

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2370

STATE OF NEW JERSEY

ADOPTED DECEMBER 16, 1996

Sponsored by Assemblymen BODINE and GEIST

1 AN ACT concerning the unification of the ports of the Delaware river
2 and revising various parts of the statutory law.

3

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

6

7 1. (New section) Sections 2 through 19 of this act shall be known
8 and may be cited as the "Port Unification and Financing Act."

9

10 2. (New section) The Legislature finds and declares:

11 a. The Legislature of the State of New Jersey approved legislation
12 in 1992, concurred in by the Commonwealth of Pennsylvania and
13 approved by the Congress of the United States, amending the Compact
14 creating the Delaware River Port Authority to facilitate the unification
15 of the ports of the Delaware river by authorizing the creation of a
16 subsidiary corporation or corporations and the taking of other
17 measures to effectuate the unification.

18 b. Pursuant to the provisions of the Compact amendments, the
19 merger or unification of port facilities in the State of New Jersey must
20 be done in accordance with State law.

21 c. It is therefore in the public interest, pursuant to existing law, for
22 this Legislature to consent to legislation that will direct that, upon the
23 refunding of the outstanding bonds of the South Jersey Port
24 Corporation, the port facilities of that corporation, along with its
25 assets, liabilities and obligations, will be transferred to the New Jersey
26 Economic Development Authority for operation and maintenance of
27 all or a portion of the facilities by a subsidiary corporation of the
28 Delaware River Port Authority, with the employees of the South
29 Jersey Port Corporation to be employed by the subsidiary corporation.

30

31 3. (New section) As used in this act:

32 "Authority" or "New Jersey Economic Development Authority"

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 means the New Jersey Economic Development Authority created
2 pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

3 "Compact creating the Delaware River Port Authority" or
4 "Compact" means the compact or agreement between the State of
5 New Jersey and the Commonwealth of Pennsylvania entitled
6 "Agreement between the Commonwealth of Pennsylvania and the State
7 of New Jersey creating the Delaware River Joint Commission as a
8 body corporate and politic and defining its powers and duties," as
9 amended and supplemented (R.S.32:3-1 et seq.).

10 "Marine facilities" means port facilities to be used for piers,
11 wharves, docks, bulkheads, slips, basins, vehicular roadways, railroad
12 connections, side tracks, sidings, warehousing, storage or other
13 buildings and structures, facilities or improvements, or other real
14 property, necessary, convenient or accessory to the support, operation,
15 maintenance or accommodation of steamships or other vessels and
16 their cargoes or passengers, as shall be determined by the authority on
17 or before the entering into of the initial agreement provided for in
18 subsection c. of section 4 of this act, and upon subsequent changes in
19 use or control.

20 "Port facility" means a marine terminal or part thereof or any port
21 property or facility and, in the case of the port facilities of the South
22 Jersey Port Corporation, shall include the foregoing and any other real
23 or personal property under the jurisdiction, ownership or control of
24 that corporation and transferred to or acquired by the authority
25 pursuant to this act except for the property of the South Jersey Port
26 Corporation located in the City of Salem or the county of Salem and
27 leased to the Salem Terminals, limited liability company, an Ohio
28 limited liability company, which property consists of the former port
29 facilities of the Salem Municipal Port Authority acquired previously
30 from that authority by the South Jersey Port Corporation or certain
31 other real property previously acquired by the corporation from the
32 county of Salem or the City of Salem and located in the City of Salem.

33 "Port Facility Revenue Fund" means the fund created by section 6
34 of this act.

35 "Redevelopment facilities" means port facilities excluding the
36 marine facilities and any personal property.

37 "South Jersey Port Corporation" means the South Jersey Port
38 Corporation, created pursuant to P.L.1968, c.60 (C.12:11A-1 et seq.).

39 "State contract" means the contract or agreement entered into by
40 the State Treasurer and the authority concerning the payment of the
41 bonds issued pursuant to this act.

42 "Subsidiary" means a subsidiary corporation of the New Jersey
43 Economic Development Authority created pursuant to section 16 of
44 this act.

45 "Subsidiary corporation" means a subsidiary corporation or other
46 corporation which has been established by the Delaware River Port

1 Authority pursuant to subdivision (m) of Article I of the compact
2 creating the Delaware River Port Authority (R.S.32:3-2).

3 "Transfer date" means the date on which all bonds issued by the
4 South Jersey Port Corporation cease to be outstanding within the
5 meaning of the resolutions pursuant to which those bonds were issued,
6 as certified by the trustee or trustees thereunder.

7

8 4. (New section) a. For the purpose of providing funds for the
9 financing of the establishment, acquisition, construction, rehabilitation,
10 improvement and ownership of port facilities, the authority shall have
11 the power to issue bonds or notes, incur indebtedness, borrow money
12 or incur other obligations secured in whole or in part by the monies in
13 the Port Facility Revenue Fund or by any state contract or both and
14 also to issue such bonds, notes or other indebtedness for the purpose
15 of refinancing or refunding the existing bonded and other indebtedness
16 of an authority or corporation having jurisdiction, ownership or
17 control of port facilities. However, the authority shall not issue bonds,
18 notes or other obligations for refinancing or refunding the bonds or
19 notes of the South Jersey Port Corporation until the State Treasurer
20 and the authority have approved an agreement pursuant to subsection
21 c. of this section providing for the operation and maintenance of all
22 or a portion of the port facilities of the South Jersey Port Corporation.
23 The bonds or notes shall be authorized by resolution, which shall
24 stipulate the manner of execution and form of the bonds or notes,
25 whether the bonds or notes are in one or more series, the date of issue,
26 time or times of maturity, which (in the case of bonds) shall not exceed
27 30 years, the rate or rates of interest payable on the bonds or notes,
28 the denomination or denominations in which the bonds or notes are
29 issued, conversion or registration privileges, the sources and medium
30 of payment and place or places of payment and terms of redemption.
31 The bonds or notes may be sold at a public or private sale at a price or
32 prices determined by the authority.

33 b. The authority is hereby authorized to acquire or lease port
34 facilities additional to the port facilities transferred to it pursuant to
35 this act either (1) from the proceeds of bonds or notes, (2) in
36 consideration of the assumption of the liabilities of another entity,
37 either directly or by virtue of the refinancing of outstanding
38 obligations, (3) with any monies in the Port Facility Revenue Fund, or
39 (4) with funds from any other source, including any appropriations by
40 the Legislature, subject to the approval of the State Treasurer.

41 c. The authority is hereby authorized to enter into any agreement
42 with a subsidiary corporation or any other entity, including the South
43 Jersey Port Corporation, with respect to the lease, management or
44 other operation of all or a portion of the port facilities, including
45 defense of litigation against the South Jersey Port Corporation, on
46 such terms as the authority shall deem appropriate, such agreement to

1 be subject to the approval of the State Treasurer. The authority shall,
2 however, be authorized to enter into an agreement with a subsidiary
3 corporation or any other entity under this section where some of the
4 directors or members of such subsidiary corporation or other entity are
5 required to be residents of the State of New Jersey and of one or more
6 other states only on the following conditions: The by-laws of the
7 subsidiary corporation or other entity shall provide, and continue to
8 provide, for the exercise of a veto by the Governor of the State of
9 New Jersey with respect to an action of a director of the subsidiary
10 corporation or of a director or member of the other entity appointed
11 from the State of New Jersey, which exercise is hereby authorized in
12 the same form and manner as provided in P.L.1991, c.516 (C.32:3-4a
13 et seq.) for the veto of an action of a commissioner of the Delaware
14 River Port Authority appointed from the State of New Jersey; the
15 exercise of the veto by the Governor of the State of New Jersey
16 pursuant to this section shall not serve to dissolve the subsidiary
17 corporation or other entity; the number of directors of the corporation
18 or directors or members of the other entity from the State of New
19 Jersey shall be the same as the number of directors of the corporation
20 or directors or members of the other entity from each other state; and
21 no action of the corporation or of the other entity shall be binding
22 unless at least a simple majority of the directors or members from each
23 other state and at least a simple majority of the directors or members
24 from New Jersey shall vote in favor thereof. The provisions of this
25 section shall also be binding on any entity which is a successor to the
26 authority.

27 d. The authority is hereby authorized to convey or reconvey the
28 port facilities to any other entity, including but not limited to the South
29 Jersey Port Corporation, subject to the approval of the State
30 Treasurer.

31

32 5. (New section) The authority may, in any resolution authorizing
33 the issuance of bonds or notes pursuant to this act, pledge the Port
34 Facility Revenue Fund or a portion thereof for payment of the
35 redemption of the bonds or notes, or the principal and interest thereon,
36 and covenant as to the use and disposition of monies in the Port
37 Facility Revenue Fund. All costs associated with the issuance of the
38 bonds or notes by the authority for the purposes set forth in this act
39 may be paid by the authority from the proceeds of bonds or notes or
40 from the Port Facility Revenue Fund, as the authority shall determine,
41 which costs may include, but shall not be limited to, any costs related
42 to the issuance of bonds or notes, operating expenses of the authority
43 attributable to the payment of current and anticipated liabilities and
44 expenses, and costs of, and any payment due under, any agreement,
45 including any agreement entered into pursuant to the provisions of
46 subsection b. of section 7 of this act. Monies in the Port Facility

1 Revenue Fund shall not be used for any other purposes of the authority
2 than those provided in this act.

3

4 6. (New section) There is created within the authority a special
5 nonlapsing fund, to be known as the "Port Facility Revenue Fund."
6 This fund shall consist of:

7 a. Such monies as may be transferred to the fund by the State
8 Treasurer, upon appropriation by the Legislature;

9 b. Such monies as may have been or may be authorized by, or
10 appropriated to, the South Jersey Port Corporation for the payment of
11 debt service with respect to the port facilities of the corporation and
12 which may be transferred to the authority by the corporation on or
13 after the acquisition of the port facilities of the corporation by the
14 authority; and

15 c. Interest or other income derived from the investment of monies
16 in the fund.

17 Monies in the fund shall be managed and invested by the Division
18 of Investment in the Department of the Treasury.

19

20 7. (New section) a. The authority may use monies in the Port
21 Facility Revenue Fund to pay the principal and interest and premium,
22 if any, on the bonds or notes issued by it pursuant to this act. The
23 authority may create any other fund or funds by resolution of the
24 authority which it deems necessary to further secure the bonds or
25 notes or otherwise effectuate the purposes of this act, including funds
26 for the deposit of the proceeds from bonds or notes issued pursuant to
27 this act.

28 b. The authority may, in connection with its duties and
29 responsibilities under this act or in connection with any duties and
30 responsibilities provided for in P.L.1974, c.80 (C.34:1B-1 et seq.),
31 enter into any revolving credit agreement, agreement establishing a
32 line of credit or letter of credit, reimbursement agreement, interest rate
33 exchange or other like agreement, forward purchase
34 agreement, insurance contract, surety bond, commitment to purchase
35 bonds or notes, purchase or sale agreement or commitments or other
36 contracts or agreements in connection with the authorization, issuance,
37 sale or payment of bonds or notes.

38 c. All bonds or notes issued by the authority are deemed to be
39 issued by a body corporate and politic of the State for an essential
40 governmental purpose, and the interest thereon or to be received by
41 the authority and pledged and available to pay or secure the payment
42 on bonds or notes or pledged or available to pay or secure payment on
43 such bonds or notes or interest thereon shall be exempt from all taxes
44 levied pursuant to the provisions of Title 54 of the Revised Statutes or
45 Title 54A of the New Jersey Statutes, except for transfer, inheritance

1 and estate taxes pursuant to Subtitle 5 of Title 54 of the Revised
2 Statutes.

3
4 8. (New section) Bonds and notes issued by the authority
5 pursuant to the provisions of this act shall be special and limited
6 obligations which are payable only from the sources enumerated in this
7 act. Neither the members of the authority nor any other person
8 executing the bonds or notes issued pursuant to this act shall be liable
9 personally with respect to payment of interest and principal on these
10 bonds, notes, or any other obligations issued pursuant to this act. The
11 bonds, notes, or any other obligations issued pursuant to the
12 provisions of this act shall not be a debt or liability of the State or any
13 agency or instrumentality thereof, either legal, moral or otherwise, and
14 nothing contained in this act shall be construed to authorize the
15 authority to incur any indebtedness on behalf of or in any way to
16 obligate the State or any political subdivision and all debt instruments
17 issued by the authority shall contain a statement to that effect on their
18 face.

19
20 9. (New section) The State hereby pledges and covenants with
21 holders of any bonds, notes or other obligations issued pursuant to this
22 act that it will not limit or alter the rights or powers vested in the
23 authority by this act, nor limit or alter the rights or powers of the State
24 Treasurer in any manner which would jeopardize the interest of the
25 holders or any trustee of such holders, or inhibit or prevent
26 performance or fulfillment by the authority or the State Treasurer with
27 respect to the terms of any agreement made with the holders of these
28 bonds, notes or other obligations. The State also pledges and
29 covenants with the holders of any such bonds, notes or obligations,
30 that it will not act to prevent the authority from obtaining any of the
31 revenues provided for in this act, which shall be sufficient to meet all
32 costs and expenses in connection with the issuance of such obligations,
33 until the bonds, notes or other obligations, together with interest
34 thereon, are fully met and discharged or payment thereof is fully
35 provided for, except that the failure of the State to appropriate monies
36 for any purposes of this act shall not be deemed a violation of this
37 section.

38
39 10. (New section) Notwithstanding the provisions of any other
40 law to the contrary, the State shall indemnify and save harmless the
41 authority, its members or employees from any actions, claims,
42 judgments or awards of any type, arising from or as the result of any
43 act or omission by or on behalf of the South Jersey Port Corporation
44 or the subsidiary corporation or in relation to the port facilities
45 transferred to the authority pursuant to this act or arising from or as
46 the result of the condition of those facilities. The State may, in

1 addition, enter into an agreement with the authority to provide for the
2 payment of liability insurance premiums for the provision of liability
3 insurance coverage for the authority, its members or employees with
4 respect to any such action or claim instituted or asserted after the
5 transfer of the port facilities. The amount and terms of such liability
6 coverage shall be subject to the approval of the State Treasurer. The
7 State shall, in addition, provide for the payment of annual
8 administrative expenses of the authority associated with the ownership
9 and operation of port facilities, in an amount authorized by the State
10 Treasurer.

11

12 11. (New section) Notwithstanding the provisions of any other
13 law to the contrary, the State Treasurer is authorized to enter into an
14 agreement with the South Jersey Port Corporation on or after the
15 transfer of the port facilities of the corporation to the authority, which
16 shall provide that the State shall indemnify and save harmless the
17 South Jersey Port Corporation, its members, or employees from any
18 actions, claims, judgments or awards of any type, arising from or as
19 the result of any act or omission by or on behalf of the South Jersey
20 Port Corporation. Such agreement may, in addition, provide for the
21 payment of liability insurance premiums for the provision of liability
22 insurance coverage for the South Jersey Port Corporation, its
23 members, or employees with respect to any such action or claim
24 instituted or asserted after the transfer of the port facilities to the
25 authority. The amount and terms of any such liability insurance
26 coverage shall be subject to the approval of the State Treasurer.

27

28 12. (New section) Notwithstanding any other provision of law to
29 the contrary, the State Treasurer is authorized to enter into an
30 agreement with the Delaware River Port Authority or the subsidiary
31 corporation, or both, which would provide that the State shall
32 indemnify and save harmless the Delaware River Port Authority or the
33 subsidiary corporation, or both, from any and all claims or causes of
34 action which are based on the condition of the port facilities
35 transferred pursuant to this act. The State Treasurer is not authorized
36 to enter into an agreement which obligates the State to indemnify or
37 save harmless the Delaware River Port Authority or the subsidiary
38 corporation from any damages which directly result from any act or
39 omission by the Delaware River Port Authority or the subsidiary
40 corporation, or both, or any of their agents, servants or employees.

41

42 13. (New section) The State Treasurer and the authority may
43 enter into any agreements as may be necessary to effectuate the
44 provisions of this act, which may include, but not be limited to,
45 procedures for the transfer of monies to the Port Facility Revenue
46 Fund as provided for in section 6 of this act, with respect to the terms

1 and conditions relative to the securing of bonds, notes and other
2 obligations of the authority, the pledge and assignment of any
3 agreement or agreements authorized by this act, or any payments to
4 the trustees of the holders of these bonds. Notwithstanding any
5 provision of P.L.1974, c.80 (C.34:1B-1 et seq.), this act or any
6 regulation of the authority to the contrary, the authority shall be paid
7 only such fees as shall be determined by an agreement entered into
8 pursuant to this section. Any such agreements entered into pursuant
9 to this section shall require that the subsidiary corporation shall
10 indemnify and save harmless the authority, its members or employees
11 from any actions, claims, judgments or awards of any type regarding
12 the lease, operation and management of the port facilities by the
13 subsidiary corporation.

14

15 14. (New section) a. The South Jersey Port Corporation shall
16 cooperate with the authority in the refunding or refinancing of the
17 outstanding obligations of the corporation by the authority as
18 authorized by this act and the corporation shall take such steps as are
19 necessary in order to implement such refunding or refinancing.

20 b. On the transfer date:

21 (1) All right, title and interest of the South Jersey Port
22 Corporation in its port facilities, and in any of its records and papers,
23 as well as its assets, funds, obligations and liabilities, are hereby
24 transferred to the authority to be held, used and applied for the
25 purposes of this act.

26 (2) All powers and duties which hitherto were exercised by the
27 corporation with respect to its port facilities transferred pursuant to
28 this section may henceforth be exercised by the authority. The
29 authority may permit the exercise of these powers and duties by the
30 subsidiary corporation as may be necessary or convenient to operate
31 and maintain the port facilities which are the subject of the lease,
32 management or operational agreement between the authority and the
33 subsidiary corporation authorized pursuant to subsection c. of section
34 4 of this act.

35 (3) All monies transferred pursuant to this act shall be deposited
36 in the "Port Facility Revenue Fund" established by section 6 of this
37 act.

38 (4) All creditors of the corporation and persons having claims
39 against or contracts with the corporation of any kind or character may
40 enforce such debts, claims and contracts against the authority in the
41 same manner as they might have had against the corporation, and the
42 rights and remedies of such creditors and persons having claims or
43 contracts shall not be limited or restricted in any manner by this act,
44 except as provided in this section. All debts, liabilities, obligations,
45 agreements and covenants of the corporation, except to the extent
46 otherwise specifically provided or established to the contrary in this

1 act, are hereby imposed upon the authority. In continuing the
2 functions and carrying out the contracts, obligations, powers and
3 duties of the corporation, the authority, or the subsidiary corporation,
4 as the case may be, are authorized to act in their own name or in the
5 name of the corporation as may be convenient or advisable under the
6 circumstances from time to time.

7 (5) The lease, management or operational agreement referred to
8 in paragraph (2) of this subsection shall provide that all officers and
9 employees of the corporation shall be employed by the subsidiary
10 corporation until determined otherwise by that corporation.

11 The employees shall retain all of their rights and benefits under
12 existing collective bargaining agreements or contracts until such time
13 as new or revised agreements or contracts are agreed to or these
14 agreements or contracts shall expire. All existing bargaining agents
15 shall be retained to act on behalf of those employees until such time as
16 the employees shall, pursuant to law, elect to change those agents.
17 The provisions of this paragraph shall not apply to any officer or
18 employee appointed or employed, or any collective bargaining
19 agreement entered into, on or after the effective date of this act.

20 c. As soon as may be practicable after the transfer date, the
21 authority shall notify the Governor, the presiding officers of each
22 house of the Legislature, and the President of the Delaware River Port
23 Authority that the transfer has occurred, the date of the transfer, and
24 any other information concerning the transfer the authority deems
25 appropriate.

26 d. After the transfer date, the subsidiary corporation which has
27 entered into the lease, management or operational agreement shall
28 annually submit to the authority a written report on the carrying out
29 of its responsibilities under the agreement in addition to any other
30 reports as may be required by the agreement.

31
32 15. (New section) Notwithstanding the provisions of this act to
33 the contrary, the South Jersey Port Corporation shall, not later than
34 six months after the effective date of this act, enter into a lease or
35 other agreement with a person other than a public entity to operate
36 and maintain the former port facilities of the Salem Municipal Port
37 Authority previously acquired by the South Jersey Port Corporation,
38 including other real property previously acquired by that corporation
39 from the county of Salem or the City of Salem and located in the City
40 of Salem. If the South Jersey Port Corporation fails to enter into such
41 a lease or other agreement within that six month period, the South
42 Jersey Port Corporation shall, at the expiration of that period, transfer
43 all right, title and interest to those facilities to the New Jersey
44 Economic Development Authority. If the South Jersey Port
45 Corporation has entered into such lease or other agreement within the
46 six month period, the South Jersey Port Corporation shall, at the

1 expiration or termination of such lease or other agreement, transfer all
2 right, title and interest to those facilities to the New Jersey Economic
3 Development Authority unless the lessee or operator of those facilities
4 shall have exercised an option to purchase or acquire the facilities
5 pursuant to the lease or agreement.

6
7 16. (New section). a. To effectuate any of its authorized purposes
8 either directly or indirectly, the authority, in addition to any powers
9 granted to it elsewhere in P.L. , c. (C.) (now before the
10 Legislature as this bill), shall have the authority to form, purchase or
11 assume control of one or more subsidiaries, in the manner and for the
12 purposes set forth in this section.

13 b. The authority may form a subsidiary by filing with the Secretary
14 of State a certificate of incorporation, which may be amended from
15 time to time and which shall set forth the name of the subsidiary, its
16 duration, the location of its principal office, the joint owners thereof
17 if any such joint owners shall be provided for by an agreement between
18 the authority and the joint owners, and the purposes of the subsidiary.

19 c. The directors of the subsidiary shall be members or employees
20 of the authority, who shall constitute at least a majority, and such
21 other persons representing any joint owner or owners, if any, as may
22 be provided for in the agreement in connection with the incorporation
23 of the subsidiary.

24 d. The subsidiary shall have all the powers vested in the authority
25 which the authority may delegate to it by terms of the agreement
26 entered into pursuant to subsection b. of this section, except that it
27 shall not have the power to contract indebtedness independently of the
28 authority. The subsidiary and any of its properties, functions and
29 activities shall have all the privileges, immunities, tax exemptions and
30 other exemptions as the authority's property, functions and activities.
31 The subsidiary shall also be subject to the restrictions and limitations
32 to which the authority is subject. The subsidiary shall be subject to
33 suit as if it were the authority itself.

34 e. Whenever the State or any municipality, commission, public
35 authority, agency, office, department, board, or division is authorized
36 and empowered for any purposes of P.L. , c. (C.) (now before the
37 Legislature as this bill) to cooperate and enter into agreements with
38 the authority or to grant any consent to the authority or to grant,
39 convey, lease or otherwise transfer any property to the authority or to
40 execute any document, the State or such municipality, commission,
41 public authority, agency, officer, department, board, or division shall
42 have the same authorization and power for any of such purposes to
43 cooperate and enter into agreements with the subsidiary, to grant
44 consents to the subsidiary, to grant, convey, lease or otherwise
45 transfer property to the subsidiary and to execute documents for the
46 subsidiary.

1 f. Among the powers that shall be granted to a subsidiary
2 established by the authority, or which may be exercised by the
3 authority itself, are:

4 (1) The power to participate as a co-owner or co-venturer in any
5 activity financed by a loan from the authority;

6 (2) The power to issue its stock and employ the proceeds of such
7 issuance for capital investment in, or other expenses in connection
8 with, the projects of the subsidiary, upon authorization by the
9 authority; and

10 (3) The power to enter into leases, subleases or other conveyances
11 of property, or to grant easements, or licenses for the use of property.

12
13 17. (New section) The authority, or any subsidiary, may enter
14 into agreements with any individual, partnership, trust, association or
15 corporation, or any public agency, under which the authority or
16 subsidiary and such other entity or entities shall undertake a project as
17 a joint venture, with the authority or subsidiary providing such
18 financial assistance, through loans, grants or the acquisition of an
19 ownership interest in the project, and such technical or managerial
20 assistance or advice, as the agreement may provide for.

21
22 18. (New section) When undertaking any construction,
23 reconstruction, or other improvement of property which is part of the
24 marine facilities or redevelopment facilities located in the City of
25 Camden, the authority shall provide the Planning Board of the City of
26 Camden with a written summary, for informational purposes only, or
27 an informational presentation to the Planning Board of the City of
28 Camden which shall describe the proposed development.

29
30 19. (New section) a. The exercise of the powers granted by this
31 act shall constitute the performance of an essential governmental
32 function and the authority shall not be required to pay any taxes or
33 assessments upon or in respect of its port facilities as defined in
34 section 3 of P.L. , c. (C.)(now before the Legislature as this
35 bill), or any property or moneys of the authority, and the authority, its
36 port facilities, property and moneys and any bonds and notes issued
37 under the provisions of this act, their transfer and the income there-
38 from, including any profit made on the sale thereof, shall at all times
39 be free from taxation of every kind by the State except for transfer,
40 inheritance and estate taxes and by any political subdivision of the
41 State.

42 b. Notwithstanding the provisions of section 15 of P.L.1974, c.80
43 (C.34:1B-15) to the contrary: (1) any person occupying port facilities
44 of the authority used as redevelopment facilities for commercial
45 purposes, whether as lessee, vendee or otherwise, except a subsidiary
46 corporation as defined in section 3 of P.L. , c. (C.) (now before

1 the Legislature as this bill), shall pay to any political subdivision in
2 which such redevelopment facilities are located a payment in lieu of
3 taxes which shall equal the taxes on real and personal property,
4 including water and sewer service charges and assessments, which that
5 person would have been required to pay to the respective political
6 subdivisions had it been the owner of the property during the period
7 for which such payment is made and neither the subsidiary corporation
8 nor the authority nor any of their projects, properties, moneys or
9 bonds and notes shall be obligated, liable or subject to lien of any kind
10 for the enforcement, collection or payment thereof; (2) the State shall
11 make a payment in lieu of taxes on the authority's port facilities used
12 as marine facilities for commercial purposes and occupied by any
13 person as lessee, except a subsidiary corporation as defined in section
14 3 of P.L. , c. (C.) (now before the Legislature as this bill) and
15 neither the subsidiary corporation nor the authority nor any of their
16 projects, properties, moneys, or bonds and notes shall be obligated,
17 liable or subject to lien of any kind for the enforcement, collection or
18 payment thereof. The payment by the State shall be made to the City
19 of Camden, subject to annual appropriation by the Legislature, and
20 shall be equal to 40 percent of the value of the property, determined
21 by the Department of the Treasury at the time of transfer of the
22 facilities to the authority pursuant to this act, multiplied by the local
23 purposes tax rate .

24 c. Payments made pursuant to this section shall be paid to the
25 political subdivision in the fiscal year commencing on July 1 following
26 the year in which the occupancy occurred. Such payments shall only
27 be payable for that portion of the year in which the facilities subject to
28 the payment were actually occupied by a lessee, vendee or otherwise
29 or in the case of paragraph (2) of subsection b. of this section by a
30 lessee.

31 d. Any property transferred to the authority pursuant to the
32 provisions of this act, which is not occupied by a lessee, vendee or
33 otherwise, as provided in this section, shall not be subject to a
34 payment in lieu of taxes.

35 e. In the event that the port facilities of the authority are
36 transferred to another entity which is not subject to taxation, the
37 provisions of this section concerning payments in lieu of taxes shall
38 continue, and any person occupying the transferred port facilities as a
39 lessee, vendee or otherwise, except a subsidiary corporation defined
40 in section 3 of P.L. , c. (C.) (now before the Legislature as this
41 bill), shall make the payments prescribed in paragraph (1) of
42 subsection b. of this section, and the entity to which the marine
43 facilities are transferred, rather than the State, shall continue to make
44 the payments prescribed in paragraph (2) of subsection b. of this
45 section unless the entity and the City of Camden shall enter into an
46 agreement to provide for a different method of determining the amount

1 of payment in lieu of taxes or otherwise to alter the amount of the
2 payment provided for in paragraph (2) of subsection b. of this section.
3 f. Notwithstanding the provisions of this section to the contrary,
4 the governing body of a county or municipality in which the port
5 facilities of the authority used as redevelopment facilities are located
6 may, by resolution or ordinance, as appropriate, provide for the
7 reduction in the amount of the in lieu of tax payment which a vendee,
8 lessee or otherwise is required to pay under paragraph (1) of
9 subsection b. of this section. The reduction in the amount shall be for
10 a term of no greater than 20 years from the date of initial occupancy
11 by the vendee, lessee or otherwise and shall be so structured that the
12 reduction shall constitute no greater than 75 percent of the in lieu of
13 tax payment required under paragraph (1) of subsection b. of this
14 section over the 20 year period, and shall only be adopted upon a
15 finding that the reduction would be in the best interest of the county
16 or municipality.

17

18 20. Section 1 of P.L.1968, c.60 (C.12:11A-1) is amended to read
19 as follows:

20 1. The Legislature hereby finds and declares: a. that overlapping
21 jurisdiction and responsibility for port development is not conducive
22 to the provision of adequate port facilities in southern New Jersey;
23 that the South Jersey Port Corporation hereinafter established by this
24 act, should be the sole agency for the port development which is the
25 purpose of this act; that said corporation should be vested with
26 powers and responsibilities sufficient to fulfill not only its port
27 development purposes but its financial obligations to the government
28 and people of the State of New Jersey; that the Camden Marine
29 Terminals, presently operated and maintained by the South Jersey Port
30 Commission, are ideally suited to serve as the basis from which future
31 port development in South Jersey may proceed; that the acquisition
32 of said Camden Marine Terminals by the South Jersey Port
33 Corporation will enable said corporation to accomplish the purposes
34 of this act; that the indebtedness of the South Jersey Port Commission
35 to its creditors and bondholders and to the city of Camden is properly
36 an obligation of the State of New Jersey and a responsibility of the
37 State of New Jersey to repay to the extent and in the manner provided
38 herein; that prior to the disposition of the Camden Marine Terminals
39 the financial obligations of the South Jersey Port Commission to the
40 city of Camden must be discharged; that the State has already
41 recognized its responsibility and taken steps to fulfill its obligation to
42 the city of Camden by virtue of the appropriation of \$1.5 million from
43 the General Treasury of the State of New Jersey to the South Jersey
44 Port Commission, pursuant to chapter 84 of the Laws of 1967, which
45 sum was applied towards the reduction of the indebtedness of the
46 commission to the city of Camden.

1 b. In order to facilitate the unification of the ports of the Delaware
2 river, as provided in subdivision (m) of the Compact creating the
3 Delaware River Port Authority (R.S.32:3-2), it is in the public interest
4 to provide for the transfer of the port facilities of the corporation to
5 the New Jersey Economic Development Authority so that all or a
6 portion of them may be operated by a subsidiary corporation of the
7 Delaware River Port Authority; that the current outstanding bonded
8 indebtedness of the corporation shall be refunded by the issuance of
9 bonds by the New Jersey Economic Development Authority in order
10 to facilitate that transfer; that provision be made for the employees of
11 the corporation who may be employed by the subsidiary corporation;
12 and that other measures be taken to facilitate the transfer.

13 (cf: P.L.1968, c.60, s.1)

14

15 21. Section 6 of P.L.1968, c.60 (C.12:11A-6) is amended to read
16 as follows:

17 6. The corporation shall be a body corporate and politic and shall
18 have perpetual succession and shall have the following powers:

19 (a) To adopt by-laws for the regulation of its affairs and the
20 conduct of its business;

21 (b) To adopt an official seal and alter the same at pleasure;

22 (c) To maintain an office at such place or places within the district
23 as it may designate;

24 (d) To sue and be sued in its own name;

25 (e) To establish, acquire, construct, rehabilitate, improve, own,
26 operate and maintain marine terminals at such locations within the
27 district as it shall determine;

28 (f) To enter into lease agreements with private marine terminal
29 operators for the purpose of operating and maintaining any of the
30 marine terminals established, acquired, owned, constructed,
31 rehabilitated or improved by the corporation;

32 (g) To issue bonds or notes of the corporation for any of its
33 corporate purposes and to provide for the rights of the holders thereof
34 as provided in this act;

35 (h) To fix and revise from time to time and charge and collect
36 rents, tolls, fees and charges for use of the several functions and
37 services of any marine terminal acquired or constructed by it;

38 (i) To establish rules and regulations for the use of any terminal;

39 (j) To acquire, hold and dispose of real and personal property in
40 the exercise of its powers and the performance of its duties under this
41 act;

42 (k) To acquire in the name of the corporation by purchase or
43 otherwise, on such terms and conditions and in such manner as it may
44 deem proper, or by the exercise of the power of eminent domain any
45 land and other property which it may determine is reasonably
46 necessary for any marine terminal or for the relocation or

1 reconstruction of any highway by the corporation and any and all
2 rights, title and interest in such land and other property, including
3 public lands, parks, playgrounds, reservations, highways or parkways,
4 owned by or in which any county, city, borough, town, township,
5 village, or other political subdivision of the State of New Jersey has
6 any right, title or interest, or parts thereof or rights therein and any fee
7 simple absolute or any lesser interest in private property, and any fee
8 simple absolute in, easements upon, or the benefit of restrictions upon,
9 abutting property to preserve and protect any marine terminal.

10 Upon the exercise of the power of eminent domain, the
11 compensation to be paid thereunder shall be ascertained and paid in
12 the manner provided in [chapter 1 of the Title 20 Revised Statutes] the
13 "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.),
14 insofar as the provisions thereof are applicable and not inconsistent
15 with the provisions contained in this act. The corporation may join
16 in separate subdivisions in one petition or complaint the descriptions
17 of any number of tracts or parcels of land or property to be
18 condemned and the names of any number of owners and other parties
19 who may have an interest therein and all such land or property
20 included in said petition or complaint may be condemned in a single
21 proceeding; provided, however, that separate awards be made for each
22 tract or parcel of land or property; and provided further, that each of
23 said tracts or parcels of land or property lies wholly in or has a
24 substantial part of its value lying wholly within the same county.

25 Upon the filing of such petition or complaint or at any time
26 thereafter the corporation may file with the clerk of the county in
27 which such property is located and also with the Clerk of the Superior
28 Court a declaration of taking, signed by the corporation declaring that
29 possession of one or more of the tracts or parcels of land or property
30 described in the petition or complaint is thereby being taken by and for
31 the use of the corporation. The said declaration of taking shall be
32 sufficient if it sets forth (1) a description of each tract or parcel of land
33 or property to be so taken sufficient for the identification thereof to
34 which there shall be attached a plan or map thereof; (2) a statement
35 of the estate or interest in the said land or property being taken; (3) a
36 statement of the sum of money estimated by the corporation by
37 resolution to be just compensation for the taking of the estate or
38 interest in each tract or parcel of land or property described in said
39 declaration; and (4) that, in compliance with the provisions of this act,
40 the corporation has established and is maintaining a trust fund as
41 hereinafter provided.

42 Upon the filing of the said declaration, the corporation shall
43 deposit with the Clerk of the Superior Court the amount of the
44 estimated compensation stated in said declaration. In addition to the
45 said deposits with the Clerk of the Superior Court the corporation at
46 all times shall maintain a special trust fund on deposit with a bank or

1 trust company doing business in this State in an account at least equal
2 to twice the aggregate amount deposited with the Clerk of the
3 Superior Court as estimated compensation for all property described
4 in declarations of taking with respect to which the compensation has
5 not been finally determined and paid to the persons entitled thereto or
6 into court. Said trust fund shall consist of cash or securities readily
7 convertible into cash constituting legal investment for trust funds
8 under the laws of this State. Said trust fund shall be held solely to
9 secure and may be applied to the payment of just compensation for the
10 land or other property described in such declarations of taking. The
11 corporation shall be entitled to withdraw from said trust fund from
12 time to time so much as may then be in excess of twice the aggregate
13 of the amount deposited with the Clerk of the Superior Court as
14 estimated compensation for all property described in declarations of
15 taking with respect to which the compensation has not been finally
16 determined and paid to the persons entitled thereto or into court.

17 Upon the filing of the said declaration as aforesaid and depositing
18 with the Clerk of the Superior Court the amount of the estimated
19 compensation stated in said declaration, the corporation without other
20 process or proceedings, shall be entitled to the exclusive possession
21 and use of each tract of land or property described in said declaration
22 and may forthwith enter into and take possession of said land or
23 property, it being the intent of this provision that the proceedings for
24 compensation or any other proceedings relating to the taking of said
25 land or interest therein or other property shall not delay the taking of
26 possession thereof and the use thereof by the corporation for the
27 purpose or purposes for which the corporation is authorized by law to
28 acquire or condemn such land or other property or interest therein.

29 The corporation shall cause notice of the filing of said declaration
30 and the making of said deposit to be served upon each party in interest
31 named in the petition residing in this State, either personally or by
32 leaving a copy thereof at his residence, if known, and upon each party
33 in interest residing out of the State, by mailing a copy thereof to him
34 at his residence, if known. In the event that the residence of any such
35 party or the name of such party is unknown, such notice shall be
36 published at least once in a newspaper published or circulating in the
37 county or counties in which the land is located. Such service, mailing
38 or publication shall be made within 10 days after filing such
39 declaration. Upon the application of any party in interest and after
40 notice to other parties in interest, including the corporation, any judge
41 of the Superior Court assigned to sit for said county may order that
42 the money deposited with the Clerk of the Superior Court or any part
43 thereof be paid forthwith to the person or persons entitled thereto for
44 or on account of the just compensation to be awarded in said
45 proceeding; provided, that each such person shall have filed with the
46 Clerk of the Superior Court a consent in writing that, in the event the

1 award in the condemnation proceeding shall be less than the amount
2 deposited, the court, after notice as herein provided and hearing, may
3 determine his liability, if any, for the return of such difference or any
4 part thereof and enter judgment therefor. If the amount of the award
5 as finally determined shall exceed the amount so deposited, the person
6 or persons to whom the award is payable shall be entitled to recover
7 from the corporation the difference between the amount of the deposit
8 and the amount of the award, with interest at the rate of 6% per
9 annum thereon from the date of making the deposit. If the amount of
10 the award shall be less than the amount so deposited, the Clerk of the
11 Superior Court shall return the difference between the amount of the
12 award and the deposit to the corporation unless the amount of the
13 deposit or any part thereof shall have theretofore been distributed, in
14 which event the court, on petition of the corporation and notice to all
15 persons interested in the award and affording them an opportunity to
16 be heard, shall enter judgment in favor of the corporation for such
17 difference against the party or parties liable for the return thereof. The
18 corporation shall cause notice of the date fixed for such hearing to be
19 served upon each party thereto residing in this State either personally
20 or by leaving a copy thereof at his residence, if known, and upon each
21 party residing out of the State by mailing a copy to him at his
22 residence, if known. In the event that the residence of any party or the
23 name of such party is unknown, such notice shall be published at least
24 once in a newspaper published or circulating in the county or counties
25 in which the land is located. Such service, mailing or publication shall
26 be made at least 10 days before the date fixed for such hearing.

27 Whenever under [chapter 1 of Title 20 of the Revised Statutes] the
28 "Eminent Domain Act of 1971" the amount of the award may be paid
29 into court, payment may be made into the Superior Court and may be
30 distributed according to law. The corporation shall not abandon any
31 condemnation proceeding subsequent to the date upon which it has
32 taken possession of the land or property as herein provided;

33 (l) To make and enter into all contracts and agreements necessary
34 or incidental to the performance of its duties and the execution of its
35 powers under this act;

36 (m) To appoint such additional officers, who need not be members
37 of the corporation as the corporation deems advisable, and to employ
38 consulting engineers, attorneys, accountants, construction and
39 financial experts, superintendents, managers, and such other employees
40 and agents as may be necessary in its judgment; to fix their
41 compensation; and to promote and discharge such officers, employees
42 and agents; all without regard to the provisions of Title [11 of the
43 Revised Statutes] 11A of the New Jersey Statutes; provided, however
44 that in the hiring of any employees or agents the corporation shall hire
45 any full-time employees of the Camden Marine Terminals or of the
46 South Jersey Port Commission, dissolved as hereinafter provided by

1 this act, who express a desire to be employed by the corporation; and
2 provided further, that the corporation shall provide for the protection
3 and maintenance of any contract, agreement or memorandum of
4 understanding concerning wages, working conditions or benefits of
5 any nature whatsoever between said Camden Marine Terminals or
6 South Jersey Port Commission and such employees or their designated
7 representative, and the corporation shall guarantee any pension rights
8 or benefits, including membership in any State, private or other
9 pension plan, of any such employees of the Camden Marine Terminals
10 or the South Jersey Port Commission.

11 (n) To apply for, receive and accept from any Federal agency,
12 subject to the approval of the Governor, grants for or in aid of the
13 planning or construction of any marine terminal, and to receive and
14 accept aid or contributions from any source, of either money,
15 property, labor or other things of value, to be held, used and applied
16 only for the purposes for which such grants and contributions may be
17 made;

18 (o) To acquire any lands under water in the State of New Jersey
19 for marine terminal, purposes by grant, transfer or conveyance from
20 the Resource Development Council in the Department of Conservation
21 and Economic Development in accordance with the statutes of the
22 State governing the making of riparian grants and leases, upon such
23 terms and conditions as may be determined by said council;

24 (p) To acquire any real property required or used for State
25 highway purposes in the State of New Jersey, by grant, transfer or
26 conveyance from the State Department of Transportation of the State
27 of New Jersey upon such terms and conditions as may be determined
28 by said State Department of Transportation.

29 (q) To promote the use of the port facilities in the district and the
30 use of the Delaware river and bay as a highway of commerce and in
31 furtherance of such promotion to make expenditures in the United
32 States and foreign countries, to pay commissions, and hire or contract
33 with experts and consultants, and otherwise to do indirectly anything
34 which the corporation may do directly;

35 (r) To co-operate with all other bodies interested or concerned
36 with, or affected by the promotion, development or use of the
37 Delaware river and bay and the port district;

38 (s) To enter into contracts and agreements with the Delaware
39 River Port Authority or any other regional agency concerned with
40 marine terminal purposes providing for joint participation by the
41 parties in any undertaking for marine terminal purposes authorized by
42 this act;

43 (t) Subject to the terms of any agreement by the corporation with
44 the holders of bonds and notes and in the interests of promoting and
45 establishing unity of authority in the control, development and over the
46 use of the port facilities of the district, to lend, lease, grant or convey

1 to or merge or consolidate with any other regional agency concerned
2 with marine terminal purposes upon such terms and conditions and
3 with such reservations as the corporation shall deem reasonable and
4 fair, any marine terminal or [port] part thereof or any port facility or
5 property which it owns or controls, provided, however, that the
6 corporation shall not act under this subsection until it has submitted
7 to the Legislature any proposed loan, lease, grant or conveyance to or
8 merger with any other regional agency of any marine terminal or port
9 thereof or any other port facility which it owns or controls, and the
10 Legislature has expressed its approval thereof in the form of a
11 concurrent resolution expressing such approval passed by both houses
12 of the Legislature, provided, however, that no such approval shall be
13 required for any action of the corporation or otherwise, pursuant to
14 the provisions of P.L. , c. (C.)(now before the Legislature as
15 this bill).

16 (u) Subject to the terms of any agreement by the corporation with
17 the holders of bonds and notes, to lend, lease, transfer, grant or
18 convey to the New Jersey Economic Development Authority any port
19 facility, as defined in section 3 of P.L. , c. (C.)(now
20 before the Legislature as this bill), which is under its jurisdiction,
21 ownership or control.

22 [(u)] (v) To do all acts and things necessary or convenient to carry
23 out the powers expressly granted in this act.

24 (cf: P.L.1968, c.60, s.6)

25

26 22. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read
27 as follows:

28 3. As used in this act, unless a different meaning clearly appears
29 from the context:

30 a. "Authority" means the New Jersey Economic Development
31 Authority, created by section 4 of this act.

32 b. "Bonds" means bonds or other obligations issued by the
33 authority pursuant to this act or "Economic Recovery Bonds or
34 Notes" issued pursuant to P.L.1992, c.16 (C.34:1B-7.10 et al.).

35 c. "Cost" means the cost of the acquisition, construction,
36 reconstruction, repair, alteration, improvement and extension of any
37 building, structure, facility including water transmission facilities, or
38 other improvement; the cost of machinery and equipment; the cost of
39 acquisition, construction, reconstruction, repair, alteration,
40 improvement and extension of energy saving improvements or
41 pollution control devices, equipment or facilities; the cost of lands,
42 rights-in-lands, easements, privileges, agreements, franchises, utility
43 extensions, disposal facilities, access roads and site development
44 deemed by the authority to be necessary or useful and convenient for
45 any project or in connection therewith; discount on bonds; cost of
46 issuance of bonds; engineering and inspection costs; costs of financial,

1 legal, professional and other estimates and advice; organization,
2 administrative, insurance, operating and other expenses of the
3 authority or any person prior to and during any acquisition or
4 construction, and all such expenses as may be necessary or incident to
5 the financing, acquisition, construction or completion of any project
6 or part thereof, and also such provision for reserves for payment or
7 security of principal of or interest on bonds during or after such
8 acquisition or construction as the authority may determine.

9 d. "County" means any county of any class.

10 e. "Development property" means any real or personal property,
11 interest therein, improvements thereon, appurtenances thereto and air
12 or other rights in connection therewith, including land, buildings,
13 plants, structures, systems, works, machinery and equipment acquired
14 or to be acquired by purchase, gift or otherwise by the authority within
15 an urban growth zone.

16 f. "Person" means any person, including individuals, firms,
17 partnerships, associations, societies, trusts, public or private
18 corporations, or other legal entities, including public or governmental
19 bodies, as well as natural persons. "Person" shall include the plural as
20 well as the singular.

21 g. "Pollution control project" means any device, equipment,
22 improvement, structure or facility, or any land and any building,
23 structure, facility or other improvement thereon, or any combination
24 thereof, whether or not in existence or under construction, or the
25 refinancing thereof in order to facilitate improvements or additions
26 thereto or upgrading thereof, and all real and personal property
27 deemed necessary thereto, having to do with or the end purpose of
28 which is the control, abatement or prevention of land, sewer, water,
29 air, noise or general environmental pollution, including, but not limited
30 to, any air pollution control facility, noise abatement facility, water
31 management facility, thermal pollution control facility, radiation
32 contamination control facility, wastewater collection system,
33 wastewater treatment works, sewage treatment works system, sewage
34 treatment system or solid waste disposal facility or site; provided that
35 the authority shall have received from the Commissioner of the State
36 Department of Environmental Protection or his duly authorized
37 representative a certificate stating the opinion that, based upon
38 information, facts and circumstances available to the State Department
39 of Environmental Protection and any other pertinent data, (1) said
40 pollution control facilities do not conflict with, overlap or duplicate
41 any other planned or existing pollution control facilities undertaken or
42 planned by another public agency or authority within any political
43 subdivision, and (2) that such facilities, as designed, will be a pollution
44 control project as defined in this act and are in furtherance of the
45 purpose of abating or controlling pollution.

46 h. "Project" means: (1) (a) acquisition, construction,

1 reconstruction, repair, alteration, improvement and extension of any
2 building, structure, facility, including water transmission facilities or
3 other improvement, whether or not in existence or under construction,
4 (b) purchase and installation of equipment and machinery, (c)
5 acquisition and improvement of real estate and the extension or
6 provision of utilities, access roads and other appurtenant facilities; and
7 (2) (a) the acquisition, financing, or refinancing of inventory, raw
8 materials, supplies, work in process, or stock in trade, or (b) the
9 financing, refinancing or consolidation of secured or unsecured debt,
10 borrowings, or obligations, or (c) the provision of financing for any
11 other expense incurred in the ordinary course of business; all of which
12 are to be used or occupied by any person in any enterprise promoting
13 employment, either for the manufacturing, processing or assembly of
14 materials or products, or for research or office purposes, including,
15 but not limited to, medical and other professional facilities, or for
16 industrial, recreational, hotel or motel facilities, public utility and
17 warehousing, or for commercial and service purposes, including, but
18 not limited to, retail outlets, retail shopping centers, restaurant and
19 retail food outlets, and any and all other employment promoting
20 enterprises, including, but not limited to, motion picture and television
21 studios and facilities and commercial fishing facilities, commercial
22 facilities for recreational fishermen, fishing vessels, aquaculture
23 facilities and marketing facilities for fish and fish products and (d)
24 acquisition of an equity interest in, including capital stock of, any
25 corporation; or any combination of the above, which the authority
26 determines will: (i) tend to maintain or provide gainful employment
27 opportunities within and for the people of the State, or (ii) aid, assist
28 and encourage the economic development or redevelopment of any
29 political subdivision of the State, or (iii) maintain or increase the tax
30 base of the State or of any political subdivision of the State, or (iv)
31 maintain or diversify and expand employment promoting enterprises
32 within the State; and (3) the cost of acquisition, construction,
33 reconstruction, repair, alteration, improvement and extension of an
34 energy saving improvement or pollution control project which the
35 authority determines will tend to reduce the consumption in a building
36 devoted to industrial or commercial purposes, or in an office building,
37 of nonrenewable sources of energy or to reduce, abate or prevent
38 environmental pollution within the State; and (4) the acquisition,
39 construction, reconstruction, repair, alteration, improvement,
40 extension, development, financing or refinancing of infrastructure and
41 transportation facilities or improvements related to economic
42 development and of cultural, recreational and tourism facilities or
43 improvements related to economic development and of capital facilities
44 for primary and secondary schools and of mixed use projects
45 consisting of housing and commercial development; and (5) the
46 establishment, acquisition, construction, rehabilitation, improvement,

1 and ownership of port facilities as defined in section 3 of P.L. _____,
2 c. _____) (now before the Legislature as this bill). Project may
3 also include: (i) reimbursement to any person for costs in connection
4 with any project, or the refinancing of any project or portion thereof,
5 if determined by the authority as necessary and in the public interest
6 to maintain employment and the tax base of any political subdivision
7 and will facilitate improvements thereto or the completion thereof, and
8 (ii) development property and any construction, reconstruction,
9 improvement, alteration, equipment or maintenance or repair, or
10 planning and designing in connection therewith. For the purpose of
11 carrying out mixed use projects consisting of both housing and
12 commercial development, the authority may enter into agreements with
13 the New Jersey Housing and Mortgage Finance Agency for loan
14 guarantees for any such project in accordance with the provisions of
15 P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall
16 allocate to the New Jersey Housing and Mortgage Finance Agency,
17 under such agreements, funding available pursuant to subsection a. of
18 section 4 of P.L.1992, c.16 (C.34:1B-7.13).

19 i. "Revenues" means receipts, fees, rentals or other payments to
20 be received on account of lease, mortgage, conditional sale, or sale,
21 and payments and any other income derived from the lease, sale or
22 other disposition of a project, moneys in such reserve and insurance
23 funds or accounts or other funds and accounts, and income from the
24 investment thereof, established in connection with the issuance of
25 bonds or notes for a project or projects, and fees, charges or other
26 moneys to be received by the authority in respect of projects and
27 contracts with persons.

28 j. "Resolution" means any resolution adopted or trust agreement
29 executed by the authority, pursuant to which bonds of the authority
30 are authorized to be issued.

31 k. "Energy saving improvement" means the construction, purchase
32 and installation in a building devoted to industrial or commercial
33 purposes of any of the following, designed to reduce the amount of
34 energy from nonrenewable sources needed for heating and cooling that
35 building: insulation, replacement burners, replacement high efficiency
36 heating and air conditioning units, including modular boilers and
37 furnaces, water heaters, central air conditioners with or without heat
38 recovery to make hot water for industrial or commercial purposes or
39 in office buildings, and any solar heating or cooling system
40 improvement, including any system which captures solar radiation to
41 heat a fluid which passes over or through the collector element of that
42 system and then transfers that fluid to a point within the system where
43 the heat is withdrawn from the fluid for direct usage or storage. These
44 systems shall include, but not necessarily be limited to, systems
45 incorporating flat plate, evacuated tube or focusing solar collectors.

46 The foregoing list shall not be construed to be exhaustive, and shall

1 not serve to exclude other improvements consistent with the legislative
2 intent of this amendatory act.

3 1. "Urban growth zone" means any area within a municipality
4 receiving State aid pursuant to the provisions of P.L.1978, c.14
5 (C.52:27D-178 et seq.) or a municipality certified by the
6 Commissioner of Community Affairs to qualify under such law in
7 every respect except population, which area has been so designated
8 pursuant to an ordinance of the governing body of such municipality.
9 (cf: P.L.1995, c.359, s.8)

10

11 23. Section 7 of P.L.1954, c.84 (C.43:15A-7) is amended to read
12 as follows:

13 7. There is hereby established the Public Employees' Retirement
14 System of New Jersey in the Division of Pensions and Benefits of the
15 Department of the Treasury. The membership of the retirement system
16 shall include:

17 a. The members of the former "State Employees' Retirement
18 System of New Jersey" enrolled as such as of December 30, 1954,
19 who shall not have claimed for refund their accumulated deductions in
20 said system as provided in this section;

21 b. Any person becoming an employee of the State or other
22 employer after January 2, 1955 and every veteran, other than those
23 whose appointments are seasonal, becoming an employee of the State
24 or other employer after such date, including a temporary employee
25 with at least one year's continuous service; and

26 c. Every employee veteran in the employ of the State or other
27 employer on January 2, 1955, who is not a member of any retirement
28 system supported wholly or partly by the State.

29 d. Membership in the retirement system shall be optional for
30 elected officials other than veterans, and for school crossing guards,
31 who having become eligible for benefits under other pension systems
32 are so employed on a part-time basis. Any such part-time school
33 crossing guard who is eligible for benefits under any other pension
34 system and who was hired as a part-time school crossing guard prior
35 to March 4, 1976, may at any time terminate his membership in the
36 retirement system by making an application in writing to the board of
37 trustees of the retirement system. Upon receiving such application,
38 the board of trustees shall terminate his enrollment in the system and
39 direct the employer to cease accepting contributions from the member
40 or deducting from the compensation paid to the member. State
41 employees who become members of any other retirement system
42 supported wholly or partly by the State as a condition of employment
43 shall not be eligible for membership in this retirement system.
44 Notwithstanding any other law to the contrary, all other persons
45 accepting employment in the service of the State shall be required to
46 enroll in the retirement system as a condition of their employment,

1 regardless of age. No person in employment, office or position, for
2 which the annual salary or remuneration is fixed at less than
3 \$1,500.00, shall be eligible to become a member of the retirement
4 system.

5 e. Membership of any person in the retirement system shall cease
6 if he shall discontinue his service for more than two consecutive years.

7 f. The accumulated deductions of the members of the former
8 "State Employees' Retirement System" which have been set aside in a
9 trust fund designated as Fund A as provided in section 5 of this act
10 and which have not been claimed for refund prior to February 1, 1955
11 shall be transferred from said Fund A to the Annuity Savings Fund of
12 the Retirement System, provided for in section 25 of this act. Each
13 member whose accumulated deductions are so transferred shall receive
14 the same prior service credit, pension credit, and membership credit in
15 the retirement system as he previously had in the former "State
16 Employees' Retirement System" and shall have such accumulated
17 deductions credited to his individual account in the Annuity Savings
18 Fund. Any outstanding obligations of such member shall be continued.

19 g. Any school crossing guard electing to terminate his membership
20 in the retirement system pursuant to subsection d. of this section shall,
21 upon his request, receive a refund of his accumulated deductions as of
22 the date of his appointment to the position of school crossing guard.
23 Such refund of contributions shall serve as a waiver of all benefits
24 payable to the employee, to his dependent or dependents, or to any of
25 his beneficiaries under the retirement system.

26 h. A temporary employee who is employed under the federal Job
27 Training Partnership Act, Pub.L. 97-300 (29 U.S.C. { 1501) shall not
28 be eligible for membership in the system. Membership for temporary
29 employees employed under the federal Job Training Partnership Act,
30 Pub.L. 97-300 (29 U.S.C. { 1501) who are in the system on the
31 effective date of this 1986 amendatory act shall be terminated, and
32 affected employees shall receive a refund of their accumulated
33 deductions as of the date of commencement of employment in a
34 federal Job Training Partnership Act program. Such refund of
35 contributions shall serve as a waiver of all benefits payable to the
36 employee, to his dependent or dependents, or to any of his
37 beneficiaries under the retirement system.

38 i. An employee of the South Jersey Port Corporation who was
39 employed by the South Jersey Port Corporation as of the effective date
40 of P.L. , c. (C.) (now before the Legislature as this bill) and
41 who shall be re-employed within 365 days of such effective date by a
42 subsidiary corporation or other corporation, which has been
43 established by the Delaware River Port Authority pursuant to
44 subdivision (m) of Article I of the compact creating the Delaware
45 River Port Authority (R.S.32:3-2), as defined in section 3 of P.L. ,
46 c. (C.) (now before the Legislature as this bill), shall be eligible

1 to continue membership while an employee of such subsidiary or other
2 corporation.

3 (cf: P.L.1986, c.139, s.1)

4

5 24. Section 73 of P.L.1954, c.84 (C.43:15A-73) is amended to
6 read as follows:

7 73. a. The Public Employees' Retirement System is hereby
8 authorized and directed to enroll eligible employees of the New Jersey
9 Turnpike Authority, the New Jersey Highway Authority, Palisades
10 Interstate Park Commission, Interstate Sanitation Commission, the
11 Delaware River Basin Commission and the Delaware River Joint Toll
12 Bridge Commission.

13 In the case of the Delaware River Joint Toll Bridge Commission,
14 the eligible employees shall be only those who are employed on the
15 free bridges across the Delaware river, under the control of said
16 commission, or who are members of the retirement system at the time
17 they begin employment with the commission.

18 The said employees shall be subject to the same membership,
19 contribution and benefit provisions of the retirement system as State
20 employees.

21 b. The State University of New Jersey, as an instrumentality of the
22 State, shall, for all purposes of this act, be deemed an employer and its
23 eligible employees, both veterans and nonveterans, shall be subject to
24 the same membership, contribution and benefit provisions of the
25 retirement system and to the provisions of chapter 3 of Title 43 of the
26 Revised Statutes as are applicable to State employees and for all
27 purposes of this act employment by the State University of New Jersey
28 after April 16, 1945, and for the purposes of chapter 3 of Title 43 of
29 the Revised Statutes any new employment after January 1, 1955, shall
30 be deemed to be and shall be construed as service to and employment
31 by the State of New Jersey.

32 c. The Compensation Rating and Inspection Bureau, created and
33 established pursuant to the provisions of R.S.34:15-89, shall, for all
34 purposes of this act, be deemed an employer and its eligible
35 employees, both veterans and nonveterans, shall be subject to the same
36 membership, contribution and benefit provisions of the retirement
37 system and to the provisions of chapter 3 of Title 43 of the Revised
38 Statutes as both are applicable to State employees.

39 The retirement system shall certify to the Commissioner of
40 Insurance and the Commissioner of Insurance shall direct the
41 Compensation Rating and Inspection Bureau to provide the necessary
42 payments to the retirement system in accordance with procedures
43 established by the retirement system. Such payments shall include (1)
44 the contributions and charges, similar to those paid by other public
45 agency employers, to be paid by the Compensation Rating and
46 Inspection Bureau to the retirement system on behalf of its employee

1 members, and (2) the contributions to be paid by the Compensation
2 Rating and Inspection Bureau to provide the past service credits up to
3 June 30, 1965 for these members, both veterans and nonveterans, who
4 enroll before July 1, 1966.

5 d. The New Jersey Sports and Exposition Authority, created and
6 established pursuant to the "New Jersey Sports and Exposition
7 Authority Law," P.L.1971, c.137 (C.5:10-1 et seq.) shall for all
8 purposes of this act, be deemed an employer and its eligible employees
9 both veterans and nonveterans, shall be subject to the same
10 membership, contribution and benefit provisions of the retirement
11 system and to the provisions of chapter 3 of Title 43 of the Revised
12 Statutes as are applicable to State employees.

13 (1) Eligible employees as used herein shall not include persons
14 who are not classified as salaried, or who are compensated on an
15 hourly or per diem basis, or whose employment is normally covered by
16 other retirement systems to which the authority makes contributions.

17 (2) Eligible employees previously permitted to enroll in the
18 retirement system shall redeposit the contributions previously made by
19 them and all service credit shall then be restored and future
20 contributions made at the date of contribution as originally assigned.
21 The authority shall redeposit the employer payments it had made, with
22 interest to the date of redeposit.

23 e. The New Jersey Transit Corporation created and established
24 pursuant to the "New Jersey Public Transportation Act of 1979,"
25 P.L.1979, c.150 (C.27:25-1 et seq.) shall for all purposes of this act,
26 be deemed an employer and its eligible employees both veterans and
27 nonveterans, shall be subject to the same membership, contribution and
28 benefit provisions of the retirement system and to the provisions of
29 chapter 3 of Title 43 of the Revised Statutes as are applicable to State
30 employees. Eligible employees as used herein means only those
31 individuals who are members of the Public Employees' Retirement
32 System or any other State-administered retirement system immediately
33 prior to their initial employment by the corporation.

34 f. (1) The Casino Reinvestment Development Authority, created
35 and established pursuant to P.L.1984, c.218 (C.5:12-153 et seq.), the
36 New Jersey Urban Development Corporation, created and established
37 pursuant to P.L.1985, c.227 (C.55:19-1 et seq.), the South Jersey
38 Food Distribution Authority, created and established pursuant to
39 P.L.1985, c.383 (C.4:26-1 et seq.), the New Jersey Development
40 Authority for Small Businesses, Minorities and Women's Enterprises,
41 created and established pursuant to P.L.1985, c.386 (C.34:1B-47 et
42 seq.), and the Catastrophic Illness in Children Relief Fund
43 Commission, created and established pursuant to P.L.1987, c.370
44 (C.26:2-148 et seq.) shall each, for all purposes of this act, be deemed
45 an employer and eligible authority, corporation, or commission.
46 Employees, both veterans and nonveterans, shall be subject to the

1 same membership, contribution and benefit provisions of the
2 retirement system and to the provisions of chapter 3 of Title 43 of the
3 Revised Statutes as are applicable to State employees.

4 (2) The current or former employees of the authorities, the
5 corporation, and the commission may purchase credit for all service
6 with the authority, corporation, or commission rendered prior to the
7 effective date of this amendatory and supplementary act, P.L.1990,
8 c.25 (C.43:15A-73.2 et al.), if that service would otherwise be eligible
9 for credit in the retirement system. This purchase shall be made in the
10 same manner and shall be subject to the same terms and conditions
11 provided for the purchase of previous membership service by section
12 8 of P.L.1954, c.84 (C.43:15A-8). The authority, corporation, or
13 commission shall pay the unfunded liability as determined by the
14 actuary for prior service purchased by its employees in accordance
15 with a schedule approved by the actuary. This obligation of the
16 authority, corporation, or commission shall be known as the accrued
17 liability for prior service credit.

18 (3) For any employee of the authorities or of the corporation or
19 commission who is in service with the authority, corporation, or
20 commission on the effective date of this amendatory and
21 supplementary act, P.L.1990, c.25 (C.43:15A-73.2 et al.), the age of
22 enrollment for the purposes of the member contribution rate under
23 section 25 of P.L.1954, c.84 (C.43:15A-25) shall be the age of the
24 employee on the date the continuous service with the authority began.
25 Any employee who was a member of the retirement system on the date
26 continuous service with the authority, corporation, or commission
27 began but whose membership expired before the effective date of
28 participation by the authority, corporation, or commission in the
29 retirement system, and who has not withdrawn the employee
30 contributions from the system, shall participate in the retirement
31 system under the former membership and shall contribute to the system
32 at the rate applicable to the former membership.

33 g. A subsidiary corporation or other corporation established by the
34 Delaware River Port Authority pursuant to subdivision (m) of Article
35 I of the compact creating the authority (R.S.32:3-2), as defined in
36 section 3 of P.L. , c. (C.) (now before the Legislature as this bill),
37 shall, for all purposes of this act, be deemed an employer and its
38 eligible employees, both veterans and nonveterans, shall be subject to
39 the same membership, contribution and benefit provisions of the
40 retirement system and to the provisions of chapter 3 of Title 43 of the
41 Revised Statutes as are applicable to State employees. Employees of
42 the subsidiary or other corporation eligible for participation in the
43 retirement system under this subsection shall include only persons who
44 are employees of the South Jersey Port Corporation on the effective
45 date of P.L. , c. (C.) (now before the Legislature as this bill) and
46 are re-employed by the subsidiary or other corporation within 365

1 days of the effective date.

2 (cf: P.L.1990, c.25, s.1)

3

4 25. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to
5 read as follows:

6 2. As used in this act:

7 (a) The term "State" means the State of New Jersey.

8 (b) The term "commission" means the State Health Benefits
9 Commission, created by section 3 of this act.

10 (c) The term "employee" means an appointive or elective officer
11 or full-time employee of the State of New Jersey. For the purposes of
12 this act an employee of Rutgers, The State University of New Jersey,
13 shall be deemed to be an employee of the State, and an employee of
14 the New Jersey Institute of Technology shall be considered to be an
15 employee of the State during such time as the Trustees of the Institute
16 are party to a contractual agreement with the State Treasurer for the
17 provision of educational services. The term "employee" shall further
18 mean, for purposes of this act, a former employee of the South Jersey
19 Port Corporation, who is employed by a subsidiary corporation or
20 other corporation, which has been established by the Delaware River
21 Port Authority pursuant to subdivision (m) of Article I of the compact
22 creating the Delaware River Port Authority (R.S.32:3-2), as defined
23 in section 3 of P.L. ., c. (C.) (now before the Legislature as
24 this bill), and who is eligible for continued membership in the Public
25 Employees' Retirement System pursuant to subsection i. of section 7
26 of P.L.1954, c.84 (C.43:15A-7).

27 For the purposes of this act the term "employee" shall not include
28 persons employed on a short-term, seasonal, intermittent or emergency
29 basis, persons compensated on a fee basis, persons having less than
30 two months of continuous service or persons whose compensation
31 from the State is limited to reimbursement of necessary expenses
32 actually incurred in the discharge of their official duties. An employee
33 paid on a 10-month basis, pursuant to an annual contract, will be
34 deemed to have satisfied the two-month waiting period if the employee
35 begins employment at the beginning of the contract year. The term
36 "employee" shall also not include retired persons who are otherwise
37 eligible for benefits under this act but who, although they meet the age
38 eligibility requirement of Medicare, are not covered by the complete
39 federal program. A determination by the commission that a person is
40 an eligible employee within the meaning of this act shall be final and
41 shall be binding on all parties.

42 (d) The term "dependents" means an employee's spouse and the
43 employee's unmarried children under the age of 23 years who live with
44 the employee in a regular parent-child relationship. "Children" shall
45 include stepchildren, legally adopted children and foster children
46 provided they are reported for coverage and are wholly dependent

1 upon the employee for support and maintenance. A spouse or child
2 enlisting or inducted into military service shall not be considered a
3 dependent during the military service. The term "dependents" shall not
4 include spouses of retired persons who are otherwise eligible for the
5 benefits under this act but who, although they meet the age eligibility
6 requirement of Medicare, are not covered by the complete federal
7 program.

8 (e) The term "carrier" means a voluntary association, corporation
9 or other organization, including a health maintenance organization as
10 defined in section 2 of the "Health Maintenance Organizations Act,"
11 P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing
12 or paying for or reimbursing the cost of, personal health services,
13 including hospitalization, medical and surgical services, under
14 insurance policies or contracts, membership or subscription contracts,
15 or the like, in consideration of premiums or other periodic charges
16 payable to the carrier.

17 (f) The term "hospital" means (1) an institution operated pursuant
18 to law which is primarily engaged in providing on its own premises,
19 for compensation from its patients, medical diagnostic and major
20 surgical facilities for the care and treatment of sick and injured persons
21 on an inpatient basis, and which provides such facilities under the
22 supervision of a staff of physicians and with 24 hour a day nursing
23 service by registered graduate nurses, or (2) an institution not meeting
24 all of the requirements of (1) but which is accredited as a hospital by
25 the Joint Commission on Accreditation of Hospitals. In no event shall
26 the term "hospital" include a convalescent nursing home or any
27 institution or part thereof which is used principally as a convalescent
28 facility, residential center for the treatment and education of children
29 with mental disorders, rest facility, nursing facility or facility for the
30 aged or for the care of drug addicts or alcoholics.

31 (g) The term "State managed care plan" means a health care plan
32 under which comprehensive health care services and supplies are
33 provided to eligible employees, retirees, and dependents: (1) through
34 a group of doctors and other providers employed by the plan; or (2)
35 through an individual practice association, preferred provider
36 organization, or point of service plan under which services and
37 supplies are furnished to plan participants through a network of
38 doctors and other providers under contracts or agreements with the
39 plan on a prepayment or reimbursement basis and which may provide
40 for payment or reimbursement for services and supplies obtained
41 outside the network. The plan may be provided on an insured basis
42 through contracts with carriers or on a self-insured basis, and may be
43 operated and administered by the State or by carriers under contracts
44 with the State.

45 (h) The term "Medicare" means the program established by the
46 "Health Insurance for the Aged Act," Title XVIII of the "Social

1 Security Act," Pub.Law 89-97 (42 U.S.C.1395 et seq.), as amended,
2 or its successor plan or plans.

3 (i) The term "traditional plan" means a health care plan which
4 provides basic benefits, extended basic benefits and major medical
5 expense benefits as set forth in section 5 of P.L.1961, c.49
6 (C.52:14-17.29) by indemnifying eligible employees, retirees, and
7 dependents for expenses for covered health care services and supplies
8 through payments to providers or reimbursements to participants.
9 (cf: P.L.1996, c.8, s.1)

10

11 26. Section 4 of P.L.1964, c.125 (C.52:14-17.34) is amended to
12 read as follows:

13 4. As used in this act and in the act to which this act is a
14 supplement:

15 (a) The term "employer" means a county, municipality, school
16 district, public agency or organization as defined in section 71 of
17 P.L.1954, c. 84, including the New Jersey Turnpike Authority, the
18 New Jersey Highway Authority, the Interstate Sanitation Commission,
19 the Delaware River Basin Commission, New Jersey Housing Finance
20 Agency, New Jersey Educational Facilities Authority, Hackensack
21 Meadowlands Development Commission and the Compensation Rating
22 and Inspection Bureau. The term "employer" shall include a subsidiary
23 corporation or other corporation established by the Delaware River
24 Port Authority pursuant to subdivision (m) of Article I of the compact
25 creating the authority (R.S.32:3-2), as defined in section 3 of P.L. ,
26 c. (C.) (now before the Legislature as this bill), except that only
27 persons who are employees of the South Jersey Port Corporation on
28 the effective date of P.L. , c. (C.)(now before the Legislature as
29 this bill) and are re-employed by the subsidiary or other corporation
30 within 365 days of the effective date are eligible to participate in the
31 program.

32 (b) The term "State Treasury" means the State agency responsible
33 for the administration of the New Jersey State Health Benefits
34 Program Act which is to be located in the Division of Pensions in the
35 Department of the Treasury.

36 (cf: P.L.1972, c.75, s.8)

37

38 27. (New section) A subsidiary corporation or other corporation
39 established by the Delaware River Port Authority which has employees
40 eligible to participate in the State Health Benefits Program as provided
41 in section 4 of P.L.1964, c.125 (C.52:14-17.34) shall participate in the
42 program in accordance with the laws and rules governing the program
43 as long as it has employees participating in the program.

44

45 28. This act shall take effect immediately.

46

- 1 Provides for transfer of facilities of South Jersey Port Corporation to
- 2 New Jersey Economic Development Authority, issuance of bonds and
- 3 other measures to facilitate port unification.