

SENATE BILL NO. 3389
(Second Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 3389 (Second Reprint) with my recommendations for reconsideration.

This bill creates certain requirements concerning railroad safety. Under the bill, absent limited exceptions, railroad companies that own or operate trains transporting hazardous substances would be required to have a minimum of two crew members on those trains. The bill also limits those companies' train lengths to 8,500 feet and imposes penalties for each day a train is in operation exceeding that length. The bill further requires the railroad companies to submit bridge inspection reports for New Jersey bridges it has generated pursuant to the federal "Fixing America's Surface Transportation Act" Pub. L. 114-94 to the Commissioner of Transportation ("Commissioner"), the Governor, and the Legislature.

The bill also requires the Department of Transportation ("DOT") to establish a wayside detector system program in which it works with railroad companies that operate dangerous hazardous trains in the State to ensure that wayside detector systems are appropriately located, installed, and maintained along railroad tracks and that proper training materials are used concerning the use of those systems. The bill further instructs the DOT to create a funding assistance program to support railroad companies' compliance with those wayside detector system requirements.

Additionally, the bill empowers a representative designated by a non-profit labor organization to inspect railroad property for safety hazards as defined by federal and State regulations. It further permits a representative of the DOT to inspect a railroad company's equipment, facilities, rolling stock,

operations and relevant records. Finally, the bill requires the DOT to promulgate rules and regulations to effectuate the purposes of the bill.

I commend the sponsors' efforts to increase the safety of the trains and railways operating in New Jersey. While I support the goals of this legislation, I have concerns regarding the collateral effects of some of its requirements. I am concerned that the bill does not account for the economic implications that train length limitations would impose on our ports and rail systems. The train length limitation could greatly increase the costs of moving cargo out of New Jersey ports and push a business to other nearby ports in states without those limitations. It could also incentivize shifting cargo transportation from railways to ground transportation, further stressing our roadway infrastructure and increasing gas emissions. Therefore, I believe the limitation is premature and further study is needed to assess the overall economic cost of the limitation and the safety improvements it will create.

I am also concerned that the requirement to submit bridge safety reports to the Commissioner, the Governor and the Legislature could subject those reports, which may contain sensitive technical information about important infrastructure vulnerabilities, to disclosure under the Open Public Records Act.

I am therefore recommending that the train length limitations be removed from the bill at this time, and that bridge safety reports be expressly exempt from the Open Public Records Act. I am also proposing language to place reasonable limitations on the notice and rescheduling provisions concerning safety hazard inspections. Finally, I have revised the effective date of the bill to one year from the date of enactment to ensure that the DOT

has adequate time to carry out their new responsibilities under the bill. Accordingly, I am proposing revisions to other deadlines to account for that extension.

Therefore, I herewith return Senate Bill No. 3389 (Second Reprint) and recommend that it be amended as follows:

<u>Page 4, Section 1, Line 39:</u>	Delete "6" and insert "5"
<u>Page 5, Section 3, Lines 46-47:</u>	Delete in their entirety
<u>Page 6, Section 3, Lines 1-34:</u>	Delete in their entirety
<u>Page 6, Section 4, Line 36:</u>	Delete in its entirety
<u>Page 6, Section 4, Lines 37:</u>	Delete "(pending before the Legislature as this bill), the" and insert "3. The"
<u>Page 7, Section 5, Line 1:</u>	Delete "5." and insert "4."
<u>Page 7, Section 5, Line 4:</u>	After "Pub.L.114-94" insert "that is submitted to the Federal Railroad Administration"
<u>Page 7, Section 5, Line 9:</u>	After "inspection" insert "or pursuant to such schedule as provided in rules and regulations adopted by the Commissioner of Transportation pursuant to this act. Notwithstanding any other law, rule or regulation to the contrary, the bridge inspection report shall not be subject to public disclosure pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the open public records act"
<u>Page 9, Section 6, Line 4:</u>	Delete "6." and insert "5."
<u>Page 11, Section 7, Line 14:</u>	Delete "7." and insert "6."
<u>Page 11, Section 7, Line 31:</u>	After "railroad" insert "upon reasonable notice to the railroad company, which shall be at least two days but need not be greater than five days,"
<u>Page 11, Section 7, Lines 37-41:</u>	Delete in their entirety
<u>Page 11, Section 7, Line 42:</u>	Delete "conditions. However,"
<u>Page 11, Section 7, Line 46:</u>	After "date" insert "within a reasonable period of time thereafter which shall be no later than five days following the entry date included in such request"

Page 13, Section 8, Line 19: Delete "8." and insert "7."

Page 13, Section 8, Line 24: Delete "18 months" and insert "one year"

Page 13, Section 8, Lines 26-30: Delete in their entirety

Page 13, Section 8, Line 31: Delete "c." and insert "b."

Page 13, Section 8, Line 42: Delete "d." and insert "c."

Page 14, Section 9, Line 4: Delete "9." and insert "8."

Page 14, Section 10, Line 13: Delete "10." and insert "9."

Page 14, Section 10, Line 13: Delete "immediately" and insert "on the 365th day next following the date of enactment, except that the Department of Transportation may take such administrative actions prior thereto as may be necessary to effectuate the provisions of this act"

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Kate E. McDonnell

Chief Counsel to the Governor