

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 2370**

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 8, 1997

The Senate Budget and Appropriations Committee reports without recommendation Assembly Bill No. 2370 (ACS/1R) of 1996 with amendments.

Assembly Bill No. 2370 (ACS/1R), as amended, provides for the unification of the ports of the Delaware River. In 1992, amendments were approved to the Compact between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Port Authority (DRPA). One of the fundamental purposes of those changes was to permit the DRPA to take action to unify the ports of the Delaware River through the acquisition or control of marine terminals or facilities or transportation facilities or by the acquisition of, or merger with, the existing port authorities or corporations within the Port District, such as the South Jersey Port Corporation (SJPC) or the Philadelphia Regional Port Authority. The DRPA was also empowered to set up subsidiary corporations for this purpose. Such action would have to conform to the applicable laws of the two states.

This bill makes the changes to New Jersey law required to facilitate the transfer of the assets and liabilities of the SJPC to the New Jersey Economic Development Authority (EDA) and the operation of all or portion of its port facilities by a subsidiary corporation of the DRPA. The bill also authorizes the EDA to issue bonds for port development purposes and for the refinancing or refunding of the currently outstanding bonds of a port corporation or authority, including the SJPC. The bill authorizes the EDA to enter into an agreement with a subsidiary corporation of the DRPA with respect to the lease, management or other operation of all or a portion of the port facilities, subject to the approval of the State Treasurer. However, the EDA is authorized to enter into an agreement with a subsidiary corporation of the DRPA only upon certain conditions set forth in the bill. On the date on which the bonds of the SJPC cease to be outstanding, the port

facilities, and the assets and liabilities of the corporation, with the exception of the port facilities previously acquired from the Salem Municipal Port Authority, or from the county of Salem or the City of Salem, would be transferred to the EDA. Before this can happen, however, the subsidiary corporation must be established and the State Treasurer and the EDA must approve the lease, management or operation agreement with the subsidiary corporation.

The bill also provides for the creation of a Port Facility Revenue Fund which may be pledged to pay for the redemption of bonds or notes, or to pay the principal and interest on bonds issued by the EDA.

The bill contains indemnification requirements for various entities and continues the membership in the State pension and health benefits system of employees of the SJPC who are employed by a subsidiary corporation or other corporation of the DRPA within 365 days of the effective date of this bill. All officers and employees of the corporation are to be employed by the subsidiary corporation until determined otherwise by that corporation.

The bill additionally provides for any port facilities of the Salem Municipal Port Authority or of the county of Salem or the City of Salem previously acquired by the SJPC to be leased to a private marine terminal operator within six months of the effective date of the bill and after the expiration of the lease to be transferred to the EDA, unless the lessee or operator has exercised an option to purchase or acquire the facilities.

The bill finally provides for the port facilities transferred to the EDA to be the subject of certain in-lieu-of-tax payments to both the city and county of Camden. The in-lieu-of-tax payment by the State to the City of Camden, which is subject to annual appropriation by the Legislature, is to be equal to 40 percent of the value of the property, as determined by the Department of the Treasury, multiplied by the local purposes tax rate in the year in which payments are made. The county or municipal governing body is authorized to grant by ordinance or resolution, as appropriate, a reduction in the in-lieu-of-tax payments that a vendee or lessee occupying redevelopment facilities would be required to pay, for a period of no more than 20 years, if the governing body finds it is in the best interest of the county or municipality. The reduction is to be not greater than 75 percent of the payment in lieu of taxes that would ordinarily be paid under the bill over the 20 year or lesser period.

The committee reported the bill but stated that it would request of the President of the Senate that the bill not be posted for full Senate consideration until certain financial information on port unification, not available at the committee meeting, is provided to the committee members for review.

As amended and reported, this bill is identical to the Senate Committee Substitute for Senate Bill No. 1499 (1R) as adopted and reported by this committee on May 8, 1997.

COMMITTEE AMENDMENTS:

The committee amended the bill to make it identical to the Senate Committee Substitute for Senate Bill No. 1499 (1R). The amendments:

- * Require the establishment of the a wholly-owned subsidiary of the DRPA before any bonds can be issued by the EDA to acquire the port facilities of the SJPC so that the form of the subsidiary and its operating procedures are set before the bonds are issued;

- * Eliminate the powers for additional bonding and the future purchase of additional port facilities the bill gives to the EDA since these additional powers are extraneous to the main purpose;

- * Require the subsidiary corporation to pay rent annually to EDA for a period of ten years for the port facilities located in New Jersey; The annual payment will equal the average for the three years immediately preceding the year in which the port facilities of the SJPC are acquired by the authority of revenues realized by the SJPC;

- * Require the EDA to report to the Legislature any plan to convey or reconvey the acquired port facilities to an entity other than the subsidiary corporation to give the Legislature time to review the plan and disapprove it;

- * Require the subsidiary corporation to provide certain information to the Legislature annually, and require the Delaware River Port Authority to provide the Legislature with a copy of any plan developed by the authority to finance any capital project for the construction, reconstruction, development or improvement of the port facilities located in New Jersey and operated by the subsidiary corporation;

- * Provides for the appointment of four of the directors of the subsidiary corporation by the Legislature;

- * Declares the Legislature intent that the subsidiary corporation be operated under the same principles as the DRPA are operated; and

- * Recognizes a mechanism by which the Legislature can formally express its displeasure of an action taken by the subsidiary corporation.

In addition, several technical amendments have been made in order to clarify the wording and intent of the bill to avoid ambiguities and future problems with interpretations, and to update the bill to current law.

FISCAL IMPACT

In a fiscal estimate prepared by the Office of Legislative Services (OLS), the OLS estimates that the State may incur financial obligations in the following areas under this bill: (1) annual debt service appropriations to help repay bonds that would be issued by EDA to refinance about \$83.4 million in outstanding SJPC debt; (2) indemnifying and saving harmless the SJPC, EDA, and DRPA or subsidiary thereof from certain actions, claims, judgments or awards arising from the transfer of port facilities; (3) the payment of premiums

for liability insurance coverage for the SJPC and EDA regarding the transfer of port facilities; (4) the payment of annual EDA administrative expenses associated with the ownership and operation of the transferred port facilities; and (5) an annual payment in lieu of taxes to the City of Camden by the State in an amount equal to 40 percent of the value of port facilities used as marine facilities for commercial purposes multiplied by the local purposes tax rate.

State contributions to maintain the SJPC's reserve fund over the past three years have been \$3.6 million, \$5.5 million and \$3.2 million. Under this bill, EDA will issue \$83.4 million in refunding bonds to refinance the existing debt of the South Jersey Port Corporation. EDA will contract with the State Treasurer to have the State pay the full debt service on the EDA bonds, subject to annual appropriations by the Legislature. There are various ways to structure the debt service on the EDA bonds. Under one scenario, the new bonds could be paid off so that the debt service on the refunding bonds approximates the debt service on the existing SJPC bond issues over roughly the same period.

Under the bill, the consolidated Port of Philadelphia and Camden, which will take over port operations in both states, will pay EDA an annual "rental" payment for the Camden port facilities that would equal the most recent three-year average amount of net revenues realized by the SJPC. Those payments would be approximately \$3.2 million. The payments would continue for 10 years, and would have the effect of reducing the State's net cost during that period to the approximate level it currently contributes to the SJPC.

The Legislature has not appropriated funds for the SJPC's in-lieu-of property tax payments, pursuant to section 20 of P.L.1968, c.60 (C.12:11A-20), since FY 1994 when \$3.9 million was provided for that purpose. The Department of the Treasury has noted that a fair market appraisal would have to be made of the Camden port facilities, since the assessed value on file with county clerk are probably out of date. The department has estimated that the annual these payments to the city could range from \$1 million to \$2 million depending on the final valuation of the property. Private lessees occupying those portions of the Camden port facilities slated for commercial redevelopment would also have to make such payments to the city.