

ASSEMBLY, No. 1485

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Concerns rights of Delaware River and Bay Authority employees.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the Delaware River and Bay Authority,
2 amending P.L.1961, c.66 and P.L.1941, c.100, and
3 supplementing P.L.1961, c.66 (C.32:11E-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) The Governor is authorized to enter into a
9 supplemental compact or agreement, on behalf of the State of New
10 Jersey, with the State of Delaware supplementing the compact or
11 agreement between the State of Delaware and the State of New
12 Jersey known as the "Delaware-New Jersey Compact," as set forth
13 in P.L. , c. (C.) (pending before the legislature as this bill).
14

15 2. Section 1 of P.L.1961, c.66 (C.32:11E-1) is amended to read as
16 follows:

17 1. The State of New Jersey hereby agrees with the State of
18 Delaware, upon enactment by the State of Delaware of legislation
19 having the same effect as this section, to the following compact:
20

21 DELAWARE-NEW JERSEY COMPACT
22

23 **WHEREAS**, The states of Delaware and New Jersey are separated by
24 the Delaware River and Bay which create a natural obstacle to the
25 uninterrupted passage of traffic other than by water and with
26 normal commercial activity between the two states thereby
27 hindering the economic growth and development of those areas in
28 both states which border the river and bay; and

29 **WHEREAS**, The pressures of existing trends from increasing traffic,
30 growing population, and greater industrialization indicate the need
31 for closer cooperation between the two states in order to advance
32 the economic development and to improve crossings,
33 transportation, terminal, and other facilities of the area; and

34 **WHEREAS**, The financing, construction, operation, and maintenance of
35 such crossings, transportation, terminal, and other facilities of
36 commerce and the overall planning for future economic
37 development of the area may be best accomplished for the benefit
38 of the two states and their citizens, the region and nation, by the
39 cordial cooperation of Delaware and New Jersey by and through a
40 joint or common agency or authority; and

41 **WHEREAS**, The Delaware-New Jersey Compact, enacted pursuant to
42 53 Laws of Delaware, Chapter 145 (17 Del. C. s.1701) and
43 P.L.1961, c.66 (C.32:11E-1 et seq.) of the Pamphlet Laws of New
44 Jersey, with the consent of the United States Congress in

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

Matter underlined thus is new matter.

1 accordance with Pub.L.87-678 (1962), created the Delaware River
2 and Bay Authority with the intention of advancing the economic
3 growth and development of those areas in both states which border
4 the Delaware River and Bay by the financing, development,
5 construction, operation, and maintenance of crossings,
6 transportation, or terminal facilities, and other facilities of
7 commerce, and by providing for overall planning for the future
8 economic development of those areas; and

9 **WHEREAS**, The economic growth and development of areas of both
10 states will be further advanced by authorizing the authority to
11 undertake economic development projects, other than major
12 projects as defined in Article II, at its own initiative, and to
13 undertake major projects after securing only such approvals as may
14 be required by legislation of the state in which the project is to be
15 located, except that the authority is prohibited from undertaking any
16 major project, to be located in the Delaware River or Bay,
17 including, without limitation, any deep-water port or superport,
18 without the prior approval, by concurrent legislation, of the two
19 states; and

20 **WHEREAS**, The natural environment of those areas in the two states
21 which border the Delaware River and Bay would be better
22 preserved by requiring that the projects, other than crossings, of the
23 authority shall be in complete compliance with all applicable
24 environmental protection laws and regulations before the authority
25 may undertake the planning, development, construction or
26 operation of any project, other than a crossing;

27
28 **NOW, THEREFORE**, The State of Delaware and the State of New
29 Jersey do hereby solemnly covenant and agree, each with the other
30 as follows:

31
32 **ARTICLE I**

33
34 **SHORT TITLE**

35
36 This compact shall be known as the "Delaware-New Jersey
37 Compact."

38
39 **ARTICLE II**

40
41 **DEFINITIONS**

42
43 "Charge card" means any card, plate, coupon book, or other
44 device existing for the purpose of obtaining money, property, labor,
45 services, or anything else of value on credit which is not subject to
46 a finance charge.

47 "Credit card" means any card, plate, coupon book, or other
48 device existing for the purpose of obtaining money, property, labor,

1 services, or anything else of value on credit which may be subject
2 to a finance charge.

3 "Financial records" mean all receipts and records of
4 disbursements, revenues and expenses, operating and capital outlay
5 expenses, assets and liabilities, including the fiscal status of
6 authority facilities, projects, and developments, including the status
7 of reserve, depreciation, special, or other funds and the receipts and
8 payments of these funds, and schedules of authority bonds and
9 notes.

10 "Information" means all authority books, papers, maps,
11 photographs, cards, or other documentary materials, regardless of
12 physical form or characteristics.

13 "Crossing" means any structure or facility adapted for public use
14 in crossing the Delaware River or Bay between the states, whether
15 by bridge, tunnel, ferry, or other device, and by any vehicle or
16 means of transportation of persons or property, as well as all
17 approaches thereto and connecting and service routes and all
18 appurtenances and equipment relating thereto.

19 "Transportation facility" and "terminal facility" mean any
20 structure or facility other than a crossing as herein defined, adapted
21 for public use within each of the states party hereto in connection
22 with the transportation of persons or property, including railroads,
23 motor vehicles, watercraft, airports and aircraft, docks, wharves,
24 piers, slips, basins, storage places, sheds, warehouses, and every
25 means or vehicle of transportation now or hereafter in use for the
26 transportation of persons and property or the storage, handling, or
27 loading of property, as well as all appurtenances and equipment
28 related thereto.

29 "Commerce facility or development" means any structure or
30 facility adapted for public use or any development for a public
31 purpose within each of the states party hereto in connection with
32 recreational and commercial fishery development, recreational
33 marina development, aquaculture (marine farming), shoreline
34 preservation and development (including wetlands and open-lands
35 acquisition, active recreational and park development, beach
36 restoration and development, dredge spoil disposal, and port-
37 oriented development), foreign trade zone site development,
38 manufacturing and industrial facilities, and any other facility or
39 activity designed, directly or indirectly, to promote business or
40 commerce which, in the judgment of the authority, is required for
41 the sound economic development of the area.

42 "Appurtenances" and "equipment" mean all works, buildings,
43 structures, devices, appliances, and supplies, as well as every kind
44 of mechanism, arrangement, object, or substance related to and
45 necessary or convenient for the proper construction, equipment,
46 maintenance, improvement, and operation of any crossing,
47 transportation facility or terminal facility, or commerce facility or
48 development.

1 "Project" means any undertaking or program for the acquisition
2 or creation of any crossing, transportation facility or terminal
3 facility, or commerce facility or development, or any part thereof,
4 as well as for the operation, maintenance and improvement thereof.

5 "Major project" means any project, other than a crossing, having
6 or likely to have significant environmental impacts on the Delaware
7 River and Bay, its shorelines or estuaries, or any other area in the
8 State of Delaware or the New Jersey counties of Cape May,
9 Cumberland, Gloucester and Salem, as determined in accordance
10 with state law by the environmental agency of the state in which the
11 major project is to be located.

12 "Tunnel" means a tunnel of one or more tubes.

13 "Governor" means any person authorized by the Constitution and
14 law of each state to exercise the functions, powers, and duties of
15 that office.

16 "Authority" means the authority created by this compact or any
17 agency successor thereto.

18 The singular whenever used in this compact shall include the
19 plural, and the plural shall include the singular.

20

21 ARTICLE III

22

23 FAITHFUL COOPERATION

24

25 They agree to and pledge, each to the other, faithful cooperation
26 in the effectuation of this compact and any future amendment or
27 supplement thereto, and of any legislation expressly in
28 implementation thereof hereafter enacted, and in the planning,
29 development, financing, construction, operation, maintenance, and
30 improvement of all projects entrusted to the authority created by
31 this compact.

32

33 ARTICLE IV

34

35 ESTABLISHMENT OF AGENCY; PURPOSES

36

37 The two states agree that there shall be created and they do
38 hereby create a body politic, to be known as "The Delaware River
39 and Bay Authority" (for brevity hereinafter referred to as the
40 "authority"), which shall constitute an agency of government of the
41 State of Delaware and the State of New Jersey for the following
42 general public purposes, and which shall be deemed to be
43 exercising essential government functions in effectuating such
44 purposes, to wit:

45 (a) The planning, financing, development, construction,
46 purchase, lease, maintenance, improvement, and operation of
47 crossings between the states of Delaware and New Jersey across the
48 Delaware River or Bay at any location south of the boundary line

1 between the State of Delaware and the Commonwealth of
2 Pennsylvania as extended across the Delaware River to the New
3 Jersey shore of said river, together with such approaches or
4 connections thereto as in the judgment of the authority are required
5 to make adequate and efficient connections between such crossings
6 and any public highway, or other routes in the State of Delaware or
7 in the State of New Jersey; and

8 (b) The planning, financing, development, construction,
9 purchase, lease, maintenance, improvement, and operation of any
10 transportation or terminal facility within the State of Delaware or
11 the New Jersey counties of Cape May, Cumberland, Gloucester and
12 Salem, which facility, in the judgment of the authority, is required
13 for the sound economic development of the area; and

14 (c) The planning, financing, development, construction,
15 purchase, lease, maintenance, improvement, and operation of any
16 commerce facility or development within the State of Delaware or
17 the New Jersey counties of Cape May, Cumberland, Gloucester and
18 Salem, which in the judgment of the authority is required for the
19 sound economic development of the area; and

20 (d) The performance of such other functions as may be hereafter
21 entrusted to the authority by concurrent legislation expressly in
22 implementation hereof.

23 The authority shall not undertake any major project or part
24 thereof without having first secured such approvals as may be
25 required by legislation of the state in which the project is to be
26 located.

27 The authority shall not undertake any major project, or part
28 thereof, to be located in the Delaware River or Bay, including,
29 without limitation, any deep-water port or superport, without having
30 first secured approval thereof by concurrent legislation of the two
31 states expressly in implementation thereof.

32 The authority shall not undertake any major project or part
33 thereof without first giving public notice and holding a public
34 hearing, if requested, on any proposed major project, in accordance
35 with the law of the state in which the major project is to be located.
36 Each state shall provide by law for the time and manner for the
37 giving of such public notice, the requesting of a public hearing, and
38 the holding of such public hearings.

39 (e) The commissioners of the authority shall be responsible for
40 appointing a Director of Economic Development or Deputy
41 Executive Director and an appropriate number of supporting staff as
42 deemed necessary by the authority to oversee commerce and
43 economic development activity by the authority in the New Jersey
44 counties of Cape May, Cumberland, Gloucester, and Salem. The
45 commissioners of the authority shall also be responsible for
46 appointing a separate Director of Economic Development or Deputy
47 Executive Director and an appropriate number of supporting staff
48 as deemed necessary by the authority to oversee commerce and

1 economic development activity by the authority in the State of
2 Delaware. The authority shall not permit the appointment of the
3 Directors of Economic Development or Deputy Executive Directors
4 and supporting staff pursuant to this subsection to increase the
5 budget of the authority.

6
7 ARTICLE V

8
9 COMMISSIONERS

10
11 a. The authority shall consist of 12 commissioners, six of
12 whom shall be residents of and qualified to vote in, and shall be
13 appointed from, the State of Delaware, and six of whom shall be
14 residents of and qualified to vote in, and shall be appointed from,
15 the State of New Jersey; not more than three of the commissioners
16 of each state shall be of the same political party; the commissioners
17 for each state shall be appointed in the manner fixed and determined
18 from time to time by the law of each state respectively. Each
19 commissioner shall hold office for a term of five years, and until
20 **[his]** the commissioner's successor shall have been appointed and
21 qualified, but the terms of the first commissioners shall be so
22 designated that the term of at least one commissioner from each
23 state shall expire each year. All terms shall run to the first day of
24 July. Any vacancy, however created, shall be filled for the
25 unexpired term only. Any commissioner may be suspended or
26 removed from office as provided by law of the state from which
27 **[he]** the commissioner shall be appointed.

28 Commissioners shall be entitled to reimbursement for necessary
29 expenses to be paid only from revenues of the authority and may
30 not receive any other compensation for services to the authority
31 except such as may from time to time be authorized from such
32 revenues by concurrent legislation.

33 b. The authority shall not permit any commissioner or other
34 person acting on its behalf to use a credit card or charge card
35 established in the name of, or the account of which is paid for by,
36 the authority for the purpose of obtaining money, property, labor,
37 services, or anything else of value, except that such credit card or
38 charge card may be used for the purposes of the business of the
39 authority provided that the expenses and purchases by credit card or
40 charge card do not exceed the maximum annual amount established
41 by joint agreement between the Governor of the State of Delaware
42 and the Governor of the State of New Jersey for the use of such
43 cards.

44 c. The authority shall not permit any commissioner or other
45 person acting on its behalf to incur expenses and purchases, other
46 than by credit card or charge card, in the performance of their
47 official duties or on behalf of the authority except that such
48 expenses and purchases may be incurred for the purposes of the

1 business of the authority provided that such expenses do not exceed
2 the maximum annual amount established by joint agreement
3 between the Governor of the State of Delaware and the Governor of
4 the State of New Jersey for such expenses and purchases.

5
6 ARTICLE VI

7
8 BOARD ACTION

9
10 The commissioners shall have charge of the authority's property
11 and affairs and shall, for the purpose of doing business, constitute a
12 board; but no action of the commissioners including, but not limited
13 to the adoption of the annual capital plan, including specifically the
14 economic development portion of that plan, shall be binding or
15 effective unless taken at a meeting at which at least four
16 commissioners from each state are present, and unless at least four
17 commissioners from each state shall vote in favor thereof. The vote
18 of any one or more of the commissioners from each state shall be
19 subject to cancellation by the Governor of such state at any time
20 within 10 days ~~[() , Saturdays, Sundays, and public holidays in the~~
21 ~~particular state excepted]~~, after receipt at the Governor's office
22 of a certified copy of the minutes of the meeting at which such vote
23 was taken. Each state may provide by law for the manner of
24 delivery of such minutes, and for notification of the action thereon.

25
26 ARTICLE VII

27
28 GENERAL POWERS

29
30 For the effectuation of its authorized purposes, the authority is
31 hereby granted the following powers:

- 32 a. To have perpetual succession.
33 b. To adopt and use an official seal.
34 c. To elect a chairman and a vice-chairman from among the
35 commissioners. The chairman and vice-chairman shall be elected
36 from different states, and shall each hold office for two years. The
37 chairmanship and vice-chairmanship shall be alternated between the
38 two states.
39 d. To adopt bylaws to govern the conduct of its affairs by the
40 board of commissioners, and it may adopt rules and regulations and
41 may make appropriate orders to carry out and discharge its powers,
42 duties, and functions, but no bylaw, or rule, regulation, or order
43 shall take effect until it has been filed with the Secretary of State of
44 each state or in such other manner in each state as may be provided
45 by the law thereof. In the establishment of rules, regulations, and
46 orders respecting the use of any crossing, transportation, or terminal
47 facility or commerce facility or development owned or operated by
48 the authority, including approach roads, it shall consult with

1 appropriate officials of both states in order to insure, as far as
2 possible, uniformity of such rules, regulations, and orders with the
3 law of both states.

4 e. To appoint, or employ, such other officers, agents, attorneys,
5 engineers, and employees as it may require for the performance of
6 its duties and to fix and determine their qualifications, duties,
7 compensation, pensions, terms of office, and all other conditions
8 and terms of employment and retention, provided that the
9 employees of the Delaware River and Bay Authority shall be
10 subject to the "New Jersey Employer-Employee Relations Act,"
11 P.L.1941, c.100 (C.34:13A-1 et seq.) and shall have all of the rights
12 provided to employees by that act, including but not limited to, the
13 right to form, join, or assist an employee organization, and the right
14 to have the employee organization engage in collective bargaining
15 on behalf of the employees.

16 f. To enter into contracts and agreements with either state or
17 with the United States, or with any public body, department, or
18 other agency of either state or of the United States or with any
19 individual, firm, or corporation, deemed necessary or advisable for
20 the exercise of its purposes and powers.

21 g. To accept from any government or governmental
22 department, agency, or other public or private body, or from any
23 other source, grants or contributions of money or property as well
24 as loans, advances, guarantees, or other forms of financial
25 assistance which it may use for or in aid of any of its purposes.

26 h. To acquire **[(]by gift, purchase, or condemnation[)]**, own,
27 hire, lease, use, operate, and dispose of property, whether real,
28 personal or mixed, or of any interest therein, including any rights,
29 franchise, and property for any crossing, facility, or other project
30 owned by another, and which the authority is authorized to own and
31 operate.

32 i. To designate as express highways, and control public and
33 private access thereto, all or any approaches to any crossing or other
34 facility of the authority for the purpose of connecting the same with
35 any highway or other route in either state.

36 j. To borrow money and to evidence such loans by bonds,
37 notes, or other obligations, either secured or unsecured, and either
38 in registered or unregistered form, and to fund or refund such
39 evidences of indebtedness, which may be executed with facsimile
40 signatures of such persons as may be designated by the authority
41 and by a facsimile of its corporate seal.

42 k. To procure and keep in force adequate insurance or
43 otherwise provide for the adequate protection of its property, as
44 well as to indemnify it or its officers, agents, or employees against
45 loss or liability with respect to any risk to which it or they may be
46 exposed in carrying out any function hereunder.

1 l. To grant the use of, by franchise, lease, or otherwise, and to
2 make charges for the use of, any crossing, facility, or other project
3 or property owned or controlled by it.

4 m. To exercise the right of eminent domain to acquire any
5 property or interest therein.

6 n. To determine the exact location, system, and character of
7 and all other matters in connection with any and all crossings,
8 transportation or terminal facilities, commerce facilities or
9 developments, or other projects which it may be authorized to own,
10 construct, establish, effectuate, operate, or control.

11 o. To exercise all other powers not inconsistent with the
12 Constitutions of the two states or of the United States, which may
13 be reasonably necessary or incidental to the effectuation of its
14 authorized purposes or to the exercise of any of the foregoing
15 powers, except the power to levy taxes or assessments, and
16 generally to exercise in connection with its property and affairs, and
17 in connection with property within its control, any and all powers
18 which might be exercised by a natural person or a private
19 corporation in connection with similar property and affairs.
20

21 ARTICLE VIII

22 23 ADDITIONAL POWERS

24
25 For the purpose of effectuating the authorized purposes of the
26 authority, additional powers may be granted to the authority by
27 legislation of either state without the concurrence of the other, and
28 may be exercised within such state, or may be granted to the
29 authority by Congress and exercised by it; but no additional duties
30 or obligations shall be undertaken by the authority under the law of
31 either state or of Congress without authorization by the law of both
32 states.
33

34 ARTICLE IX

35 36 EMINENT DOMAIN

37
38 If the authority shall find and determine that any property or
39 interest therein is required for a public use in furtherance of the
40 purposes of the authority, **[said]** that determination shall not be
41 affected by the fact that such property has theretofore been taken
42 over or is then devoted to a public use, but the public use in the
43 hands or under the control of the authority, shall be deemed
44 superior to the public use for which it has theretofore been taken or
45 to which it is then devoted. The authority shall not exercise the
46 power of eminent domain granted herein to acquire any property,
47 other than a crossing, devoted to a public use, of either state, or of
48 any municipality, local government, agency, public authority, or

1 commission, or of two or more of them, for any purpose other than
2 a crossing, without having first secured the authorization of the
3 holder of the title to the land in question and such other approvals
4 as may be required by legislation of the state in which the project is
5 to be located. The authority shall not exercise the power of eminent
6 domain in connection with any commerce facility or development.

7 In any condemnation proceeding in connection with the
8 acquisition by the authority of property or property rights of any
9 character in either state and the right of inspection and immediate
10 entry thereon, through the exercise by it of its power of eminent
11 domain, any existing or future law or rule of court of the state in
12 which such property is located with respect to the condemnation of
13 property for the construction, reconstruction, and maintenance of
14 highways therein, shall control. The authority shall have the same
15 power and authority with respect thereto as the state agency named
16 in any such law; provided that nothing herein contained shall be
17 construed as requiring joint or concurrent action by the two states
18 with respect to the enactment, repeal, or amendment of any law or
19 rule of court on the subject of condemnation under which the
20 authority may proceed by virtue of this article.

21 If the established grade of any street, avenue, highway, or other
22 route shall be changed by reason of the construction by the
23 authority of any work so as to cause loss or injury to any property
24 abutting on such street, avenue, highway, or other route, the
25 authority may enter into voluntary agreements with such abutting
26 property owners and pay reasonable compensation for any loss or
27 injury so sustained, whether or not it be compensable as damages
28 under the condemnation law of the state.

29 The power of the authority to acquire property by condemnation
30 shall be a continuing power, and no exercise thereof shall be
31 deemed to exhaust it.

32 33 ARTICLE X

34 35 REVENUES AND APPLICATION

36
37 a. The authority is hereby authorized to establish, levy, and
38 collect [such] tolls and other charges as it may deem necessary,
39 proper, or desirable, in connection with any crossing, transportation
40 or terminal facility, commerce facility or development, or other
41 project which it is or may be authorized at any time to construct,
42 own, operate or control, and the aggregate of said tolls and charges
43 shall be at least sufficient (1) to meet the combined expenses of
44 operation, maintenance, and improvement thereof, (2) to pay the
45 cost of acquisition or construction, including the payment,
46 amortization, and retirement of bonds or other securities or
47 obligations assumed, issued, or incurred by the authority, together
48 with interest thereon and (3) to provide reserves for such purposes;

1 and the authority is hereby authorized and empowered, subject to
2 prior pledges, if any, to pledge such tolls and other revenues or any
3 part thereof as security for the repayment with interest of any
4 moneys borrowed by it or advanced to it for its authorized purposes
5 and as security for the satisfaction of any other obligations assumed
6 by it in connection with such loans or advances. There shall be
7 allocated to the cost of the acquisition, construction, operation,
8 maintenance, and improvement of such facilities and projects, such
9 proportion of the general expenses of the authority as it shall deem
10 properly chargeable thereto.

11 b. No action taken by the authority to increase tolls, charges, or
12 fares on the Delaware Memorial Bridge or the Cape May-Lewes
13 Ferry shall have force or effect without first giving public notice
14 and holding public hearings within the New Jersey counties of Cape
15 May, Cumberland, Gloucester, and Salem and all counties in the
16 State of Delaware concerning the proposed increase in tolls,
17 charges, or fares. The authority shall be required to provide
18 appropriate supporting information and financial records related to
19 the proposed increase in tolls, charges, or fares to the presiding
20 officers of the Legislature of the State of Delaware and the
21 Legislature of the State of New Jersey at least five days in advance
22 of the first public hearing required to be held on the proposed
23 increase.

24

25

ARTICLE XI

26

27

COVENANT WITH BONDHOLDERS

28

29 The two said states covenant and agree with each other and with
30 the holders of any bonds or other securities or obligations of the
31 authority, assumed, issued, or incurred by it and as security for
32 which there may be pledged the tolls and revenues or any part
33 thereof of any crossing, transportation or terminal facility,
34 commerce facility or development, or other project, that the two
35 said states will not, so long as any of such bonds or other
36 obligations remain outstanding and unpaid, diminish or impair the
37 power of the authority to establish, levy, and collect tolls and other
38 charges in connection therewith, and that neither of the two said
39 states will, so long as any of such bonds or other obligations remain
40 outstanding and unpaid, authorize any crossing of the Delaware
41 River or Delaware Bay south of the line mentioned in Article IV (a)
42 of this compact, by any person or body other than the authority;
43 unless, in either case, adequate provision shall be made by law for
44 the protection of those advancing money upon such obligations.

ARTICLE XII

SECURITIES LAWFUL INVESTMENTS

The bonds or other securities or obligations which may be issued by the authority pursuant to this compact, or any amendments hereof or supplements hereto, are hereby declared to be negotiable instruments, and are hereby made securities in which all state and municipal officers and bodies of each state, all banks, bankers, trust companies, savings banks, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of either state, may properly and legally invest any funds, including capital, belonging to them or within their control; and said obligations are hereby made securities which may properly and legally be deposited with and shall be received by any state or municipal officer or agency of either state for any purpose for which the deposit of bonds or other obligations of such state is now or may hereafter be authorized.

ARTICLE XIII

TAX STATUS

The powers and functions exercised by the authority under this compact and any amendments hereof or supplements hereto are and will be in all respects for the benefit of the people of the states of Delaware and New Jersey, the region and nation, for the increase of their commerce and prosperity and for the enhancement of their general welfare. To this end, the authority shall be regarded as performing essential governmental functions in exercising such powers and functions and in carrying out the provisions of this compact and of any law relating thereto, and shall not be required to pay any taxes or assessments of any character, levied by either state or political subdivision thereof, upon any of the property used by it for such purposes, or any income or revenue therefrom, including any profit from a sale or exchange. The bonds or other securities or obligations issued by the authority, their transfer, and the interest paid thereon or income therefrom, including any profit from a sale or exchange, shall at all times be free from taxation by either state or any subdivision thereof.

ARTICLE XIV

JURISDICTION; USE OF LANDS

Each of the two states hereby consents to the use and occupancy by the authority of any lands and property of the authority in such state for the construction, operation, maintenance, or improvement of any crossing, transportation or terminal facility, commerce facility or development, or other project which it is or may be authorized at any time to construct, own, or operate, including lands lying under water.

ARTICLE XV

REVIEW AND ENFORCEMENT OF RULES

Judicial proceedings to review any bylaw, rule, regulation, order, or other action of the authority or to determine the meaning or effect thereof, may be brought in such court of each state, and pursuant to such law or rules thereof, as a similar proceeding with respect to any agency of such state might be brought.

Each state may provide by law what penalty or penalties shall be imposed for violation of any lawful rule, regulation, or order of the authority, and, by law or rule of court, for the manner of enforcing the same.

ARTICLE XVI

NO PLEDGE OF CREDIT

The authority shall have no power to pledge the credit or to create any debt or liability of the State of Delaware, of the State of New Jersey, or of any other agency or of any political subdivision of said states.

ARTICLE XVII

LOCAL COOPERATION AND AGREEMENTS

a. All municipalities, political subdivisions, and every department, agency, or public body of each of the states are hereby authorized and empowered to cooperate with, aid, and assist the authority in effectuating the provisions of this compact and of any amendment hereof or supplement hereto.

b. The authority is authorized and empowered to cooperate with each of the states, or any political subdivision thereof, and with any municipality, local government, agency, public authority, or commission of the foregoing, in connection with the acquisition,

1 planning, rehabilitation, construction, or development of any
2 project, other than a crossing, and to enter into an agreement or
3 agreements, subject to compliance with the laws of the state in
4 which the project is to be located, with each of the states, or with
5 any political subdivision thereof, and with any municipality,
6 county, local government, agency, public authority, or commission
7 or with two or more of them, for or relating to such purposes.

8 c. The authority and the city, town, municipality, or other
9 political subdivision in which any project, other than a crossing, is
10 to be located are hereby authorized and empowered, subject to
11 compliance with the laws of the state in which the project is to be
12 located, to enter into an agreement or agreements to provide which
13 local laws, resolutions, ordinances, rules, and regulations, if any, of
14 the city, town, municipality, or other political subdivision affected
15 by such project shall apply to such project. All other existing local
16 laws, resolutions, ordinances, or rules and regulations not provided
17 for in the agreement shall be applicable to the project, other than a
18 crossing. All local laws, resolutions, ordinances, or rules and
19 regulations enacted after the date of the agreement shall not be
20 applicable to such projects unless made applicable by the agreement
21 or any modification thereto.

22 ARTICLE XVIII

23 DEPOSITARIES

24
25 All banks, bankers, trust companies, savings banks, and other
26 persons carrying on a banking business under the laws of either
27 state are authorized to give security for the safekeeping and prompt
28 payment of moneys of the authority deposited by it with them, in
29 such manner and form as may be required by and may be approved
30 by the authority, which security may consist of a good and
31 sufficient undertaking with such sureties as may be approved by the
32 authority, or may consist of the deposit with the authority or other
33 depository approved by the authority as collateral of such securities
34 as the authority may approve.

35 ARTICLE XIX

36 AGENCY POLICE

37
38 Members of the police force established by the authority,
39 regardless of their residence, shall have in each state, on the
40 crossings, transportation or terminal facilities, commerce facilities
41 or developments, and other projects and the approaches thereto,
42 owned, operated, or controlled by the authority, and at such other
43 places and under such circumstances as the law of each state may
44 provide, all the powers of investigation, detention, and arrest

1 conferred by law on peace officers, sheriffs, or constables in such
2 state or usually exercised by such officers in each state.

3
4 ARTICLE XX

5
6 REPORTS AND AUDITS

7
8 a. The authority shall make annual reports to the Governors
9 and Legislatures of the State of Delaware and the State of New
10 Jersey, setting forth in detail its operations and transactions, and
11 may make such additional reports from time to time to the
12 Governors and Legislatures as it may deem desirable.

13 It shall, at least annually, cause an independent audit of its fiscal
14 affairs to be made and shall furnish a copy of such audit report
15 together with such additional information or data with respect to its
16 affairs as it may deem desirable to the Governors and Legislatures
17 of each state.

18 It shall furnish such information or data with respect to its affairs
19 as may be requested by the Governor or Legislature of each state.

20 b. The authority shall, within 180 days after the end of each
21 fiscal year of the authority, submit to the Governor and Legislature
22 of the State of Delaware and the Governor and Legislature of the
23 State of New Jersey a complete and detailed report of the following:

24 (1) its operations and accomplishments during the completed
25 fiscal year;

26 (2) its receipts and disbursements or revenues and expenses
27 during that year in accordance with the categories and
28 classifications established by the authority for its own operating and
29 capital outlay purposes;

30 (3) its assets and liabilities at the end of the fiscal year,
31 including the status of reserve, depreciation, special, or other funds
32 including debits and credits of these funds;

33 (4) a schedule of bonds and notes outstanding at the end of the
34 fiscal year;

35 (5) a list of all contracts exceeding \$100,000 entered into during
36 the fiscal year;

37 (6) a business or strategic plan for the authority and for each of
38 its operating divisions;

39 (7) a capital plan containing specific goals and objectives
40 including, but not limited to, economic development goals and
41 objectives in the State of Delaware and in the New Jersey counties
42 of Cape May, Cumberland, Gloucester and Salem; and

43 (8) the authority's progress toward meeting the prior year's
44 economic development goals and objectives.

ARTICLE XXI

BOUNDARIES UNAFFECTED

The existing territorial or boundary lines of the states, or the jurisdiction of the two states established by said boundary lines, shall not be changed hereby.

ARTICLE XXII

ENVIRONMENTAL PROTECTION

a. The planning, development, construction, and operation of any project, other than a crossing, shall comply with all environmental protection laws, regulations, directives, and orders, including, without limitation, any coastal zone laws, wetlands laws, or subaqueous land laws or natural resource laws, now or hereafter enacted, or promulgated by the state in which the project, or any part thereof, is located.

b. The planning, development, construction, and operation of any project, other than a crossing, to be located in the Delaware River and Bay shall comply with all environmental protection laws, regulations, directives, and orders, including, without limitation, any coastal zone laws, wetlands laws, subaqueous land laws or natural resource laws, now or hereafter enacted or promulgated by either state.

c. The planning, development, construction, and operation of any project, other than a crossing, located in the coastal zone of Delaware (as defined in Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989), shall be subject to the same limitations, requirements, procedures and appeals as apply to any other person under the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. Nothing in this compact shall be deemed to preempt, modify, or supersede any provision of the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. The interpretation and application of this paragraph shall be governed by the laws of the State of Delaware and be determined by the courts of the State of Delaware.

d. The planning, development, construction, and operation of any project, other than a crossing, located in New Jersey, shall be subject to the provisions of New Jersey law, when applicable, including, but not limited to, "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.) and the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.).
(cf: P.L.2003, c.192, s.1)

1 3. (New section) The Governor is authorized to apply, on
2 behalf of the State of New Jersey, to the Congress of the United
3 States for its consent and approval to such supplemental compact or
4 agreement, but in the absence of such consent and approval, the
5 authority referred to in such supplemental compact or agreement
6 shall have all of the powers the State of Delaware and the State of
7 New Jersey may confer upon it without the consent and approval of
8 Congress.

9
10 4. Section 3 of P.L.1941, c.100 (C.34:13A-3) is amended to
11 read as follows:

12 3. When used in **【this act】** P.L.1941, c.100 (C.34:13A-1 et
13 seq.):

14 (a) The term "board" shall mean New Jersey State Board of
15 Mediation.

16 (b) The term "commission" shall mean New Jersey Public
17 Employment Relations Commission.

18 (c) The term "employer" includes an employer and any person
19 acting, directly or indirectly, on behalf of or in the interest of an
20 employer with the employer's knowledge or ratification, but a labor
21 organization, or any officer or agent thereof, shall be considered an
22 employer only with respect to individuals employed by such
23 organization. This term shall include "public employers" and shall
24 mean the State of New Jersey, or the several counties and
25 municipalities thereof, or any other political subdivision of the
26 State, or a school district, or any special district, or any authority,
27 commission, or board, or any branch or agency of the public
28 service. The term shall also include the Delaware River Port
29 Authority, established pursuant to R.S.32:3-1 et seq., and the
30 Delaware River and Bay Authority, established pursuant to
31 P.L.1961, c.66 (C.32:11E-1 et seq.).

32 (d) The term "employee" shall include any employee, and shall
33 not be limited to the employees of a particular employer unless this
34 act explicitly states otherwise, and shall include any individual
35 whose work has ceased as a consequence of or in connection with
36 any current labor dispute or because of any unfair labor practice and
37 who has not obtained any other regular and substantially equivalent
38 employment. This term, however, shall not include any individual
39 taking the place of any employee whose work has ceased as
40 aforesaid, nor shall it include any individual employed by his parent
41 or spouse, or in the domestic service of any person in the home of
42 the employer, or employed by any company owning or operating a
43 railroad or railway express subject to the provisions of the Railway
44 Labor Act (45 U.S.C. s.151 et seq.). This term shall include any
45 public employee, i.e., any person holding a position, by
46 appointment or contract, or employment in the service of a public
47 employer, including the Delaware River Port Authority and the
48 Delaware River and Bay Authority, except elected officials,

1 members of boards and commissions, managerial executives, and
2 confidential employees.

3 (e) The term "representative" is not limited to individuals but
4 shall include labor organizations, and individual representatives
5 need not themselves be employed by, and the labor organization
6 serving as a representative need not be limited in membership to the
7 employees of, the employer whose employees are represented. This
8 term shall include any organization, agency, or person authorized or
9 designated by a public employer, public employee, group of public
10 employees, or public employee association to act on its behalf and
11 represent it or them.

12 (f) "Managerial executives" of a public employer, in the case of
13 the State of New Jersey, means persons who formulate management
14 policies and practices, but shall not mean persons who are charged
15 with the responsibility of directing the effectuation of such
16 management policies and practices, except that, in the case of the
17 Executive Branch of the State of New Jersey, "managerial
18 executive" shall include only personnel at or above the level of
19 assistant commissioner.

20 In the case of any public employer other than the State of New
21 Jersey, "managerial executives" of a public employer means persons
22 who formulate management policies and practices, and persons who
23 are charged with the responsibility of directing the effectuation of
24 such management policies and practices, except that in any school
25 district this term shall include only the superintendent or other chief
26 administrator, and the assistant superintendent of the district.

27 (g) "Confidential employees" of a public employer means
28 employees whose functional responsibilities or knowledge in
29 connection with the issues involved in the collective negotiations
30 process would make their membership in any appropriate
31 negotiating unit incompatible with their official duties.

32 "Confidential employees" of the State of New Jersey means
33 employees who have direct involvement in representing the State in
34 the collective negotiations process making their membership in any
35 appropriate negotiating unit incompatible with their official duties.

36 (cf: P.L.2009, c.314, s.1)

37

38 5. This section and sections 1 through 3 of this act shall take
39 effect immediately; but the Governor shall not enter into the
40 supplemental compact or agreement hereinabove set forth on behalf
41 of the State of New Jersey until passage by the State of Delaware of
42 a substantially similar act embodying the supplemental compact or
43 agreement between the two States. Section 4 shall take effect upon
44 passage of that substantially similar act, and the consent and
45 approval of Congress to that supplemental compact or agreement, if
46 that consent and approval is required to confer the powers granted
47 in this act upon the Delaware River and Bay Authority.

STATEMENT

1
2
3 This bill amends the compact between the State of Delaware and
4 the State of New Jersey creating the Delaware River and Bay
5 Authority. The bill provides that employees of the Delaware River
6 and Bay Authority are to be subject to the provisions of the “New
7 Jersey Employer – Employee Relations Act,” and have all of the
8 rights provided to employees by that act, including but not limited
9 to, the right to form, join, or assist an employee organization, and
10 the right to have that employee organization engage in collective
11 bargaining on behalf of the employees. The bill also amends the
12 “New Jersey Employer-Employee Relations Act” by adding the
13 Delaware River and Bay Authority as a public employer subject to
14 the act.
15 The enactment by Delaware of substantially similar legislation is
16 required, and approval of Congress may be required, before the
17 bill’s provisions may become operative.