

SENATE, No. 3410

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 7, 2019

Sponsored by:

Senator PATRICK J. DIEGNAN, JR.

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District 32 (Bergen and Hudson)

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Co-Sponsored by:

Senators Gill and Lagana

SYNOPSIS

Establishes Gateway Development Commission.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/6/2019)

1 AN ACT establishing the Gateway Development Commission,
2 supplementing Title 32 of the Revised Statutes, and amending
3 P.L.1966, c.301.

4

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

7

8 1. (New section) This act shall be known and may be cited as
9 the “Gateway Development Commission Act.”

10

11 2. (New section) a. The Legislature finds and declares that:
12 the State of New Jersey and the State of New York and their
13 respective citizens share a common concern to preserve the
14 functionality and strengthen the resiliency of long-distance and
15 commuter rail infrastructure between New Jersey and New York,
16 including passenger rail infrastructure owned, controlled, or utilized
17 by the National Railroad Passenger Corporation, also known as
18 “Amtrak”; the two states and their respective citizens share the
19 benefits of existing interstate passenger rail infrastructure between
20 the two states, including the existing North River Tunnel; interstate
21 passenger rail service and infrastructure is vital to the economies of
22 New Jersey and New York; because of the passage of time and
23 damage caused by natural disasters, both states recognize the
24 existing interstate passenger rail infrastructure, including the
25 existing North River Tunnel, is at risk of system failures that could
26 result in prolonged service disruptions that would severely damage
27 the economies of the two states and many other participants in the
28 economy of the Northeast Corridor; both states recognize the urgent
29 need to undertake projects necessary to create passenger rail
30 capacity under the Hudson River, rehabilitate passenger rail
31 infrastructure, maintain current levels of long-distance and
32 commuter rail service between the two states and provide additional
33 reliability, safety, and security; the citizens of both states will share
34 the benefits of expanded capacity and rehabilitated passenger rail
35 infrastructure between the two states; and there has been a long
36 history of cooperation among state and local governmental entities,
37 Amtrak, and various private organizations and individuals in the
38 two states to ensure the preservation of a variety of passenger rail
39 service options.

40 b. The Legislature therefore determines that there is a need to
41 endorse and formalize that bi-state cooperative effort to help ensure
42 that the functionality of long-distance and commuter rail
43 infrastructure between New Jersey and New York and thence
44 throughout the Northeast Corridor, is preserved and maintained for
45 the benefit of the economy of New Jersey and New York and for 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.

1 well-being of present and future generations of citizens in both
2 states; and that the creation of a bi-state commission that shall be a
3 body corporate and politic established by the State of New Jersey
4 and the State of New York, acting in the public interest and
5 exercising essential governmental functions, is an appropriate
6 means to accomplish these very important goals and is not intended
7 to impair, limit, diminish, or otherwise affect any right, power, or
8 jurisdiction of the United States of America or any department,
9 branch, agency, court, bureau, or other instrumentality thereof with
10 respect to any matter, or grant or confer any right or power on such
11 bi-state commission, or any officer or trustee thereof, to regulate
12 commerce between the states.

13 c. It is the intention of the Legislature that the commission so-
14 created constitute an institution which has been established by the
15 states to effectuate a public purpose and is therefore eligible to
16 apply for financial assistance from the United States government,
17 including the agencies thereof.

18

19 3. (New section) Except where different meanings are
20 expressly specified in subsequent provisions of P.L. ,
21 c. (C.) (pending before the Legislature as this bill), as used
22 in P.L. , c. (C.) (pending before the Legislature as this
23 bill):

24 “Amtrak” means the National Railroad Passenger Corporation, a
25 corporation organized under 49 U.S.C. s.24101 et seq. and the laws
26 of the District of Columbia.

27 “Board” means the Board of Commissioners of the Commission.

28 “Commission” means the Gateway Development Commission
29 which is established pursuant to P.L. , c. (C.) (pending
30 before the Legislature as this bill).

31 “Facilitate” means the planning, designing, financing,
32 acquisition, development, redevelopment, expansion, construction,
33 reconstruction, replacement, approval of works, lease, leaseback,
34 licensing, consigning, asset management, optimization,
35 rehabilitation, repair, alteration, improvement, extension,
36 management, ownership, use, and effectuation of the matters
37 described in P.L. , c. (C.) (pending before the Legislature
38 as this bill). “Facilitation” shall have a concomitant meaning.

39 “Full Funding” means the sum of commitments to fund, from
40 sources deemed by the Commission to be creditworthy, plus
41 Commission cash-on-hand, plus any institution of a tariff or an
42 agreement to impose user fees not subject to further approvals (if
43 any), plus such other sources of funding deemed certain to be
44 available as and when required, found by the Commission to be
45 sufficient to Facilitate the Project or a discrete component thereof
46 which is beneficial to the public.

47 “Meeting” means any gathering, whether corporeal or by means
48 of communication equipment, which is attended by, or open to, the

1 Board, held with the intent, on the part of the commissioners
2 present, to act as a unit upon the specific public business of the
3 Commission. "Meeting" does not mean a gathering (1) attended by
4 less than a quorum of commissioners; (2) in which the Board is
5 engaged in ordinary course supervision of Commission staff; (3) in
6 which consideration of Commission business matters are informally
7 discussed without the intent or effect of effectuating any action of
8 the Commission; or (4) attended by or open to all the members of
9 three or more similar public bodies at a convention or similar
10 gathering.

11 "Project" means a passenger rail transportation project between
12 Penn Station, Newark, New Jersey and Penn Station, New York,
13 New York currently referred to as the "Gateway Program."

14 "Public business" means matters which relate in any way,
15 directly or indirectly, to the performance of the functions of the
16 Commission or the conduct of its business.

17

18 4. (New section) There is hereby created the Gateway
19 Development Commission, a body corporate and politic established
20 by the State of New Jersey and the State of New York, which shall
21 be deemed to be acting in the public interest and exercising
22 essential government functions in taking action hereunder and
23 which shall be a public authority and a government sponsored
24 authority. The purposes of the Commission shall include the
25 following:

26 a. Facilitate the Project;

27 b. Coordinate activities of governmental entities, Amtrak, and
28 private entities providing assistance to the Project or otherwise
29 regulating the Project, with a view to achieving Full Funding, and
30 encourage and enable such parties to participate in the effectuation
31 of the Project;

32 c. Act as a coordinating agency to arrange for cooperation
33 among the federal government, the State of New Jersey, any local
34 government thereof, the State of New York, any local government
35 thereof, any agency, instrumentality, department, commission, or
36 authority of any one or more of the foregoing, any bi-state agency,
37 Amtrak, any individual or private firm, entity, or corporation, or
38 with any one or more of them (including by contract among the
39 parties), for and in connection with the Facilitation of the Project
40 for any of the purposes of P.L. , c. (C.) (pending before the
41 Legislature as this bill), and to enter into an agreement or
42 agreements (and from time to time to enter into agreements
43 amending or supplementing the same) with the federal government,
44 the State of New Jersey, any local government thereof, the State of
45 New York, any local government thereof, any agency,
46 instrumentality, department, commission, or authority of any one or
47 more of the foregoing, any bi-state agency, Amtrak, any individual
48 or private firm, entity, or corporation, or with any one or more of

1 them, for or relating to such purposes, including but not limited to
2 agreements with respect to financial assistance, loans, grants, or any
3 other funding as may be available for the Project. The Commission
4 is hereby intended to qualify for, authorized, and empowered to
5 apply for and accept, financial assistance, loans, grants, or any other
6 funding for such purposes under federal, state, or local laws, and to
7 make application directly to the appropriate officials or agencies for
8 the application for and receipt of federal, state, or local assistance,
9 loans, grants, or any other funding in aid of any of the purposes of
10 P.L. , c. (C.) (pending before the Legislature as this bill);

11 d. Pursue efforts to assist federal or state agencies and other
12 entities to fulfill their goals set forth in federal law or the laws of
13 the State of New York or the State of New Jersey to further
14 passenger rail transportation between the states, including 49 U.S.C.
15 s.24901, et seq.;

16 e. Take any and all actions authorized by P.L. , c. (C.)
17 (pending before the Legislature as this bill) which are or may be
18 necessary or appropriate to constitute and maintain itself as an
19 applicant eligible to qualify to apply for and be awarded financial
20 assistance, loans, grants, or other funding as may be available for
21 the Project, including that awarded by federal, state, and local
22 governments and the agencies thereof; and

23 f. Facilitate the Project by making and enforcing such rules
24 and regulations and establishing, levying, and collecting such tolls,
25 fees, rates, charges, and rentals in connection with the Project or
26 any portion thereof, as it may deem necessary or appropriate, which
27 said tolls, fees, rates, charges, and rentals shall not be established at
28 rates intended to be greater than necessary to meet the expenses of
29 the financing, construction, asset management, and optimization
30 thereof, and to provide for the payment of, with interest upon, and
31 the amortization and retirement of bonds or other securities or
32 obligations issued or incurred for Project purposes, including
33 establishment of prudent reserves, and provided that such tolls, fees,
34 rates, charges, and rentals do not conflict with applicable federal
35 law and the laws of the State of New Jersey and the State of New
36 York.

37
38 5. (New section) a. The Commission shall act through a vote
39 of its three commissioners: one of which will be directly appointed
40 by the Commissioner of the New York State Department of
41 Transportation; one of which will be directly appointed by the
42 Board of Directors of the New Jersey Transit Corporation; and one
43 of which will be directly appointed by Amtrak. The commissioner
44 appointed by Amtrak will serve to represent Amtrak's interest, as
45 owner-operator or user of the Northeast Corridor, in the work to be
46 undertaken by the Commission.

47 b. The Commission's initial commissioners shall be the
48 individuals serving as trustees of the Gateway Program

1 Development Corporation, a New Jersey non-profit corporation, at
2 the time of the effective date of P.L. , c. (C.) (pending
3 before the Legislature as this bill). The Gateway Program
4 Development Corporation trustees shall each serve an initial term as
5 commissioners of the Commission for a period of three years
6 beginning on the effective date of P.L. , c. (C.) (pending
7 before the Legislature as this bill). Following this initial term,
8 commissioners appointed in accordance with this section shall serve
9 for a term of three years.

10 c. At the conclusion of a commissioner's term (including an
11 initial commissioner's term), the commissioner may be reappointed
12 for a successive three-year term at the pleasure of the party who
13 originally appointed that commissioner (or in the case of the initial
14 commissioners, the party who originally appointed that individual
15 as a trustee of the Gateway Program Development Corporation). A
16 commissioner shall automatically continue to serve following the
17 expiration of the commissioner's term until a successor is appointed
18 in accordance with subsection a. of this section and seated.

19 d. In the event that a commissioner ceases to serve before the
20 stated expiration of the commissioner's term, the party that
21 originally appointed the commissioner may appoint a replacement
22 to serve out the remainder of the replaced commissioner's term and
23 thereafter, the vacancy shall be filled as provided for in subsection
24 a. of this section.

25 e. Commissioners shall serve without compensation, but the
26 Commission may, within the limits of funds appropriated or
27 otherwise made available to it, reimburse commissioners for actual
28 expenses necessarily incurred in the discharge of their official
29 duties.

30 f. The commissioner from the State of New Jersey and the
31 commissioner from the State of New York shall be indemnified by
32 the State of New Jersey and the State of New York, respectively, to
33 the same extent as such state indemnifies a public officer for any
34 claim or judgment arising out of such public officer's official
35 duties.

36

37 6. (New section) a. The chairperson of the Commission shall
38 be elected from the representatives of New Jersey and New York.
39 The initial chairperson shall be the commissioner who was serving
40 as chairperson of the board of trustees of the Gateway Program
41 Development Corporation whose term as chairperson shall continue
42 until the earlier to occur of: (1) the date on which that
43 commissioner's term as the Gateway Program Development
44 Corporation chairperson would have expired; or (2) the date on
45 which that commissioner is otherwise terminated as a
46 commissioner. Thereafter, the commissioner appointed by the state
47 which did not appoint the initial chairperson shall succeed as
48 chairperson. The chairpersonship shall be alternated between the

1 two states and each chairperson following the initial chairperson
2 shall serve as chairperson for a term of one year. The commissioner
3 appointed by Amtrak shall serve as vice-chairperson.

4 b. The Commission shall meet regularly as it may determine.
5 Meetings of the Commission shall be held at such times and places
6 as the chairperson of the Commission deems appropriate, but to the
7 maximum extent practicable and feasible, meetings shall be held on
8 an alternating basis in New Jersey and New York.

9 c. The powers of the Commission may be exercised by the
10 commissioners at a meeting duly called and held where a quorum of
11 all three commissioners are present; provided, however, that in the
12 event a vacancy remains for 90 days, the powers of the Commission
13 may be exercised by the commissioners at a meeting duly called
14 and held where all remaining commissioners are present. Action
15 may be taken and motions and resolutions adopted by the
16 Commission at any meeting thereof by unanimous affirmative vote
17 of the commissioners. The commissioners shall adopt bylaws
18 providing for attendance protocols, voting procedures, and other
19 matters related to the conduct of the business of the Commission.

20 d. The Commission may request the assistance and services of
21 such employees and agents as it may require and as may be made
22 available to it for the purpose of carrying out its duties under
23 P.L. , c. (C.) (pending before the Legislature as this bill),
24 which agents may include private consultants and persons employed
25 by or acting as a consultant for the federal government, the State of
26 New Jersey, any local government thereof, the State of New York,
27 any local government thereof, any agency, instrumentality,
28 department, commission, or authority of any one or more of the
29 foregoing, any bi-state agency, or of Amtrak, and each such
30 government and enumerated party is authorized to provide any such
31 assistance and services to the Commission.

32 e. The Commission may, within the limits of funds
33 appropriated or otherwise made available to it for those purposes,
34 employ such professional, technical, and clerical staff and
35 consultants and incur such expenses as it may deem necessary or
36 appropriate in order to perform its duties.

37 f. The legislature finds and declares that the right of the public
38 to be present at meetings of the Commission, and to witness the
39 deliberation, policy formulation, and decision making of the
40 Commission, is vital to the enhancement and proper functioning of
41 the democratic process, and that secrecy in public affairs
42 undermines the faith of the public in government and the public's
43 effectiveness in fulfilling its role in a democratic society; and
44 declares it to be the public policy of the State of New Jersey and the
45 State of New York to ensure the right of their citizens to have
46 adequate advance notice of and the right to attend all meetings of
47 the Commission at which any Public business is acted upon in any
48 way, except only in those circumstances where otherwise the public

1 interest would be clearly endangered, the relevant matters are made
2 confidential by federal or state law, or the personal privacy of
3 individuals would be clearly in danger of unwarranted invasion.

4 g. The Commission shall adopt and promulgate appropriate
5 bylaws, rules, and regulations concerning the right of the public to
6 be present at Meetings of the Commission and to obtain records of
7 the Commission's activities or Public business. Any rules or
8 regulations adopted hereunder shall become a part of the minutes of
9 the Commission and be posted on its website.

10
11 7. (New section) The duties of the Commission shall be to use
12 its efforts to accomplish, at such times as it is appropriate to do so,
13 the following actions, provided that the Commission shall not be in
14 dereliction of its duties so long as it acts in good faith to accomplish
15 such:

16 a. Make appropriate application for, and act as a coordinating,
17 distributing, or recipient agency for, federal, state, or private
18 funding and authorizations necessary or appropriate to Facilitate the
19 Project;

20 b. Cooperate with other agencies or authorities or departments
21 (federal, state, local, and bi-state), Amtrak, and private parties to
22 Facilitate the Project, including entering into agreements specifying
23 a party's rights and obligations with respect to the Project, to create
24 a Project capable of achieving long-term stability and Full Funding,
25 without obligating the full faith and credit of the federal
26 government, either state or any local government thereof, or any
27 other party, except as explicitly authorized by any party empowered
28 by law to do so;

29 c. Adopt bylaws to govern the conduct of its affairs, and adopt
30 rules and regulations, including a conflict of interest policy and
31 code of ethics for commissioners and officers of the Commission,
32 and make appropriate orders to carry out and discharge its powers,
33 duties, and functions;

34 d. Expend such funds as are required to effectuate the purposes
35 set forth in this section and, until expenditure is required, to hold
36 and prudently invest funds;

37 e. Recommend appropriate federal, state, and local government
38 legislation and agency administrative action pertaining to the
39 Project;

40 f. Within 18 months of the date it organizes and not less than
41 annually thereafter, prepare a progress report on its activities, and
42 submit it, together with any recommendations for state or local
43 government legislation or agency administrative action to the
44 Governor of the State of New Jersey, the President of the Senate of
45 the State of New Jersey, the Speaker of the General Assembly of
46 the State of New Jersey, the Governor of the State of New York, the
47 temporary president of the Senate of the State of New York, and the
48 speaker of the Assembly of the State of New York; and

1 g. Take such other action as may be necessary or appropriate to
2 further the purposes of P.L. , c. (C.) (pending before the
3 Legislature as this bill).

4
5 8. (New section) The Commission shall have the power to
6 undertake the following:

7 a. Facilitate the Project, including, but not limited to, through
8 contracts and agreements and other documents and instruments
9 which the Commission is otherwise authorized to make, enter into,
10 execute, and deliver; provided, however, that the Commission shall
11 not have the authority to operate or directly engage in transportation
12 services such that the Commission would be subject to the
13 jurisdiction of the federal Surface Transportation Board;

14 b. Sue and be sued in its own name in federal and state courts
15 in Mercer County, New Jersey and New York County, New York, it
16 being understood that the commissioners shall have no obligation or
17 liability for the acts or omissions of the Commission;

18 c. Accept, receive, disburse, encumber, and expend funds from
19 whatever source derived, including, without limitation, federal
20 assistance, grants, and loans; state and local government assistance,
21 grants, and loans; and single state or bi-state agency assistance,
22 grants, and loans; private sources, grants, and loans; and revenues
23 received from the disposition of property; and Amtrak grants and
24 loans, in each case as may be necessary to accomplish any lawful
25 purpose which the commissioners determine will Facilitate the
26 Project and achieve long-term stability and Full Funding;

27 d. Acquire (including, without limitation, by gift, purchase,
28 exchange, or condemnation in accordance with the requirements of
29 P.L. , c. (C.) (pending before the Legislature as this bill)),
30 subdivide, lease, license, take, and hold property of every
31 description and to manage such property and develop any
32 undeveloped property owned, leased, or controlled by it in a manner
33 necessary or appropriate to Facilitate the Project;

34 e. Make, procure, enter into, execute, and deliver contracts and
35 agreements and other documents and instruments as may be
36 necessary or appropriate to carry out any power of the Commission
37 under P.L. , c. (C.) (pending before the Legislature as this
38 bill) and to otherwise accomplish any lawful purpose which the
39 commissioners determine will Facilitate the Project, including,
40 without limitation, with the federal government, the State of New
41 Jersey, any local government thereof, the State of New York, any
42 local government thereof, any agency, instrumentality, department,
43 commission, or authority of any one or more of the foregoing, any
44 bi-state agency, Amtrak, any individual or private firm, entity, or
45 corporation, or with any one or more of them;

46 f. Make applications for and accept funding, permits,
47 authorizations, and approvals as may be necessary or appropriate to
48 accomplish any lawful purpose which the commissioners determine

1 will Facilitate the Project, including, without limitation, with the
2 federal government, the State of New Jersey, any local government
3 thereof, the State of New York, any local government thereof, any
4 agency, instrumentality, department, commission, or authority of
5 any one or more of the foregoing, any bi-state agency, Amtrak, any
6 individual or private firm, entity, or corporation, or with any one or
7 more of them;

8 g. Grant public and private entities the use of the Project or a
9 portion thereof by way of franchise, concession, license, lease, or
10 otherwise, provide for payments to and accept payments from such
11 entities in exchange for value received from such use, work, or
12 services performed or otherwise and to establish or agree with
13 Project users on tolls, fees, rates, charges, revenue sharing, and
14 rentals for the use thereof, provided that such tolls, fees, rates,
15 charges, revenue sharing, and rentals do not conflict with applicable
16 federal law and the laws of the State of New Jersey and the State of
17 New York, and provided further that the Commission shall not have
18 the authority to set passenger fares for Amtrak or any publicly
19 owned and operated passenger service utilizing the Project;

20 h. Adopt its own public procurement rules and guidelines that
21 the Commission deems necessary or appropriate to Facilitate the
22 Project through any combination of means and methods otherwise
23 available to the Commission under P.L. , c. (C.) (pending
24 before the Legislature as this bill), regardless of whether such
25 combination is generally available to the State of New Jersey, any
26 local government thereof, the State of New York, any local
27 government thereof, any agency, instrumentality, department,
28 commission, or authority of any one or more of the foregoing, or
29 any bi-state agency, and engage and contract with third parties in
30 accordance with such procurement rules and guidelines;

31 i. Dispose of, convey, or transfer all or any portion of the
32 Project for value as may be expeditious for the Facilitation of the
33 Project, so long as it has determined that the transferee has or is
34 provided with a sufficient source of financing to acquire, operate,
35 maintain, and own the Project;

36 j. Issue or guarantee bonds, notes, or other evidence of
37 indebtedness, enter into loan agreements and otherwise borrow
38 funds, or incur indebtedness or other future payment obligations for
39 any corporate purpose, including to effectuate Full Funding, and to
40 assign, pledge, mortgage, secure, encumber, and use its funds,
41 assets, property, and revenues for repayment thereof, to be payable
42 out of the funds, assets, properties, and revenues of the Commission
43 without recourse to taxation, provided that the Commission shall
44 have no power to pledge the full faith and credit of the federal
45 government, the State of New Jersey, any local government thereof,
46 the State of New York, any local government thereof, or of Amtrak
47 or the Port Authority of New York and New Jersey in connection
48 with the Project, or to impose any obligation for payment of the

1 bonds upon the federal government, the State of New Jersey, any
2 local government thereof, the State of New York, any local
3 government thereof, or of Amtrak or the Port Authority of New
4 York and New Jersey, in each case except as set forth in a binding
5 agreement, or to otherwise commit any party to incur any liability
6 in excess of its contractual obligations in connection with the
7 Project, and provided further that neither the commissioners nor any
8 person executing any bonds issued or guaranteed by the
9 Commission shall be liable personally on such bonds or be subject
10 to any personal liability or accountability by reason of the issuance
11 thereof;

12 k. Acquire and hold securities for investment purposes or in
13 connection with the Facilitation of the Project;

14 l. Appoint, employ, contract with, and compensate such
15 officers, employees, and agents, including engineers, attorneys,
16 consultants, financial advisors, and such other persons or entities as
17 the business of the Commission may require and to engage and
18 dismiss such officers, employees, and agents at will, and fix and
19 provide for the qualification, appointment, removal, term, tenure,
20 compensation, pension, and retirement rights of its officers and
21 employees;

22 m. Obtain insurance as the Commission may deem advisable
23 and to create a captive insurer to self-insure risk as deemed
24 appropriate by the Commission;

25 n. Cooperate with the federal government, the State of New
26 Jersey, any local government thereof, the State of New York, any
27 local government thereof, any agency, instrumentality, department,
28 commission, or authority of any one or more of the foregoing, any
29 bi-state agency, Amtrak, any individual or private firm, entity, or
30 corporation, or with any one or more of them, in connection with
31 the Project, and to enter into an agreement or agreements,
32 notwithstanding any other provision of law of the states, general,
33 special, charter, or local, with the federal government, the State of
34 New Jersey, any local government thereof, the State of New York,
35 any local government thereof, any agency, instrumentality,
36 department, commission, or authority of any one or more of the
37 foregoing, any bi-state agency, Amtrak, any individual or private
38 firm, entity, or corporation, or with any one or more of the same for
39 or relating to the Project.

40 o. Indemnify individuals and entities to the extent required to
41 Facilitate the Project;

42 p. Establish or acquire subsidiaries as required to Facilitate the
43 Project;

44 q. Utilize the existing labor force in the states and foster labor
45 harmony in allowing for adoption of efficient labor work rules and
46 practices during construction of the Project;

1 r. Exercise all other powers as may be necessary or appropriate
2 in furtherance of, and consistent with, the purposes of P.L. ,
3 c. (C.) (pending before the Legislature as this bill).

4
5 9. (New section) a. The Commission shall be performing
6 essential governmental functions in exercising its powers and
7 functions and in carrying out the provisions of P.L. , c. (C.)
8 (pending before the Legislature as this bill) and of any law relating
9 thereto, and shall not be required to pay any taxes or assessments of
10 any character, levied by either state or any local government
11 thereof, upon any of the property used by it or its agents or
12 contractors for the Facilitation of the Project, or any income or
13 revenue therefrom, including any profit from a sale, lease, or
14 exchange, or in connection with the transfer thereof or of any real
15 property interest therein. Any bonds or other securities or
16 obligations issued by the Commission, their transfer and the interest
17 paid thereon or income therefrom, including any profit from a sale
18 or exchange, shall at all times be free from taxation by either state
19 or any subdivision thereof.

20 b. The Commission shall, as a matter of policy, conform to the
21 enactments, ordinances, resolutions, and regulations of the
22 respective states and local governments where the Project is located
23 in regard to the construction and maintenance of the Project and in
24 regard to health and fire protection which would be applicable if the
25 Commission were a private corporation, to the extent that the
26 Commission finds it practicable so to do, without interfering with,
27 impairing, or affecting the efficiency of its purposes under P.L. ,
28 c. (C.) (pending before the Legislature as this bill), or its
29 ability to effectuate the Project upon a self-supporting basis, or its
30 obligations, duties, and responsibilities to the two states, its
31 bondholders (if any) and the general public, but the decision of the
32 Commission as to whether it is practicable so to do shall be
33 controlling. To that end, the Commission shall submit copies of
34 plans and specifications for buildings and structures to the
35 appropriate state and local government officials and shall consult
36 with them with respect thereto, and shall receive their comments
37 and suggestions thereon, but the Commission shall make the final
38 determination as to which comments and suggestions to accept in
39 effectuating the Project.

40 c. Notwithstanding the provisions of subsection a. of this
41 section, the Commission is hereby authorized and empowered, in its
42 discretion, to enter into a voluntary agreement or agreements with
43 any local government whereby the Commission may undertake to
44 pay in lieu of taxes a fair and reasonable sum, if any, annually in
45 connection with any real property acquired and owned by the
46 Commission for any of the purposes of P.L. , c. (C.)
47 (pending before the Legislature as this bill), and to provide for the
48 payment as a rental or additional rental charge by any person

1 occupying any portion of such real property as lessee, vendee, or
2 otherwise of such fair and reasonable sum, provided that in no event
3 shall any voluntary agreement entered into by the Commission
4 provide for the payment of an amount in lieu of taxes in excess of
5 the amount last paid as taxes upon such real property prior to the
6 time of its acquisition by the Commission.

7 d. Notwithstanding any other provision of law, general, special,
8 charter, or local, each local government is hereby authorized and
9 empowered to enter into such agreement or agreements with the
10 Commission, and to accept the payment or payments which the
11 Commission is hereby authorized and empowered to make, and the
12 sums so received by such local government shall be devoted to
13 purposes to which taxes may be applied in all affected taxing
14 jurisdictions unless and until otherwise directed by law of the state
15 in which such local government is located.

16
17 10. (New section) Notwithstanding any other provision of law
18 of the states, general, special, charter, or local, each state and local
19 government, any agency, instrumentality, department, commission,
20 or authority thereof, and any bi-state agency are hereby authorized
21 and empowered to cooperate with, aid, and assist the Commission
22 in effectuating the provisions of P.L. , c. (C.) (pending
23 before the Legislature as this bill), as it may be amended or
24 supplemented hereafter.

25
26 11. (New section) Upon the concurrence of the State of New
27 York, the State of New Jersey and the State of New York consent to
28 suits, actions, or proceedings of any form or nature at law, in
29 equity, or otherwise (including proceedings to enforce arbitration
30 agreements) against the Commission, and to appeals therefrom and
31 reviews thereof, except as hereinafter provided. The foregoing
32 consent does not extend to: (1) suits, actions, or proceedings upon
33 any causes of action whatsoever accruing before the effective date
34 of P.L. , c. (C.) (pending before the Legislature as this
35 bill); (2) suits, actions, or proceedings upon any causes of action
36 whatsoever, upon, in connection with, or arising out of any contract,
37 express or implied, entered into or assumed by or assigned to the
38 Commission before the effective date of P.L. , c. (C.)
39 (pending before the Legislature as this bill) (including any
40 supplement to, or amendment, extension, or renewal of any such
41 contract, even if such supplement, amendment, extension, or
42 renewal is made on or after the effective date of P.L. ,
43 c. (C.) (pending before the Legislature as this bill)),
44 regardless of whether such cause of action accrued before or after
45 that date; (3) civil suits, actions, or proceedings for the recovery of
46 statutory penalties; and (4) suits, actions, or proceedings for
47 judgments, orders, or decrees restraining, enjoining, or preventing
48 the Commission from committing or continuing to commit any act

1 or acts, other than suits, actions, or proceedings by the Attorney
2 General of New Jersey or by the Attorney General of New York,
3 each of whom is hereby authorized to bring such suits, actions, or
4 proceedings in the attorney general's discretion on behalf of any
5 person or persons whatsoever who requests the attorney general so
6 to do except in the cases otherwise excluded by P.L. ,
7 c. (C.) (pending before the Legislature as this bill); provided,
8 that in any such suit, action, or proceeding, no judgment, order, or
9 decree shall be entered except upon at least two days' prior written
10 notice to the Commission of the proposed entry thereof.

11 The Commission shall be immune from liability in the State of
12 New Jersey in the same manner and to the same extent as is the
13 State of New Jersey under the provisions of the "New Jersey Tort
14 Claims Act," N.J.S.59:1-1 et seq., and the "New Jersey Contractual
15 Liability Act," N.J.S.59:13-1 et seq.

16
17 12. (New section) a. If any provision of P.L. , c. (C.)
18 (pending before the Legislature as this bill), or the application
19 thereof to any person or circumstance is held invalid, including as
20 not in accordance with federal law or federal constitutional
21 requirements, such invalidity shall not affect other provisions or
22 applications of P.L. , c. (C.) (pending before the
23 Legislature as this bill) which can be given effect without the
24 invalid provision or application and to this end the provisions of
25 P.L. , c. (C.) (pending before the Legislature as this bill)
26 are declared to be severable.

27 b. The provisions of P.L. , c. (C.) (pending before the
28 Legislature as this bill), and the powers vested in the Commission,
29 shall be liberally construed to give effect to the purposes of P.L. ,
30 c. (C.) (pending before the Legislature as this bill).

31
32 13. (New section) The Commission shall dissolve following a
33 joint determination by the Governor of New Jersey and the
34 Governor New York that the Project has been completed or should
35 be transferred to another agency, instrumentality, or entity and:

36 a. any bonds or other securities issued and any other debt
37 incurred for Project purposes have been repaid or arrangements
38 have been made to ensure such repayment in full without
39 impairment of creditworthiness; and

40 b. Amtrak is not unduly prejudiced by such dissolution.

41
42 14. Section 5 of P.L.1966, c.301 (C.27:1A-5) is amended to read
43 as follows:

44 5. The commissioner, as head of the department, shall have all
45 of the functions, powers and duties heretofore vested in the State
46 Highway Commissioner and shall, in addition to the functions,
47 powers and duties vested in him by this act or by any other law:

- 1 (a) Develop and maintain a comprehensive master plan for all
- 2 modes of transportation development, with special emphasis on
- 3 public transportation. Such plan shall be revised and updated at
- 4 least every five years;
- 5 (b) Develop and promote programs to foster efficient and
- 6 economical transportation services in the State;
- 7 (c) Prepare plans for the preservation, improvement and
- 8 expansion of the public transportation system, with special
- 9 emphasis on the coordination of transit modes and the use of rail
- 10 rights of way, highways and public streets for public transportation
- 11 purposes;
- 12 (d) Enter into contracts with the New Jersey Transit Corporation
- 13 for the provision and improvement of public transportation services;
- 14 (e) Coordinate the transportation activities of the department
- 15 with those of other public agencies and authorities;
- 16 (f) Cooperate with interstate commissions and authorities, State
- 17 departments, councils, commissions and other State agencies, with
- 18 appropriate federal agencies, and with interested private individuals
- 19 and organizations in the coordination of plans and policies for the
- 20 development of air commerce and air facilities;
- 21 (g) Make an annual report to the Governor and the Legislature
- 22 on the department's operations, and render such other reports as the
- 23 Governor shall from time to time request or as may be required by
- 24 law;
- 25 (h) Promulgate regulations providing for the charging of and
- 26 setting the amount of fees for certain services performed by and
- 27 permits issued by the department, including but not limited to the
- 28 following:
 - 29 (1) Providing copies of documents prepared by or in the custody
 - 30 of the department;
 - 31 (2) Aeronautics permits;
 - 32 (3) Right-of-way permits;
 - 33 (4) Traffic signal control systems;
- 34 (i) Develop and promote programs for the preservation,
- 35 improvement and expansion of freight railroads, with special
- 36 emphasis on the use of rail rights of way for the purpose of
- 37 providing rail freight service;
- 38 (j) Develop and promote a program to ensure the safety and
- 39 continued operation of aviation facilities in New Jersey;
- 40 (k) Enter into agreements with a public or private entity or
- 41 consortia thereof to provide for the development of demonstration
- 42 projects through the use of public-private partnerships pursuant to
- 43 sections 1 through 9 of P.L.1997, c.136 (C.27:1D-1 through
- 44 C.27:1D-9);
- 45 (l) Do any and all things necessary, convenient or desirable to
- 46 effectuate the purposes of P.L.1966, c.301 (C.27:1A-1 et seq.) and
- 47 to exercise the powers given and granted in that act; **[and]**

1 (m) Enter into agreements or contracts with a private entity and
2 charge and collect fees or other payments for the placement of
3 sponsorship acknowledgment and advertising on signs, equipment,
4 materials, and vehicles used for a safety service patrol or emergency
5 service patrol program operated by the department, or operated by a
6 private entity under contract with the department or through the use
7 of a public-private partnership or demonstration project; and

8 (n) Acquire by eminent domain, pursuant to the eminent domain
9 law and R.S.27:7-22, any property, property rights, or property
10 interests, including easements, air rights, below-grade and
11 subsurface rights, hereinafter referred to as "Property Interests,"
12 including rights on property now or previously designated as
13 parkland or dedicated to a public use, provided that such Property
14 Interests are located in the State and, in the judgment of the
15 commissioner, are necessary or appropriate for the construction,
16 reconstruction, development, redevelopment, use, occupancy,
17 operation, and maintenance of passenger rail transportation
18 facilities and ancillary facilities between New Jersey and New York
19 Penn Station, in a corridor beginning at or near Newark Penn
20 Station and ending at the boundary of the State of New Jersey in the
21 Hudson River. Property Interests may be acquired pursuant to this
22 subsection notwithstanding any requirement in R.S.27:7-36 or any
23 other provision of law, general, special, charter, or local, and
24 regardless of whether the Property Interests are or were dedicated to
25 public use. All of such Property Interests may be acquired by the
26 commissioner pursuant to applicable provisions of the eminent
27 domain law and R.S.27:7-22, provided that any acquisition of
28 Property Interests pursuant to this subsection shall be contingent on
29 the commissioner entering into an agreement addressing such
30 acquisition with the Gateway Development Commission, approved
31 in accordance with that entity's authorizing statute, and the
32 Gateway Development Commission shall agree to pay the costs
33 incurred by the commissioner in acquiring such Property Interests
34 pursuant to the eminent domain law. Notwithstanding any other
35 provision of law, general, special, charter, or local, following
36 acquisition, the commissioner may use such property together with
37 property already owned or held, to: enter into contracts to sell,
38 transfer, lease, or exchange with, or grant easements, licenses,
39 permits, concessions, or other authorizations to, the Gateway
40 Development Commission sufficient to permit the construction,
41 reconstruction, development, redevelopment, use, occupancy,
42 operation, and maintenance by the Gateway Development
43 Commission or its permittees and successors, of the aforementioned
44 passenger rail facilities and ancillary facilities. Authorization is
45 hereby given to the commissioner to do all things necessary or
46 appropriate to carry out the purposes of this subsection.

47 (cf: P.L.2011, c.133, s.1)

15. Sections 1 through 13 of this act shall take effect upon the enactment into law by the State of New York of legislation having an identical effect with sections 1 through 13 of this act, but if the State of New York shall have already enacted such legislation, sections 1 through 13 of this act shall take effect immediately. Section 14 of this act shall take effect immediately but shall remain inoperative until sections 1 through 13 of this act take effect.

STATEMENT

This bill, which may be known and cited as the “Gateway Development Commission Act” establishes in conjunction with the State of New York, the Gateway Development Commission (commission). The commission is a new bi-state entity that is created to, in part, facilitate the completion of passenger rail transportation projects known as the Gateway Program (project) and to coordinate cooperation among various entities. The commission is to be comprised of three commissioners, with one to be appointed by the Commissioner of the New York State Department of Transportation, one to be appointed by the Board of Directors of the New Jersey Transit Corporation, and one to be appointed by the National Railroad Passenger Corporation (Amtrak). However, individuals currently serving as trustees of the Gateway Program Development Corporation are to be the initial commissioners of the commission. The initial commissioners and those appointed thereafter are to serve three-year terms. A commissioner, including an initial commissioner may be reappointed for a successive three-year term. The commissioners from the State of New Jersey and the State of New York are indemnified by their respective state to the same extent that the state indemnifies a public officer for any claim or judgement arising out of the public officer’s official duties.

The commissioner who was serving as the chairperson of the board of trustees of the Gateway Program Development Corporation is to serve as the first chairperson of the commission and is to serve until the date on which the commissioner's term as the Gateway Program Development Corporation chairperson would have expired or the date on which the commissioner is otherwise terminated as a commissioner, whichever occurs first. Thereafter, the commissioner appointed by the state that did not appoint the initial chairperson is to be the next chairperson of the commission. The position of chairperson then alternates between the commissioners appointed by each of the state transportation entities. The chairperson is to hold office for one year. The commissioner appointed by Amtrak is to serve as the vice-chairperson of the commission. The commission is to meet regularly and the powers of the commission are to be exercised by the commissioners at a meeting where a quorum is present, except

1 in certain circumstances. Action may be taken and motions and
2 resolutions adopted by unanimous affirmative vote of the
3 commissioners. The commission is authorized to request the
4 assistance and services of certain employees and agents to carry out
5 its duties and to employ professional, technical, and clerical staff
6 and consultants. The commission is to adopt bylaws, rules, and
7 regulations concerning the right of the public to be present at
8 meetings of the commission and to obtain records of the activities
9 of the commission.

10 The duties of the commission include: (1) making appropriate
11 applications for, and acting as a coordinating, distributing, or
12 recipient agency for federal, state, or private funding and
13 authorizations necessary or appropriate to facilitate the project; (2)
14 cooperating with other agencies or authorities or departments,
15 Amtrak, and private parties to facilitate the project; (3) adopting
16 bylaws to govern the conduct of its affairs, and adopting rules and
17 regulations, and making appropriate orders to carry out its powers,
18 duties, and functions; (4) expending funds that are required to
19 effectuate the purposes of the bill and holding and investing funds;
20 (5) recommending federal, state, and local legislation and agency
21 administrative action concerning the project; and (6) preparing a
22 progress report on its activities to be submitted within 18 months of
23 the organization of the commission and annually thereafter.

24 Under the bill, the commission is provided the power to
25 undertake certain tasks including, but not limited to: (1) acquiring,
26 subdividing, leasing, licensing, taking, and holding property,
27 managing the property, and developing any undeveloped property in
28 a manner necessary or appropriate to facilitate the project; (2)
29 making, procuring, entering into, executing, and delivering
30 contracts and agreements and other documents and instruments; (3)
31 granting public and private entities the use of the project or a
32 portion of the project and establishing or agreeing with project users
33 on tolls, fees, rates, charges, revenue sharing, and rentals for the use
34 of the project, under certain circumstances; (4) adopting public
35 procurement rules and guidelines; (5) disposing of, conveying, or
36 transferring all or any portion of the project for value under certain
37 conditions; and (6) issuing or guaranteeing bonds, notes, or other
38 evidence of indebtedness, entering into loan agreements and
39 otherwise borrowing funds, or incurring indebtedness or other
40 future payment obligations for any corporate purpose.

41 The commission is not required to pay any taxes or assessments
42 levied by either state or local government of either state on any
43 property used for the facilitation of the project or any income or
44 revenue from facilitation of the project. The commission is
45 authorized to enter into a voluntary agreement with any local
46 government to pay, in lieu of taxes, an annual sum for any real
47 property acquired and owned by the commission and to provide a
48 rental payment by any person occupying any portion of the real

1 property. However, the voluntary agreement is not to provide for
2 payment of an amount in excess of the amount last paid as taxes
3 upon the real property prior to the time the commission acquired the
4 real property.

5 The commission is required to conform to the construction,
6 maintenance, and health and fire protection requirements of the
7 state or local government where the project is located in so far as
8 the commission finds it practicable to do so. The commission is
9 also required to submit copies of plans and specifications for
10 buildings and structures to the appropriate state and local
11 government officials and is to receive their comments and
12 suggestions. However, the commission is to make the final
13 determination as to which of those comments and suggestions to
14 accept.

15 The bill includes a provision whereby New Jersey and New York
16 consent to suits, actions, or proceedings against the commission
17 except in certain situations as described in the bill. The bill
18 provides that the commission is immune from liability in New
19 Jersey in the same manner that the State is immune under the
20 provisions of the "New Jersey Tort Claims Act" and the "New
21 Jersey Contractual Liability Act."

22 The commission is to dissolve following a joint determination by
23 the governors of New Jersey and New York that the project has
24 been completed or should be transferred to another agency,
25 instrumentality, or entity. The commission is not to dissolve unless
26 any debt incurred for project purposes has been repaid or
27 arrangements have been made to ensure full repayment without
28 impairment of creditworthiness, and Amtrak is not unduly
29 prejudiced by the dissolution.

30 The bill requires the New Jersey Commissioner of
31 Transportation to acquire, by eminent domain, certain property
32 interests located in the State which are necessary or appropriate for
33 the construction, reconstruction, development, redevelopment, use,
34 occupancy, operation, and maintenance of passenger rail
35 transportation facilities and ancillary facilities between Newark
36 Penn Station and the State's Hudson River boundary line. The
37 acquisition of property interests is to be contingent upon an
38 agreement with the Gateway Development Commission and the
39 Gateway Development Commission agreeing to pay the costs to
40 acquire the property interests.