

[First Reprint]

ASSEMBLY, No. 3506

STATE OF NEW JERSEY

216th LEGISLATURE

INTRODUCED JULY 11, 2014

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SYNOPSIS

Directs Governor to withdraw from compact establishing Waterfront Commission of New York Harbor; dissolves compact and commission; transfers commission's NJ operations to State Police.

CURRENT VERSION OF TEXT

As reported by the Assembly Law and Public Safety Committee on October 23, 2014, with amendments.

(Sponsorship Updated As Of: 10/17/2014)

1 AN ACT directing the Governor, on behalf of the State of New
2 Jersey, to notify the Congress of the United States, the Governor
3 of the State of New York, and the Waterfront Commission of
4 New York Harbor, of the State of New Jersey's intention to
5 withdraw from the compact created by P.L.1953, c.202 (C.32:23-
6 1 et seq.), supplementing Titles 32 and 53 of the Revised
7 Statutes, ¹amending R.S.52:14-7,¹ and repealing parts of the
8 statutory law.

9
10 BE IT ENACTED by the Senate and General Assembly of the State
11 of New Jersey:

12
13 1. (New section) The Legislature finds and declares that:

14 a. The Port of New York and New Jersey (port) has been one
15 of the backbones of the region's economy for decades. When
16 ranked by tonnage, the port is the largest port complex on the East
17 coast of North America and the third largest in the United States.
18 When ranked by the value of shipments passing through it, the port
19 is the second busiest freight gateway in the United States. The
20 port's strategic location, within one day's drive of a significant
21 percentage of the national market and developed transportation
22 infrastructure, are key assets that have made the region a gateway
23 for international trade. Since the birth of containerization in 1956,
24 the marine terminals on the New Jersey side of the port have grown
25 significantly in comparison to the New York terminals. Today
26 more than 82 percent of the cargo and 82 percent of the work hours
27 are on the New Jersey side of the port. The port and freight
28 industry in New Jersey alone supports more than 143,000 direct
29 jobs and 250,000 total jobs, nearly \$14.5 billion in personal income,
30 over \$20 billion in business income, and nearly \$4.9 billion in
31 federal, State, and local taxes, of which State and local taxes
32 account for \$1.6 billion.

33 b. The Waterfront Commission of New York Harbor
34 (commission) was created through a compact between the states of
35 New Jersey and New York and approved by Congress in 1953. The
36 commission's mission is to ensure fair hiring and employment
37 practices and investigate, deter, and combat criminal activity and
38 influence in the port. The commission has itself been tainted by
39 corruption in recent years and, moreover, has exercised powers that
40 do not exist within the authorizing compact, by dictating the terms
41 of collective bargaining agreements of organized labor, and by
42 requiring stevedoring companies to hire and retain independent
43 inspectors to examine company operations in order for those
44 companies to continue to operate in the port. Further, the
45 commission, despite changes in the industry to drive out organized

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALP committee amendments adopted October 23, 2014.

1 crime's influence, has over-regulated the businesses at the port in an
2 effort to justify its existence as the only waterfront commission in
3 any port in the United States. As a result, the commission has
4 become an impediment to future job growth and prosperity at the
5 port.

6 c. While there is a continued need to regulate port-located
7 business to ensure fairness and safety, ¹~~the commission is no~~
8 longer necessary to carry out that regulation. Several there are
9 numerous federal, State, and local¹ taxpayer funded agencies
10 ¹~~already have authority to monitor~~ that have jurisdiction that the
11 commission lacks to regulate port¹ operations ¹~~at the port~~¹,
12 including ¹, but not limited to¹: the United States Department of
13 Homeland Security ¹~~;~~ United States Customs and Border
14 Protection¹; the United States Coast Guard ¹~~;~~ the Transportation
15 Security Administration¹; the Federal Bureau of Investigation ¹~~;~~ ¹
16 the United States Department of ¹~~Labor~~ Labor's Division of
17 Longshore and Harbor Workers Compensation; the National Labor
18 Relations Board; the Food and Drug Administration; the United
19 States Environmental Protection Agency¹; the United States
20 Department of Transportation ¹~~;~~ ¹; the Federal Maritime
21 Commission ¹~~;~~ ¹; the Occupational Safety and Health
22 Administration ¹~~;~~ the New Jersey and New York State Police, and
23 local police departments¹; the Port Authority of New York and
24 New Jersey Police Department; depending on the particular location
25 of the facility in New Jersey, the City of Newark Police
26 Department, City of Elizabeth Police Department, City of Bayonne
27 Police Department, City of Jersey City Police Department, and the
28 New Jersey State Police; and, in matters of fair hiring and
29 employment discrimination, the United States Equal Employment
30 Opportunity Commission and the New Jersey Division on Civil
31 Rights¹.

32 d. Abolishing the commission and transferring the New Jersey
33 portion of the commission's law enforcement responsibilities to the
34 New Jersey State Police would be practical and efficient, as the
35 State Police is suited to undertake an investigation of any criminal
36 activity in the ports of northern New Jersey without impeding
37 economic prosperity.

38
39 2. a. Within 30 days of the effective date of P.L. ,
40 c. (C.) (pending before the Legislature as this bill), the
41 Governor, on behalf of the State of New Jersey, shall notify the
42 Congress of the United States, the Governor of the State of New
43 York, and the waterfront commission of New York harbor, of the
44 State of New Jersey's intention to withdraw from:

45 (1) the compact entered into by the State of New Jersey pursuant
46 to its agreement thereto under P.L.1953, c.202 (C.32:23-1 et seq.)

1 and by the State of New York pursuant to its agreement thereto
2 under P.L.1953, c.882 (NY Unconsol. Ch. 307, s.1), as amended
3 and supplemented; and

4 (2) the compact, entered into by the State of New Jersey
5 pursuant to its agreement thereto under P.L.1970, c.58 (C.32:23-150
6 et seq.) and by the State of New York pursuant to its agreement
7 thereto under P.L.1970, c.951 (NY Unconsol. Ch. 307, s.10), as
8 amended and supplemented.

9 b. As soon as practicable after the date of notification pursuant
10 to subsection a. of this section, the Governor shall notify the
11 presiding officers of each house of the Legislature that the
12 notification has occurred, the date of the notification, and any other
13 information concerning the notification the Governor deems
14 appropriate.

15
16 3. (New section) As used in P.L. , c. (C.) (pending
17 before the Legislature as this bill):

18 **¹["Bill of lading" means a document evidencing the receipt of**
19 **goods for shipment issued by a person engaged in the business of**
20 **transporting or forwarding goods.】¹**

21 "Career offender" means a person whose behavior is pursued in
22 an occupational manner or context for the purpose of economic
23 gain, utilizing methods that are deemed criminal violations against
24 the laws of this State.

25 "Career offender cartel" means a number of career offenders
26 acting in concert, and may include what is commonly referred to as
27 an organized crime group.

28 **¹["Cargo facility charge" means any fee applicable to cargo and**
29 **cargo containers discharged from, or loaded onto, vessels at any**
30 **marine facility owned or operated by the port authority.】¹**

31 "Carrier" means a carrier as that term is defined in 49 U.S.C.
32 s.13102.

33 "Carrier of freight by water" means any person who may be
34 engaged or who may hold himself or herself out as willing to be
35 engaged, whether as a common carrier, a contract carrier, or
36 otherwise, except for carriage of liquid cargoes in bulk in tank
37 vessels designed for use exclusively in that service or carriage by
38 barge of bulk cargoes consisting of only a single commodity loaded
39 or carried without wrappers or containers and delivered by the
40 carrier without transportation mark or count, in the carriage of
41 freight by water between any point in the port of New York district,
42 as applicable only within the State of New Jersey, and a point
43 outside that district.

44 "Checker" means a longshoreman who is employed to engage in
45 direct and immediate checking of waterborne freight or of the
46 custodial accounting therefor or in the recording or tabulation of the
47 hours worked at piers or other waterfront terminals by natural
48 persons employed by carriers of freight by water or stevedores.

1 “Commission” means the waterfront commission of New York
2 harbor established by the State of New Jersey pursuant to P.L.1953,
3 c.202 (C.32:23-1 et seq.) and by the State of New York pursuant to
4 its agreement thereto under P.L.1953, c.882 (NY Unconsol. Ch.
5 307, s.1).

6 "Common carrier" means a common carrier as that term is
7 defined in 46 U.S.C. s.40102.

8 "Compact" means ¹the compact¹ entered into by the State of
9 New Jersey pursuant to its agreement thereto under P.L.1953, c.202
10 (C.32:23-1 et seq.) and by the State of New York pursuant to its
11 agreement thereto under P.L.1953, c.882 (NY Unconsol. Ch. 307,
12 s.1), as amended and supplemented.

13 ¹“Consignee” means the person designated on a bill of lading as
14 the recipient of waterborne freight consigned for carriage by water.¹

15 "Container" means any receptacle, box, carton, or crate which is
16 specifically designed and constructed so that it may be repeatedly
17 used for the carriage of freight by a carrier of freight by water.

18 "Contract carrier" means a contract carrier as that term is defined
19 in 49 U.S.C. s.13102.

20 ¹**“Court of the United States” means all courts enumerated in**
21 **section 451 of Title 28 of the United States Code and the courts-**
22 **martial of Armed Forces of the United States.**¹

23 “Division” means the Division of State Police in the Department
24 of Law and Public Safety.

25 “Freight” means freight which has been or will be, carried by, or
26 consigned for carriage by a carrier of freight by water.

27 "Hiring agent" means any natural person who, on behalf of a
28 carrier of freight by water or a stevedore, shall select any
29 longshoreman for employment, and “hiring agent” includes any
30 natural person, who on behalf of any other person shall select any
31 longshoreman for employment.

32 "Immunity" means that a person shall not be prosecuted or
33 subjected to any penalty or forfeiture for or on account of any
34 transaction, matter, or thing concerning which, pursuant to an order
35 of the division, the person gave answer or produced evidence, and
36 that no answer given or evidence produced shall be received against
37 the person upon any criminal proceeding.

38 "Labor organization" means and includes any organization which
39 exists and is constituted for the purpose in whole or in part of
40 collective bargaining, or of dealing with employers concerning
41 grievances, terms and conditions of employment, or other mutual
42 aid or protection, but “labor organization” shall not include a
43 federation or congress of labor organizations organized on a
44 national or international basis even though one of its constituent
45 labor organizations may represent persons so registered or licensed.

46 "Longshoreman" means a natural person, other than a hiring
47 agent, who is employed for work at a pier or other waterfront
48 terminal, either by a carrier of freight by water or by a stevedore, to:

1 a. physically move waterborne freight on vessels berthed at piers,
2 on piers or at other waterfront terminals; b. engage in direct and
3 immediate checking of any such freight or of the custodial
4 accounting therefor or in the recording or tabulation of the hours
5 worked at piers or other waterfront terminals by natural persons
6 employed by carriers of freight by water or stevedores; c. supervise
7 directly and immediately others who are employed as a
8 longshoreman; d. physically to perform labor or services incidental
9 to the movement of waterborne freight on vessels berthed at piers,
10 on piers or at other waterfront terminals; e. physically move
11 waterborne freight to or from a barge, lighter, or railroad car for
12 transfer to or from a vessel of a carrier of freight by water which is,
13 shall be, or shall have been berthed at the same pier or other
14 waterfront terminal; or f. perform labor or services involving, or
15 incidental to, the movement of freight at a pier or other waterfront
16 terminal.

17 "Longshoremen's register" means the register of eligible
18 longshoremen compiled and maintained by the division pursuant to
19 section 8 of P.L. , c. (C.) (pending before the Legislature
20 as this bill).

21 "Marine terminal" means an area which includes piers, which is
22 used primarily for the moving, warehousing, distributing, or
23 packing of waterborne freight or freight to or from piers and which
24 is under common ownership or control 'with the pier'.

25 "Other waterfront terminal" means any warehouse, depot, or
26 other terminal, other than a pier, which is located within '[1,000
27 yards of any pier] a marine terminal' in the port of New York
28 district and which is used for waterborne freight in whole or
29 substantial part, and includes any warehouse, depot, or other
30 terminal, other than a pier, whether enclosed or open, which is
31 located in a marine terminal in the port of New York district, any
32 part of which is used by any person to perform labor or services
33 involving, or incidental to, the movement of waterborne freight or
34 freight.

35 "Person" means not only a natural person but also any
36 partnership, joint venture, association, corporation, or any other
37 legal entity but shall not include the United States, any state or
38 territory thereof, or any department, division, board, authority, or
39 authority of one or more of the foregoing.

40 "Pier" means any wharf, pier, dock, or quay 'in regular use for
41 the movement of waterborne freight between vessel and shore'.

42 "Pier superintendent" means any natural person other than a
43 longshoreman who is employed for work at a pier or other
44 waterfront terminal by a carrier of freight by water or a stevedore
45 and whose work at the pier or other waterfront terminal includes the
46 supervision, directly or indirectly, of the work of longshoremen.

47 "Port of New York district" or "district" means the district
48 created by Article II of the compact dated April 30, 1921, between

1 the states of New York and New Jersey, authorized by chapter 154
2 of the laws of New York of 1921 and chapter 151 of the laws of
3 New Jersey of 1921.

4 "Port watchman" means any watchman, gateman, roundsman,
5 detective, guard, guardian, or protector of property employed by the
6 operator of any pier or other waterfront terminal or by a carrier of
7 freight by water to perform services in that capacity on any pier or
8 other waterfront terminal.

9 "Select any longshoreman for employment" means select a
10 person for the commencement or continuation of employment as a
11 longshoreman, or the denial or termination of employment as a
12 longshoreman.

13 "Stevedore" means a contractor, not including an employee,
14 engaged for compensation pursuant to a contract or arrangement
15 with a carrier of freight by water, in moving waterborne freight
16 carried or consigned for carriage by the carrier on vessels of the
17 carrier berthed at piers, on piers at which the vessels are berthed or
18 at other waterfront terminals. "Stevedore" shall also include: a. a
19 contractor engaged for compensation pursuant to a contract or
20 arrangement with the United States, any state or territory thereof, or
21 any department, division, board, commission, or authority of one or
22 more of the foregoing, in moving freight carried or consigned for
23 carriage between any point in the port of New York district and a
24 point outside that district on vessels of the public agency berthed at
25 piers, on piers at which their vessels are berthed or at other
26 waterfront terminals; b. a contractor, engaged for compensation
27 pursuant to a contract or arrangement with any person to perform
28 labor or services incidental to the movement of waterborne freight
29 on vessels berthed at piers, on piers or at other waterfront terminals;
30 or c. a contractor engaged for compensation pursuant to a contract
31 or arrangement with any other person to perform labor or services
32 involving, or incidental to, the movement of freight into or out of
33 containers, which have been or which will be carried by a carrier of
34 freight by water, on vessels berthed at piers, on piers or at other
35 waterfront terminals.

36 "State Treasurer" means the Treasurer of the State of New
37 Jersey.

38 "Terrorist group" means a group associated, affiliated, or funded
39 in whole or in part by a terrorist organization designated by the
40 United States Secretary of State in accordance with section 219 of
41 the federal Immigration and Nationality Act, as amended from time
42 to time, or any other organization which assists, funds, or engages
43 in crimes or acts of terrorism as defined in the laws of the United
44 States, or of this State.

45 "Transfer date" means the 90th day following the notification by
46 the Governor pursuant to section 2 of P.L. , c. (C.)
47 (pending before the Legislature as this bill).

1 "Waterborne freight" means freight carried by or consigned for
2 carriage by carriers of freight by water, and shall also include
3 freight described in the definition of "stevedore" and in the
4 definition ¹of¹ "other waterfront ¹terminal" and ships' stores,
5 baggage, and mail carried by or consigned for carriage by carriers
6 of freight by water. terminal." Provided, however, that at the point
7 at which the freight is released from a pier or marine terminal to the
8 possession of the consignee or the person designated by the
9 consignee, the freight shall no longer be considered waterborne
10 freight if:

- 11 a. the freight is not further transported by water; and
12 b. services involving or incidental to the unloading, storage,
13 inspection, grading, repackaging, or processing of freight occur at a
14 location outside a pier or marine terminal.¹

15 "Witness" means any person whose testimony is desired in any
16 investigation, interview, or other proceeding conducted by the
17 division under the authority granted pursuant to P.L. , c. (C.)
18 (pending before the Legislature as this bill).

19

20 4. (New section) a. Until the transfer date established pursuant
21 to section 31 of P.L. , c. (C.) (pending before the
22 Legislature as this bill) shall have become operative, the division
23 shall not exercise any powers, rights, or duties conferred by P.L. ,
24 c. (C.) (pending before the Legislature as this bill) or by any
25 other law in any way which will interfere with the powers, rights,
26 and duties of the commission. The division and the commission are
27 directed to cooperate with each other after the date of notification
28 pursuant to section 2 of P.L. , c. (C.) (pending before the
29 Legislature as this bill) until the transfer date, and the commission
30 shall make available to the division all information concerning its
31 property and assets, contracts, operations, and finances within New
32 Jersey as the division may require to provide for the efficient
33 exercise by the division of all powers, rights, and duties conferred
34 upon the division by P.L. , c. (C.) (pending before the
35 Legislature as this bill).

36 b. After the transfer date established pursuant to section 31 of
37 P.L. , c. (C.) (pending before the Legislature as this bill):

38 (1) The division shall assume all of the powers, rights, assets,
39 and duties of the commission within this State, and those powers,
40 rights, assets, and duties shall then and thereafter be vested in and
41 exercised by the division;

42 (2) The officers having custody of the funds of the commission
43 applicable to this State shall deliver those funds into the custody of
44 the State Treasurer, the property and assets of the commission
45 within this State shall, without further act or deed, become the
46 property and assets of the division; and

47 (3) Any officers and employees of the commission seeking to be
48 transferred to the division may apply to become employees of the

1 division until determined otherwise by the division. Nothing in
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 shall be construed to deprive any officers or employees of the
4 commission of their rights, privileges, obligations, or status with
5 respect to any pension or retirement system. The commission
6 employees shall retain all of their rights and benefits under existing
7 collective negotiation agreements or contracts until such time as
8 new or revised agreements or contracts are agreed to. All existing
9 employee representatives shall be retained to act on behalf of those
10 employees until such time as the employees shall, pursuant to law,
11 elect to change those representatives. ¹If an existing officer or
12 employee becomes a member of an administered retirement system
13 of the State of New Jersey, the officer or employee shall receive the
14 same amount of service credit in the retirement system as the
15 officer or employee previously had in the pension or retirement
16 system as an employee of the commission, provided that there is a
17 transfer of funds, or purchase, of the full cost of that credit from the
18 pension or retirement system of the commission to an administered
19 retirement system of the State of New Jersey.¹ Nothing in P.L. ,
20 c. (C.) (pending before the Legislature as this bill) shall
21 affect the civil service status, if any, of those officers or employees;
22 (4) All debts, liabilities, obligations, and contracts of the
23 commission applicable only to this State, as determined by the
24 officers having custody of the funds of the commission, except to
25 the extent specifically provided for or established to the contrary in
26 P.L. , c. (C.) (pending before the Legislature as this bill),
27 are imposed upon the division, and all creditors of the commission
28 and persons having claims against or contracts with the commission
29 of any kind or character may enforce those debts, claims, and
30 contracts against the division as successor to the commission in the
31 same manner as they might have done against the commission, and
32 the rights and remedies of those holders, creditors, and persons
33 having claims against or contracts with the commission shall not be
34 limited or restricted in any manner by P.L. , c. (C.)
35 (pending before the Legislature as this bill);
36 (5) In continuing the functions, contracts, obligations, and duties
37 of the commission within this State, the division is authorized to act
38 in its own name as may be convenient or advisable under the
39 circumstances from time to time;
40 (6) Any references to the commission in any other law or
41 regulation shall then and thereafter be deemed to refer and apply to
42 the division;
43 (7) All rules and regulations of the commission shall continue in
44 effect as the rules and regulations of the division until amended,
45 supplemented, or rescinded by the division pursuant to the
46 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
47 seq.). Regulations of the commission inconsistent with the

1 provisions of P.L. , c. (C.) (pending before the Legislature
2 as this bill) or of regulations of the division shall be deemed void;

3 (8) All operations of the commission within this State shall
4 continue as operations of the division until altered by the division as
5 provided or permitted pursuant to P.L. , c. (C.) (pending
6 before the Legislature as this bill); and

7 (9) The powers vested in the division by P.L. , c. (C.)
8 (pending before the Legislature as this bill) shall be construed as
9 being in addition to, and not in diminution of, the powers heretofore
10 vested by law in the commission to the extent not otherwise altered
11 or provided for in P.L. , c. (C.) (pending before the
12 Legislature as this bill).

13 c. A license, registration, or permit issued by the commission
14 prior to the date of notification pursuant to section 2 of P.L. ,
15 c. (C.) (pending before the Legislature as this bill) shall,
16 subject to the terms of its issuance, continue to be valid on and after
17 the transfer date as a license, registration, or permit issued by the
18 division. An application for a license, registration, or permit filed
19 with the commission prior to and pending on that notification date
20 shall, as of and from the notification date, be deemed to be filed
21 with and pending before the division.
22

23 5. In addition to the powers and duties elsewhere prescribed in
24 law, the division shall have the power:

25 a. To determine the location, size, and suitability of
26 accommodations necessary and desirable for the establishment and
27 maintenance of the employment information centers provided in
28 section 16 of P.L. , c. (C.) (pending before the Legislature
29 as this bill) and for administrative offices for the division;

30 b. To administer and enforce the provisions of P.L. ,
31 c. (C.) (pending before the Legislature as this bill);

32 c. Consistent with the provisions of the "Administrative
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to adopt and
34 enforce rules and regulations as the division may deem necessary to
35 effectuate the purposes of P.L. , c. (C.) (pending before the
36 Legislature as this bill) or to prevent the circumvention or evasion
37 thereof;

38 d. By its members and its properly designated officers, agents,
39 and employees, with respect to the implementation and enforcement
40 of P.L. , c. (C.) (pending before the Legislature as this
41 bill), to administer oaths and issue subpoenas to compel the
42 attendance of witnesses and the giving of testimony and the
43 production of other evidence;

44 e. To have for its properly designated officers, agents and
45 employees, full and free access, ingress, and egress to and from all
46 vessels, piers, and other waterfront terminals or other places in the
47 port of New York district within this State, for the purposes of
48 making inspection or enforcing the provisions of P.L. ,

1 c. (C.) (pending before the Legislature as this bill); and no
2 person shall obstruct or in any way interfere with any officer,
3 employee, or agent of the division in the making of an inspection,
4 or in the enforcement of the provisions of P.L. , c. (C.)
5 (pending before the Legislature as this bill) or in the performance of
6 any other power or duty under P.L. , c. (C.) (pending
7 before the Legislature as this bill);

8 f. To recover possession of any suspended or revoked license
9 issued pursuant to sections 6, 7, and 13 of P.L. , c. (C.)
10 (pending before the Legislature as this bill) within the port of New
11 York district in this State;

12 g. To make investigations and collect and compile information
13 concerning waterfront practices generally within the port of New
14 York district in this State and upon all matters relating to the
15 accomplishment of the objectives of P.L. , c. (C.) (pending
16 before the Legislature as this bill);

17 h. To advise and consult with representatives of labor and
18 industry and with public officials and agencies concerned with the
19 effectuation of the purposes of P.L. , c. (C.) (pending
20 before the Legislature as this bill), upon all matters which the
21 division may desire, including but not limited to, the form and
22 substance of rules and regulations, the administration of the
23 provisions of P.L. , c. (C.) (pending before the Legislature
24 as this bill), maintenance of the longshoremen's register, and
25 issuance and revocation of licenses;

26 i. To make annual and other reports to the Governor and,
27 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
28 Legislature containing recommendations for the improvement of the
29 conditions of waterfront labor within the port of New York district
30 in this State and for the effectuation of the purposes of P.L. ,
31 c. (C.) (pending before the Legislature as this bill). The
32 annual reports shall state the division's findings and determinations
33 as to whether the public necessity still exists for: (1) the continued
34 registration of longshoremen; (2) the continued licensing of any
35 occupation or employment required to be licensed hereunder; and
36 (3) the continued public operation of the employment information
37 centers provided for in section 16 of P.L. , c. (C.) (pending
38 before the Legislature as this bill);

39 j. To co-operate with and receive from any department,
40 division, bureau, board, commission, authority, or agency of this
41 State, or of any county or municipality thereof, any assistance and
42 data as will enable the division to properly to carry out its powers
43 and duties hereunder; and to request a department, division, bureau,
44 board, commission, authority, or agency, with the consent thereof,
45 to execute the division's functions and powers, as the public interest
46 may require; and

47 k. To exercise the powers and duties of the division as
48 provided in P.L. , c. (C.) (pending before the Legislature as

1 this bill) to its officers, employees, and agents designated by the
2 division;

3 l. To issue temporary permits and permit temporary
4 registrations under such terms and conditions as the division may
5 prescribe which shall be valid for a period to be fixed by the
6 division not in excess of six months;

7 m. To require any applicant for a license or registration or any
8 prospective licensee to furnish facts and evidence as the division
9 may deem appropriate to enable it to ascertain whether the license
10 or registration should be granted;

11 n. In any case in which the division has the power to revoke,
12 cancel or suspend any license, the division shall also have the
13 power to impose as an alternative to that revocation, cancellation, or
14 suspension, a penalty, which the licensee may elect to pay the
15 division in lieu of the revocation, cancellation, or suspension. The
16 maximum penalty shall be \$5,000 for each separate offense. The
17 division may, for good cause shown, abate all or part of the penalty;

18 o. To designate any officer, agent, or employee of the division
19 to be an investigator who shall be vested with all the powers of a
20 peace or police officer of the State of New Jersey;

21 p. To confer immunity, in the following manner prescribed by
22 section 20 of P.L. , c. (C.) (pending before the Legislature
23 as this bill);

24 q. To require any applicant or renewal applicant for registration
25 as a longshoreman, any applicant or renewal applicant for
26 registration as a checker, or any applicant or renewal applicant for
27 registration as a telecommunications system controller and any
28 person who is sponsored for a license as a pier superintendent or
29 hiring agent, any person who is an individual owner of an applicant
30 or renewal applicant stevedore, or any persons who are individual
31 partners of an applicant or renewal applicant stevedore, or any
32 officers, directors, or stockholders owning five percent or more of
33 any of the stock of an applicant or renewal applicant corporate
34 stevedore or any applicant or renewal applicant for a license as a
35 port watchman or any other category of applicant or renewal
36 applicant for registration or licensing within the division's
37 jurisdiction to be fingerprinted by the division at the cost and
38 expense of the applicant or renewal applicant;

39 r. To exchange fingerprint data with and receive criminal
40 history record information from the Federal Bureau of Investigation
41 and the State Bureau of Identification for use in making the
42 determinations required by this section; and

43 s. Notwithstanding any other provision of law, rule, or
44 regulation to the contrary, to require any applicant for employment
45 or employee of the division engaged in the implementation or
46 enforcement of P.L. , c. (C.) (pending before the
47 Legislature as this bill) to be fingerprinted at the cost and expense
48 of the applicant or employee and to exchange fingerprint data with

1 and receive criminal history record information from the Federal
2 Bureau of Investigation and the State Bureau of Identification for
3 use in the hiring or retention of those persons.

4
5 6. a. A person shall not act as a pier superintendent or as a
6 hiring agent within the port of New York district in this State
7 without first having obtained from the division a license to act as a
8 pier superintendent or hiring agent, as the case may be, and a person
9 shall not employ or engage another person to act as a pier
10 superintendent or hiring agent who is not so licensed.

11 b. A license to act as a pier superintendent or hiring agent shall
12 be issued only upon the written application, under oath, of the
13 person proposing to employ or engage another person to act as a
14 pier superintendent or hiring agent, verified by the prospective
15 licensee as to the matters concerning the prospective licensee, and
16 shall state the following:

17 (1) The full name and business address of the applicant;

18 (2) The full name, residence, business address, if any, place and
19 date of birth, and social security number of the prospective licensee;

20 (3) The present and previous occupations of the prospective
21 licensee, including the places where the person was employed and
22 the names of the person's employers;

23 (4) Any further facts and evidence as may be required by the
24 division to ascertain the character, integrity, and identity of the
25 prospective licensee; and

26 (5) That if a license is issued to the prospective licensee, the
27 applicant will employ the licensee as pier superintendent or hiring
28 agent, as the case may be.

29 c. A license shall not be granted pursuant to this section:

30 (1) Unless the division shall be satisfied that the prospective
31 licensee possesses good character and integrity;

32 (2) If the prospective licensee has, without subsequent pardon,
33 been convicted by a court of the United States, or any State or
34 territory thereof, of the commission of, or the attempt or conspiracy
35 to commit, treason, murder, manslaughter, or any of the following
36 offenses: illegally using, carrying, or possessing a pistol or other
37 dangerous weapon; making or possessing burglar's instruments;
38 buying or receiving stolen property; unlawful entry of a building;
39 aiding an escape from prison; unlawfully possessing, possessing
40 with intent to distribute, sale, or distribution of a controlled
41 dangerous substance or a controlled dangerous substance analog; or
42 a violation prescribed in subsection g. of this section. Any
43 prospective licensee ineligible for a license by reason of any
44 conviction under this paragraph may submit satisfactory evidence to
45 the division that the prospective licensee has for a period of not less
46 than five years, measured as hereinafter provided, and up to the
47 time of application, so acted as to warrant the grant of a license, in
48 which event the division may, in its discretion, issue an order

1 removing that ineligibility. The five-year period shall be measured
2 either from the date of payment of any fine imposed upon that
3 person or the suspension of sentence or from the date of the
4 person's unrevoked release from custody by parole, commutation,
5 or termination of sentence; and

6 (3) If the prospective licensee knowingly or willfully advocates
7 the desirability of overthrowing or destroying the government of the
8 United States by force or violence or shall be a member of a group
9 which advocates that desirability, knowing the purposes of a group
10 having that advocacy.

11 d. When the application shall have been examined and further
12 inquiry and investigation made as the division shall deem proper
13 and when the division shall be satisfied therefrom that the
14 prospective licensee possesses the qualifications and requirements
15 prescribed in this section, the division shall issue and deliver to the
16 prospective licensee a license to act as pier superintendent or hiring
17 agent for the applicant, as the case may be, and shall inform the
18 applicant of this action. The division may issue a temporary permit
19 to any prospective licensee for a license issued under this section
20 pending final action on an application made for that license. Any
21 temporary permit shall be valid for a period not in excess of 30
22 days.

23 e. A person shall not be licensed to act as a pier superintendent
24 or hiring agent for more than one employer, except at a single pier
25 or other waterfront terminal, but nothing in P.L. , c. (C.)
26 (pending before the Legislature as this bill) shall be construed to
27 limit in any way the number of pier superintendents or hiring agents
28 any employer may employ.

29 f. A license granted pursuant to this section shall continue
30 through the duration of the licensee's employment by the employer
31 who shall have applied for the license.

32 g. Any license issued pursuant to this section may be revoked
33 or suspended for a period as the division deems in the public
34 interest or the licensee thereunder may be reprimanded for any of
35 the following offenses:

36 (1) Conviction of a crime or act by the licensee or other cause
37 which would require or permit the person's disqualification from
38 receiving a license upon original application;

39 (2) Fraud, deceit, or misrepresentation in securing the license, or
40 in the conduct of the licensed activity;

41 (3) Violation of any of the provisions of P.L. , c. (C.)
42 (pending before the Legislature as this bill);

43 (4) Unlawfully possessing, possessing with intent to distribute,
44 sale, or distribution of a controlled dangerous substance or a
45 controlled dangerous substance analog;

46 (5) Employing, hiring, or procuring any person in violation of
47 P.L. , c. (C.) (pending before the Legislature as this bill) or
48 inducing or otherwise aiding or abetting any person to violate the

1 terms of P.L. , c. (C.) (pending before the Legislature as
2 this bill);

3 (6) Paying, giving, causing to be paid or given or offering to pay
4 or give to any person any valuable consideration to induce the other
5 person to violate any provision of P.L. , c. (C.) (pending
6 before the Legislature as this bill) or to induce any public officer,
7 agent, or employee to fail to perform the person's duty hereunder;

8 (7) Consorting with known criminals for an unlawful purpose;

9 (8) Transfer or surrender of possession of the license to any
10 person either temporarily or permanently without satisfactory
11 explanation;

12 (9) False impersonation of another licensee under P.L. ,
13 c. (C.) (pending before the Legislature as this bill);

14 (10) Receipt or solicitation of anything of value from any person
15 other than the licensee's employer as consideration for the selection
16 or retention for employment of any longshoreman;

17 (11) Coercion of a longshoreman by threat of discrimination or
18 violence or economic reprisal, to make purchases from or to utilize
19 the services of any person;

20 (12) Lending any money to or borrowing any money from a
21 longshoreman for which there is a charge of interest or other
22 consideration; or

23 (13) Membership in a labor organization which represents
24 longshoremen or port watchmen; but nothing in this section shall be
25 deemed to prohibit pier superintendents or hiring agents from being
26 represented by a labor organization or organizations which do not
27 also represent longshoremen or port watchmen. The American
28 Federation of Labor, the Congress of Industrial Organizations and
29 any other similar federation, congress, or other organization of
30 national or international occupational or industrial labor
31 organizations shall not be considered an organization which
32 represents longshoremen or port watchmen within the meaning of
33 this section although one of the federated or constituent labor
34 organizations thereof may represent longshoremen or port
35 watchmen.

36

37 7. a. A person shall not act as a stevedore within the port of
38 New York district in this State without having first obtained a
39 license from the division, and a person shall not employ a stevedore
40 to perform services as such within the port of New York district
41 unless the stevedore is so licensed.

42 b. Any person intending to act as a stevedore within the port of
43 New York district shall file in the office of the division a written
44 application for a license to engage in that occupation, duly signed,
45 and verified as follows:

46 c. If the applicant is a natural person, the application shall be
47 signed and verified by that person and if the applicant is a
48 partnership, the application shall be signed and verified by each

1 natural person composing or intending to compose that partnership.
2 The application shall state the full name, age, residence, business
3 address, if any, present and previous occupations of each natural
4 person so signing the application, and any other facts and evidence
5 as may be required by the division to ascertain the character,
6 integrity, and identity of each natural person signing the
7 application.

8 d. If the applicant is a corporation, the application shall be
9 signed and verified by the president, secretary, and treasurer
10 thereof, and shall specify the name of the corporation, the date and
11 place of its incorporation, the location of its principal place of
12 business, the names and addresses of, and the amount of the stock
13 held by stockholders owning five percent or more of any of the
14 stock thereof, and of all officers, including all members of the board
15 of directors. The requirements of subsection a. of this section as to
16 a natural person who is a member of a partnership, and the
17 requirements as may be specified in rules and regulations
18 promulgated by the division pursuant to the "Administrative
19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall apply to
20 each above-named officer or stockholder and their successors in
21 office or interest, as the case may be.

22 In the event of the death, resignation, or removal of any officer,
23 and in the event of any change in the list of stockholders who shall
24 own five percent or more of the stock of the corporation, the
25 secretary of the corporation shall forthwith give notice of that fact
26 in writing to the division, certified by the secretary.

27 e. A license shall not be granted:

28 (1) If any person whose signature or name appears in the
29 application is not the real party in interest, required by subsection d.
30 of this section, to sign or to be identified in the application or if the
31 person so signing or named in the application is an undisclosed
32 agent or trustee for any real party in interest;

33 (2) Unless the division shall be satisfied that the applicant and
34 all members, officers, and stockholders required by subsection d. of
35 this section to sign or be identified in the application for license
36 possess good character and integrity;

37 (3) Unless the applicant is either a natural person, partnership,
38 or corporation;

39 (4) Unless the applicant shall be a party to a contract then in
40 force or which will take effect upon the issuance of a license, with a
41 carrier of freight by water for the loading and unloading by the
42 applicant of one or more vessels of such carrier at a pier within the
43 port of New York district;

44 (5) If the applicant or any member, officer, or stockholder
45 required by subsection d. of this section to sign or be identified in
46 the application for license has, without subsequent pardon, been
47 convicted by a court of the United States or any State or territory
48 thereof of the commission of, or the attempt or conspiracy to

1 commit, treason, murder, manslaughter, or any of the offenses
2 described in subsection h. of this section. Any applicant ineligible
3 for a license by reason of any of those convictions may submit
4 satisfactory evidence to the division that the person whose
5 conviction was the basis of ineligibility has for a period of not less
6 than five years, measured as hereinafter provided and up to the time
7 of application, so acted as to warrant the grant of that license, in
8 which event the division may, in its discretion issue an order
9 removing that ineligibility. The aforesaid period of five years shall
10 be measured either from the date of payment of any fine imposed
11 upon that person or the suspension of sentence or from the date of
12 the person's unrevoked release from custody by parole,
13 commutation, or termination of sentence;

14 (6) If the applicant has paid, given, caused to have been paid or
15 given, or offered to pay or give to any officer or employee of any
16 carrier of freight by water any valuable consideration for an
17 improper or unlawful purpose or to induce that person to procure
18 the employment of the applicant by the carrier for the performance
19 of stevedoring services; or

20 (7) If the applicant has paid, given, caused to be paid or given,
21 or offered to pay or give to any officer or representative of a labor
22 organization any valuable consideration for an improper or unlawful
23 purpose or to induce the officer or representative to subordinate the
24 interests of the labor organization or its members in the
25 management of the affairs of the labor organization to the interests
26 of the applicant.

27 f. When the application shall have been examined and further
28 inquiry and investigation made as the division shall deem proper
29 and when the division shall be satisfied therefrom that the applicant
30 possesses the qualifications and requirements prescribed in this
31 section, the division shall issue and deliver a license to that
32 applicant. The division may issue a temporary permit to any
33 applicant for a license under the provisions of this section pending
34 final action on an application made for a license. A temporary
35 permit shall be valid for a period not in excess of 30 days.

36 g. A stevedore's license shall be for a term of five years or
37 fraction of that five-year period, and shall expire on the first day of
38 December. In the event of the death of the licensee, if a natural
39 person, or its termination or dissolution by reason of the death of a
40 partner, if a partnership, or if the licensee shall cease to be a party
41 to any contract of the type prescribed by paragraph (4) of
42 subsection e. of section 7 of P.L. , c. (C.) (pending before
43 the Legislature as this bill), the license shall terminate 90 days after
44 that event or upon its expiration date, whichever shall be sooner. A
45 license may be renewed by the division for successive five-year
46 periods upon fulfilling the same requirements as are established in
47 this section for an original application for a stevedore's license.

1 h. Any license issued pursuant to this section may be revoked
2 or suspended for a period as the division deems in the public
3 interest or the licensee thereunder may be reprimanded for any of
4 the following offenses on the part of the licensee or of any person
5 required by this section to sign or be identified in an original
6 application for a license:

7 (1) Conviction of a crime or other cause which would permit or
8 require disqualification of the licensee from receiving a license
9 upon original application;

10 (2) Fraud, deceit, or misrepresentation in securing the license or
11 in the conduct of the licensed activity;

12 (3) Failure by the licensee to maintain a complete set of books
13 and records containing a true and accurate account of the licensee's
14 receipts and disbursements arising out of the licensee's activities
15 within the port of New York district in this State;

16 (4) Failure to keep its books and records available during
17 business hours for inspection by the division and its duly designated
18 representatives until the expiration of the fifth calendar year
19 following the calendar year during which occurred the transactions
20 recorded therein; or

21 (5) Any other offense described in this section.

22 i. In addition to the grounds elsewhere established in P.L. ,
23 c. (C.) (pending before the Legislature as this bill), the
24 division shall not grant an application for a license as stevedore if
25 the applicant has paid, given, caused to have been paid or given, or
26 offered to pay or give to any agent of any carrier of freight by water
27 any valuable consideration for an improper or unlawful purpose or,
28 without the knowledge and consent of the carrier, to induce the
29 agent to procure the employment of the applicant by the carrier or
30 its agent for the performance of stevedoring services.

31

32 8. a. The division shall establish a longshoremen's register in
33 which shall be included all qualified longshoremen eligible, as
34 hereinafter provided, for employment as longshoremen in the port
35 of New York district in this State. A person shall not act as a
36 longshoreman within the port of New York district in this State
37 unless at the time the person is included in the longshoremen's
38 register, and a person shall not employ another to work as a
39 longshoreman within the port of New York district in this State
40 unless at the time the other person is included in the longshoremen's
41 register.

42 b. Any person applying for inclusion in the longshoremen's
43 register shall file at a place and in a manner as the division shall
44 designate a written statement, signed, and verified by the applicant,
45 setting forth the applicant's full name, residence address, social
46 security number, and any further facts and evidence as the division
47 may prescribe to establish the identity of that person and the
48 person's criminal record, if any.

1 c. The division may in its discretion deny application for
2 inclusion in the longshoremen's register by a person:

3 (1) Who has been convicted by a court of the United States or
4 any State or territory thereof, without subsequent pardon, of
5 treason, murder, manslaughter, or of any of the offenses described
6 in subsection g. of section 6 of P.L. , c. (C.) (pending
7 before the Legislature as this bill) or of attempt or conspiracy to
8 commit any of those crimes;

9 (2) Who knowingly or willingly advocates the desirability of
10 overthrowing or destroying the government of the United States by
11 force or violence or who shall be a member of a group which
12 advocates that desirability knowing the purposes of the group
13 advocating that desirability; or

14 (3) Whose presence at the piers or other waterfront terminals in
15 the port of New York district in this State is found by the division,
16 on the basis of the facts and evidence before it, to constitute a
17 danger to the public peace or safety.

18 d. Unless the division shall determine to exclude the applicant
19 from the longshoremen's register for violation of the offenses
20 described in subsection g. of section 6 of P.L. , c. (C.)
21 (pending before the Legislature as this bill), it shall include that
22 person in the longshoremen's register. The division may permit
23 temporary registration of any applicant under the provisions of this
24 section pending final action on an application made for temporary
25 registration. Any temporary registration shall be valid for a period
26 not in excess of 30 days.

27 e. The division shall have power to reprimand any
28 longshoreman registered under this section or to remove the person
29 from the longshoremen's register for a period of time as it deems in
30 the public interest for any of the following offenses:

31 (1) Conviction of a crime or other cause which would permit
32 disqualification of a person from inclusion in the longshoremen's
33 register upon original application;

34 (2) Fraud, deceit, or misrepresentation in securing inclusion in
35 the longshoremen's register;

36 (3) Transfer or surrender of possession to any person either
37 temporarily or permanently of any card or other means of
38 identification issued by the authority as evidence of inclusion in the
39 longshoremen's register, without satisfactory explanation;

40 (4) False impersonation of another longshoreman registered
41 under this section or of another person licensed pursuant to P.L. ,
42 c. (C.) (pending before the Legislature as this bill);

43 (5) Willful commission of or willful attempt to commit at or on
44 a waterfront terminal or adjacent highway any act of physical injury
45 to any other person or of willful damage to or misappropriation of
46 any other person's property, unless justified or excused by law; and

47 (6) Any other offense described in subsection g. of section 6 of
48 P.L. , c. (C.) (pending before the Legislature as this bill).

1 f. Whenever, as a result of amendments to P.L. ,
2 c. (C.) (pending before the Legislature as this bill) or of a
3 ruling by the division, registration as a longshoreman is required for
4 any person to continue in employment, that person shall be
5 registered as a longshoreman; provided, however, that the person
6 satisfies all the other requirements of P.L. , c. (C.)
7 (pending before the Legislature as this bill) for registration as a
8 longshoreman.

9 g. The division shall have the right to recover possession of
10 any card or other means of identification issued as evidence of
11 inclusion in the longshoremen's register in the event that the holder
12 thereof has been removed from the longshoremen's register.

13 h. Nothing contained in P.L. , c. (C.) (pending before
14 the Legislature as this bill) shall be construed to limit in any way
15 any labor rights reserved by P.L. , c. (C.) (pending before
16 the Legislature as this bill).

17
18 9. (New section) a. The division shall, at regular intervals,
19 remove from the longshoremen's register any person who shall have
20 been registered for at least nine months and who shall have failed
21 during the preceding six calendar months either to have worked as a
22 longshoreman in the port of New York district in this State or to
23 have applied for employment as a longshoreman at an employment
24 information center established under section 16 of P.L. , c. (C.)
25 (pending before the Legislature as this bill) for the minimum
26 number of days as shall have been established by the division
27 pursuant to subsection b. of this section.

28 b. On or before the first day of June following the date on
29 which P.L. , c. (C.) (pending before the Legislature as this
30 bill) becomes operative, and on or before each succeeding first day
31 of June or December, the division shall, for the purposes of P.L. ,
32 c. (C.) (pending before the Legislature as this bill), establish
33 for the six-month period beginning on each date a minimum number
34 of days and the distribution of the days during that period.

35 c. In establishing any minimum number of days or period, the
36 division shall ¹observe the following standards to accomplish the
37 following objectives:

38 (1) To encourage as far as practicable the regularization of the
39 employment of longshoremen;

40 (2) To bring the number of eligible longshoremen more closely
41 into balance with the demand for longshoremen's services within
42 the port of New York district in this State without reducing the
43 number of eligible longshoremen below that necessary to meet the
44 requirements of longshoremen in the port of New York district in
45 this State;

46 (3) To eliminate oppressive and evil hiring practices affecting
47 longshoremen and waterborne commerce in the port of New York
48 district in this State;

1 (4) To eliminate unlawful practices injurious to waterfront
2 labor; and

3 (5) To establish hiring practices and conditions which will
4 permit the termination of governmental regulation and intervention
5 at the earliest opportunity consult with the collective bargaining
6 representatives of stevedores and other employers of longshoremen
7 in the port of New York district and with labor organizations
8 representing longshoremen in the district¹ .

9 d. A longshoreman who has been removed from the
10 longshoremen's register pursuant to subsection e. of section 8 of
11 P.L. , c. (C.) (pending before the Legislature as this bill)
12 may seek reinstatement upon fulfilling the same requirements as for
13 initial inclusion in the longshoremen's register, but not before the
14 expiration of one year from the date of removal, except that
15 immediate reinstatement shall be made upon proper showing that
16 the registrant's failure to work or apply for work for the minimum
17 number of days, described in subsection c. of this section, was
18 caused by the fact that the registrant was engaged in the military
19 service of the United States or was incapacitated by ill health,
20 physical injury, or other good cause.

21 e. Notwithstanding any other provision of P.L. , c. (C.)
22 (pending before the Legislature as this bill), the division shall at any
23 time have the power to register longshoremen on a temporary basis
24 to meet special or emergency needs.

25
26 10. Notwithstanding any other provisions of P.L. ,
27 c. (C.) (pending before the Legislature as this bill), the
28 division shall have the power to remove from the longshoremen's
29 register any person, including a person registered as longshoremen
30 for less than nine months, who shall have failed to have worked as a
31 longshoreman in the port of New York district in this State for a
32 minimum number of days during a period of time as shall have been
33 established by the division. In administering this section, the
34 division, in its discretion, may count applications for employment
35 as a longshoreman at an employment information center established
36 pursuant to section 16 of P.L. , c. (C.) (pending before the
37 Legislature as this bill) as constituting actual work as a
38 longshoreman, provided, however, that the division shall count as
39 actual work the compensation received by any longshoreman
40 pursuant to the guaranteed wage provisions of any collective
41 bargaining agreement relating to longshoremen. Prior to the
42 commencement of any period of time established by the division
43 pursuant to this section, the division shall establish for that period
44 the minimum number of days of work required and the distribution
45 of days during that period and shall also determine whether or not
46 application for employment as a longshoreman shall be counted as
47 constituting actual work as a longshoreman. The division may
48 classify longshoremen according to length of service as a

1 longshoreman and develop other criteria as may be reasonable and
2 necessary to carry out the provisions of P.L. , c. (C.)
3 (pending before the Legislature as this bill). The division shall
4 have the power to vary the requirements of this section with respect
5 to their application to the various classifications of longshoremen.
6 In administering this section, the division shall observe the
7 standards set forth in section 2 of P.L.1966, c.18 (C.32:23-114), as
8 that section shall have been amended through the enactment of
9 P.L.1999, c.206. Nothing in this section shall be construed to
10 modify, limit, or restrict in any way any of the rights protected by
11 section 23 of P.L. , c. (C.) (pending before the Legislature
12 as this bill).

13

14 11. a. The division shall establish within the longshoremen's
15 register a list of all qualified longshoremen eligible, as hereinafter
16 provided, for employment as checkers in the port of New York
17 district in this State. A person shall not act as a checker within the
18 port of New York district in this State unless at the time the person
19 is included in the longshoremen's register as a checker, and a person
20 shall not employ another to work as a checker within the port of
21 New York district in this State unless at the time such other person
22 is included in the longshoremen's register as a checker.

23 b. Any person applying for inclusion in the longshoremen's
24 register as a checker shall file at a place and in a manner as the
25 division shall designate a written statement, signed, and verified by
26 the applicant, setting forth the following:

27 (1) The full name, residence, place and date of birth, and social
28 security number of the applicant;

29 (2) The present and previous occupations of the applicant,
30 including the places where the applicant was employed and the
31 names of the applicant's employers; and

32 (3) Any further facts and evidence as may be required by the
33 authority to ascertain the character, integrity, and identity of the
34 applicant.

35 c. A person shall not be included in the longshoremen's register
36 as a checker:

37 (1) Unless the division shall be satisfied that the applicant
38 possesses good character and integrity;

39 (2) If the applicant has, without subsequent pardon, been
40 convicted by a court of the United States or any State or territory
41 thereof, of the authority of, or the attempt or conspiracy to commit
42 treason, murder, manslaughter, or any of the following offenses:
43 illegally using, carrying or possessing a pistol or other dangerous
44 weapon; making or possessing burglar's instruments; buying or
45 receiving stolen property; unlawful entry of a building; aiding an
46 escape from prison; unlawfully possessing, possessing with intent to
47 distribute, sale or distribution of a controlled dangerous substance
48 or a controlled dangerous substance analog; petty larceny, where

1 the evidence shows the property was stolen from a vessel, pier or
2 other waterfront terminal; or a violation of P.L. , c. (C.)
3 (pending before the Legislature as this bill). An applicant ineligible
4 for inclusion in the longshoremen's register as a checker by reason
5 of a conviction may submit satisfactory evidence to the division that
6 the applicant has for a period of not less than five years, measured
7 as hereinafter provided, and up to the time of application, so acted
8 as to warrant inclusion in the longshoremen's register as a checker,
9 in which event the division may, in its discretion, issue an order
10 removing the applicant's ineligibility. The five-year period shall be
11 measured either from the date of payment of any fine imposed upon
12 that person or the suspension of sentence or from the date of the
13 person's unrevoked release from custody by parole, commutation,
14 or termination of sentence; or

15 (3) If the applicant knowingly or willfully advocates the
16 desirability of overthrowing or destroying the government of the
17 United States by force or violence or shall be a member of a group
18 which advocates that desirability, knowing the purposes of the
19 group advocating that desirability.

20 d. When the application shall have been examined and further
21 inquiry and investigation made as the division shall deem proper
22 and when the division shall be satisfied therefrom that the applicant
23 possesses the qualifications and requirements prescribed by this
24 section, the division shall include the applicant in the
25 longshoremen's register as a checker. The division may permit
26 temporary registration as a checker to any applicant under this
27 section pending final action on an application made for temporary
28 registration, under the terms and conditions as the division may
29 prescribe, which shall be valid for a period to be fixed by the
30 division, not in excess of six months.

31 e. The division shall have power to reprimand any checker
32 registered under this section or to remove the person from the
33 longshoremen's register as a checker for a period of time as the
34 division deems in the public interest for any of the following
35 offenses:

36 (1) Conviction of a crime or other cause which would permit
37 disqualification of the person from inclusion in the longshoremen's
38 register as a checker upon original application;

39 (2) Fraud, deceit, or misrepresentation in securing inclusion in
40 the longshoremen's register as a checker or in the conduct of the
41 registered activity;

42 (3) Violation of any of the provisions of P.L. , c. (C.)
43 (pending before the Legislature as this bill);

44 (4) Unlawfully possessing, possessing with intent to distribute,
45 sale, or distribution of a controlled dangerous substance or a
46 controlled dangerous substance analog;

1 (5) Inducing or otherwise aiding or abetting any person to
2 violate the terms of P.L. , c. (C.) (pending before the
3 Legislature as this bill);

4 (6) Paying, giving, causing to be paid or given, or offering to
5 pay or give to any person any valuable consideration to induce the
6 other person to violate any provision of P.L. , c. (C.)
7 (pending before the Legislature as this bill) or to induce any public
8 officer, agent, or employee to fail to perform the person's duty
9 under P.L. , c. (C.) (pending before the Legislature as this
10 bill);

11 (7) Consorting with known criminals for an unlawful purpose;

12 (8) Transfer or surrender of possession to any person either
13 temporarily or permanently of any card or other means of
14 identification issued by the division as evidence of inclusion in the
15 longshoremen's register without satisfactory explanation; or

16 (9) False impersonation of another longshoreman or of another
17 person licensed under P.L. , c. (C.) (pending before the
18 Legislature as this bill).

19 f. The division shall have the right to recover possession of
20 any card or other means of identification issued as evidence of
21 inclusion in the longshoremen's register as a checker in the event
22 that the holder thereof has been removed from the longshoremen's
23 register as a checker.

24 g. Nothing contained in this section shall be construed to limit
25 in any way any rights of labor reserved by section 23 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill).

27
28 12. The division shall accept applications for inclusion in the
29 longshoremen's register upon:

30 a. the joint recommendation in writing of stevedores and other
31 employers of longshoremen in the port of New York district in this
32 State, acting through their representative for the purposes of
33 collective bargaining with a labor organization representing the
34 longshoremen in the district, and that labor organization; or

35 b. the petition in writing of a stevedore or other employer of
36 longshoremen in the port of New York district in this State which
37 does not have a representative for the purposes of collective
38 bargaining with a labor organization representing those
39 longshoremen.

40
41 13. a. A person shall not act as a port watchman within the port
42 of New York district in this State without first having obtained a
43 license from the division, and a person shall not employ a port
44 watchman who is not so licensed.

45 b. A license to act as a port watchman shall be issued only
46 upon written application, duly verified, which shall state the
47 following:

1 (1) The full name, residence, business address, if any, place, and
2 date of birth, and social security number of the applicant;

3 (2) The present and previous occupations of the applicant,
4 including the places where the applicant was employed and the
5 names of the applicant's employers;

6 (3) The citizenship of the applicant and, if the person is a
7 naturalized citizen of the United States, the court and date of
8 naturalization; and

9 (4) Any further facts and evidence as may be required by the
10 division to ascertain the character, integrity, and identity of the
11 applicant.

12 c. A port watchman license shall not be granted:

13 (1) Unless the division shall be satisfied that the applicant
14 possesses good character and integrity;

15 (2) If the applicant has, without subsequent pardon, been
16 convicted by a court of the United States or of any State or territory
17 thereof of the authority of, or the attempt or conspiracy to commit,
18 treason, murder, manslaughter or any of the offenses described in
19 subsection g. of section 6 of P.L. , c. (C.) (pending before
20 the Legislature as this bill);

21 (3) Unless the applicant shall meet reasonable standards of
22 physical and mental fitness for the discharge of a port watchman's
23 duties as may from time to time be established by the division;

24 (4) If the applicant shall be a member of any labor organization
25 which represents longshoremen or pier superintendents or hiring
26 agents; but nothing in P.L. , c. (C.) (pending before the
27 Legislature as this bill) shall be deemed to prohibit port watchmen
28 from being represented by a labor organization or organizations
29 which do not also represent longshoremen or pier superintendents
30 or hiring agents. The American Federation of Labor, the Congress
31 of Industrial Organizations (AFL-CIO) and any other similar
32 federation, congress, or other organization of national or
33 international occupational or industrial labor organizations shall not
34 be considered a labor organization which represents longshoremen
35 or pier superintendents or hiring agents within the meaning of this
36 section although one of the federated or constituent labor
37 organizations thereof may represent longshoremen or pier
38 superintendents or hiring agents;

39 (5) If the applicant knowingly or willfully advocates the
40 desirability of overthrowing or destroying the government of the
41 United States by force or violence or shall be a member of a group
42 which advocates that desirability, knowing the purposes of the
43 group's advocacy.

44 d. When the application shall have been examined and further
45 inquiry and investigation made as the division shall deem proper
46 and when the authority shall be satisfied therefrom that the
47 applicant possesses the qualifications and requirements prescribed
48 in this section and regulations issued pursuant thereto, the division

1 shall issue and deliver a license to the applicant. The division may
2 issue a temporary permit to any applicant for a license under the
3 provisions of this section pending final action on an application
4 made for that license. Any temporary permit shall be valid for a
5 period not in excess of 30 days.

6 e. A license granted pursuant to this section shall continue for a
7 term of three years. A license may be renewed by the division for
8 successive three-year periods upon fulfilling the same requirements
9 established in this section for an original application.

10 f. Notwithstanding any provision of this section, a license to
11 act as a port watchman shall continue indefinitely and need not be
12 renewed, provided that the licensee shall, as required by the
13 division:

14 (1) Submit to a medical examination and meet the physical and
15 mental fitness standards may be established by the division;

16 (2) Complete a refresher course of training; and

17 (3) Submit supplementary personal history information.

18 g. Any license issued pursuant to this section may be revoked
19 or suspended for a period as the division deems in the public
20 interest or the licensee thereunder may be reprimanded for any of
21 the following offenses:

22 (1) Conviction of a crime or other cause which would permit or
23 require the holder's disqualification from receiving a license upon
24 original application;

25 (2) Fraud, deceit, or misrepresentation in securing the license;
26 and

27 (3) Any other offense described in subsection g. of section 6 of
28 P.L. , c. (C.) (pending before the Legislature as this bill).

29 h. The division shall, at regular intervals, cancel the license or
30 temporary permit of a port watchman who has failed during the
31 preceding 12 months to work as a port watchman in the port of New
32 York district in this State a minimum number of hours as
33 established by the division, except that the division shall
34 immediately restore the license or temporary permit upon a proper
35 showing that the failure to so work was caused by the fact that the
36 licensee or permit holder was engaged in the military service of the
37 United States or was incapacitated by ill health, physical injury, or
38 other good cause.

39 i. Any port watchman ineligible for a license by reason
40 pursuant to this section may petition for and the division may issue
41 an order removing the ineligibility. A petition for an order to
42 remove an ineligibility may be made to the division before or after
43 the hearing required by section 14 of P.L. , c. (C.) (pending
44 before the Legislature as this bill).

45
46 14. a. The division shall not deny any application for a license
47 or registration without giving the applicant or prospective licensee

1 reasonable prior notice and an opportunity to be heard at a hearing
2 conducted by the division.

3 b. Any application for a license or for inclusion in the
4 longshoremen's register, and any license issued or registration
5 made, may be denied, revoked, cancelled, or suspended as the case
6 may be, only in the manner prescribed in this section.

7 c. The division may on its own initiative or on complaint of
8 any person, including any public official or agency, institute
9 proceedings to revoke, cancel, or suspend any license or registration
10 after a hearing at which the licensee or registrant and any person
11 making a complaint shall be given an opportunity to be heard,
12 provided that any order of the division revoking, cancelling, or
13 suspending any license or registration shall not become effective
14 until 15 days subsequent to the serving of notice thereof upon the
15 licensee or registrant unless in the opinion of the division the
16 continuance of the license or registration for that period would be
17 inimical to the public peace or safety. The hearing shall be held in
18 a manner and upon notice as may be prescribed by the rules of the
19 division, but the notice shall be of not less than 10 days and shall
20 state the nature of the complaint.

21 d. Pending the determination of a hearing pursuant to this
22 section, the division may temporarily suspend a license or
23 registration if, in the opinion of the division, the continuance of the
24 license or registration for that 15-day period, pursuant to subsection
25 c. of this section, is inimical to the public peace or safety.

26 e. The division, or a member, officer, employee, or agent of the
27 division as may be designated by the division for such purpose,
28 shall have the power to issue subpoenas to compel the attendance of
29 witnesses and the giving of testimony or production of other
30 evidence and to administer oaths in connection with a hearing. It
31 shall be the duty of the division or of any member, officer,
32 employee, or agent of the division designated by the division for
33 that purpose to issue subpoenas at the request of and upon behalf of
34 the licensee, registrant, or applicant. The person conducting the
35 hearing on behalf of the division shall not be bound by common law
36 or statutory rules of evidence or by technical or formal rules of
37 procedure in conducting the hearing.

38 f. Upon the conclusion of the hearing, the division shall take
39 action upon the findings and determination as the division deems
40 proper and shall execute an order carrying its findings into effect.
41 The action in the case of an application for a license or registration
42 shall be the granting or denial thereof. The action in the case of a
43 licensee shall be revocation of the license or suspension thereof for
44 a fixed period or reprimand or a dismissal of the charges. The
45 action in the case of a registered longshoreman shall be dismissal of
46 the charges, reprimand, or removal from the longshoremen's
47 register for a fixed period or permanently.

1 g. The action of the division, in denying any application for a
2 license or in refusing to include any person in the longshoremen's
3 register established pursuant to section 8 of P.L. , c. (C.)
4 (pending before the Legislature as this bill), or in suspending or
5 revoking a license or removing any person from the longshoremen's
6 register or in reprimanding a licensee, or registrant, shall be subject
7 to judicial review by a proceeding instituted in this State at the
8 instance of the applicant, licensee, or registrant in the manner
9 provided by State law for review of the final decision or action of
10 an administrative agency of the State; provided, however, that
11 notwithstanding any other provision of law, the court shall have
12 power to stay for not more than 30 days an order of the division
13 suspending or revoking a license or removing a longshoreman from
14 the longshoremen's register.

15
16 15. a. At hearings conducted by the division pursuant to section
17 14 of P.L. , c. (C.) (pending before the Legislature as this
18 bill), applicants, prospective licensees, licensees, and registrants
19 shall have the right to be accompanied and represented by counsel.

20 b. After the conclusion of a hearing but prior to the making of
21 an order by the division, a hearing may, upon petition and in the
22 discretion of the hearing officer, be reopened for the presentation of
23 additional evidence. A petition to reopen the hearing shall state in
24 detail the nature of the additional evidence, together with the
25 reasons for the failure to submit such evidence prior to the
26 conclusion of the hearing. The division may upon its own motion
27 and upon reasonable notice reopen a hearing for the presentation of
28 additional evidence. Upon petition, after the making of an order of
29 the division, rehearing may be granted in the discretion of the
30 division. A petition for rehearing shall state in detail the grounds
31 upon which the petition is based and shall separately set forth each
32 error of law and fact alleged to have been made by the division in
33 its determination, together with the facts and arguments in support
34 thereof. The petition shall be filed with the division not later than
35 30 days after service of the division's order, unless the division for
36 good cause shown shall otherwise direct. The division may upon its
37 own motion grant a rehearing after the making of an order.

38
39 16. a. The division is hereby designated on its own behalf or as
40 agent of the State of New Jersey, as provided by the act of Congress
41 of the United States, effective June 6, 1933, entitled "An act to
42 provide for the establishment of a national employment system and
43 for co-operation with the states in the promotion of such system and
44 for other purposes," as amended, for the purpose of obtaining the
45 benefits of that act of Congress as are necessary or appropriate to
46 the establishment and operation of employment information centers
47 authorized by this section.

- 1 b. The division shall have all powers necessary to take steps to
2 formulate plans and to execute projects related to the establishment
3 and operation of employment information centers, as may be
4 necessary to obtain any benefits for the operation of employment
5 information centers in accomplishing the purposes of P.L. ,
6 c. (C.) (pending before the Legislature as this bill).
- 7 c. Any officer or agency designated by this State, pursuant to
8 the act of June 6, 1933, as amended, is authorized and empowered,
9 upon the request of the division and subject to its direction, to
10 exercise the powers and duties conferred upon the division by the
11 provisions of this section.
- 12 d. The division shall establish and maintain one or more
13 employment information centers within the port of New York
14 district in this State at locations as the division may determine. A
15 person shall not, directly or indirectly, hire any person for work as a
16 longshoreman or port watchman within the port of New York
17 district in this State, except through an employment information
18 center as may be prescribed by the division. A person shall not
19 accept any employment as a longshoreman or port watchman within
20 the port of New York district in this State, except through an
21 employment information center. At each employment information
22 center, the division shall keep and exhibit the longshoremen's
23 register and any other records the division shall determine to the
24 end that longshoremen and port watchmen shall have the maximum
25 information as to available employment at any time within the port
26 of New York district in this State and that employers shall have an
27 adequate opportunity to fill their requirements of registered
28 longshoremen and port watchmen at all times.
- 29 e. Every employer of longshoremen or port watchmen within
30 the port of New York district in this State shall furnish information
31 as may be required by the rules and regulations prescribed by the
32 division with regard to the name of each person hired as a
33 longshoreman or port watchman, the time and place of hiring, the
34 time, place, and hours of work, and the compensation therefor.
35
- 36 17. a. The division may designate one of the employment
37 information centers it is authorized to establish and maintain under
38 section 16 of P.L. , c. (C.) (pending before the Legislature
39 as this bill) for the implementation of a telecommunications hiring
40 system through which longshoremen and checkers may be hired and
41 accept employment without any personal appearance at the center.
42 The telecommunications hiring system shall incorporate hiring and
43 seniority agreements between the employers of longshoremen and
44 checkers and the labor organizations representing longshoremen
45 and checkers in the port of New York district in this State, provided
46 the agreements are not in conflict with the provisions of P.L. ,
47 c. (C.) (pending before the Legislature as this bill).

1 b. The division shall permit employees of the management
2 organizations representing employers of longshoremen and
3 checkers in the port of New York district in this State, and of the
4 labor organizations representing longshoremen and checkers in the
5 port of New York district in this State, or of a joint board of these
6 management and labor organizations, to participate in the operation
7 of the telecommunications hiring system, if these employees are
8 registered by the division as "telecommunications system
9 controllers," with respect to the registration of checkers. A person
10 shall not act as a "telecommunications system controller" unless
11 that person is registered. An application for registration and a
12 registration made or issued may be denied, revoked, cancelled, or
13 suspended, as the case may be, only in the manner prescribed in
14 section 11 of P.L. , c. (C.) (pending before the Legislature
15 as this bill). Participation in the operation of the
16 telecommunications hiring system shall be monitored by the
17 division.

18 c. The records, documents, tapes, discs, and other data
19 compiled, collected or maintained by a management organization, a
20 labor organization, and a joint board of these management and labor
21 organizations pertaining to the telecommunications hiring system
22 shall be available for inspection, investigation, and duplication by
23 the division.
24

25 18. In addition to the grounds elsewhere established in P.L. ,
26 c. (C.) (pending before the Legislature as this bill), the
27 division may deny an application for a license or registration for
28 any of the following:

29 a. Conviction by a court of the United States or any State or
30 territory thereof of coercion;

31 b. Conviction by a court described in subsection a. of this
32 section, after having been previously convicted by that court of any
33 crime or of the offenses hereinafter set forth, or any of the
34 following offenses: assault, malicious injury to property, malicious
35 mischief, unlawful taking of a motor vehicle, corruption of
36 employees or possession of illegal betting number slips;

37 c. Fraud, deceit or misrepresentation in connection with any
38 application or petition submitted to, or any interview, hearing or
39 proceeding conducted by the division or commission;

40 d. Violation of any provision of P.L. , c. (C.) (pending
41 before the Legislature as this bill) or commission of any offense
42 thereunder;

43 e. Refusal on the part of any applicant, or prospective licensee,
44 or of any member, officer or stockholder required by section 7 of
45 P.L. , c. (C.) (pending before the Legislature as this bill) to
46 sign or be identified in an application for a stevedore license, to
47 answer any material question or produce any material evidence in
48 connection with the person's application or any application made on

1 the person's behalf for a license or registration pursuant to section 7
2 of P.L. , c. (C.) (pending before the Legislature as this
3 bill);

4 f. Association with a person who has been identified by a
5 federal, State, or local law enforcement agency as a member or
6 associate of an organized crime group, a terrorist group, or a career
7 offender cartel, or who is a career offender, under circumstances
8 where that association creates a reasonable belief that the
9 participation of the applicant in any activity required to be licensed
10 or registered under P.L. , c. (C.) (pending before the
11 Legislature as this bill) would be inimical to the purposes of P.L. ,
12 c. (C.) (pending before the Legislature as this bill); or

13 g. Conviction of a racketeering activity or knowing association
14 with a person who has been convicted of a racketeering activity by
15 a court of the United States, or any State or territory thereof under
16 circumstances where that association creates a reasonable belief that
17 the participation of the applicant in any activity required to be
18 licensed or registered under P.L. , c. (C.) (pending before
19 the Legislature as this bill) would be inimical to the purposes of
20 P.L. , c. (C.) (pending before the Legislature as this bill).

21
22 19. In addition to the grounds elsewhere set forth in P.L. ,
23 c. (C.) (pending before the Legislature as this bill), any
24 license or registration issued or made pursuant thereto may be
25 revoked or suspended for a period as the division deems in the
26 public interest or the licensee or registrant may be reprimanded, for:

27 a. Conviction of any crime or offense in relation to illegal
28 gambling, bookmaking, or similar crimes or offenses if the crime or
29 offense was committed at or on a pier or other waterfront terminal
30 or within 500 feet thereof;

31 b. Willful authority of, or willful attempt to commit at or on a
32 waterfront terminal or adjacent highway, any act of physical injury
33 to any other person or of willful damage to or misappropriation of
34 any other person's property, unless justified or excused by law;

35 c. Receipt or solicitation of anything of value from any person
36 other than a licensee's or registrant's employer as consideration for
37 the selection or retention for employment of a licensee or registrant;

38 d. Coercion of a licensee or registrant by threat of
39 discrimination or violence or economic reprisal, to make purchases
40 from or to utilize the services of any person;

41 e. Refusal to answer any material question or produce any
42 evidence lawfully required to be answered or produced at any
43 investigation, interview, hearing, or other proceeding conducted by
44 the division pursuant to section 14 of P.L. , c. (C.)
45 (pending before the Legislature as this bill), or, if the refusal is
46 accompanied by a valid plea of privilege against self-incrimination,
47 refusal to obey an order to answer the question or produce any

1 evidence made by the division pursuant to section 14 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill); or
3 f. Association with a person who has been identified by a
4 federal, State, or local law enforcement agency as a member or
5 associate of an organized crime group, a terrorist group, or a career
6 offender cartel, or who is a career offender, under circumstances
7 where that association creates a reasonable belief that the
8 participation of the licensee or registrant in any activity required to
9 be licensed or registered under P.L. , c. (C.) (pending
10 before the Legislature as this bill) would be inimical to the purposes
11 of P.L. , c. (C.) (pending before the Legislature as this
12 bill); or
13 g. Conviction of a racketeering activity or knowing association
14 with a person who has been convicted of a racketeering activity by
15 a court of the United States, or any State, or territory thereof under
16 circumstances where that association creates a reasonable belief that
17 the participation of the licensee or registrant in any activity required
18 to be licensed or registered under P.L. , c. (C.) (pending
19 before the Legislature as this bill) would be inimical to the purposes
20 of P.L. , c. (C.) (pending before the Legislature as this
21 bill).
22
23 20. a. In any investigation, interview, or other proceeding
24 conducted under oath by the division or any duly authorized officer,
25 employee, or agent thereof, if a person refuses to answer a question
26 or produce evidence of any other kind on the ground that the person
27 may be incriminated thereby, and notwithstanding the refusal, an
28 order is made upon 24 hours' prior written notice to the Attorney
29 General of the State of New Jersey, and to the appropriate district
30 attorney or prosecutor having an official interest therein, by the
31 Superintendent of the division or the superintendent's designee, that
32 the person answer the question or produce the evidence, the person
33 shall comply with the order. If the person complies with the order,
34 and if, but for this section, would have been privileged to withhold
35 the answer given or the evidence produced by the person, then
36 immunity shall be conferred upon the person, as provided for
37 herein. Immunity shall not be conferred upon any person except in
38 accordance with the provisions of this section. If, after compliance
39 with the provisions of this section, a person is ordered to answer a
40 question or produce evidence of any other kind and complies with
41 the order, and it is thereafter determined that the Attorney General
42 or appropriate district attorney or prosecutor having an official
43 interest therein was not notified, that failure or neglect shall not
44 deprive that person of any immunity otherwise properly conferred
45 upon the person. But the person may nevertheless be prosecuted or
46 subjected to penalty or forfeiture for any perjury or contempt
47 committed in answering, or failing to answer, or in producing or
48 failing to produce evidence, in accordance with the order, and any

1 answer given or evidence produced shall be admissible against the
2 person upon any criminal proceeding concerning such perjury or
3 contempt.

4 b. If a person, in obedience to a subpoena directing the person
5 to attend and testify, is in this State or comes into this State from
6 the State of New York, the person shall not, while in this State
7 pursuant to such subpoena, be subject to arrest or the service of
8 process, civil or criminal, in connection with matters which arose
9 before the person's entrance into this State under the subpoena.

10

11 21. a. The division may temporarily suspend a temporary permit
12 or a permanent license or a temporary or permanent registration
13 issued pursuant to the provisions of P.L. , c. (C.) (pending
14 before the Legislature as this bill) until further order of the division
15 or final disposition of the underlying case, only where the
16 permittee, licensee, or registrant has been indicted for, or otherwise
17 charged with, a crime which is equivalent to a crime of the third,
18 second, or first degree in this State or only where the permittee or
19 licensee is a port watchman who is charged by the division pursuant
20 to section 13 of P.L. , c. (C.) (pending before the
21 Legislature as this bill) with misappropriating any other person's
22 property at or on a pier or other waterfront terminal.

23 b. In the case of a permittee, licensee, or registrant who has
24 been indicted for, or otherwise charged with, a crime, the temporary
25 suspension shall terminate immediately upon acquittal or upon
26 dismissal of the criminal charge. A person whose permit, license,
27 or registration has been temporarily suspended may, at any time,
28 demand that the division conduct a hearing as provided for in
29 section 14 of P.L. , c. (C.) (pending before the Legislature
30 as this bill). Within 60 days of the demand, the division shall
31 commence the hearing and, within 30 days of receipt of the
32 administrative law judge's report and recommendation, the division
33 shall render a final determination thereon; provided, however, that
34 these time requirements, shall not apply for any period of delay
35 caused or requested by the permittee, licensee, or registrant. Upon
36 failure of the division to commence a hearing or render a
37 determination within the time limits prescribed herein, the
38 temporary suspension of the permittee, licensee, or registrant shall
39 immediately terminate. Notwithstanding any other provision of this
40 subsection, if a federal, State, or local law enforcement agency or
41 prosecutor's office shall request the suspension or deferment of any
42 hearing on the ground that the hearing would obstruct or prejudice
43 an investigation or prosecution, the division may in its discretion,
44 postpone or defer the hearing for a time certain or indefinitely. Any
45 action by the division to postpone a hearing shall be subject to
46 immediate judicial review as provided in subsection b. of this
47 section.

1 c. The division may, within its discretion, bar any permittee,
2 licensee, or registrant who has been suspended pursuant to the
3 provisions of subsection a. of this section, from any employment by
4 a licensed stevedore or a carrier of freight by water, if that
5 individual has been indicted or otherwise charged in any federal,
6 State, or territorial proceeding with any crime involving the
7 possession with intent to distribute, sale, or distribution of a
8 controlled dangerous substance or controlled dangerous substance
9 analog, racketeering, or theft from a pier or waterfront terminal.

10
11 22. The division is authorized to co-operate with the
12 commission, a similar authority, or other public entity of the State
13 of New York, to exchange information on any matter pertinent to
14 the purposes of P.L. , c. (C.) (pending before the
15 Legislature as this bill), and to enter into reciprocal agreements for
16 the accomplishment of those purposes, including, but not limited to,
17 the following objectives:

18 a. To provide for the reciprocal recognition of any license
19 issued or registration made by the commission;

20 b. To give reciprocal effect to any revocation, suspension, or
21 reprimand with respect to any licensee, and any reprimand or
22 removal from a longshoremen's register;

23 c. To provide that any act or omission by a licensee or
24 registrant in either State which would be a basis for disciplinary
25 action against the licensee or registrant if it occurred in the state in
26 which the license was issued or the person registered shall be the
27 basis for disciplinary action in either state; and

28 d. To provide that longshoremen registered in either state, who
29 perform work or who apply for work at an employment information
30 center within the other State shall be deemed to have performed
31 work or to have applied for work in the State in which they are
32 registered.

33
34 23. a. The provisions of P.L. , c. (C.) (pending before
35 the Legislature as this bill) are not designed and shall not be
36 construed to limit in any way any rights granted or derived from
37 any other statute or any rule of law for employees to organize in
38 labor organizations, to bargain collectively and to act in any other
39 way individually, collectively, and through labor organizations or
40 other representatives of their own choosing. Without limiting the
41 generality of the foregoing, nothing contained in P.L. ,
42 c. (C.) (pending before the Legislature as this bill) shall be
43 construed to limit in any way the right of employees to strike.

44 b. The provisions of P.L. , c. (C.) (pending before the
45 Legislature as this bill) are not designed and shall not be construed
46 to limit in any way any rights of longshoremen, hiring agents, pier
47 superintendents, or port watchmen or their employers to bargain
48 collectively and agree upon any method for the selection of those

1 employees by way of seniority, experience, regular gangs, or
2 otherwise; provided, that those employees shall be licensed or
3 registered hereunder and longshoremen and port watchmen shall be
4 hired only through the employment information centers established
5 hereunder and that all other provisions of P.L. , c. (C.)
6 (pending before the Legislature as this bill) be observed.

7
8 24. a. Any officer or employee in the State, county, or
9 municipal civil service in either State who shall transfer to service
10 with the division may be given one or more leaves of absence
11 without pay and may, before the expiration of the leave or leaves of
12 absence, and without further examination or qualification, return to
13 the person's former position or be certified by the appropriate civil
14 service agency for retransfer to a comparable position in the State,
15 county, or municipal civil service if a comparable position is then
16 available.

17 b. The division may, by agreement with any federal agency
18 from which any officer or employee may transfer to service with the
19 division to undertake any of the duties or responsibilities
20 established pursuant to P.L. , c. (C.) (pending before the
21 Legislature as this bill), make similar provision for the retransfer of
22 the officer or employee to that federal agency.

23 c. Notwithstanding the provisions of any other law, rule, or
24 regulation, any officer or employee in the State, county, or
25 municipal service in either State who shall transfer to service with
26 the division and who is a member of any existing State, county, or
27 municipal pension or retirement system in New Jersey or New
28 York, shall continue to have all rights, privileges, obligations, and
29 status with respect to that fund, system, or systems as if the person
30 had continued in State, county, or municipal office or employment,
31 but during the period of service as a member, officer, or employee
32 of the division, all contributions to any pension or retirement fund
33 or system to be paid by the employer on account of the member,
34 officer, or employee, shall be paid by the State Treasurer. The
35 division may, by agreement with the appropriate federal agency,
36 make similar provisions relating to continuance of retirement
37 system membership for any federal officer or employee so
38 transferred.

39
40 25. (New section) a. The division shall annually adopt a budget
41 of its expenses for each year for the purposes of its duties and
42 responsibilities under P.L. , c. (C.) (pending before the
43 Legislature as this bill). Each budget shall be submitted to the
44 Governor and the budget shall be adjusted accordingly.

45 b. After taking into account funds as may be available to the
46 division from reserves, federal grants or otherwise, the balance of
47 the division's budgeted expenses for the performance of its
48 functions and duties under P.L. , c. (C.) (pending before

1 the Legislature as this bill) shall be assessed upon employers of
2 persons registered or licensed pursuant to P.L. , c. (C.)
3 (pending before the Legislature as this bill). Each employer shall
4 pay to the State Treasurer, for placement within the General Fund,
5 an assessment computed upon the gross payroll payments made by
6 that employer to longshoremen, pier superintendents, hiring agents,
7 and port watchmen for work or labor performed within the port of
8 New York district in this State, at a rate, not in excess of two
9 percent, computed by the division in the following manner: the
10 division shall annually estimate the gross payroll payments to be
11 made by employers subject to assessment and shall compute a rate
12 thereon which will yield revenues sufficient to finance the division's
13 budget for the performance of those functions and duties under
14 P.L. , c. (C.) (pending before the Legislature as this bill)
15 for each year. That budget may include a reasonable amount for a
16 reserve, but the amount shall not exceed 10 percent of the total of
17 all other items of expenditure contained therein. The reserve shall
18 be used for the stabilization of annual assessments, the payment of
19 operating deficits, and for the repayment of advances made by the
20 State, if any.

21 c. The amount required to balance the division's budgeted
22 expenses for the performance of its functions and duties under
23 P.L. , c. (C.) (pending before the Legislature as this bill),
24 in excess of the estimated yield of the maximum assessment, shall
25 be certified by the division, with the approval of the Governor, in
26 proportion to the gross annual wage payments made to
27 longshoremen for work within the port of New York district in this
28 State. ¹The Legislature shall annually appropriate to the division
29 the amount so certified.¹

30 d. The division may provide by regulation for the collection
31 and auditing of assessments. In addition to any other sanction
32 provided by law, the division may revoke or suspend any license
33 held by any person under P.L. , c. (C.) (pending before the
34 Legislature as this bill), or the person's privilege of employing
35 persons registered or licensed hereunder, for non-payment of any
36 assessment when due.

37 e. The assessment hereunder shall be in lieu of any other
38 charge for the issuance of licenses to stevedores, pier
39 superintendents, hiring agents, and port watchmen or for the
40 registration of longshoremen or use of an employment information
41 center. The division shall establish reasonable procedures for the
42 consideration of protests by affected employees concerning the
43 estimates and computation of the rate of assessment.

44

45 26. a. (1) Every person subject to the payment of any
46 assessment under the provisions of section 25 of P.L. ,
47 c. (C.) (pending before the Legislature as this bill) shall file
48 on or before the 15th day of the first month of each calendar

1 quarter-year a separate return, together with the payment of the
2 assessment due, for the preceding calendar quarter-year during
3 which any payroll payments were made to longshoremen, pier
4 superintendents, hiring agents, or port watchmen for work
5 performed by those employees within the port of New York district
6 in this State. Returns covering the amount of assessment payable
7 shall be filed with the division on forms to be furnished for that
8 purpose and shall contain data, information, or matter as the
9 division may require to be included therein. The division may grant
10 a reasonable extension of time for filing returns, or for the payment
11 of assessment, whenever good cause exists. Every return shall have
12 annexed thereto a certification to the effect that the statements
13 contained therein are true.

14 (2) Every person subject to the payment of assessment
15 hereunder shall keep an accurate record of that person's
16 employment of longshoremen, pier superintendents, hiring agents,
17 or port watchmen, which shall show the amount of compensation
18 paid and other information as the division may require. Those
19 records shall be preserved for a period of three years and be open
20 for inspection at reasonable times. The division may consent to the
21 destruction of the records at any time after that period or may
22 require that they be kept longer, but not in excess of six years.

23 (3) (a) The division shall audit and determine the amount of
24 assessment due from the return filed and such other information as
25 is available to it. Whenever a deficiency in payment of the
26 assessment is determined, the division shall give notice of the
27 determination to the person liable therefor. The determination shall
28 finally and conclusively fix the amount due, unless the person
29 against whom the assessment is assessed shall, within 30 days after
30 the giving of notice of the determination, apply in writing to the
31 division for a hearing, or unless the division on its own motion shall
32 reduce the assessment. After the hearing, the division shall give
33 notice of its decision to the person liable therefor. A determination
34 of the division under this section shall be subject to judicial review,
35 if application for that review is made within 30 days after the giving
36 of notice of the decision. Any determination under this section
37 shall be made within five years from the time the return was filed
38 and if no return was filed, the determination may be made at any
39 time.

40 (b) Any notice authorized or required under this section may be
41 given by mailing the notice to the person for whom it is intended at
42 the last address that the person shall have given to the division, or
43 in the last return filed with the division under this section, or, if a
44 return has not been filed, then to an address as may be obtainable.
45 The mailing of the notice shall be presumptive evidence of the
46 receipt of it by the person to whom the notice is addressed. Any
47 period of time, which is determined for the giving of notice shall
48 commence to run from the date of mailing of the notice.

1 (4) Whenever any person shall fail to pay, within the time
2 limited herein, any assessment which the person is required to pay
3 to the division under the provisions of this section, the division may
4 enforce payment of the assessment by civil action for the amount of
5 the assessment with interest and penalties.

6 (5) The employment by a nonresident of a longshoreman, or a
7 licensed pier superintendent, hiring agent, or port watchman in this
8 State or the designation by a nonresident of a longshoreman, pier
9 superintendent, hiring agent, or port watchman to perform work in
10 this State shall be deemed equivalent to an appointment by the
11 nonresident of the Secretary of State to be the nonresident's true
12 and lawful attorney upon whom may be served the process in any
13 action or proceeding against the nonresident growing out of any
14 liability for assessments, penalties, or interest, and a consent that
15 any process against the nonresident which is served shall be of the
16 same legal force and validity as if served personally within the State
17 and within the territorial jurisdiction of the court from which the
18 process issues. Service of process within the State shall be made by
19 either:

20 (a) personally delivering to and leaving with the Secretary of
21 State duplicate copies thereof at the office of the Department of
22 State, in which event the Secretary of State shall forthwith send by
23 registered mail one of the copies to the person at the last address
24 designated by the person to the division for any purpose under this
25 section or in the last return filed by the person under this section
26 with the division or as shown on the records of the division, or if no
27 return has been filed, at the person's last known office address
28 within or outside of the State; or

29 (b) personally delivering to and leaving with the Secretary of
30 State a copy thereof at the office of the Department of State and by
31 delivering a copy thereof to the person, personally outside of the
32 State. Proof of personal service outside of the State shall be filed
33 with the clerk of the court in which the process is pending within 30
34 days after that service and the service shall be deemed complete 10
35 days after proof thereof is filed.

36 (6) Whenever the division shall determine that any monies
37 received as assessments were paid in error, it may cause the same to
38 be refunded, provided an application therefor is filed with the
39 division within two years from the time the erroneous payment was
40 made.

41 (7) In addition to any other powers authorized hereunder, the
42 division shall have power to make reasonable rules and regulations,
43 pursuant to the provisions of the "Administrative Procedure Act,"
44 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
45 this section.

46 (8) Any person who shall willfully fail to pay any assessment
47 due hereunder shall be assessed interest at a rate of one percent per
48 month on the amount due and unpaid and penalties of five percent

1 of the amount due for each 30 days or part thereof that the
2 assessment remains unpaid. The division may, for good cause
3 shown, abate all or part of that penalty.

4 (9) Any person who shall willfully furnish false or fraudulent
5 information or shall willfully fail to furnish pertinent information,
6 as required, with respect to the amount of assessment due, shall be
7 guilty of a disorderly persons offense.

8 (10) All funds of the division received as payment of any
9 assessment or penalty under this section shall be deposited with the
10 State Treasurer. The State Treasurer may require that all deposits
11 be secured by obligations of the United States or of the State of
12 New Jersey of a market value equal at all times to the amount of the
13 deposits, and all banks and trust companies are authorized to give
14 security for the deposits.

15 (11) The accounts, books, and records of the division related to
16 the purposes established pursuant to P.L. , c. (C.) (pending
17 before the Legislature as this bill), including its receipts,
18 disbursements, contracts, leases, investments, and any other matters
19 relating to its financial standing shall be examined and audited
20 annually by independent auditors to be retained for such purpose by
21 the division.

22 b. The division shall reimburse the State Treasurer for any
23 funds advanced to the division exclusive of sums appropriated
24 pursuant to section 25 of P.L. , c. (C.) (pending before the
25 Legislature as this bill).

26

27 27. It shall be unlawful for any person to load or unload
28 waterborne freight onto or from vehicles other than railroad cars at
29 piers or at other waterfront terminals within the port of New York
30 district, for a fee or other compensation, other than the following
31 persons and their employees:

32 a. Carriers of freight by water, but only at piers at which their
33 vessels are berthed;

34 b. Other carriers of freight, including but not limited to,
35 railroads and truckers, but only in connection with freight
36 transported or to be transported by those other carriers;

37 c. Operators of piers or other waterfront terminals, including
38 railroads, truck terminal operators, warehousemen and other
39 persons, but only at piers or other waterfront terminals operated by
40 them;

41 d. Shippers or consignees of freight, but only in connection
42 with freight shipped by the shipper or consigned to the consignee;
43 and

44 e. Stevedores licensed under section 7 of P.L. , c. (C.)
45 (pending before the Legislature as this bill), whether or not
46 waterborne freight has been or is to be transported by a carrier of
47 freight by water with which the stevedore shall have a contract of
48 the type prescribed by paragraph (4) of subsection e. of this section.

1 Nothing herein contained shall be deemed to permit any loading
2 or unloading of any waterborne freight at any place by any person
3 by means of any independent contractor, or any other agent other
4 than an employee, unless the independent contractor is a person
5 permitted by section 7 of P.L. , c. (C.) (pending before the
6 Legislature as this bill) to load or unload freight at a place in the
7 person's own right.

8
9 28. a. A person shall not solicit, collect, or receive any dues,
10 assessments, levies, fines, or contributions, or other charges within
11 the State of New Jersey for or on behalf of any labor organization,
12 which represents employees registered or licensed pursuant to the
13 provisions of P.L. , c. (C.) (pending before the Legislature
14 as this bill) in their capacities as registered or licensed employees or
15 which derives its charter from a labor organization representing 100
16 or more of its registered or licensed employees, if any officer,
17 agent, or employee of the labor organization for which dues,
18 assessments, levies, fines, or contributions, or other charges are
19 solicited, collected, or received, or of a welfare fund or trust
20 administered partially or entirely by the labor organization or by
21 trustees or other persons designated by the labor organization, has
22 been convicted by a court of the United States, or any State or
23 territory thereof, of treason, murder, manslaughter, or any felony,
24 crime involving moral turpitude, or any crime or offense
25 enumerated subsection g. of section 6 of P.L. , c. (C.)
26 (pending before the Legislature as this bill), unless that person has
27 been subsequently pardoned therefor by the Governor or other
28 appropriate authority of the State in which the conviction was had
29 or has received a certificate of good conduct or other relief from
30 disabilities arising from the fact of conviction from a parole board
31 or similar authority.

32 b. Any person who shall violate this section shall be guilty of a
33 petty disorderly persons offense.

34 c. Any person who shall violate, aid and abet the violation, or
35 conspire or attempt to violate this subsection shall be guilty of a
36 petty disorderly persons offense.

37 d. If upon application to the division by an employee who has
38 been convicted of a crime or offense specified in subsection b. of
39 this section, the authority, in its discretion, determines in an order
40 that it would not be contrary to the purposes and objectives of
41 P.L. , c. (C.) (pending before the Legislature as this bill)
42 for that employee to work in a particular employment for a labor
43 organization, welfare fund, or trust, the provisions of subsection b.
44 of this section shall not apply to the particular employment of the
45 employee with respect to that conviction or convictions as are
46 specified in the division's order. This subsection is applicable only
47 to those employees, who for wages or salary, perform manual,
48 mechanical, or physical work of a routine or clerical nature at the

1 premises of the labor organization, welfare fund, or trust by which
2 they are employed.

3 e. A person who has been convicted of a crime or offense
4 specified in subsection b. of this section shall not directly or
5 indirectly serve as an officer, agent, or employee of a labor
6 organization, welfare fund, or trust, unless the person has been
7 subsequently pardoned for that crime or offense by the Governor or
8 other appropriate authority of the State in which the conviction was
9 had or has received a certificate of good conduct or other relief
10 from disabilities arising from the fact of conviction from a parole
11 board or similar authority or has received an order of exception
12 from the division. A person, including a labor organization, welfare
13 fund, or trust, shall not knowingly permit any other person to
14 assume or hold any office, agency, or employment in violation of
15 this section.

16 f. The division may maintain a civil action against any person,
17 labor organization, welfare fund, or trust, or officers thereof to
18 compel compliance with this section, or to prevent any violations,
19 the aiding and abetting thereof, or any attempt or conspiracy to
20 violate this section, either by mandamus, injunction, or action or
21 proceeding in lieu of prerogative writ and upon a proper showing a
22 temporary restraining order or other appropriate temporary order
23 shall be granted ex parte and without bond pending final hearing
24 and determination. Nothing in this subsection shall be construed to
25 modify, limit, or restrict in any way the provisions of subsection a.
26 of this section.

27
28 29. a. Any person who, having been duly sworn or affirmed as a
29 witness in any investigation, interview, hearing or other proceeding
30 conducted by the division pursuant to section 15 of P.L. ,
31 c. (C.) (pending before the Legislature as this bill), shall
32 willfully give false testimony shall be guilty of a disorderly persons
33 offense.

34 b. The division may maintain a civil action on behalf of the
35 State against any person who violates or attempts or conspires to
36 violate P.L. , c. (C.) (pending before the Legislature as this
37 bill) or who fails, omits, or neglects to obey, observe, or comply
38 with any order or direction of the division, to recover a judgment
39 for a money penalty not exceeding \$500 for each and every offense.
40 Every violation of any provision of P.L. , c. (C.) (pending
41 before the Legislature as this bill), or any division order or
42 direction, shall be a separate and distinct offense, and, in case of a
43 continuing violation, every day's continuance shall be and be
44 deemed to be a separate and distinct offense. Any civil action may
45 be compromised or discontinued on application of the division upon
46 the terms as the court may approve and a judgment may be rendered
47 for an amount less than the amount demanded in the complaint as
48 justice may require.

1 c. The division may maintain a civil action against any person
2 to compel compliance with any of the provisions of P.L. ,
3 c. (C.) (pending before the Legislature as this bill), or to
4 prevent violations, attempts, or conspiracies to violate any
5 provisions of P.L. , c. (C.) (pending before the Legislature
6 as this bill), or interference, attempts, or conspiracies to interfere
7 with or impede the enforcement of any provisions of P.L. ,
8 c. (C.) (pending before the Legislature as this bill) or the
9 exercise or performance of any power or duty thereunder, either by
10 mandamus, injunction, or action or proceeding in lieu of prerogative
11 writ.

12 d. Any person who shall violate any of the provisions of
13 P.L. , c. (C.) (pending before the Legislature as this bill),
14 for which no other penalty is prescribed, shall be guilty of a petty
15 disorderly persons offense.

16 e. Any person who shall, without a satisfactory explanation,
17 loiter upon any vessel, dock, wharf, pier, bulkhead, terminal,
18 warehouse, or other waterfront facility or within 500 feet thereof in
19 that portion of the port of New York district in this State, shall be
20 guilty of a petty disorderly persons offense.

21 f. Any person who, without justification or excuse in law,
22 directly or indirectly, intimidates or inflicts any injury, damage,
23 harm, loss, or economic reprisal upon any person licensed or
24 registered by the division, or any other person, or attempts,
25 conspires, or threatens so to do, in order to interfere with, impede,
26 or influence the licensed or registered person in the performance or
27 discharge of the licensed or registered person's duties or obligations
28 shall be punishable as provided in this section.

29

30 30. a. The failure of any witness, when duly subpoenaed to
31 attend, give testimony, or produce other evidence in connection
32 with any matter arising under the provisions of P.L. ,
33 c. (C.) (pending before the Legislature as this bill), whether
34 or not at a hearing, shall be punishable by the Superior Court in
35 New Jersey in the same manner as that failure is punishable by the
36 court in a case therein pending.

37 b. Any person who, having been sworn or affirmed as a witness
38 in any hearing pursuant to subsection a. of this section, shall
39 willfully give false testimony or who shall willfully make or file
40 any false or fraudulent report or statement required by P.L. ,
41 c. (C.) (pending before the Legislature as this bill) to be
42 made or filed under oath, shall be guilty of a disorderly persons
43 offense.

44 c. Any person who violates or attempts or conspires to violate
45 any other provision of P.L. , c. (C.) (pending before the
46 Legislature as this bill) shall be punishable as may be provided by
47 section 28 of P.L. , c. (C.) (pending before the Legislature
48 as this bill).

1 d. Any person who interferes with or impedes the orderly
2 registration of longshoremen pursuant to P.L. , c. (C.)
3 (pending before the Legislature as this bill) or who conspires to or
4 attempts to interfere with or impede such registration shall be
5 punishable as may be provided by section 28 of P.L. ,
6 c. (C.) (pending before the Legislature as this bill).

7 e. Any person who, directly or indirectly, inflicts or threatens
8 to inflict any injury, damage, harm, or loss or in any other manner
9 practices intimidation upon or against any person in order to induce
10 or compel such person or any other person to refrain from
11 registering pursuant to section 8 of P.L. , c. (C.) (pending
12 before the Legislature as this bill) shall be punishable as may be
13 provided by section 28 of P.L. , c. (C.) (pending before the
14 Legislature as this bill).

15 f. In any prosecution under this section, it shall be sufficient to
16 prove only a single act, or a single holding out or attempt,
17 prohibited by law, without having to prove a general course of
18 conduct, in order to prove a violation.

19
20 31. As of the transfer date, the waterfront commission compact,
21 entered into by the State of New Jersey pursuant to its agreement
22 thereto under P.L.1953, c.202 (C.32:23-1 et seq.) and by the State
23 of New York pursuant to its agreement thereto under P.L.1953,
24 c.882 (NY Unconsol. Ch. 307, s.1), as amended and supplemented,
25 the airport commission compact, entered into by the State of New
26 Jersey pursuant to its agreement thereto under P.L.1970, c.58
27 (C.32:23-150 et seq.) and by the State of New York pursuant to its
28 agreement thereto under P.L.1970, c.951 (NY Unconsol. Ch. 307,
29 s.10), and the commission, are dissolved.

30
31 ¹32. R.S.52:14-7 is amended to read as follows:

32 52:14-7. a. Every person holding an office, employment, or
33 position

34 (1) in the Executive, Legislative, or Judicial Branch of this
35 State, or

36 (2) with an authority, board, body, agency, commission, or
37 instrumentality of the State including any State college, university,
38 or other higher educational institution, and, to the extent consistent
39 with law, any interstate agency to which New Jersey is a party, or

40 (3) with a county, municipality, or other political subdivision of
41 the State or an authority, board, body, agency, district, commission,
42 or instrumentality of the county, municipality, or subdivision, or

43 (4) with a school district or an authority, board, body, agency,
44 commission, or instrumentality of the district,
45 shall have his or her principal residence in this State and shall
46 execute such office, employment, or position.

47 This residency requirement shall not apply to any person: (a)
48 who is employed on a temporary or per-semester basis as a visiting

1 professor, teacher, lecturer, or researcher by any State college,
2 university, or other higher educational institution, or county or
3 community college, or in a full or part-time position as a member of
4 the faculty, the research staff, or the administrative staff by any
5 State college, university, or other higher educational institution, or
6 county or community college, that the college, university, or
7 institution has included in the report required to be filed pursuant to
8 this subsection **【, or】**; (b) who is employed full-time by the State
9 who serves in an office, employment, or position that requires the
10 person to spend the majority of **【his or her】** the person's working
11 hours in a location outside of this State; or (c) an officer of the
12 waterfront commission of New York harbor, employed by the
13 commission on the effective date of P.L. , c. (C.) (pending
14 before the Legislature as this bill), who seeks to be transferred to
15 the Division of State Police in the Department of Law and Public
16 Safety pursuant to section 4 of P.L. , c. (C.) (pending
17 before the Legislature as this bill).

18 For the purposes of this subsection, a person may have at most
19 one principal residence, and the state of a person's principal
20 residence means the state (1) where the person spends the majority
21 of **【his or her】** the person's nonworking time, and (2) which is most
22 clearly the center of **【his or her】** the person's domestic life, and (3)
23 which is designated as **【his or her】** the person's legal address and
24 legal residence for voting. The fact that a person is domiciled in
25 this State shall not by itself satisfy the requirement of principal
26 residency hereunder.

27 A person, regardless of the office, employment, or position, who
28 holds an office, employment, or position in this State on the
29 effective date of P.L.2011, c.70 but does not have **【his or her】**
30 principal residence in this State on that effective date shall not be
31 subject to the residency requirement of this subsection while the
32 person continues to hold office, employment, or position without a
33 break in public service of greater than seven days.

34 Any person may request an exemption from the provisions of
35 this subsection on the basis of critical need or hardship from a five-
36 member committee hereby established to consider applications for
37 **【such】** exemptions. The committee shall be composed of three
38 persons appointed by the Governor, a person appointed by the
39 Speaker of the General Assembly, and a person appointed by the
40 President of the Senate, each of whom shall serve at the pleasure of
41 the person making the appointment and shall have a term not to
42 exceed five years. A vacancy on the committee shall be filled in the
43 same manner as the original appointment was made. The Governor
44 shall make provision to provide such clerical, secretarial, and
45 administrative support to the committee as may be necessary for it
46 to conduct its responsibilities pursuant to this subsection.

1 The decision on whether to approve an application from any
2 person shall be made by a majority vote of the members of the
3 committee, and those voting in the affirmative shall so sign the
4 approved application. If the committee fails to act on an application
5 within 30 days after the receipt thereof, no exemption shall be
6 granted and the residency requirement of this subsection shall be
7 operative. The head of a principal department of the Executive
8 Branch of the State government, a Justice of the Supreme Court,
9 judge of the Superior Court, and judge of any inferior court
10 established under the laws of this State shall not be eligible to
11 request from the committee an exemption from the provisions of
12 this subsection.

13 The exemption provided in this subsection for certain persons
14 employed by a State college, university, or other higher educational
15 institution, or a county or community college, other than those
16 employed on a temporary or per-semester basis as a visiting
17 professor, teacher, lecturer, or researcher, shall apply only to those
18 persons holding positions that the college, university, or institution
19 has included in a report of those full or part-time positions as a
20 member of the faculty, the research staff, or the administrative staff
21 requiring special expertise or extraordinary qualifications in an
22 academic, scientific, technical, professional, or medical field or in
23 administration, that, if not exempt from the residency requirement,
24 would seriously impede the ability of the college, university, or
25 institution to compete successfully with similar colleges,
26 universities, or institutions in other states. The report shall be
27 compiled annually and shall also contain the reasons why the
28 positions were selected for inclusion in the report. The report shall
29 be compiled and filed within 60 days following the effective date of
30 P.L.2011, c.70. The report shall be reviewed, revised as necessary,
31 and filed by January 1 of each year thereafter. Each report shall be
32 filed with the Governor and, pursuant to section 2 of P.L.1991,
33 c.164 (C.52:14-19.1), with the Legislature, and a report may be
34 revised at any time by filing an amendment to the report with the
35 Governor and Legislature.

36 As used in this section, "school district" means any local or
37 regional school district established pursuant to chapter 8 or chapter
38 13 of Title 18A of the New Jersey Statutes and any jointure
39 commission, county vocational school, county special services
40 district, educational services commission, educational research and
41 demonstration center, environmental education center, and
42 educational information and resource center.

43 b. If any person holding any office, employment, or other
44 position in this State shall attempt to let, farm out, or transfer
45 **【such】** office, employment, or position or any part thereof to any
46 person, **【he】** the person shall forfeit the sum of **【fifteen hundred**
47 **dollars (\$1,500.00)】** \$1,500, to be recovered with costs by any
48 person who shall sue for the same, one-half to the prosecutor and

1 the other half to the **【treasurer】** State Treasurer for the use of the
2 State.

3 c. No person shall be appointed to or hold any position in this
4 State who has not the requisite qualifications for personally
5 performing the duties of such position in cases where scientific
6 engineering skill is necessary to the performance of the duties
7 thereof.

8 d. Any person holding or attempting to hold an office,
9 employment, or position in violation of this section shall be
10 considered as illegally holding or attempting to hold the same;
11 provided that a person holding an office, employment, or position in
12 this State shall have one year from the time of taking the office,
13 employment, or position to satisfy the requirement of principal
14 residency, and if thereafter **【such】** the person fails to satisfy the
15 requirement of principal residency as defined herein with respect to
16 any 365-day period, that person shall be deemed unqualified for
17 holding the office, employment, or position. The Superior Court
18 shall, in a civil action in lieu of prerogative writ, give judgment of
19 ouster against **【such】** the person, upon the complaint of any officer
20 or citizen of the State, provided that any **【such】** complaint shall be
21 brought within one year of the alleged 365-day period of failure to
22 have **【his or her】** the person's principal residence in this State.¹

23 (cf: P.L.2011, c.70, s.2)
24

25 ¹**【32.】** 33.¹ The following are repealed:

26 P.L.1953, c.202 (C.32:23-1 et seq.);

27 P.L.1991, c.248 (C.32:23-23.1);

28 P.L.1985, c.32 (C.32:23-43.1 and 32:23-44.1);

29 Section 2 of P.L.1956, c.20 (C.32:23-75.1);

30 P.L.1954, c.3 (C.32:23-77.1 et seq.);

31 Sections 4 and 5 of P.L.1962, c.5 (C.32:23-80.1 and 32:23-80.2);

32 P.L.1954, c.14 (C.32:23-85 et seq.);

33 P.L.1956, c.19 (C.32:23-99 et seq.);

34 Sections 6, 8, 9, and 10 of P.L.1956, c.194 (C.32:23-105 through
35 32:23-108);

36 P.L.1990, c.59 (C.32:23-105.1 through 32:23-105.3);

37 Sections 2 and 6 through 9 of P.L.1962, c.5 (C.32:23-109
38 through 32:23-113);

39 Sections 2 through 5 of P.L.1966, c.18 (C.32:23-114 through
40 32:23-117);

41 P.L.1976, c.102 (C.32:23-118 through 32:23-121); and

42 Sections 4 through 17 and section 19 of P.L.1970, c.58 (C.32:23-
43 150 through 32:23-225).
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45 ¹**【33.】** 34.¹ This act shall take effect immediately, but sections 3
46 through 32 shall be inoperative until the transfer date has occurred

1 pursuant to section 31 of P.L. , c. (C.) (pending before the
2 Legislature as this bill).