

[Corrected Copy]

[Second Reprint]

SENATE, No. 619

STATE OF NEW JERSEY
218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Co-Sponsored by:

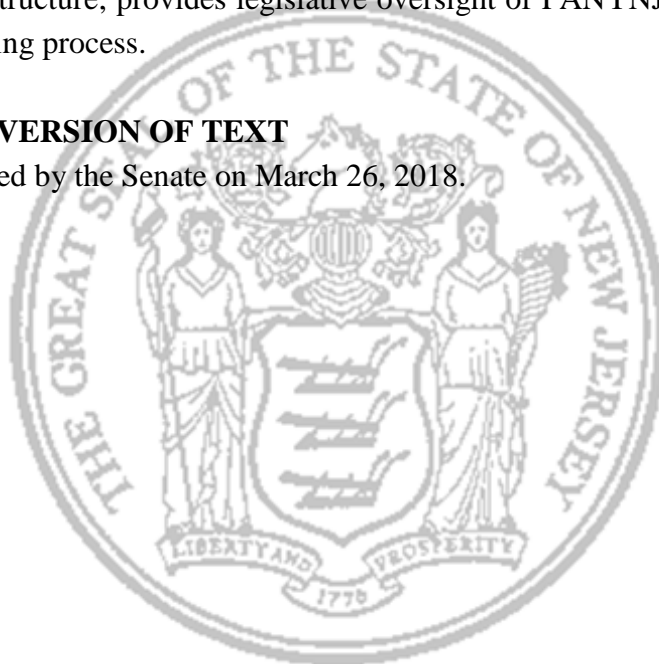
Senators Gordon, Cruz-Perez and Greenstein

SYNOPSIS

Provides transparency and accountability reforms at PANYNJ; modifies governance structure; provides legislative oversight of PANYNJ; and regulates capital planning process.

CURRENT VERSION OF TEXT

As amended by the Senate on March 26, 2018.



(Sponsorship Updated As Of: 4/13/2018)

1 AN ACT concerning reforms to the Port Authority of New York and
2 New Jersey, amending ¹**[various parts of statutory law]**
3 R.S.32:1-5 and P.L.1991, c.395¹, and supplementing Title 32 of
4 the Revised Statutes.

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

8
9 1. (New section) This act shall be known and may be cited as
10 the "Port Authority of New York and New Jersey Transparency and
11 Accountability Act."

12
13 2. R.S.32:1-5 is amended to read as follows:

14 ARTICLE IV.

15 Commissioners. The port authority shall consist of twelve
16 commissioners--six resident voters from the state of New York, at
17 least four of whom shall be resident voters of the city of New York,
18 and six resident voters from the state of New Jersey, at **[lest [least]]**
19 least four of whom shall be resident voters within the New Jersey
20 portion of the district, the New York members to be chosen by the
21 state of New York and the New Jersey members by the state of New
22 Jersey in the manner and for the terms fixed and determined from
23 time to time by the legislature of each state respectively, except as
24 herein provided.

25 Each commissioner may be removed or suspended from office as
26 provided by the law of the state from which he shall be appointed.

27 (cf: R.S.32:1-5)

28
29 3. (New section) Officers.

30 ¹**[a.** The officers of the port authority shall be a chairperson, a
31 vice chairperson, a chief executive officer, a general counsel, a
32 chief financial officer, a chief ethics and compliance officer, an
33 inspector general, a treasurer, a comptroller, and a secretary.
34 Beginning upon the next hiring of a chief executive officer but no
35 later than a year from the effective date of P.L. , c. (C.)
36 (pending before the Legislature as this bill), the positions of
37 chairperson and vice chairperson shall be rotated for a term of two
38 years among commissioners appointed by New York and New
39 Jersey, with a chairperson elected first from among those
40 commissioners appointed by the Governor of New York and a vice
41 chairperson elected first from among those commissioners
42 appointed by the Governor of New Jersey, after which the next
43 chairperson shall be elected from among those appointed by the

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:

¹**Senate STR committee amendments adopted March 26, 2018.**

²**Senate floor amendments adopted March 26, 2018.**

1 Governor of New Jersey and the next vice chairperson shall be
2 elected from among those appointed by the Governor of New York
3 and thereafter the positions of chairperson and vice chairperson
4 shall rotate every two years in the same order as established herein
5 provided that the failure of the board of commissioners to elect a
6 new chairperson and vice chairperson shall not prevent the rotation
7 of the positions of chairperson and vice chairperson to the next
8 succeeding state.

9 b.]¹ No commissioner, including the chairperson, shall serve as
10 the port authority's ¹["chief executive officer"] executive director¹,
11 general counsel, chief financial officer, chief ethics and compliance
12 officer, inspector general, or comptroller, or hold any other
13 equivalent position while serving as a commissioner.
14

15 4. (New section) Role and responsibilities of commissioners.

16 a. The commissioners shall promulgate a commissioner's oath
17 of office in consultation with the chief ethics and compliance
18 officer.

19 b. At the time that a commissioner of the port authority takes
20 and subscribes the commissioner's oath of office, or within ¹["sixty"]
21 60¹ days after the effective date of P.L. , c. (C.) (pending
22 before the Legislature as this bill) if the commissioner has already
23 taken and subscribed the commissioner's oath of office, the
24 commissioner shall execute a statement declaring that the
25 commissioner understands the commissioner's independence and
26 fiduciary obligation to perform duties and responsibilities to the
27 best of the commissioner's abilities, in good faith and with proper
28 diligence and care which an ordinarily prudent person in like
29 position would use under similar circumstances and may take into
30 consideration the views and policies of any elected officials or
31 bodies and ultimately apply independent judgment in the best
32 interest of the port authority, its mission, and the public, consistent
33 with the enabling compact, mission, and by-laws of the port
34 authority and the applicable laws of both states; and that the
35 fiduciary duty to the port authority is derived from and governed by
36 its mission.

37 c. Individuals appointed to the board of commissioners shall
38 participate in training approved by the chief ethics and compliance
39 officer in consultation with the inspector general of the port
40 authority regarding their legal, fiduciary, financial^{1,1} and ethical
41 responsibilities as directors of an authority within six months of
42 appointment to the authority. The commissioners shall participate in
43 continuing training as may be required to remain informed of best
44 practices, regulatory and statutory changes relating to the effective
45 oversight of the management and financial activities of public
46 authorities^{1,1} and to adhere to the highest standards of responsible
47 governance.

1 d. (1) A commissioner shall not vote on or participate in any
2 board or committee discussions or decisions with respect to an item
3 if the commissioner, a member of the commissioner's immediate
4 family, or a business in which the commissioner has an interest has
5 a direct or indirect financial involvement that may reasonably be
6 expected to impair the commissioner's objectivity or independent
7 judgment or that may reasonably create the appearance of
8 impropriety. A commissioner shall report such a need for recusal to
9 the general counsel when it arises. The public shall be informed of
10 any recusals prior to any board action and the minutes shall clearly
11 reflect that recusal.

12 (2) For the purposes of this subsection, the terms:

13 "immediate family" shall mean: a spouse, parent, child, or
14 sibling; and

15 "interest" shall mean: if the business organization is a
16 partnership, the board member or the board member's immediate
17 family is a partner or owner of 10 percent or more of the assets of
18 the partnership, or if the business organization is a corporation, the
19 board member or the board member's immediate family owns or
20 controls 10 percent or more of the stock of the corporation, or
21 serves as a director or officer of the corporation.

22 e. (1) Notwithstanding any other provision of law to the
23 contrary, the commissioners, officers, and employees of the port
24 authority shall file annual financial disclosure statements as
25 provided in this section.

26 (2) (a) The commissioners appointed by the Governor of the
27 state of New York shall file annual financial disclosure statements
28 pursuant to section 73-a of the public officers law.

29 (b) The commissioners appointed by the Governor of the state
30 of New Jersey shall file annual financial disclosure statements as
31 required by New Jersey State law or executive order.

32 (c) In addition to the financial disclosures required of the
33 commissioners, financial disclosures of employees shall, at a
34 minimum, be required of the ¹~~chief executive officer~~ executive
35 director¹, the chief ethics and compliance officer, the chief financial
36 officer, the general counsel, the comptroller, treasurer, and the
37 inspector general, employees who hold policy-making positions as
38 determined by the general counsel of the port authority, and
39 employees whose base salary, either in the current or previous year,
40 exceeds \$150,000, which amount shall be adjusted for inflation
41 annually in accordance with the consumer price index for all urban
42 wage earners and clerical workers (CPI-W) as calculated by the
43 federal government. These financial disclosures shall be updated
44 not less than annually and shall be made available on the port
45 authority's website.

46 f. The board of commissioners shall:

47 (1) adopt a mission statement that the port authority's mission is
48 to meet the critical transportation infrastructure needs of the bi-state

1 region's people, businesses, and visitors by providing the highest
2 quality and most efficient transportation and port commerce
3 facilities and services to move people and goods within the region,
4 provide access to the nation and the world, and promote the region's
5 economic development;

6 (2) adopt a code of conduct applicable to commissioners,
7 employees, and vendors and other contractors with the port
8 authority based upon the recommendations of the chief ethics and
9 compliance officer that shall, at minimum, include the applicable
10 standards established by law in each state;

11 (3) establish a whistleblower access and assistance program
12 protecting employees from retaliation for disclosing information
13 concerning acts of wrongdoing, misconduct, malfeasance, or other
14 inappropriate conduct based upon the recommendations of the chief
15 ethics and compliance officer;

16 (4) establish a policy requiring all commissioners, officers, and
17 employees with decision-making authority to maintain records
18 regarding contact with lobbyists.

19 As used in this paragraph:

20 (a) "contact" means any conversation, in person or by
21 telephonic or other electronic means, or correspondence between
22 any lobbyist engaged in the act of lobbying and any person within
23 the port authority who can make or influence a decision on the
24 subject of the lobbying on the behalf of the port authority, and shall
25 include, at a minimum, all members of the board of commissioners
26 and all officers of the port authority;

27 (b) "lobbyist" shall have the same meaning as defined in the
28 laws, rules^{1,1} or regulations of either state; and

29 (c) "lobbying" shall mean and include any attempt to influence:
30 the adoption or rejection of any rule or regulation having the force
31 and effect of law by the port authority; the outcome of any
32 proceeding by the port authority to establish, levy^{1,1} or collect fees,
33 tolls, charges^{1,1} or fares; and the authorization, approval or award
34 of any agreements, contracts^{1,1} or purchase orders, including any
35 settlement of port authority claims, or any extension, amendment^{1,1}
36 or modification of any existing agreement, contract^{1,1} or order; and

37 (5) have an efficiency study of the port authority and its
38 operations conducted by an independent entity within three years of
39 the effective date of P.L. , c. (C.) (pending before the
40 Legislature as this bill) and thereafter upon the request of the
41 governors of New York and New Jersey, and if no request is made,
42 no later than three years after the most recent efficiency study was
43 conducted.

44

45 5. (New section) Committee.

46 a. The board of commissioners shall establish a committee
47 structure that shall include, but need not be limited to, the following
48 responsibilities:

1 (1) a governance responsibility to be assigned to a committee
2 comprised of not fewer than three commissioners, who shall
3 constitute a majority on the committee, and who shall possess the
4 necessary skills to undertake the governance duties and functions.
5 It shall be the responsibility of the members of this committee to:
6 keep the board informed of current best governance practices;
7 review corporate governance trends; update the port authority's
8 corporate governance principles; examine ethical and conflict of
9 interest issues; perform board self-evaluations; investigate term
10 limits, reappointments, and board responsibilities; develop by-laws
11 which include rules and procedures for the conduct of board
12 business; and advise the port authority on the skills and experiences
13 required of potential commissioners;

14 (2) an audit responsibility to be assigned to a committee
15 comprised of not fewer than three commissioners, who shall
16 constitute a majority on the committee, and who shall possess the
17 necessary skills to undertake the audit duties and functions. It shall
18 be the responsibility of the members of this committee to:
19 recommend to the board the hiring of an independent firm of
20 certified public accountants to audit the financial statements of the
21 port authority; establish the compensation to be paid to the
22 accounting firm; and provide direct oversight of the annual
23 independent financial audit performed by the accounting firm hired
24 for auditing purposes. Members of this committee shall be familiar
25 with corporate financial and accounting practices and shall be
26 financially literate about applicable financial laws, rules,
27 regulations, and standard industry practices; and

28 (3) a finance responsibility to be assigned to a committee
29 comprised of not fewer than three commissioners, who shall
30 constitute a majority on the committee, and who shall possess the
31 necessary skills to undertake the finance duties and functions. It
32 shall be the responsibility of the members of this committee to
33 oversee and approve the issuance of debt that the port authority or
34 its subsidiaries issue.

35 b. Every committee established by the board of commissioners
36 shall promulgate a written charter to be approved by the board.
37 Each charter promulgated in accordance with this section shall be
38 made available to the public and posted on the port authority's
39 website.

40
41 6. (New section) Whistleblower access and assistance program.

42 a. The chief ethics and compliance officer shall recommend to
43 the board of commissioners a whistleblower access and assistance
44 program to be administered by the inspector general which shall
45 include, but not be limited to:

46 (1) establishing ²an email address and² toll-free telephone
47 ²[and] ² facsimile ², and text messaging² lines available to
48 employees;

1 (2) offering advice regarding employee rights under applicable
2 state and federal laws and advice and options available to all
3 persons; and

4 (3) offering an opportunity for employees to identify concerns
5 regarding any issue at the port authority.

6 Any communication between an employee and the inspector
7 general pursuant to this section shall be held strictly confidential by
8 the inspector general, unless the employee specifically waives in
9 writing the right to confidentiality, except that such confidentiality
10 shall not exempt the inspector general from disclosing such
11 information, where appropriate, to the board of commissioners
12 and/or any law enforcement authority.

13 b. The port authority shall not fire, discharge, demote, suspend,
14 threaten, harass, or discriminate against an employee because of the
15 employee's role as a whistleblower, insofar as the actions taken by
16 the employee are legal.

17 c. As used in this section:

18 (1) "Employees" means those persons employed at the port
19 authority, including but not limited to: full-time and part-time
20 employees, those employees on probation, and temporary
21 employees.

22 (2) "Whistleblower" means any employee of the port authority
23 who discloses information concerning acts of wrongdoing,
24 misconduct, malfeasance, or other inappropriate behavior by an
25 employee or board member of the port authority, including, but not
26 limited to, such acts concerning the port authority's investments,
27 travel, acquisition of real or personal property, the disposition of
28 real or personal property, or the procurement of goods and services.

29
30 7. (New section) Inspector general.

31 a. The inspector general shall be responsible for receiving and
32 investigating, where appropriate, all complaints regarding fraud,
33 waste, and abuse by commissioners, officers, and employees of the
34 port authority or third-parties doing business with the port
35 authority. The inspector general shall also be responsible for
36 conducting investigations upon the inspector general's own
37 initiative, as the inspector general shall deem appropriate.

38 b. The inspector general shall inform the board of
39 commissioners and the ¹【chief executive officer】 executive
40 director¹ of allegations received by the inspector general and the
41 progress of investigations related thereto, unless special
42 circumstances require confidentiality.

43 c. The inspector general shall determine with respect to
44 allegations received by the inspector general whether disciplinary
45 action or civil prosecution by the port authority is appropriate, and
46 whether the matter should be referred to an appropriate
47 governmental agency for further action.

1 d. The inspector general shall prepare and make available to
2 the public written reports of completed investigations, as
3 appropriate and to the extent permitted by law, subject to redactions
4 to protect a need for confidentiality. The release of all or portions
5 of reports may be deferred to protect the confidentiality of ongoing
6 investigations.

7 e. The inspector general shall have the power to:

8 (1) administer oaths or affirmations and examine witnesses
9 under oath;

10 (2) require the production of any books and papers deemed
11 relevant or material to any investigation, examination^{1,1} or review;

12 (3) notwithstanding any law to the contrary, examine and copy
13 or remove documents or records of any kind prepared,
14 maintained^{1,1} or held by the port authority and its subsidiaries;

15 (4) interview any officer or employee of the port authority or its
16 subsidiaries on any matter related to the performance of such officer
17 or employee's official duties. To the extent that the terms and
18 conditions of employment of any employee are established by
19 collective negotiations, any interview conducted pursuant to this
20 paragraph must be in accordance with any applicable provisions of
21 the current, or most recent, if expired, collective negotiations
22 agreement covering the terms and conditions of employment of the
23 employee;

24 (5) monitor the implementation by the port authority of any
25 recommendations made by the inspector general; and

26 (6) perform any other functions that are necessary or appropriate
27 to fulfill the duties and responsibilities of office.

28

29 8. (New section) Open meetings.

30 a. All meetings of the port authority shall be open to the public
31 and members of the news media, individually and collectively, for
32 the purpose of observing the full details of all phases of the
33 deliberation, policy-making, and decision-making of the board,
34 except for an executive session initiated upon a majority vote taken
35 in an open meeting pursuant to a motion. The board of
36 commissioners may exclude the public only from that portion of a
37 meeting at which the board of commissioners discusses any:

38 (1) matter in which the release of information would impair a
39 right to receive funds from the government of the United States;

40 (2) material the disclosure of which would constitute an
41 unwarranted invasion of individual or personal privacy;

42 (3) collective bargaining agreement, or the terms and conditions
43 which are proposed for inclusion in any collective bargaining
44 agreement, including the negotiation of the terms and conditions
45 thereof with employees or representatives of employees of the port
46 authority;

47 (4) matter involving the purchase, lease, or acquisition of real
48 property with port authority funds, the proposed acquisition of

- 1 securities, the sale or exchange of securities held by the port
2 authority, or the investment of port authority funds, if public
3 discussion of the matter would adversely affect the public interest;
- 4 (5) matter which would imperil the public safety if disclosed;
- 5 (6) pending or anticipated litigation or contract negotiation in
6 which the port authority is, or may become, a party, or matters
7 falling within the attorney-client privilege, to the extent that
8 confidentiality is required for the attorney to exercise the attorney's
9 ethical duties as a lawyer;
- 10 (7) contract negotiations disclosure of which would imperil the
11 port authority's position or an outcome in the best interest of the
12 authority, its mission, and the public;
- 13 (8) matter involving the employment, appointment, termination
14 of employment, terms and conditions of employment, evaluation of
15 the performance of, promotion or disciplining of any specific
16 prospective officer or employee or current officer or employee
17 employed or appointed by the port authority, unless all the
18 individual employees or appointees whose rights could be adversely
19 affected request in writing that the matter or matters be discussed at
20 a public meeting; or
- 21 (9) deliberation of the port authority occurring after a public
22 hearing that may result in the imposition of a specific civil penalty
23 upon the responding party or the suspension or loss of a license or
24 permit belonging to the responding party as a result of an act or
25 omission for which the responding party bears responsibility.
- 26 b. The port authority shall make meeting agendas available to
27 the public at least 72 hours before each meeting of the board and
28 each meeting of each committee. In addition, the port authority
29 shall send via electronic mail the agenda and public documents
30 pertaining to a board or committee meeting to the public
31 information office of each state's legislature at least 72 hours before
32 the meeting. Public notice of the time and place of a meeting shall
33 be provided to appropriate media outlets, shall be conspicuously
34 posted in one or more designated areas, and shall be conspicuously
35 posted via the port authority's official website at least five business
36 days before the meeting.
- 37 c. The port authority shall make available to the public
38 documents in the following manner: the agenda and public
39 documents pertaining to a board or committee meeting shall be
40 available for public inspection at an office of the port authority; and
41 the agenda and public documents pertaining to a board or
42 committee meeting shall be posted on the port authority's website.
- 43 d. At each public meeting of the board and at each public
44 meeting of each committee, the public shall be allotted at least 30
45 minutes to speak on any topic on the agenda. The board or
46 committee shall expand the comment time when necessary to
47 provide a reasonable opportunity for the public to comment. The

1 public speaking period shall take place prior to any board or
2 committee action.

3 e. The port authority shall keep reasonably comprehensible
4 minutes of all its meetings showing the time and place, the members
5 present, the subjects considered, the actions taken, and the vote of
6 each member. The minutes shall be available to the public within
7 two weeks from the date of the meeting to the extent that public
8 disclosure shall not be inconsistent with subsection a. of this
9 section. The minutes shall indicate for each item on the agenda the
10 vote or recusal of each board member in attendance at an open
11 meeting, or an executive session of the board or a committee of the
12 board. Each item on the agenda shall be voted on separately.

13

14 9. (New section) Barrier-free access.

15 The port authority shall make or cause to be made all reasonable
16 efforts to ensure that meetings are held in facilities that permit
17 barrier-free physical access to people with disabilities. If the board
18 determines to use video conferencing or similar technology to
19 conduct its meeting, it shall provide an opportunity for the public to
20 attend, listen, and observe such a meeting.

21

22 10. Section 2 of P.L.1991, c.395 (C.32:1-6.2) is amended to read
23 as follows:

24 2. As used in this act:

25 a. "Board" means the Board of Commissioners of the Port
26 Authority of New York and New Jersey.

27 b. "Committee" or "committees" means any standing
28 committee established by the board tasked with, including, but not
29 limited to, the audit responsibility, governance responsibility, and
30 finance responsibility required to be established pursuant to P.L. ,
31 c. (C.) (pending before the Legislature as this bill).

32 c. "Meeting" means any gathering, whether corporeal or by
33 means of communication equipment, which is attended by, or open
34 to, the board, held with the intent, on the part of the board members
35 present, to discuss or act as a unit upon the specific public business
36 of the authority. "Meeting" does not mean a gathering (1) attended
37 by less than an effective majority of the board, or (2) attended by or
38 open to all the members of three or more similar public bodies at a
39 convention or similar gathering.

40 **[c.]** d. "News media" means persons representing major wire
41 services, television news services, radio news services, and
42 newspapers, whether located in the state of New York or New
43 Jersey or any other state.

44 e. "Public business" means matters which relate in any way,
45 directly or indirectly, to the performance of the functions of the Port
46 Authority of New York and New Jersey or the conduct of its

1 business.
2 (cf: P.L.1991, c.395, s.2)

3
4 11. Section 3 of P.L.1991, c.395 (C.32:1-6.3) is amended to read
5 as follows:

6 3. a. The board shall, within six months of the effective date of
7 P.L. , c. (C.) (pending before the Legislature as this bill),
8 **adopt [and promulgate]** appropriate rules and regulations
9 concerning proper notice to the public and the news media of its
10 meetings and the right of the public and the news media to be
11 present at meetings of the authority. The board may incorporate in
12 its rules and regulations conditions under which it may exclude the
13 public from a meeting or a portion thereof.

14 b. Any rules or regulations adopted hereunder shall become a
15 part of the minutes of the Port Authority of New York and New
16 Jersey and shall be subject to the approval of the Governor of New
17 Jersey and the Governor of New York.
18 (cf: P.L.1991, c.395, s.3)

19
20 12. (New section) ARTICLE VII-B

21 Needs assessment. The port authority shall require that a needs
22 assessment be conducted by an independent entity prior to any
23 increase in tolls for the use of any port authority bridge or tunnel, or
24 fares for the use of the port authority trans-Hudson corporation rail
25 system. The assessment shall be ²made publicly available in a
26 conspicuous location on the port authority's website and² presented
27 by the independent entity to the board of commissioners at a public
28 meeting to be held at least 90 days prior to any meeting of the board
29 of commissioners to vote for any increase in the tolls for the use of
30 any port authority bridge or tunnel, or fares for the use of the port
31 authority trans-Hudson corporation rail system.

32
33 13. (New section) Public hearings.

34 Not less than 30 days and not more than 90 days prior to any
35 vote or action taken by the board of commissioners relating to any
36 increase in the tolls for the use of any port authority bridge or
37 tunnel, or fares for the use of the port authority trans-Hudson
38 corporation rail system, the port authority shall conduct at least six
39 public hearings in the manner prescribed as follows:

40 a. Locations for public hearings shall be selected in such a way
41 as to be geographically accessible to a majority of users of the
42 facility or facilities to be impacted by the toll or fare increase, as
43 determined by port authority data, provided that at least one hearing
44 shall be held in each state.

45 b. At least 72 hours before the first hearing held pursuant to
46 this section, the port authority shall make the following information
47 available to the public, including posting on the port authority's
48 official website:

- 1 (1) a written explanation of why the increase in tolls or fares is
2 necessary;
- 3 (2) the amount of revenue expected to be generated from the
4 increase in tolls or fares; and
- 5 (3) a detailed explanation of how the revenues raised from the
6 increase in tolls or fares is expected to be spent.
- 7 c. Each hearing shall be attended by at least two
8 commissioners from New York and two commissioners from New
9 Jersey in office at the time of the hearing.
- 10 d. The port authority shall hold no more than one public
11 hearing in a single day, and at least one-half of the public hearings
12 shall be scheduled to begin after 6:30 p.m., Eastern Standard Time,
13 on a weekday.
- 14 e. The port authority shall ensure that each of the requirements
15 set forth in this section shall be complied with before placing on the
16 meeting agenda of the board of commissioners any item or matter
17 relating to an increase in tolls or fares.
- 18
- 19 14. (New section) a. The port authority, at the request of the
20 Assembly or Senate of the New York state legislature or the
21 General Assembly or Senate of the New Jersey state legislature,
22 shall be required to appear before a committee of the requesting
23 state legislative house, upon request by the presiding officer of that
24 state legislative house, to present testimony on any topic or subject
25 requested by the committee or to respond to questions by members
26 of the committee. The Assembly of the New York state legislature,
27 the Senate of the New York state legislature, the General Assembly
28 of the New Jersey state legislature, and the Senate of the New
29 Jersey state legislature shall each be entitled to two such requests
30 per calendar year.
- 31 b. Unless otherwise agreed to by the presiding officer of the
32 state legislative house requesting the appearance of the port
33 authority, the port authority shall, at a minimum, be represented by
34 the chair or vice-chair of the board, ¹**【chief executive officer】** the
35 executive director¹, the chief financial officer, and any staff deemed
36 necessary by the chair or vice-chair of the board, ¹**【chief executive**
37 **officer】** the executive director¹, or the chief financial officer to
38 present testimony or respond to questions at any appearance
39 required pursuant to this section. The presiding officer may request
40 the appearance of any officer or employee of the port authority. For
41 purposes of this section, as applicable to New York state “presiding
42 officer” shall mean ¹the¹ speaker of the Assembly of the New York
43 state legislature or temporary president of the Senate of the New
44 York state legislature. For purposes of this section, as applicable to
45 the State of New Jersey “presiding officer” shall mean the President
46 of the Senate or the Speaker of the General Assembly of the State of
47 New Jersey.

- 1 15. (New section) Subsidiaries of the port authority.
- 2 a. The port authority shall provide notice to the governor of
3 each state, the majority leader of each house of the legislature of
4 each state, the Chair of the Senate Finance Committee of New
5 York, the Chair of the Senate Budget and Appropriations
6 Committee of New Jersey, the Chair of the Assembly Ways and
7 Means Committee of New York, and the Chair of the Assembly
8 Budget Committee of New Jersey that it will be creating a
9 subsidiary no less than 60 days prior to the formation of the
10 subsidiary.
- 11 b. The creation of a subsidiary corporation shall be approved
12 by the board of commissioners.
- 13 c. Within 60 days of the effective date of P.L. , c. (C.)
14 (pending before the Legislature as this bill), and on or before the
15 first day of January of each year annually thereafter, any subsidiary
16 corporation, in cooperation with the port authority, shall provide to
17 the governor and legislature of each state a report on the subsidiary
18 corporation. The report shall include for each subsidiary:
- 19 (1) The complete legal name, address, and contact information
20 of the subsidiary;
- 21 (2) The structure of the organization of the subsidiary, including
22 the names and titles of each of its members, directors, and officers,
23 as well as a chart of its organizational structure;
- 24 (3) The complete bylaws and legal organization papers of the
25 subsidiary;
- 26 (4) A complete report of the purpose, operations, mission, and
27 projects of the subsidiary; and
- 28 (5) Any other information the subsidiary corporation deems
29 important to include in the report.
- 30 d. Sixty days prior to the issuance of any debt by the subsidiary
31 corporation, or the port authority on behalf of the subsidiary
32 corporation, the port authority shall provide notice to the governor
33 of each state, the majority leader of each house of the legislature of
34 each state, the Chair of the Senate Finance Committee of New
35 York, the Chair of the Senate Budget and Appropriations
36 Committee of New Jersey, the Chair of the Assembly Ways and
37 Means Committee of New York, and the Chair of the Assembly
38 Budget Committee of New Jersey. For purposes of this section, as
39 applicable to New York state “majority leader” shall mean the
40 speaker of the Assembly of the New York State Legislature or
41 temporary president of the Senate of the New York State
42 Legislature. For purposes of this section, as applicable to the State
43 of New Jersey “majority leader” shall mean the President of the
44 Senate or the Speaker of the General Assembly of the State of New
45 Jersey.

1 16. (New section) ARTICLE VII-C

2 Annual reporting. The port authority shall publish a
3 comprehensive annual financial report, submitted annually to the
4 governors and state legislatures of New York and New Jersey and
5 made available on the port authority's website within 120 days after
6 the end of its fiscal year. The annual report shall include the
7 agency's financial statements, statistical and other regional data, and
8 a narrative of the agency's activities during the year of the report.
9 The annual report shall include:

10 a. an introductory section including:

11 (1) a letter of transmittal to the governors of New York and New
12 Jersey;

13 (2) information regarding the board of commissioners, port
14 authority officers and executive management;

15 (3) a letter to the board of commissioners from the ¹[chief
16 executive officer] executive director¹ of the port authority
17 highlighting important developments;

18 (4) a description of major agency activities undertaken during
19 the prior year; and

20 (5) a letter to the board of commissioners from the chief
21 financial officer of the port authority with respect to the
22 consolidated financial statements of the port authority.

23 b. a financial section including:

24 (1) an independent auditor's report;

25 (2) management's discussion and analysis;

26 (3) financial statements;

27 (4) its financial reports certified by the chair and vice-chair of
28 the board, ¹[chief executive officer] executive director¹, and chief
29 financial officer of the port authority, including (a) audited
30 financials in accordance with generally accepted accounting
31 principles, known as GAAP, and the accounting standards issued by
32 the governmental accounting standards board, known as GASB, (b)
33 grant and subsidy programs, (c) current ratings, if any, of its bonds
34 issued by recognized bond rating agencies and notice of changes in
35 such ratings, and (d) long-term liabilities, including leases and
36 employee benefit plans;

37 (5) a schedule of its bonds and notes outstanding at the end of
38 its fiscal year, together with a statement of the amounts redeemed
39 and incurred during such fiscal year as part of a schedule of debt
40 issuance that includes the date of issuance, term, amount, interest
41 rate^{1, 1} and means of repayment including all refinancings, calls,
42 refundings, defeasements^{1, 1} and interest rate exchange or other such
43 agreements; and

44 (6) at a minimum a four-year financial plan, including (a) a
45 current and projected capital budget, and (b) an operating budget
46 report, including an actual versus estimated budget, with an analysis
47 and measurement of financial and operating performance.

1 c. a statistical section presenting additional information as
2 context for further understanding of the information in the financial
3 statements, note disclosures and schedules, including (1) financial
4 trends; (2) debt capacity; (3) operating and service data; (4)
5 information on port authority operating results; (5) information on
6 port authority capital program components; (6) information on port
7 authority facility traffic; and (7) selected statistical, demographic
8 and economic data on the New York-New Jersey metropolitan
9 region.

10 d. a corporate information section providing:

11 (1) a list of all real property of the port authority;

12 (2) a list and full description of real property and personal
13 property that has a sale price of over \$10,000 disposed of during the
14 period, including the price received by the port authority and the
15 name of the purchaser for all property sold by the port authority
16 during the period;

17 (3) a compensation schedule that shall include, by position, title
18 and name of the person holding such position or title, the salary,
19 compensation, allowance and/or benefits provided to any officer,
20 director^{1,1} or employee in a decision making or managerial position
21 of such authority whose base salary is in excess of \$150,000;

22 (4) biographical information, not including confidential personal
23 information, for all directors and officers and employees for whom
24 salary reporting is required;

25 (5) a description of the authority and its board structure,
26 including (a) names of committees and committee members, (b)
27 lists of board meetings and attendance, (c) descriptions of major
28 authority units and subsidiaries, and (d) number of employees;

29 (6) its mission statement, charter, if any, and by-laws; and

30 (7) a description of any material pending litigation in which the
31 port authority is involved as a party during the reporting year.

32

33 17. (New section) Audits and financial statements.

34 a. The port authority shall prepare financial statements on an
35 annual basis, in accordance with generally accepted accounting
36 principles, known as GAAP, and the accounting standards issued by
37 the governmental accounting standards board, known as GASB.

38 b. The audit committee of the board of commissioners of the
39 port authority shall arrange for an independent firm of certified
40 public accountants to perform an audit of the financial statements of
41 the port authority each year, in accordance with generally accepted
42 accounting principles and standards referenced in subsection a. of
43 this section. Each independent firm of certified public accountants
44 that performs any audit required by P.L. , c. (C.) (pending
45 before the Legislature as this bill) shall timely report to the audit
46 committee of the port authority:

47 (1) all critical accounting policies and practices to be used; and

1 (2) other material written communications, that is not privileged
2 or confidential, between the independent firm of certified public
3 accountants and the management of the port authority, including the
4 management letter along with management's response or plan of
5 corrective action, material corrections identified^{1,1} or schedule of
6 unadjusted differences.

7 c. Every financial statement prepared pursuant to this section
8 shall be approved by the board of commissioners. As a condition to
9 the issuance of the annual financial statements of the port authority,
10 the ¹【chief executive officer】 executive director¹ and the chief
11 financial officer of the port authority shall be required to make a
12 written certification to that effect that, to the best of their
13 knowledge and belief, the financial and other information in the
14 consolidated financial statements is accurate in all material respects
15 and has been reported in a manner designed to present fairly the
16 port authority's net assets, changes in net assets, and cash flows, in
17 accordance with generally accepted accounting principles and
18 standards referenced in subsection a. of this section; and, that on the
19 basis that the cost of internal controls should not outweigh their
20 benefits, the port authority has established a comprehensive
21 framework of internal controls to protect its assets from loss, theft,
22 or misuse, and to provide reasonable (rather than absolute)
23 assurance regarding the reliability of financial reporting and the
24 preparation of the consolidated financial statements in accordance
25 with generally accepted accounting principles and standards
26 referenced in subsection a. of this section.

27 d. Notwithstanding any other provision of law to the contrary,
28 the port authority shall not contract with an independent firm of
29 certified public accountants for audit services to the authority if the
30 lead or coordinating audit partner having primary responsibility for
31 the audit, or the audit partner responsible for reviewing the audit,
32 has performed audit services for the two previous fiscal years of
33 such authority.

34 e. The port authority shall not contract with the independent
35 firm of certified public accountants performing the port authority's
36 audit for any non-audit services to such authority
37 contemporaneously with the audit, unless receiving previous written
38 approval by the audit committee including:

39 (1) bookkeeping or other services related to the accounting
40 records or financial statements of such authority;

41 (2) financial information systems design and implementation;

42 (3) appraisal or valuation services, fairness opinions, or
43 contribution-in-kind reports;

44 (4) actuarial services;

45 (5) internal audit outsourcing services;

46 (6) management functions or human services;

47 (7) broker or dealer, investment advisor, or investment banking
48 services; and

1 (8) legal services and expert services unrelated to the audit.
2 f. The port authority shall not contract with an independent
3 firm of certified public accountants for any audit service if the
4 ¹[chief executive officer] executive director¹, comptroller, chief
5 financial officer, treasurer, or any other person serving in an
6 equivalent position for the authority, was employed by that
7 independent firm of certified public accountants and participated in
8 any capacity in the audit of the authority during the one year period
9 preceding the date of the initiation of the audit.

10

11 18. (New section) The port authority shall make accessible to
12 the public via its website an executive summary of its most recent
13 independent audit report unless such information is exempt from
14 disclosure pursuant to either state's freedom of information laws.

15

16 19. (New section) ARTICLE VII-D

17 Property disposition. Any sale of real property by the port
18 authority shall be undertaken and conducted pursuant to the
19 provisions of the existing laws governing the sale of real property
20 by the port authority in the state in which such real property is
21 located and by approval of the board of commissioners.

22 a. No disposition of real property, or any interest in real
23 property, shall be made unless an appraisal of the value of such real
24 property has been made by an independent appraiser and included
25 in the record of the transaction, and, provided further, that no
26 disposition of any other real property, which because of its unique
27 nature or the unique circumstances of the proposed transaction is
28 not readily valued by reference to an active market for similar real
29 property, shall be made without a similar appraisal.

30 b. Disposal of real property for less than fair market value. No
31 property owned, leased, or otherwise in the control of the port
32 authority may be sold, leased, or otherwise alienated for less than
33 its fair market value unless:

34 (1) the transferee is a government or other public entity, and the
35 terms and conditions of the transfer require that the ownership and
36 use of the real property will remain with the government or any
37 other public entity; or

38 (2) the purpose of the transfer is within the purpose, mission, or
39 governing statute of the port authority and a written determination
40 is made by the board of commissioners that there is no reasonable
41 alternative to the proposed below-market transfer that would
42 achieve the same purpose of such transfer, prior to board approval
43 of such a transfer.

44 c. The board shall adopt, within six months of the effective
45 date of P.L. , c. (C.) (pending before the Legislature as this
46 bill), appropriate rules and regulations concerning disposition,
47 acquisition, and transfer of real property or any interest in real
48 property by the port authority which shall, at a minimum, include a

1 requirement that the following information be made available to the
2 board of commissioners at the meeting where approval of such a
3 disposition, acquisition^{1,1} or transfer is scheduled:

- 4 (1) a full description of the property;
- 5 (2) a description of the purpose of the disposition, acquisition,
6 or transfer;
- 7 (3) a statement of the value to be received from such a
8 disposition, acquisition, or transfer;
- 9 (4) the names of any private parties participating in the
10 disposition, acquisition, or transfer; and
- 11 (5) in the case of a property disposition for less than fair market
12 value, an explanation and a written determination by the board of
13 commissioners that there is no reasonable alternative to the
14 proposed below-market value that would achieve the same purpose
15 of such disposition.

16 d. Not less than 10 days in advance of any meeting of the board
17 of commissioners of the port authority at which the board of
18 commissioners is to consider an action to authorize the sale of real
19 property owned by the port authority, the ¹**【chief executive officer】**
20 executive director¹ of the port authority shall provide public notice
21 of such proposed action along with relevant material terms and
22 provisions of such sale including, but not limited to, the information
23 made available pursuant to subsection c. of this section, by posting
24 on the port authority's website.

25 e. The ¹**【chief executive officer】** executive director¹ may
26 authorize or arrange for contracts for the sale of personal property
27 owned by the port authority upon such terms and conditions as the
28 ¹**【chief executive officer】** executive director¹ may deem proper and
29 execute the same on behalf of the port authority where the value of
30 such personal property is not in excess of \$1,000,000; provided,
31 however, that personal property valued at more than \$250,000 shall
32 not be sold by authority of the ¹**【chief executive officer】** executive
33 director¹ other than to the highest bidder after public advertisement.
34 Where the value of such personal property is in excess of
35 \$1,000,000, the sale of such property must be authorized by the
36 board of commissioners of the port authority upon such terms as the
37 board of commissioners may deem proper.

38 f. The port authority may retain brokers or third-party vendors
39 that facilitate online auctions, or assist in disposing of surplus real
40 and personal property of the port authority.

41
42 20. (New section) Debt issuance.

43 a. The issuance of any bonds, notes, or other instruments of
44 indebtedness by the port authority shall be undertaken in a manner
45 consistent with applicable laws governing the port authority and
46 covenants with the holders of the port authority's bonds, notes, or
47 other instruments of indebtedness.

1 b. At least 60 days prior to the end of its fiscal year, the port
2 authority shall submit to the governor, state comptroller, and
3 legislature of each state a statement of intent in regards to the
4 issuance of and overall amount of bonds, notes, or other debt
5 obligations anticipated, at the time the statement is submitted,
6 during the next fiscal year.

7
8 21. (New section) Capital plan.

9 a. The port authority shall adopt a 10-year capital plan that is
10 developed using a comprehensive planning process and risk-based
11 prioritization that considers asset condition, operational and revenue
12 impact, threat assessment, customer service, regional benefit, and
13 regulatory or statutory requirements. The capital plan shall be
14 dependent upon the availability of sufficient funding and other
15 resources to pursue the capital projects proposed for the 10-year
16 period. Performance progress and revisions to reflect changes in
17 programs, policies, and projects and the environment in which the
18 port authority operates shall be reviewed regularly by a committee
19 designated by the board of commissioners, and the capital plan shall
20 be revised periodically as necessary and appropriate, and shall be
21 reviewed with the board of commissioners annually. The port
22 authority shall publish an annual report on the status of the capital
23 program and such report shall be made publicly available on the
24 port authority's website. Prior to adoption of a capital plan, the port
25 authority shall make the proposed plan available for public review
26 and comments on its public website for at least ²[two] ~~four~~² weeks
27 prior to approval, and all comments received by the port authority
28 are to be distributed to the board of commissioners for review prior
29 to consideration of the capital plan.

30 b. The port authority shall also provide that major capital
31 projects are monitored by independent engineering consultants.
32 The independent consultants shall prepare annual reports to be
33 provided to the board and made available to the public. The annual
34 reports prepared by independent consultants shall include, but not
35 be limited to, a comparison of actual and target performance
36 measures including, but not limited to, costs and construction
37 schedules, and a narrative explanation of any discrepancy thereof.
38 For the purposes of this section: "Major capital project" means an
39 undertaking or program for the acquisition, creation, or
40 development of any crossing, transportation facility, or commerce
41 facility or any part thereof, with an estimated total project cost in
42 excess of \$500,000,000.

43 c. No less than 60 days prior to any board adoption of a capital
44 plan, as described in subsection a. of this section, or any major
45 revision of the last adopted capital plan, the port authority shall ²;
46 ~~(1)~~² notify the Assembly and Senate of the New York state
47 legislature and the General Assembly and Senate of the New Jersey
48 state legislature of its intention to adopt a capital plan, or any major

1 revision of the last adopted capital plan ²; (2) submit to the
2 Assembly and Senate of the New York state legislature and the
3 General Assembly and Senate of the New Jersey state legislature
4 the proposed capital plan, or any proposal constituting a major
5 revision of the last adopted capital plan, for review by each state
6 legislature; and (3) make the proposed capital plan, including any
7 proposal constituting a major revision of the last adopted capital
8 plan, publicly available on the port authority website.² ²[In either
9 case, the notice shall recite the major elements of the capital plan to
10 be adopted.]²

11 d. Within 60 days of the notice provided in subsection c. of this
12 section, the port authority shall conduct a public hearing about the
13 capital plan or any major revision thereof in New York state and in
14 the State of New Jersey.

15 e. The port authority shall conduct a status update public
16 hearing in New York state and in the State of New Jersey at least
17 once every three years after the adoption of the capital plan by the
18 port authority. Such public hearing shall be known as “capital status
19 update hearing” and at such hearing the port authority shall provide
20 in detail a written description of the status of all capital plan
21 projects and the costs and the expected costs of those projects. At
22 such public hearing, the port authority shall provide a financing
23 plan that identifies the source of funding for each project. The port
24 authority shall provide an analysis that compares actual and target
25 performance measures, and a detailed written explanation of any
26 discrepancy thereof at the public hearing.

27

28 22. (New section) Operating budget.

29 The port authority shall prepare a detailed annual operating
30 budget beginning with the fiscal year commencing after the
31 effective date of P.L. , c. (C.) (pending before the
32 Legislature as this bill). A preliminary annual operating budget
33 shall be made publicly available on the port authority's website in
34 July of every fiscal year and a final annual operating budget shall be
35 made publicly available in February of each fiscal year.

36

37 23. Severability clause. If any clause, sentence, paragraph,
38 subdivision, section or part of P.L. , c. (C.) (pending before
39 the Legislature as this bill) shall be adjudged by any court of
40 competent jurisdiction to be invalid, such judgment shall not affect,
41 impair, or invalidate the remainder thereof, but shall be confined in
42 its operation to the clause, sentence, paragraph, subdivision, section
43 or part thereof directly involved in the controversy in which such
44 judgment shall have been rendered. It is hereby declared to be the
45 intent of the legislature that P.L. , c. (C.) (pending before
46 the Legislature as this bill) would have been enacted even if such
47 invalid provisions had not been included herein.

1 24. This act shall take effect upon the enactment into law by the
2 State of New York of legislation having an identical effect, but if
3 the State of New York shall have already enacted such legislation,
4 then this act shall take effect immediately.