bonds by chapter 7 school districts. At present, such districts, upon the approval of a proposal by the voters, may issue bonds for various school district purposes. Permanent bonds may be issued for periods of time varying from 15 to 40 years in duration depending upon the uses to which the bond revenue is to be put. To assist the districts in obtaining favorable permanent financing of such long-term indebtedness, the law now permits the school board to issue notes and temporary loan bonds which are to mature annually. These temporary financing devices may be renewed for a period not exceeding 3 years in total.

Senate Bill No. 200 would eliminate the 3 years restriction upon the use of temporary financing devices. The bill would permit school districts to refinance on an annual basis the long-term indebtedness authorized by the vote of the people.

The proponents of the bill allege its purpose is to permit school districts to save money and thereby ease the monetary burden of school construction. They represent that there will be a saving since instruments with a one-year maturity cost less to prepare than "permanent bonds" and sell for a lower rate of interest.

I can appreciate that if the school district contemplates a short borrowing period this financial scheme may save money. If they plan to use this method for a long period, however, these savings may become illusory. It is true that it costs more to prepare permanent bonds but this is the only charge involved. On the other hand, the temporary instruments must be prepared annually and because of the complexities involved in conducting such a refinancing plan most districts will be forced to hire a financial consultant to supervise the program. Under the present statutory maturity limitations, this consultant could be needed for as long as 40 years.

Generally, temporary bonds and notes sell for a lower rate of interest. Against this possible saving, there must be credited, however, the extra cost involved in a program of temporary financing as well as the risks that must be

assumed with this type of a financial scheme. The interest rate at any given time depends upon the availability of money for investment. Since no one can predict future market conditions, there is no way to gauge whether present rates of interest can be maintained throughout the lifetime of the bonds or notes. Any lengthy period of "tight money" could mean financial headaches—a high interest rate or, even worse, the inability to resell the notes and bonds.

The voters who support a school bond proposal have the right to expect that sound fiscal judgment will be used in the sale of the bonds. A blanket authorization to juggle the financing of a long-term indebtedness on an annual basis is risky even where experts are involved.

In the case of school boards, most of which have limited financial experience, such an authorization would be an invitation to serious trouble.

/s/ RICHARD J. HUGHES,
Governor.

Dated: March 6, 1964

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963.

SENATE BILL NO. 223

To the Senate:

I herewith return Senate Bill No. 223, without my approval, for the following reasons:

The purpose of this bill is to permit any veteran member of the Public Employees' Retirement System to purchase prior service credit for any service with the federal government other than as a member of the armed forces of the United States. The purchase price for this credit would be based on the member's salary at the time of his application. This bill is similar to Assembly Bill No. 502 (1962) which I filed without my approval in the State Library on March 18, 1963. It also involves to a lesser degree the problems

discussed in my message attached to Assembly Bill No. 211, which bill has been returned to the Legislature today without my approval.

The cost of public pensions represents a substantial element of the State's annual budget. The current year's appropriation is $82 million. Next year's appropriation will require nearly $90 million.

As I indicated in my message attached to Assembly Bill No. 211, the Legislature should embark upon a new course involving recognition of and reward for public service rendered elsewhere only after full and careful consideration of all the questions involved.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963.

SENATE BILL NO. 227

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 227, with my objections, for reconsideration.

This bill permits municipalities bordering on the Atlantic Ocean to lease, rent or hire all or any part of their public parks, recreation grounds or places of public resort not presently needed for municipal purposes for, in addition to the existing 10-year limitation, a period not exceeding 25 years where the lessee is required to make substantial renovations or improvements to the leasehold. It also makes this section of the law applicable to municipalities bordering on tidal water bays.

I have been informed that the purpose of this bill is to foster greater economic growth in these communities. Municipal officers have indicated that they have difficulty in leasing such property because of the 10-year limitation where substantial renovations or improvements are needed in order to make the property usable for commercial purposes. I concur with the municipalities' wish to attract commercial ventures to their community.

On the other hand, as I stated in my veto message of Assembly Bill No. 291 (1963):

> "The value to the community and to the State of an ocean front readily available to everyone and unencumbered by intervening structures cannot be estimated, but it is high. The necessity to preserve natural areas and scenic vistas has been recognized in this State through the creation of the Natural Areas Council and the adoption of Green Acres programs.
>
> "The State in recent years has adhered to a policy of opposing any legislation which would permit the conversion of our public beaches to private use. See Veto of Senate Bill No. 207 (1957). Shore front municipalities which have sought the right to lease public lands for long term periods have been required to preserve the beachfront areas for the use of the general public. C. 115, P. L. 1960; C. 12, P. L. 1963. I believe this to be a wise policy."

This is equally true of bay front areas.

Economic advancement and the preservation of our scenic beauty, however, are not incompatible. With proper supervision, both can exist to the benefit of the community and the State.

Accordingly, I am returning Senate Bill No. 227 for reconsideration, with the recommendation that the bill be amended as follows:

> On page 1, section 1, line 3, insert "(a)" before "The governing body of every municipality".
>
> On page 1, section 1, lines 8 to 10, delete the following: "or for any period not exceeding 25 years in any case where by the terms of the letting, the lessee is required to make substantial renovations or improvements to the premises included in the letting".

On page 1, section 1, after line 10, insert the following new paragraphs:

"(b) The governing body of every municipality bordering on the Atlantic Ocean or on any tidal water bay may with the approval of the Commissioner of Conservation and Economic Development enter into leases for any period not exceeding 25 years where the lessee will have to make substantial renovations or improvements to the leasehold and where such renovations or improvements will not detract from the scenic beauty of the area nor deny public access to the ocean front or the bay front.

"The governing body of any municipality proposing to enter into such a lease shall cause to have sent to the Commissioner of Conservation and Economic Development for his consideration a copy of the proposed lease and specifications of all the renovations and improvements, including but not limited to the following:

"(1) A written description of all renovations or improvements contemplated under the lease agreement including the proposed use for the property, and

"(2) A blueprint or drawing showing the relationship of any new structures or buildings to be constructed under the lease to the ocean or bay.

"If the Commissioner of Conservation and Economic Development shall find that the proposed lease is in the public interest and will not detract from the scenic beauty of the area or interfere with the public's right of access to the ocean or bay area, he shall indicate in writing his approval of the proposed lease, which approval may include such terms and conditions as he may find to be essential to carry out the purposes of this act, and the municipality may enter into the lease agreement as approved, provided that in addition to all other conditions and provisions agreed to by the parties the lease shall contain the following provision:

" 'This agreement is conditioned upon the compliance of the lessee with the terms and conditions specified by the Commissioner of Conservation and Economic Development pursuant to R. S. 40:61–36. Any failure to comply with these terms and conditions, unless approved in writing by the municipality and the Com-

missioner of Conservation and Economic Development, shall terminate the lease and all appurtenances, betterments and improvements to the premises shall be forfeited to the municipality.' ''

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
May 10, 1963.

SENATE BILL NO. 248

To the Senate:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 248, with my objections, for reconsideration.

This bill is concerned with the salary, tenure and pension provisions for County Court judges. It reaffirms the $20,000.00 annual salary which such judges are now paid. In addition, it would (1) grant tenure to any County Court judge who has served for 10 years successively in such capacity and who is in his third term of office; (2) provide that such a judge is eligible for a pension equal to one-half of his annual salary at age 70; (3) make the widow of any County Court judge eligible for a pension equal to one-fourth the annual salary received by the judge at the time of his death or retirement; and (4) require, since all County Court judges are now members of the Public Employees' Retirement System, that any judge eligible for a pension under the terms of the bill must elect which pension he wishes to receive.

I strongly favor legislation which would accord our County Court judges tenure and pension benefits more comparable to those now available to the members of the Supreme and Superior Courts. For a number of years, the

judges of the Superior and those of the County Courts have performed the same duties on an interchangeable basis. It is only proper that disparity in treatment between such judges be eliminated to whatever extent possible.

There are, however, several aspects of this bill which require modification or clarification. For example, the provisions of this bill would bestow tenure upon a County Court judge immediately if he has served for at least 10 years and is in his third term of office. While I have no reason to question the competency of any of our present judges, I do not believe the concept of automatic tenure to be sound. I would, therefore, suggest that such judges be nominated and confirmed at least once before attaining tenure.

There are additional problems which result from the existing pension and other benefits available to judges of the County Courts. The bill does not clearly establish the time at which a judge must select between the various benefits available to him. Further, it does not specify precisely the various rights available to the widow of a County Court judge. The proper administration of a pension program requires such clarity.

I am returning this bill to the Legislature as quickly as possible so that my suggestions can be received and processed before the spring recess. While I realize that it is late in the session, I hope that the Legislature will act expeditiously on this matter.

Accordingly, I am returning Senate Bill No. 248 for reconsideration, with the recommendation that it be amended as follows:

On page 1, Title, line 1, delete "salaries,".

On page 1, section 1, lines 1 through 6, delete section 1 in its entirety.

On page 1, section 2, line 1, delete "2" and insert in lieu thereof "1".

On page 1, section 2, line 4, after "years" insert "; provided, however, that no such judge of the County Court shall have tenure in office under the provisions of this act until he shall have been appointed to such office and his appointment thereto confirmed at least once following the effective date of this act".

On page 1, section 3, line 1, delete ''3. Any'' and insert in lieu thereof ''2. Subject to the provisions of section 8 of this act, any''.

On page 1, section 3, line 1, after ''years'' insert ''successively''.

On page 1, section 3, line 2, delete ''and who has acquired tenure in office, as provided in this act,''.

On page 1, section 3, line 3, after ''years'' insert ''while serving in such office''.

On page 2, section 4, line 1, delete ''4'' and insert in lieu thereof ''3''.

On page 2, section 5, line 1, delete ''5. Whenever'' and insert in lieu thereof ''4. Subject to the provisions of section 8 of this act, whenever''.

On page 2, section 6, line 1, delete ''6'' and insert in lieu thereof ''5''.

On page 2, section 7, line 1, delete ''7'' and insert in lieu thereof ''6''.

On page 2, section 7, line 1, after ''years'' insert ''successively''.

On page 2, section 7, line 2, after ''more'' insert ''while serving in such office''.

On page 2, section 7, line 4, delete ''entitled to'' and insert in lieu thereof ''eligible for''.

On page 2, section 7, line 5, delete ''same''.

On page 2, section 7, line 5, delete ''as are''.

On page 2, section 7, lines 5 and 6, delete ''for a judge of the County Court according to service or disability''.

On page 3, section 8, line 1, delete ''8'' and insert in lieu thereof ''7''.

On page 3, section 8, line 1, after ''least'' insert ''5 years as such judge and at least''.

On page 3, section 8, line 1, after ''years'' insert ''successively''.

On page 3, section 8, line 4, after ''more'' insert ''while serving as a judge of the County Court''.

On page 3, section 8, line 4, delete "entitled to" and insert in lieu thereof "eligible for".

On page 3, section 8, line 4, delete "same".

On page 3, section 8, line 5, delete "as are".

On page 3, section 8, lines 5 and 6, delete "for a judge of a County Court according to service or disability".

On page 3, section 9, line 1, delete "9" and insert in lieu thereof "8".

On page 3, section 9, line 1, after "Court" insert "and any widow of such a judge".

On page 3, section 9, line 1, delete "entitled to" and insert in lieu thereof "eligible for".

On page 3, section 9, line 2, delete "entitled to" and insert in lieu thereof "also eligible for retirement, death or".

On page 3, section 9, line 3, delete "shall" and insert in lieu thereof "may".

On page 3, section 9, lines 4 and 5, delete "or under such other acts or by reason of such membership".

On page 3, section 9, line 5, after "but" insert "such judge".

On page 3, section 9, line 6, after "membership." insert "Such election must be made within 90 days of the effective date of this act or within 30 days of the date that such judge becomes eligible for membership in a pension system."

On page 3, section 9, lines 8 through 11, starting with and including "This provision" delete the remainder of the section in its entirety and insert in lieu thereof "The absence of such timely election notice shall be presumed to be a waiver of the retirement or pension benefits provided by this act. The election to receive benefits under the provisions of this act by a judge shall terminate all other rights to retirement, pension or death benefits such judge or his widow may otherwise have had or been entitled to under any other act or by reason of membership in any pension system and any contribution that may have been made by such judge under such act or in such system shall be re-

turned without interest to the judge or to the widow of the judge."

On page 3, section 10, line 1, delete "10" and insert in lieu thereof "9".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL No. 39

STATEMENT

I am filing Assembly Bill No. 39 (1963) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill would permit the court having custody of an habitual user of any narcotic drug who has been arrested for or charged with the commission of any crime or offense to order his commitment to the New Jersey Neuropsychiatric Institute or any other State, county or municipally supported hospital for a period not exceeding 60 days.

It is now almost universally accepted that a narcotic addict is a person suffering from disease, progressive and tragic in its nature, frightening in its public impact. The incarceration of such a person, without treatment of the basic mental or physical problem which made him an addict, will not reform him but merely delay the time when this

habit can reassert its control over the individual and his actions. On the other hand, if his addiction can be cured he should be able to reenter society as a productive and law-abiding citizen.

The intent of this bill, which is to provide the addict with immediate appropriate treatment, is laudable. It would further recognition of the fact that this is a medical rather than a criminal problem. But under present circumstances I am forced to conclude that enactment of this measure would be a futile gesture. The enumerated institutions can do little more than provide mere hospital commitment, for they are presently neither equipped nor qualified to treat narcotic users. The New Jersey Neuropsychiatric Institute, for example, presently limits its services to the treatment of various nervous disorders. If it is to provide effective treatment for addicts, this legislative directive would have to be accommodated by an appropriation for the necessary equipment and staff. Furthermore, since the Institute is now operated on a voluntary admission basis, careful thought must be given to the efficacy of including there addicts who are committed under court order and, thus, represent potential escape risks.

There is no doubt in my mind that legislation for the purpose enunciated above is vitally needed. But the preparation of such legislation should have as a background the reevaluation of all our procedures for the handling, disposition and treatment of drug users. The Narcotic Drug Study Commission has undertaken such a study and I recommend that its interim findings and recommendations, which have just been released, should be given full consideration before new legislation is prepared. My administration will give its full support to the development of an appropriate program benefiting both the addict and society.

/s/ RICHARD J. HUGHES,
Governor.

Dated: March 6, 1964

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL No. 40

STATEMENT

I am filing Assembly Bill No. 40 (1963) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill would amend the law regarding the admission to the New Jersey Neuropsychiatric Institute to authorize the acceptance pursuant to a court order of persons charged with or convicted of a criminal offense. This is a companion measure to Assembly Bill No. 39.

As I indicated in my statement on Assembly Bill No. 39, it is a recognized fact that the Institute presently does not have the facilities necessary to treat narcotic users. This is true even though the statute authorizing its establishment contemplated such treatment. The lack of such facilities is due not to any act or omission on the part of the administrators of the Institute but simply because funds were never appropriated for this purpose.

The Institute has dedicated itself to the treatment of various nervous disorders and has been successful in this area. Although I do not doubt that with sufficient financial support it could establish facilities for the treatment of narcotic users, I would hesitate to approve such a plan unless it was shown that it would not interfere with its present services. Also the Institute is presently operated on a voluntary admission basis. Approval of this type of legislation would necessitate the addition of security facilities thereby destroying in part the atmosphere of cooperative effort which presently exists and which is often a vital element of successful treatment.

I therefore recommend to the Legislature that legislation in this area should be prepared only after careful review of the effect it would have upon present operations of the Institute.

/s/ RICHARD J. HUGHES,
Governor.

Dated: March 6, 1964

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
May 6, 1963.

ASSEMBLY BILL No. 60

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 60, with my objections, for reconsideration.

This bill would amend the law to increase the salary of jury commissioners in fifth class counties having a population "between 100,000 and 150,000 and in excess of 200,000."

The present salaries of jury commissioners were fixed in 1944. Such salaries are not adequate today in light of the responsibilities placed upon the jury commissioners. Rather than increase the salaries of only a few of these commissioners, therefore, I would recommend that all the salaries be adjusted to reflect today's economic conditions.

The present formula for determining salaries is based on the classification of counties. This method has caused obvious inequities. For example, in Monmouth County, having a population of 334,401, the commissioners are paid only $500.00 per annum, while in Mercer County, having a population of 266,392, the commissioners receive $750.00 per annum. Therefore, I would further recommend that the salary categories be changed to reflect the population of the county as indicated in the latest census. The suggested categories and salaries contained herein have been approved by the Supreme Court and seem realistic in view of present conditions.

For this reason, I herewith return Assembly Bill No. 60 for reconsideration and recommend that it be amended as follows:

On page 1, section 1, line 4, after the word "receive" insert "annual".

On page 1, section 1, lines 5 to 10, starting with the words "$900.00 per annum", delete the remainder of the sentence and insert in lieu thereof:

"In counties having 800,000 or more inhabitants, $2,000.00;

"In counties having 600,000 or more and less than 800,000 inhabitants, $1,750.00;

"In counties having 400,000 or more and less than 600,000 inhabitants, $1,500.00;

"In counties having 200,000 or more and less than 400,000 inhabitants, $1,250.00;

"In counties having 100,000 or more and less than 200,000 inhabitants, $1,000.00; and

"In counties having less than 100,000 inhabitants, $750.00."

Respectfully,

RICHARD J. HUGHES,
Governor.

[SEAL]
Attest:

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
April 29, 1963.

ASSEMBLY BILL NO. 100

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 100, with my objections, for reconsideration.

This bill, identical to Assembly Bill No. 303 of 1962, which I returned for reconsideration in that year, would amend in two respects the law which prohibits minors from entering any licensed retail liquor establishment for the purpose of purchasing or consuming any alcoholic beverage and from purchasing or consuming said beverage or misstating their age in order to do so. First it would increase the penalty on conviction from a fine "not exceeding $50.00" to a fine "of not less than $100.00 and not exceeding $200.00". Second, it would require peace officers and alcoholic beverage enforcement officers in every case to make complaints and to prosecute or assist in the prosecution of any minor who violates this statute.

The problems created by minors who violate the alcoholic beverage law have been given continued close attention by my administration. Proposals tightening the law directed at the driver who drinks are now before the Senate. A continuous campaign to have the State of New York conform its minimum age for consumption of alcoholic beverages to that of its neighbors is being waged by this administration. I approach, therefore, this legislation, as I did its 1962 counterpart, from a sympathetic viewpoint. At the time I returned the latter bill to the General Assembly I made the following statement:

> "I am in full agreement . . . with the provisions of the bill which provide for an increased fine for the violators of this law. A greater fine should help deter minors from seeking to consume alcoholic beverages in public places. The provision . . . however, which would eliminate the discretion now residing in law enforcement agencies as to the prosecution of minors, while commendable as to intent, is not likely to improve law enforcement efforts.
>
> "Apprehension of the minor who violates the alcoholic beverage law is but one part of the problem. Prosecution of those adults who willingly supply such minors with alcoholic beverages is an even more important aspect of the problem.
>
> "Our law enforcement agencies have found the minor to be an essential witness in any criminal or disciplinary prosecution of a licensee who may be charged with sale to a minor. It has also been our experience that when minors are prosecuted, the case the State may have against the licensee often cannot be proved. It

is readily apparent that a minor would be inhibited from testifying against the licensee if he is also under the threat of prosecution. He could properly refuse to testify by recourse to the constitutional protection against self-incrimination. This is not to state that there are not instances where the minor should be prosecuted and punished. The decision as to the best procedure to be followed, however, should be left in the hands of our enforcement officials and not predetermined by legislative fiat. The practical experience our law enforcement officials have gained through many years of enforcing this law justifies the decision to leave to the discretion of such officials the question whether prosecution of a minor is the appropriate course to follow.''

Bearing in mind the Legislature's decision to present to me for action a bill identical to the one returned by me last year, I have carefully reconsidered my views on this measure. However, I find the experience and logic which compelled me to take the action I did last year still to be valid today.

Accordingly, I am returning Assembly Bill No. 100 for reconsideration, with the recommendation that it be amended as follows:

On page 1, title, line 7, delete '', and supplementing chapter 1 of Title 33,''.

On page 2, section 2, lines 1 through 5, delete this section in its entirety.

On page 2, section 3, line 1, delete the numeral ''3'' and insert in lieu thereof the numeral ''2''.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
January 14, 1964

ASSEMBLY BILL No. 162

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 162, with my objections, for reconsideration.

Assembly Bill No. 162 would provide that where a motor vehicle is registered in the names of two married persons as husband and wife, title shall be presumed to vest in both with right of survivorship, for purposes of effectuating the transfer of record ownership to the survivor without the necessity of presenting evidence of administration of the predecedent's estate.

While I have no objection to facilitating the procedure for obtaining a revised certificate of ownership or registration certificate for a motor vehicle by a surviving spouse in cases of joint ownership, this bill, as drafted, presents certain technical problems. The references to the certificates in question do not conform with the terminology used throughout the Motor Vehicle Act and should be corrected. In addition, the title of this act should be more specific in its reference to the section of Title 39 which it is intended to supplement.

I am accordingly returning Assembly Bill No. 162 for reconsideration, with the recommendation that it be amended as follows:

On page 1, Title, line 1, delete "AN ACT concerning motor vehicles." and insert in lieu thereof "An Act concerning title to certain motor vehicles, and supplementing chapter 3 of Title 39 of the Revised Statutes."

On page 1, section 1, line 1, delete "title to" and insert in lieu thereof "that".

On page 1, section 1, line 3, delete "such registration" and insert in lieu thereof "the registration certificate".

On page 1, section 1, line 4, delete "title", and insert in lieu thereof "certificate of ownership".

On page 1, section 1, line 5, after "registration", insert "certificate".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963.

ASSEMBLY BILL No. 165

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14 (b) of the Constitution I herewith return Assembly Bill No. 165, with my objections, for reconsideration.

This bill would require a municipality to refund to the holder of a tax sale certificate any amount he paid which is "in excess of the amount paid for the redemption of the property", provided such redemption takes place within five years from the date of the sale of the tax certificate.

The absence of adequate statutory guide lines governing, at the time of redemption, the rights of a tax sale certificate holder who has paid more than the amount required to redeem was pointed out by the Supreme Court in the case of *Dvorkin v. Dover Township,* 29 N. J. 303 (1959). The present statutory provision relates only to the right of the holder of the tax certificate who has paid less for his assignment than the amount required to redeem, where redemption occurs during an action to bar the right of redemption. In such case the holder is entitled to receive, out of the money paid for the redemption, only the amount he actually paid to the municipality with interest thereon. He is prevented from reaping a profit. N. J. S. A. 54:5–114.8. The

law is silent, however, as to what should be done where the amount paid by the redeemer during the suit is less than the amount paid for the tax certificate and as to the holder's right where redemption occurs before the institution of an action to bar the right of redemption.

In the *Dvorkin* case the Supreme Court, at page 314, interpreted the law as requiring that "the bidder be made whole in event of redemption. A contrary conclusion results in a forfeiture . . ." The passage of this bill clearly indicates the Legislature's concurrence with the Supreme Court's interpretation and with the desirability of setting to rest any doubts that may still exist.

While the amendment now proposed in this bill, if read together with N. J. S. A. 54:5–114.8, might be said to embody the sense of the *Dvorkin* decision, the effect of the supplementary language contained in section 2 is to negate that decision insofar as all outstanding tax sale certificates are concerned. Furthermore, the approach suggested in the bill would not only leave in doubt, but might well considerably complicate, the situation of any holder of a tax certificate where redemption occurs before an action is instituted to bar the right of redemption. The bill would simply require the municipality to pay over to such holder any amount he paid "in excess of the amount paid for the redemption of the property". It does not, nor does any other statute, specify that under such circumstances a holder is entitled to receive the full amount paid for the tax certificate.

I suggest, therefore, that the bill be amended to clearly spell out the requirement that, in any of such situations, the municipality shall return to the holder the full amount paid for the tax certificate. Similarly, it should be made clear that the amendment here contemplated is not intended to affect the case now covered by N. J. S. A. 54:5–114.9 where, after the sale of the tax certificate, the holder buys out the interest of the person having legal title to the property. As the Supreme Court stated in the *Dvorkin* case, this provision is "necessary in order to prevent the municipality from being defrauded . . ." id. at 318.

Accordingly, I am returning Assembly Bill No. 165 for reconsideration, with the recommendation that the bill be amended as follows:

On page 1, Title, line 1, after the words "An Act to amend" delete "and supplement".

On page 1, section 1, line 7, insert before the word "Upon" the following: "Except as provided for by section 1 of chapter 45, P. L. 1950,".

On page 1, section 1, line 7, delete "Upon" and insert in lieu thereof, "upon".

On page 1, section 1, line 7, before the word "amount" insert the word "full".

On page 1, section 1, line 7, after the word "amount" delete ",".

On page 1, section 1, line 8, delete "if any,".

On page 1, section 1, lines 10 and 11, delete "in excess of the amount paid for the redemption of the property,".

On page 1, section 2, lines 1 to 4, delete this section in its entirety.

On page 1, section 3, line 1, delete this line in its entirety and insert in lieu thereof "2. This act shall take effect immediately."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL No. 209

STATEMENT

I am filing Assembly Bill No. 209 (1963) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays ex-

cepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

Assembly Bill No. 209 would amend the existing law authorizing municipalities to provide a pension to the widow or minor children of volunteer firemen who died as a result of injuries sustained in the performance of duty to increase the maximum amount which can be paid annually from $1,200 to $2,500.

The volunteer firemen of this State are indispensable to the health and welfare of our citizens in our rural and large parts of our suburban communities. If it were not for their dedicated service to their communities and their neighbors, many sections of the State would be faced with the very harsh alternatives of providing fire protection through the use of a paid regular fire department or dispensing with this essential protective service. I feel very strongly, therefore, that the municipalities which avail themselves of this voluntary and unpaid service have a decided responsibility to provide some measure of financial protection to the families of this group of dedicated men. It is, therefore, with great reluctance that I conclude that I must permit Assembly Bill No. 209 to expire without my approval. As worthy as this bill may be in purpose, it suffers from several serious defects.

Most serious is the fact that this legislation does not guarantee any certain benefits to the widow or children of a volunteer fireman who was unfortunate enough to lose his life during the performance of his duty. Existing law does not require a municipality to make any payment whatsoever to the family of such a fireman. An increase in the theoretical benefits that could be payable to a volunteer fireman's family provides no greater security to such a family. The municipality still retains the right to decide whether any amount at all should be paid. Moreover, I have been informed that several municipalities have refused to make any provision whatsoever for the surviving family, even under the limited authorization now in the law, when confronted with the death of a volunteer fireman. Considering this record, increasing the possible financial liability that can be incurred by a municipality might serve to deter even other municipalities from assuming this voluntary obligation.

Another difficulty with the bill is the provision for an annual pension in the amount of $2,500. While this sum appears to be quite modest, it exceeds by a considerable amount the pensions which are payable to many widows of full-time members of our pension systems. For example, families of members of the Consolidated Police and Firemen's Pension System, who died in the line of duty prior to June 1, 1948, are entitled to an annual pension of only $1,200. This pension was raised from $1,000 to this level in 1962. P. L. 1962, c. 40. The families of members of the Consolidated System and of the Prison Officers' Pension Fund are entitled to receive an annual survivors' pension of only $1,200 and $1,000 per year, respectively. In the Public Employees' Retirement System, to which most of the government employees of the State belong, the family of a member who has died prior to retirement is entitled only to a return of his contributions and to the proceeds of an insurance policy equal to one and one-half the member's salary. Considering the limited extent to which protection is provided to the family of full-time governmental employees, the maximum benefits contemplated by this legislation can be considered to be quite generous.

Finally, the State in recent years, has pursued a rigorous policy of eliminating unfunded pension systems. To this extent, Assembly Bill No. 209 represents a step in the wrong direction by extending the benefits payable by one of the few remaining unfunded pension programs in operation in the State.

Mindful of the public's responsibility to the families of these individuals, I am filing this message in the hope that the Legislature will give more careful consideration to providing meaningful protection for these families. It is my belief that a more appropriate approach to this problem would be through a program of mandatory insurance coverage for all members of volunteer fire companies. Such a program would remove the uncertainty that now exists under the present system whereby a municipality retains the right to determine whether it will provide any compensation whatsoever to the family of a deceased volunteer fireman. It would place this responsibility on a firm and actuarially sound basis and would distribute the cost uniformly.

I realize that this recommendation may require some municipalities to incur an additional obligation although

such an obligation would be new only in the sense that such municipalities would be legally required to do that which they are now morally obligated to undertake. If the fiscal note law is extended to local expenditures as I have suggested, it would establish the precise cost of such insurance protection. I believe that the cost of such protection would be reasonable. In any event, the cost of insurance protection would not begin to approach the cost of maintaining a full-time regular fire department in such municipalities.

If municipalities are to derive the very real financial advantages inherent in the use of volunteers, they should be willing to assume the cost of this minimal type of regular and guaranteed protection. The families of these men should not be placed in a position of pleading for benefits to which they should be entitled.

Considering the importance of the service performed by our volunteer firemen, I cannot urge the Legislature too strongly to consider the adoption of a mandatory program of insurance protection for the families of volunteer firemen.

/s/ RICHARD J. HUGHES,
Governor.

Dated: March 6, 1964

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963.

ASSEMBLY BILL No. 211

To the General Assembly:

I herewith return Assembly Bill No. 211, without my approval, for the following reasons:

This bill permits veteran members of the Public Employees' Retirement System to purchase prior service credit for such time as the member was engaged in "creditable public service or military service."

Under the present law, veteran members receive free credit for time spent in military service provided the member was in public service in this State prior to such service.

Veteran members also receive free credit for all public employment within this State prior to joining the pension system. This bill raises the question whether the veteran members are now to be permitted to buy credit for such public service as to which they have already received free credit.

Also ambiguous is what is meant by the term "creditable public service." No attempt at definition of this term is made in the bill. Is it to be limited to public service within this State, or does it also include service for any public body —whether other state, federal or perhaps even foreign? If the term is used in its broadest sense, it will extend a privilege to former public servants from outside this State which, in the vast majority of cases, is not extended to our employees who may seek further public employment outside of New Jersey.

In addition, the bill places no limit on the amount of service credit which can be purchased. Thus, it would permit a veteran member, having a minimum amount of service in this State, to retire on a State-supported pension based almost entirely on public service credits earned elsewhere. In point of fact, there is nothing in the bill to prohibit such an individual, already receiving a pension from another public body, from buying service credit in the Public Employees' Retirement System for the time on which that pension is based, with contributions by his current employer, so that he might thereafter receive two pensions.

The bill also involves significant cost factors. It provides that the purchase price for such prior service credit shall be based on the employee's current salary, leaving to the present or future employer the further financial burden that will undoubtedly result from the fact that the amount of pension to be paid will be based on salary at the time of retirement. In addition, it places liability for the employer's share of the cost of such prior service credit on the present employer. The extent of this potential liability cannot be effectively estimated, however it is clear the bill would be costly. The imposition of this financial burden is in conflict with the traditional purpose of employer contributions to the pension system, for these are intended as a form of additional compensation to public servants in recognition of long and faithful service to this State.

If the Legislature now intends to embark upon a new course involving recognition of and reward for public

service rendered elsewhere, it should do so only after full and careful consideration of the questions here raised.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963.

ASSEMBLY BILL No. 214

To the General Assembly:

I herewith return Assembly Bill No. 214, without my approval, for the following reasons:

This bill would increase to "not less than $300.00 nor more than $1,000.00" the present compensation range for members of municipal councils in municipalities having less than 5,000 inhabitants which are located in counties of the first class. According to the statement it carries, this is the only change contemplated and made by the bill.

I have no fundamental disagreement with this purpose. The compensation range which would here be raised was established sometime ago and revision seems appropriate to reflect current standards and circumstances. In point of fact, I approved last year another amendment of this same section which increased the salary range for certain other municipal councilmen.

It appears, however, that the draftsmen made an error in preparing this legislation. As now written, the bill might well be interpreted as eliminating the present statutory ranges for all municipalities having populations in excess of 5,000 inhabitants which are located in counties of the first class.

Since there is no way to determine whether this elimination was approved by the Legislature with some particular

design in mind, I feel obliged to return this bill without my approval for further consideration.

In the preparation of any future legislation in this area, I would also suggest that a complete review of all salary ranges specified in the section be undertaken. Such further revision as is needed might then be made at one time in a consistent, instead of piecemeal, manner.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
May 6, 1963.

ASSEMBLY BILL No. 285

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 285, with my objections, for reconsideration.

This bill was introduced to provide clearly that the statutory width limitation on commercial motor vehicles contained in R. S. 39:3–83 and 39:3–84 applies to the dimensions of the load as well as to the vehicle itself. The need for this clarification arose when the Superior Court recently ruled that the present limitation applied only to the dimensions of the vehicle itself, *State v. Patfol, Inc.*, 76 N. J. Super. 287 (App. Div. 1962) reargument denied 76 N. J. Super. 572 (App. Div. 1962). It also provides that the dimensions of the safety equipment, which are not included in measuring the width of the vehicle for the purpose of these sections, shall be regulated by the Director of Motor Vehicles. I am in complete agreement with the intent of these amendments.

After the bill was introduced, however, it was amended to permit the use of any size truck tractor where the length

of the semitrailer does not exceed 40 feet in length. This would permit an exception to the present 50 foot limitation on the length on the truck tracker and semitrailer combination.

Until recently there was a 35-foot limitation on the length of semitrailers. The Legislature was persuaded to delete this so that the trucking industry could use longer semitrailers with modern shorter truck tractors and still be within the over-all 50 foot limitation. The purpose of this amendment is to permit those companies still utilizing older model truck tractors to benefit by the deletion of the 35-foot limitation on the length of semitrailers.

Although I can understand the desire of these companies to use longer trailers in order to remain in competition I cannot approve of such an unlimited exception. Pursuant to this amendment, certain tractor and semitrailer combinations could be as long as 58½ feet. I would, therefore, recommend that such a combination be permitted provided that the over-all length does not exceed 53 feet. I have been informed that such an exception would not endanger our roads or create a traffic hazard and would in most cases meet the needs of the proponents of this amendment. I also recommend that the bill be amended to clarify the right of the director to charge a fee for a special permit.

Accordingly, I am returning Assembly Bill No. 285 for reconsideration, with the recommendation that it be amended as follows:

On page 2, section 1, line 35, after the words "from the director." insert the following sentence "The application for such permit shall be accompanied by a fee fixed by the director."

On page 3, section 2, line 10, after the words "from the director." insert the following sentence "The application for such permit shall be accompanied by a fee fixed by the director."

On page 4, section 2, line 50B, after the word "length" delete "." and insert ",".

On page 4, section 2, line 50C and 50D, delete "Use and operation of a semitrailer which exceeds 40 feet in length is authorized".

On page 4, section 2, line 50E, delete the "50" and insert "53".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
May 6, 1963.

ASSEMBLY BILL No. 289

To the General Assembly:

I herewith return Assembly Bill No. 289, without my approval, for the following reasons:

This bill would amend the 1941 statute commonly referred to as the Rabies Control Act, which provides for the canvassing, registration and control of dogs, to delete any specific reference to the "chief of police of each municipality, or the chairman of the police committee thereof" as the person to whom the responsibility for conducting the annual canvass of dogs and other dog control procedures shall be assigned. It would provide that such responsibilities shall be assigned to "any person appointed for the purpose by the governing body of the municipality."

Initially, it should be noted that the present law does authorize the governing body of a municipality to appoint, in preference to the named police officials, any other person such a body may prefer. To this extent, the bill serves no useful purpose whatsoever. By deleting all reference to police officials, however, the bill apparently seeks to encourage the vesting of responsibilities with persons other than our law enforcement officials. I cannot conclude this would be a desirable result.

The State Department of Health has informed me that the law enforcement agencies in this State are now best

equipped, empowered and trained to handle the canvassing, registration and control requirements of the Rabies Control Act. The present system has worked so satisfactorily that there have been no reported rabies cases in humans in this State for more than 10 years. This record certainly justifies continuation of the responsibility for rabies control in the hands of law enforcement officials. This is especially true since any municipality which has available to it trained personnel better equipped to carry out this program than law enforcement officials now can assign such persons the responsibility for administering its local program.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
May 6, 1963.

ASSEMBLY BILL NO. 291

To the General Assembly:

I herewith return Assembly Bill No. 291, without my approval, for the following reasons:

Assembly Bill No. 291 is a special bill to authorize the Borough of Belmar to lease to private interests for a period not in excess of 99 years approximately 9 acres of beach and ocean frontage upon which there could be constructed a "motel, hotel, apartment hotel, apartment building, or a restaurant building". A map of this property reveals that the entire parcel of beach from the Belmar Fishing Club to the Shark River Inlet jetty would be made available for exclusive private use. The proposed structure could extend from Ocean Avenue to the Riparian Commissioner's exterior line, a point several hundreds of feet beyond the high-water line.

The officials of this municipality have sought approval for such a long term lease because the beach area in ques-

tion is unsuitable for bathing. They have concluded the economic interests of their community can best be served by converting this area of unobstructed beach property to a commercial use. I certainly respect the sincere desire of these officials to see their community grow and thrive. I cannot, however, agree with their conclusion that the interests of the municipality specifically and the State in general would best be served by the destruction of such a beachfront area.

The Borough of Belmar is one of this State's many outstanding ocean front communities. At the present time, with the exception of several fishing piers, the entire beachfront of this area is available to the general public. No significant obstruction has been erected between the boardwalk, which traverses the length of the community, and that great natural asset of this State, the Atlantic Ocean. Indeed, this unobstructed view of the ocean is probably the finest asset of the community.

The value to the community and to the State of an ocean front readily available to everyone and unencumbered by intervening structures cannot be estimated, but it is high. The necessity to preserve natural areas and scenic vistas has been recognized in this State through the creation of the Natural Areas Council and the adoption of Green Acres programs.

The State in recent years has adhered to a policy of opposing any legislation which would permit the conversion of our public beaches to private use. See Veto of Senate Bill No. 207 (1957). Shore front municipalities which have sought the right to lease public lands for long term periods have been required to preserve the beachfront areas for the use of the general public. C. 115, P. L. 1960; C. 12, P. L. 1963. I believe this to be a wise policy.

If the local officials can devise plans which would permit the use of a portion of the property in question while still preserving the public's right of access to the Ocean, I would give such plans full consideration. The authorization set forth in Assembly Bill No. 291, however, is much too broad.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963.

ASSEMBLY BILL No. 311

To the General Assembly:

I herewith return Assembly Bill No. 311, without my approval, for the following reasons:

Assembly Bill No. 311 would authorize the appointment of a special administrator to receive process in litigation against the estate of a resident motorist who became nonresident after his involvement in an accident on the highways of this State and thereafter died.

Together with a companion bill, Assembly Bill No. 307, this legislation was inspired by the case of *In re Estate of Gardinier,* 74 N. J. Super. 217 (App. Div. 1962), where the Court discerned an implicit legislative policy of excluding the estates of such deceased motorists from liability to substituted service. The policy was inferred from a comparison between two closely related sections of the Motor Vehicle Act. It was pointed out that R. S. 39:7–2 authorizes substituted service upon the personal representative of a deceased nonresident motorist by serving the Director of the Division of Motor Vehicles, while N. J. S. A. 39:7–2.1 contains no comparable provision for substituted service upon the representative of a resident motorist who died nonresident after the accident. The silence of the latter section in this respect led the Court to conclude that the Legislature intended to restrict the scope of *in personam* jurisdiction to situations concerning deceased motorists who were nonresident at the time of the accident.

On June 3, 1963, after the passage of Assembly Bills Nos. 307 and 311, the Supreme Court reversed the judgment of the Appellate Division, holding that the legislative silence did not bespeak the positive policy determination found by that Court. 40 *N. J.* 216. The action of the Court, however, did not completely obviate the need for legislation to cure the unwarranted discrepancy between these two classes of deceased motorists. The ultimate result of *Gardinier* was

only to permit administration under N. J. S. 3A:6–10, which requires the existence within the State of "property" of the decedent. Thus as the law now stands, the estate of a deceased nonresident motorist can be reached in all events by substituted service under R. S. 39:7–2, while the estate of a resident motorist who died nonresident remains beyond reach unless there are assets here. I thoroughly agree that there should be no distinction in this area based upon "the irrelevant fact that one deceased was a resident at the time of the mishap while the other was not." *In re Estate of Gardinier, supra* (40 N. J. at 267).

For this reason, I have today signed Assembly Bill No. 307, which rectifies this situation by authorizing substituted service through the Director of the Division of Motor Vehicles in the case of a resident motorist who died nonresident, in the same manner now provided for substituted service upon the personal representative of a deceased nonresident motorist. Having done so, I see no necessity for the enactment of Assembly Bill No. 311, which is intended to provide the same remedy through the more cumbersome device of securing court appointment of a special administrator. It has not been suggested that special administration is required where the deceased motorist did not reside in the State at the time of the accident. To authorize such administration in a case where the decedent was a resident when the accident happened would only perpetuate the meaningless distinction which Assembly Bill No. 311, according to its statement, is intended to eliminate.

Accordingly, I am returning Assembly Bill No. 311 without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
May 6, 1963.

ASSEMBLY BILL No. 344

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 344, with my objections, for reconsideration.

Assembly Bill No. 344, in part, provides that all "public records shall be readily accessible for examination by the citizens of this State, with certain exceptions, for the protection of the public interest" and further provides that such records may be copied by hand.

I am in full agreement with this aspect of the bill. Any member of the general public should have the unobstructed opportunity to review the public records that are kept and maintained by our State and local governments unless the disclosure of such documents should impair the ability of the State to operate or expose to needless scrutiny confidential information about our citizens such as that contained in tax returns and similar reports.

There is, however, an aspect of this bill that requires clarification. Assembly Bill No. 344 provides that any person can photocopy, with his own equipment, any or all of the public records of government unless the custodian shall find that there is a risk of damage or mutilation of such records in which case copies must be made and supplied to such person at the rate of $0.50 per page with a lower rate for quantity purchases. This places on the custodian the unreasonable burden of accommodating as many persons and their equipment as may wish to reproduce public records unless he can sustain a finding that such equipment constitutes a risk to such documents. In addition, it would encourage commercial enterprises to reproduce governmental material and information in wholesale quantities because of the low cost involved. Much of this data undoubtedly would have been obtained at great cost to the governmental agency involved. It is not necessary to the stated public purposes of this bill to so disregard the rights and responsibilities of governmental officials.

I have returned this bill to the Legislature today in the hope that it can be reconsidered before the spring recess. The general purpose of this legislation deserves the full support of everyone.

For this reason, I herewith return Assembly Bill No. 344 for reconsideration, with the recommendation that it be amended as follows:

On page 2, section 2, line 16, delete "or, if approved by the custodian, by a".

On page 2, section 2, lines 17 through 30, delete these lines in their entirety and insert in lieu thereof:
"and shall also have the right to purchase copies of such records. Copies of records shall be made available upon the payment of such price as shall be established by law. If a price has not been established by law for copies of any records, the custodian of such records shall make and supply copies of such records upon the payment of the following fees which shall be based upon the total number of pages or parts thereof to be purchased without regard to the number of records being copied:

First page to tenth page	$0.50 per page,
Eleventh page to twentieth page..	0.25 per page,
All pages over 20	0.10 per page.

"If the custodian of any such records shall find that there is no risk of damage or mutilation of such records and that it would not be incompatible with the economic and efficient operation of the office and the transaction of public business therein, he may permit any citizen who is seeking to copy more than 100 pages of records to use his own photographic process, approved by the custodian, upon the payment of a reasonable fee, considering the equipment and the time involved, to be fixed by the custodian of not less than $5.00 or more than $25.00 per day."

On page 3, section 5, line 1, delete "immediately" and insert in lieu thereof "30 days following the date of approval".

Respectfully,

[SEAL] RICHARD J. HUGHES,

Governor.

Attest:

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963.

ASSEMBLY BILL No. 375

To the General Assembly:

I herewith return Assembly Bill No. 375, without my approval, for the following reasons:

This bill would authorize judges of the Juvenile and Domestic Relations Court, at their discretion, to hold to bail juveniles charged with juvenile delinquency offenses.

The Legislature, at the time it established the Juvenile and Domestic Relations Court, felt it was important to clearly set out its intent as follows:

> "It is hereby declared to be a principle governing the law of this state that children under the jurisdiction of said court are wards of the state, subject to the discipline and entitled to the protection of the state, which may intervene to safeguard them from neglect or injury and to enforce the legal obligations due to them and from them." N. J. S. 2A:4–2.

Since its conception, this Court has striven to correct and rehabilitate youthful offenders rather than to exact retribution. In the case of *In Re El.* 26 N. J. Misc. 285, 288 (Cty. Ct. of Qu. Sess. 1948), the Court ably summarized this Court's duty as "the protection of pliant youth against demoralizing reproach as a consequence of infraction. Its major care is for the quality of the judicial and corrective environment in which youth is to be placed when its delinquency necessitates the public processes of inquiry and discipline."

Therefore, the procedure established for this Court is one in which the juvenile delinquent is not treated as a criminal but rather as a "ward of the state."

The effect of this bill would be to introduce for the first time the concept of "bail" in cases dealing with youthful offenders. There is little doubt that bail is so associated with crime and criminal procedure, and so foreign to the

parens patriae philosophy of the juvenile and domestic relations court law, as to defeat at least in part the objectives sought in establishment of a separate court to handle juvenile offenders.

The decision whether to hold a child in detention or to release him should not depend on the availability of a bail bond. It should depend on the consideration of such factors as whether proper care, control or supervision would be afforded the child if released to his parents pending hearing, whether there is a strong likelihood of the child running away or committing an offense dangerous to himself or the community pending hearing, and whether psychiatric or other studies are required pending hearing for the best interests of the child.

Moreover, I have seen no evidence to substantiate a need for this type of legislation. Under the present law, the judge of the Juvenile and Domestic Relations Court is authorized at his discretion to release a juvenile to the "custody of a parent, guardian or custodian, or of a probation officer or other person appointed by the court," N. J. S. 2A:4–32. Furthermore, the officer who takes a youthful offender under the age of sixteen into custody shall, unless impractical or otherwise ordered by the Juvenile and Domestic Relations Court, release the child upon the promise of the parent, guardian or custodian to be responsible for the appearance of the child in Court at the time fixed, *Id.*

It is my opinion that not only is the present procedure adequate but in fact preferable to that which would be established by this bill. Presently, the judge, in determining whether the youthful offender is to be released, can take into consideration the needs of the juvenile as well as the competency of the person who will receive custody. The use of the bail procedure, on the other hand, would result in the question of release being partly dependent upon the financial ability to post bail.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 9, 1963.

ASSEMBLY BILL No. 464

To the General Assembly:

I herewith return Assembly Bill No. 464, without my approval, for the following reasons:

This bill would broaden the definition of "veteran" which is contained in the Teachers' Pension and Annuity Fund—Social Security Integration Act (P. L. 1955, c. 37) by extending the terminal date for World War II service to December 31, 1946. At present, veteran status and the special treatment accruing therefrom is limited in both the Teachers' Fund and the Public Employees' Retirement System to persons with at least 90 days active service in the Armed Forces of the United States, between September 16, 1940 and September 2, 1945, or of her allies, between September 1, 1939 and September 2, 1945.

It has been estimated that some 300 members of the Teachers' Fund would derive veteran status from enactment of this legislation. As such, they would be entitled to the immediate return of all contributions made to the pension fund prior to January 1, 1955 and would, in addition, benefit from the advantageous computation of retirement allowances for veterans. The bill provides for funding, by the State and the employing school boards, of the liability created by this veterans credit over the remaining period of the 30-year amortization of the liability established in 1957. Previous bills for this purpose have carried statements indicating an estimated cost to the taxpayers, at one level of government or another, of $140,000.00 a year, or $4.2 million in total, in the form of public contributions to the teachers' pension system.

Similar legislation was disapproved by my predecessor on two different occasions. I find the reasons advanced by Governor Meyner in his veto messages relative to Assembly Bill No. 231 of 1957 and Assembly Bill No. 169 of 1961 equally compelling today.

Additionally, it must be noted that the Legislature only recently (Laws 1963, Ch. 120) restricted the definition of veteran by imposing a cut-off date of July 27, 1953 with respect to qualifying service during the Korean emergency. In view of this, extension of the terminal date for World War II service does not appear appropriate or consistent. For nearly 20 years, the Teachers' Fund and the Public Employees' Retirement System, as well as Civil Service preferences (R. S. 11:27–1) and local tax exemption provisions (P. L. 1951, c. 184), have been operated effectively by reference to a cut-off date of September 2, 1945. There appears to be no compelling reason why there must or should be an extension of this period at this late date.

For these reasons, I am returning Assembly Bill No. 464 without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
Acting Secretary to the Governor.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL NO. 637

STATEMENT

I am filing Assembly Bill No. 637 (1963) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill would validate a final decree of the former Court of Chancery foreclosing a tax sales certificate in an action

which was commenced by a complainant who was a tenant in common with one or more of the defendants in the action.

It is a well-established principle of the common law in this State that a tenant in common who acquires a tax title holds it in part on behalf of his co-tenants subject to his right to be reimbursed by them, *Roll v. Everett,* 73 N. J. Eq. 697 (E. & A. 1908). The bases of this rule were outlined by the court in the *Roll* case:

> "The principle is in some of the cases put upon the ground of a confidential relationship between the tenants in common . . . Other cases rest the doctrine upon the principle that one cannot be allowed to acquire a right by his own default . . . Other cases seem to rest the doctrine upon the view that one who has title to land cannot acquire a superior title by means of a tax deed." (Pg. 697).

By any of these standards, the result intended in this legislation would directly conflict with this basic legal doctrine.

A co-tenant who, in reliance on existing law, may have assumed that his co-tenant's foreclosure of the tax sales certificate was also on his behalf should not have his equitable interest cut off by legislation of this character. Besides the apparent inequities of this result, there is a strong argument that this bill would violate the constitutional guarantees concerning rights in property, Art. I, Sec. I.

For these reasons I feel obligated to file this bill without my approval.

/s/ RICHARD J. HUGHES,
Governor.

Dated: March 6, 1964

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL No. 734

STATEMENT

I am filing Assembly Bill No. 734 (1963) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

The bill provides that a person who has been charged with a criminal offense shall, if acquitted, be entitled to receive upon demand, from the appropriate police official, all duplicates and copies of such photographs and fingerprints as were taken or made of him while the criminal action or proceeding was pending, unless additional criminal charges are outstanding against him or he has had a prior conviction in this or any other state.

The practice of retention by police enforcement agencies of fingerprints and photographs in cases of acquittal has been the subject of much contradictory comment. The Appellate Division of the Superior Court, in a case instituted to compel return of copies of fingerprints and photographs, reviewed our practice as well as the statutory and common law of New Jersey and some of her sister states. *Roesch v. Ferber,* 48 N. J. Super. 231 (App. Div. 1957). Judge Goldmann, speaking for the court, concluded:

> "The weight of authority supports the resting of discretion in the police authorities as to whether identification records should be returned or not. The law reviews, in balancing the interest of the public against the rights of the individual, also support the weighting of the scales in favor of the public insofar as the retention of fingerprint and photograph records are concerned. This is qualified by the general view that each

> case should be decided on its own facts, for it is conceivable that a case justifying relief might arise. . . We have seen that courts recognize that situations may possibly arise where equitable relief such as that sought here may be warranted. However, the equities must be strongly in favor of the complainant for this court to interfere with the valid administrative procedures of our law enforcement agencies." *Roesch v. Ferber,* Id. at pp. 249-50.

The effect of this bill would be to take this discretionary right away from the police officials and require that they honor all demands for the return of fingerprints and photographs under the circumstances above outlined. It would, if widely used, deprive our law enforcement officials of records which are a vital part of criminal detection and investigation and ofttimes most helpful in noncriminal matters involving identification and security.

Such a result would be justifiable only if the retention of copies of fingerprints and photographs could at some time cause substantial injury to the person. This is not generally true. Fingerprinting, now required in numerous branches of military, business, and civil service, has lost any stigma which in the past may have been associated with it. And, in any event, the mandatory return of this material would not be equivalent to expunction of the arrest record.

It is significant that although several actions for return of fingerprints and photographs have been instituted in this State over the years, the courts have yet to find in any case that a real injury to the person would result from such retention. If such a case does arise, appropriate relief can readily be made available.

/s/ RICHARD J. HUGHES,
Governor.

Dated: March 6, 1964.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL No. 739

STATEMENT

I am filing Assembly Bill No. 739 (1963) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

Assembly Bill No. 739 was passed by the Legislature in late May, 1963. It is being filed without my approval nearly 10 months later. Because most people have little concept of the problems that arise in reviewing even relatively simple legislation, I have decided to set forth at length the circumstances concerning my consideration of this bill. In many respects the difficulties and delays encountered during the examination of this bill are typical of the problems encountered in reviewing many of the more than 200 proposals which are processed each year by my office. I wish to stress, therefore, that this bill has been selected only because of its representative nature. No particular criticism of the sponsor or the proponents of this measure is intended or implied.

On the surface, Assembly Bill No. 739 appears to be quite simple. Section 1 of the act establishes, by metes and bounds description, the boundary line between the Borough of Wildwood Crest and the Township of Lower in Cape May County. Some indication of the peculiar nature of the bill, however, can be found in section 2 which provides:

> "Nothing contained in this supplemental act shall be deemed to supersede any law enacted subsequent to April 6, 1910."

The confusion is further compounded by section 3 of the bill which states:

"The provisions of this supplemental act shall be retroactive to April 6, 1910."

Shortly after the passage of the bill several letters were received from the Borough of Wildwood Crest requesting its approval since the bill would "correct" an error in the boundary line which apparently occurred in 1935. In an effort to determine what specific effect the bill would have upon the municipality's boundary line, in early June my office requested the Borough of Wildwood Crest to supply a map setting forth the existing boundaries and the changes proposed by the bill.

In late June and early July, several letters were received from the sponsor of the bill and the solicitor of the Borough which indicated that Assembly Bill No. 739 was not intended to alter the existing boundary line which had been established in 1942 by P. L. 1942, Chapter 345. The intention of the bill was to alter the boundary line which had been established by P. L. 1910, Chapter 96, which line had remained in effect until superseded by the 1942 act. According to the proponents, the bill was intended to establish that the boundary line for the municipality between the period from 1910 to 1942 was that specified in Assembly Bill No. 739, rather than the line established by the 1910 act. This retroactive reconsideration of boundaries was being suggested by some local title companies which had questioned a number of local real property titles based upon municipal tax foreclosures and sales conducted during the 1910 to 1942 period. Apparently, a problem had been created because a municipal engineer, after the passage of the 1910 act, had incorrectly plotted the boundary line and the municipality had thereafter treated it as the proper boundary line. Assembly Bill No. 739 sought legislatively to adopt retroactively this incorrect boundary line.

Since the map submitted in early July did not set forth the specific boundary line established by Assembly Bill No. 739, my office, on July 15, 1963, requested a map with that line set forth thereon. In August, 1963, the requested information was provided.

With this material in hand, the bill was carefully reviewed. Intensive study of the problem failed to indicate any precedent whatsoever for this novel method of validating the titles which had been based upon these municipal tax foreclosure proceedings. In my judgment, it was questionable whether such difficulties in the tax title could be

validated by a retroactive change in the boundary line. In addition, this bill was troublesome because it did not specifically provide that the proposed boundary line was to have no present effect whatsoever. Indeed, the bill had already caused much confusion as to what the municipality's boundary line would be in the future.

Because of these reservations, the Borough was contacted on September 13 and informed of the problems perceived. The Borough was further informed that since this was primarily a local matter, I would agree to approve the legislation if, after a reconsideration of the problem, the municipalities involved indicated they were willing to assume the risks inherent in the bill. A copy of this letter was sent to the Clerk of Lower Township.

On September 17 the municipal attorney for the Township of Lower contacted my office stating that the Township had no knowledge of this matter and requesting five copies of the bill for presentation to the Township Committee.

On September 26, the Lower Township attorney again contacted my office requesting me to defer any action on this bill until a further investigation could be made. In his words: "Although the passage of this bill will validate title to certain lands in the Borough of Wildwood Crest, there is a strong possibility that it will simultaneously invalidate title to an equal quantity of land in the Township . . ." In deference to the Township's request, I delayed action.

No further word was received from any of the interested parties until January, 1964. On January 23, 1964, the newly appointed attorney for the Township wrote my office and stated that the Township was opposed to the approval of this legislation because of the adverse effect it could have on the title to the property located in the Township.

Since this final statement of position was received after the adjournment sine die of the 1963 Legislature, it was not possible for me to return this bill with a message to the Legislature. It is for this reason that it is being filed without my approval but with this statement of explanation.

My office has been in consultation with the sponsor of the bill with a view to developing legislation to remedy the title problem of the Borough of Wildwood Crest without

jeopardizing any of the rights of the landowners in the adjoining municipality. I am hopeful that an appropriate validating act will be developed in time for consideration by this Legislature.

/s/ RICHARD J. HUGHES,
Governor.

Dated: March 6, 1964

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