

R19-66
**RESOLUTION OF THE BOROUGH OF
MERCHANTVILLE, COUNTY OF CAMDEN AND STATE
OF NEW JERSEY AUTHORIZING SUPPORTING A-5450,
WHICH, IF ENACTED, WOULD ELIMINATE REGIONAL
CONTRIBUTION AGREEMENTS AS A TOOL TO
FACILITATE MUNICIPAL COMPLIANCE WITH MOUNT
LAUREL**

WHEREAS, in 1997, through the enactment of P.L.1997, c.162 (C.54:10A-3 et al.), the Legislature approved an amendment to R.S.54:4-1 concerning the taxation of business personal property, including the property of local exchange telephone companies; and

WHEREAS, prior to the amendment of that statute, local exchange telephone companies were obligated to pay business personal property taxes on the tangible goods and chattels, exclusive of inventories, used in the business of local exchange telephone, telegraph, and messenger systems, companies, corporations, and associations if they were subject to the gross receipts and franchise tax under P.L.1940, c.4 (C.54:30A-16 et seq.) and provided access to “substantially all” of a local telephone exchange. P.L.1997, c.162 (C.54:10A-3 et al.) amended; and

WHEREAS, the definition of “local exchange telephone companies” in R.S.54:4-1 to require that such a company would be subject to business personal property tax if it were subject to the gross receipts and franchise tax under P.L.1940, c.4 (C.54:30A-16 et seq.), as of April 1, 1997, and provided dial tone and access to 51 percent of a local telephone exchange as of April 1, 1997.

WHEREAS, the intended effect of this requirement was to enshrine, in perpetuity, the business personal property of telecommunications companies into the property tax base of the municipalities wherein this business personal property was located, in order to stabilize the municipal property tax base for those municipalities and provide certainty for local budgeting purposes; and

WHEREAS, the Tax Court in Verizon New Jersey Inc. v. Borough of Hopewell, 26 N.J. Tax 400 (Tax Ct. 2012), incorrectly construed the statutory changes made in P.L.1997, c.162 (C.54:10A-3 et al.) to mean that the language of R.S.54:4-1 required that a telecommunications company has to meet the 51 percent test every year as of the assessment date in order for the business personal property tax to be assessed and levied by the municipality in which the business personal property was located; and

WHEREAS, the municipalities in the State in which the business personal property of telecommunications companies is located will face the costs and uncertainty of litigating tax appeals as well. The taxpayers of these municipalities will bear the burden of paying legal fees to defend the assessment of business personal property taxes, and will have to endure increased property tax burdens if this business personal property tax cannot be imposed. This taxpayer burden is not what the Legislature intended.

WHEREAS, the Legislature has determined that corrective legislation clarifying the Legislature's intent in 1997 to stabilize the taxation of business personal property in perpetuity is necessary and appropriate, and shall be accomplished by establishing in R.S.54:4-1 the responsibility of a telecommunications carrier which held the regional monopoly on landline service before the market was opened to competitive local exchange carriers by the federal Telecommunications Act of 1996, or the corporate successors of such a local exchange telephone company, to pay business personal property taxes to the municipalities in which the property is located; and

WHEREAS, for the reasons set forth above and other reasons, it is in the best interest of the State, the region and our community that A-5450 be enacted.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Merchantville, County of Camden, State of New Jersey, as follows:

1. The Borough of Merchantville declares that A-5450 is in the best interest of our State, our region, and our community.
2. The Borough of Merchantville vigorously supports A-5450, attached hereto.
3. The Borough Clerk is hereby directed to submit copies this Resolution to Assemblyman Louis Greenwald, Assemblywoman Pamela Lampitt, Assemblywoman Patricia Egan Jones, Assemblyman William W. Spearman, Assemblyman Paul D. Moriarty, Assemblywoman Gabriela M. Mosquera, Assemblyman John J. Burzichelli and Assemblyman Adam J. Taliaferro to inform the Senate and the Assembly of our strong views on this bill and to urge them to support it.

THE BOROUGH OF MERCHANTVILLE

BY: _____
EDWARD F. BRENNAN, MAYOR

ATTEST:

DENISE BROUSE, BOROUGH CLERK

I, **DENISE BROUSE**, Borough Clerk of the Borough of Merchantville, do hereby certify the foregoing to be a true and correct copy of the Resolution adopted by Borough Council at a meeting of said Borough Council on June 10, 2019, and that said Resolution passed by a majority vote of the members of Borough Council.

DENISE BROUSE, BOROUGH CLERK