

## CHAPTER 150

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

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

C.34:1B-144 Short title.

1. Sections 2 through 19 of this act shall be known and may be cited as the "Port Unification and Financing Act."

C.34:1B-145 Findings, declarations relative to unification of ports.

2. The Legislature finds and declares:

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

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

c. It is therefore in the public interest, pursuant to existing law, for this Legislature to consent to legislation that will direct that, upon the refunding, refinancing or defeasance of the outstanding bonds of the South Jersey Port Corporation, the port facilities of that corporation, along with its assets, liabilities and obligations, will be transferred to the New Jersey Economic Development Authority for operation and maintenance of all or a portion of the facilities by a subsidiary corporation of the Delaware River Port Authority, with the employees of the South Jersey Port Corporation to be employed by the subsidiary corporation. The subsidiary corporation shall operate pursuant to the same principles set forth in R.S.32:3-1 et seq. for the operation of the Delaware River Port Authority.

C.34:1B-146 Definitions relative to unification of ports.

3. As used in this act:

"Authority" or "New Jersey Economic Development Authority" means the New Jersey Economic Development Authority created pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4) or a subsidiary corporation of the authority created pursuant to section 16 of this act.

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

"Marine facilities" means port facilities to be used for piers, wharves, docks, bulkheads, slips, basins, vehicular roadways, railroad connections, side tracks, sidings, warehousing, storage or other buildings and structures, facilities or improvements, or other real property, necessary, convenient or accessory to the support, operation, maintenance or accommodation of steamships or other vessels and their cargoes or passengers, as shall be determined by the authority on or before the entering into of the initial agreement provided for in subsection b. of section 4 of this act with respect to the lease, management, or other operation of all or a portion of the port facilities, and upon subsequent changes in use or control of the marine facilities.

"Port facility" means a marine terminal or part thereof or any port property or facility. In the case of the port facilities of the South Jersey Port Corporation, the term "port facility" shall include the foregoing and any other real or personal property under the jurisdiction, ownership or control of that corporation and transferred to or acquired by the authority pursuant to this act.

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

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

"Salem facility rights" means (1) property owned by the South Jersey Port Corporation and leased to Salem Terminals, Limited Liability Company, an Ohio limited liability company; (2) property owned by the South Jersey Port Corporation and leased to the Mid-Atlantic Shipping and Stevedoring, Inc.; and (3) all rights under the foreign trade zone approved by the United

States Department of Commerce-Foreign Trade Zone Board by Order Number 358 establishing Foreign Trade Zone 142; provided, however, that the property described in paragraphs (1) and (2) of this definition shall not be deemed to be Salem facility rights at the time such property is no longer subject to the leases described in this definition.

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

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

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

"Subsidiary corporation" means a subsidiary corporation which has been established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the Delaware River Port Authority (R.S.32:3-2).

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

#### C.34:1B-147 Powers of authority.

4. a. For the purpose of providing funds for the financing of the establishment, acquisition, construction, rehabilitation, improvement and ownership of port facilities, the authority shall have the power to issue bonds or notes, incur indebtedness, borrow money or incur other obligations secured in whole or in part by the moneys in the Port Facility Revenue Fund or by any state contract or both and also to issue such bonds, notes or other indebtedness for the purpose of defeasing, refinancing or refunding the existing bonded and other indebtedness of an authority or corporation having jurisdiction, ownership or control of port facilities. However, the authority shall not issue bonds, notes or other obligations for defeasing, refinancing or refunding the bonds or notes of the South Jersey Port Corporation until a subsidiary corporation has been formally established by the Delaware River Port Authority and the State Treasurer and the authority have approved an agreement pursuant to subsection b. of this section providing for the lease, management or other operation of all or a portion of the port facilities of the South Jersey Port Corporation. The bonds or notes shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds or notes, whether the bonds or notes are in one or more series, the date of issue, time or times of maturity, which (in the case of bonds) shall not exceed 30 years, the rate or rates of interest payable on the bonds or notes, the denomination or denominations in which the bonds or notes are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment and terms of redemption. The bonds or notes may be sold at a public or private sale at a price or prices determined by the authority.

b. The authority is hereby authorized to enter into any agreement with a subsidiary corporation with respect to the lease, management or other operation of all or a portion of the port facilities on such terms as the authority shall deem appropriate, such agreement to be subject to the approval of the State Treasurer.

The authority shall, however, be authorized to enter into an agreement with a subsidiary corporation under this section where the directors of such subsidiary corporation are required to be residents of the State of New Jersey and one or more other states only on the following conditions: The bylaws of the subsidiary corporation shall provide, and continue to provide, for the exercise of a veto by the Governor of the State of New Jersey with respect to an action of a director of the subsidiary corporation appointed from the State of New Jersey, which exercise is hereby authorized in the same form and manner as provided in P.L.1991, c.516 (C.32:3-4a et seq.) for the veto of an action of a commissioner of the Delaware River Port Authority appointed from the State of New Jersey; the exercise of the veto by the Governor of the State of New Jersey pursuant to this section shall not serve to dissolve the subsidiary corporation; the number of directors of the corporation from the State of New Jersey shall be the same as the number of directors of the corporation from each of the other states; and no action of the corporation shall be binding unless at least a simple majority of the directors from each state and at least a simple

majority of the directors from New Jersey shall vote in favor thereof. The provisions of this section shall also be binding on any entity which is a successor to the authority.

The authority is hereby authorized also to enter into any agreement with the South Jersey Port Corporation with respect to the defense of litigation against the South Jersey Port Corporation.

c. The authority is hereby authorized to convey or reconvey the port facilities to any other entity, including but not limited to the South Jersey Port Corporation, subject to the approval of the State Treasurer and the Legislature. The authority shall submit for approval to the Legislature, on a day when both the General Assembly and the Senate are in session, a plan for conveying or reconveying the port facilities to an entity other than the subsidiary corporation. The date of the submission shall be entered into the Senate Journal and the Minutes of the General Assembly. The Legislature shall be deemed to have approved the plan unless within 45 days of the submission of the plan by the authority to the Legislature, the Legislature adopts by affirmative vote of a majority of the authorized membership of both of the houses a concurrent resolution disapproving the plan. The time period shall commence on the day of submission and expire on the 45th day after submission or for a house not meeting on the 45th day, on the next meeting of that house.

d. In addition to any other provisions of an agreement, an agreement between the authority and a subsidiary corporation for the lease, management or other operation of port facilities acquired from the South Jersey Port Corporation, except as provided in section 15 of this act, shall require an annual payment to the authority for the rental of the port facilities in New Jersey.

The annual payment shall be deposited into the Port Facility Revenue Fund created by section 6 of this act.

#### C.34:1B-148 Payment of, redemption of bonds, notes.

5. The authority may, in any resolution authorizing the issuance of bonds or notes pursuant to this act, pledge the Port Facility Revenue Fund or a portion thereof for payment of the redemption of the bonds or notes, or the principal and interest thereon, and covenant as to the use and disposition of moneys in the Port Facility Revenue Fund. All costs associated with the issuance of the bonds or notes by the authority for the purposes set forth in this act may be paid by the authority from the proceeds of bonds or notes or from the Port Facility Revenue Fund, as the authority shall determine, which costs may include, but shall not be limited to, any costs related to the issuance of bonds or notes, operating expenses of the authority attributable to the payment of current and anticipated liabilities and expenses, and costs of, and any payment due under, any agreement, including any agreement entered into pursuant to the provisions of subsection b. of section 7 of this act. Moneys in the Port Facility Revenue Fund shall not be used for any other purposes of the authority than those provided in this act.

#### C.34:1B-149 "Port Facility Revenue Fund."

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

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

b. Such moneys as may have been or may be authorized by, or appropriated to, the South Jersey Port Corporation for the payment of debt service with respect to the port facilities of the corporation and which may be transferred to the authority by the corporation on or after the acquisition of the port facilities of the corporation by the authority or which may be transferred to the authority pursuant to section 14 of this act;

c. Interest or other income derived from the investment of moneys in the fund; and

d. Payments received by the authority under subsection d. of section 4 of this act.

Moneys in the fund shall be managed and invested by the Division of Investment in the Department of the Treasury.

C.34:1B-150 Use of moneys in Port Facility Revenue Fund.

7. a. The authority may use moneys in the Port Facility Revenue Fund to pay the principal and interest and premium, if any, on the bonds or notes issued by it pursuant to this act and in connection with the lease, management, or other operation of the port facilities transferred pursuant to this act and as provided in subsection b. of section 4 of this act. The authority may create any other fund or funds by resolution of the authority which it deems necessary to further secure the bonds or notes or otherwise effectuate the purposes of this act, including funds for the deposit of the proceeds from bonds or notes issued pursuant to this act.

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

c. All bonds or notes issued by the authority are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon or to be received by the authority and pledged and available to pay or secure the payment on bonds or notes or pledged or available to pay or secure payment on such bonds or notes or interest thereon shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer, inheritance and estate taxes pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

C.34:1B-151 Bonds, notes considered special, limited obligations.

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

C.34:1B-152 Pledges, covenants with holders of bonds, notes, obligations.

9. The State hereby pledges and covenants with holders of any bonds, notes or other obligations issued pursuant to this act that it will not limit or alter the rights or powers vested in the authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds, notes or other obligations. The State also pledges and covenants with the holders of any such bonds, notes or obligations, that it will not act to prevent the authority from obtaining any of the revenues provided for in this act, which shall be sufficient to meet all costs and expenses in connection with the issuance of such obligations, until the bonds, notes or other obligations, together with interest thereon, are fully met and discharged or payment thereof is fully provided for, except that the failure of the State to appropriate moneys for any purposes of this act shall not be deemed a violation of this section.

C.34:1B-153 Immunity for authority, members, employees.

10. Notwithstanding the provisions of any other law to the contrary, the State shall indemnify and save harmless the authority, its members or employees from any actions, claims, judgments or awards of any type, arising from or as the result of any act or omission by or on behalf of the South Jersey Port Corporation or the subsidiary corporation or in relation to the port facilities transferred to the authority pursuant to this act or arising from or as the result of the condition of those facilities. The State may, in addition, enter into an agreement with the authority to provide for the payment of liability insurance premiums for the provision of liability insurance coverage for the authority, its members or employees with respect to any such action or claim instituted or asserted after the transfer of the port facilities. The amount and terms of such liability coverage shall be subject to the approval of the State Treasurer. The State shall, in addition, provide for the payment of annual administrative expenses of the authority associated with the ownership and operation of port facilities, in an amount authorized by the State Treasurer.

C.34:1B-154 Immunity for South Jersey Port Corporation, members, employees.

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

C.34:1B-155 Limited immunity for Delaware River Port Authority.

12. Notwithstanding any other provision of law to the contrary, the State Treasurer is authorized to enter into an agreement with the Delaware River Port Authority or the subsidiary corporation, or both, which would provide that the State shall indemnify and save harmless the Delaware River Port Authority or the subsidiary corporation, or both, from any and all claims or causes of action which are based on the condition of the port facilities transferred pursuant to this act. The State Treasurer is not authorized to enter into an agreement which obligates the State to indemnify or save harmless the Delaware River Port Authority or the subsidiary corporation from any damages which directly result from any act or omission by the Delaware River Port Authority or the subsidiary corporation, or both, or any of their agents, servants or employees.

## C.34:1B-156 Agreements authorized.

13. The State Treasurer and the authority may enter into any agreements as may be necessary to effectuate the provisions of this act, which may include, but not be limited to, procedures for the transfer of moneys to the Port Facility Revenue Fund as provided for in section 6 of this act, with respect to the terms and conditions relative to the securing of bonds, notes and other obligations of the authority, the pledge and assignment of any agreement or agreements authorized by this act, or any payments to the trustees of the holders of these bonds. Notwithstanding any provision of P.L.1974, c.80 (C.34:1B-1 et seq.), this act or any regulation of the authority to the contrary, the authority shall be paid only such fees as shall be determined by an agreement entered into pursuant to this section. Any such agreements entered into pursuant to this section shall require that the subsidiary corporation shall indemnify and save harmless the authority, its members or employees from any actions, claims, judgments or awards of any type regarding the lease, operation and management of the port facilities by the subsidiary corporation.

## C.34:1B-157 Cooperation of South Jersey Port Corporation with authority to effect transfer.

14. a. The South Jersey Port Corporation shall cooperate with the authority in the defeasing, refunding or refinancing of the outstanding obligations of the corporation by the authority as authorized by this act and the corporation shall take such steps as are necessary in order to implement such defeasing, refunding or refinancing.

b. On the transfer date:

(1) All right, title and interest of the South Jersey Port Corporation in its port facilities, except as provided in section 15 of this act, and in any of its records and papers, as well as its assets, funds, obligations and liabilities, are hereby transferred to the authority to be held, used and applied for the purposes of this act.

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

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

(4) All creditors of the corporation and persons having claims against or contracts with the corporation of any kind or character may enforce such debts, claims and contracts against the authority in the same manner as they might have had against the corporation, and the rights and remedies of such creditors and persons having claims or contracts shall not be limited or restricted in any manner by this act, except as provided in this section. All debts, liabilities, obligations, agreements and covenants of the corporation, except to the extent otherwise specifically provided or established to the contrary in this act, are hereby imposed upon the authority. In continuing the functions and carrying out the contracts, obligations, powers and duties of the corporation, the authority, or the subsidiary corporation, as the case may be, are authorized to act in their own name or in the name of the corporation as may be convenient or advisable under the circumstances from time to time.

(5) The lease, management or operational agreement referred to in paragraph (2) of this subsection shall provide that all officers and employees of the corporation shall be employed by the subsidiary corporation until determined otherwise by that corporation. The employees shall retain all of their rights and benefits under existing collective bargaining agreements or contracts until such time as new or revised agreements or contracts are agreed to or these agreements or contracts shall expire. All existing bargaining agents shall be retained to act on behalf of those employees until such time as the employees shall, pursuant to law, elect to change those agents. The provisions of this paragraph shall not apply to any officer or employee appointed or employed, or any collective bargaining agreement entered into, on or after the effective date of this act.

c. As soon as may be practicable after the transfer date, the authority shall notify the

Governor, the presiding officers of each house of the Legislature, and the President of the Delaware River Port Authority that the transfer has occurred, the date of the transfer, and any other information concerning the transfer the authority deems appropriate.

d. (1) After the transfer date, the subsidiary corporation which has entered into the lease, management or operational agreement shall annually submit to the authority a written report on the carrying out of its responsibilities under the agreement in addition to any other reports as may be required by the agreement. The annual report shall include a financial summary of revenues and expenditures relating to the ports. The report shall also be submitted to the Legislature.

(2) In addition to any other reports required to be submitted to the Legislature, the Delaware River Port Authority shall submit to the Legislature, at least 60 days prior to action taken to authorize or adopt, any plan developed by the Delaware River Port Authority to finance any capital project for the construction, reconstruction, development or improvement of the port facilities located in New Jersey that are operated and maintained by the subsidiary corporation pursuant to the provisions of P.L.1997, c.150 (C.34:1B-144 et al.). Upon the initial submission of such a plan, the authority shall annually thereafter submit written progress reports on the implementation of the plan with the final progress report submitted upon the completion of projects set forth in the initial plan.

C.34:1B-158 Authority not to acquire certain port facilities.

15. Notwithstanding the provisions of this act to the contrary, the authority shall not acquire from the South Jersey Port Corporation the former port facilities of the Salem Municipal Port Authority as acquired previously from the Salem Municipal Port Authority by the South Jersey Port Corporation. The South Jersey Port Corporation shall, not later than six months after the effective date of this act, enter into a lease or other agreement with a person other than a public entity to operate and maintain the former port facilities of the Salem Municipal Port Authority previously acquired by the South Jersey Port Corporation, including other real property previously acquired by that corporation from the county of Salem or the City of Salem and located in the City of Salem.

If the South Jersey Port Corporation fails to enter into such a lease or other agreement within that six-month period, the South Jersey Port Corporation shall, at the expiration of that period, transfer all right, title and interest to those facilities to the New Jersey Economic Development Authority. If the South Jersey Port Corporation has entered into such lease or other agreement within the six-month period, the South Jersey Port Corporation shall, at the expiration or termination of such lease or other agreement, transfer all right, title and interest to those facilities to the New Jersey Economic Development Authority unless the lessee or operator of those facilities shall have exercised an option to purchase or acquire the facilities pursuant to the lease or agreement. The New Jersey Economic Development Authority shall be authorized to acquire all right, title, and interest to those facilities if transferred pursuant to this section.

Any agreement entered into pursuant to this section shall be subject to the approval of the State Treasurer and if such an agreement shall result in any payments to the South Jersey Port Corporation such payments shall be remitted to the State Treasurer for deposit in the General Fund less those amounts that the South Jersey Port Corporation is required to pay to other public entities under the terms of leases referred to in paragraphs (1) and (2) of "Salem facility rights" as defined in section 3 of this act.

C.34:1B-159 Additional powers of authority to form subsidiary.

16. a. To effectuate any of its authorized purposes either directly or indirectly, the authority, in addition to any powers granted to it elsewhere in P.L.1997, c.150 (C.34:1B-144 et al.), shall have the authority to form, purchase or assume control of one or more subsidiaries, in the manner and for the purposes set forth in this section.

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

owners, and the purposes of the subsidiary.

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

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

e. Whenever the State or any municipality, commission, public authority, agency, office, department, board, or division is authorized and empowered for any purposes of P.L.1997, c.150 (C.34:1B-144 et al.) to cooperate and enter into agreements with the authority or to grant any consent to the authority or to grant, convey, lease or otherwise transfer any property to the authority or to execute any document, the State or such municipality, commission, public authority, agency, officer, department, board, or division shall have the same authorization and power for any of such purposes to cooperate and enter into agreements with the subsidiary, to grant consents to the subsidiary, to grant, convey, lease or otherwise transfer property to the subsidiary and to execute documents for the subsidiary.

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

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

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

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

#### C.34:1B-160 Joint ventures.

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

#### C.34:1B-161 Written summary of developments in Camden.

18. When undertaking any construction, reconstruction, or other improvement of property which is part of the marine facilities or redevelopment facilities located in the City of Camden, the authority shall provide the Planning Board of the City of Camden with a written summary, for informational purposes only, or an informational presentation to the Planning Board of the City of Camden which shall describe the proposed development.

#### C.34:1B-162 Authority's activities, tax exempt; in lieu of taxes on commercial activities.

19. a. The exercise of the powers granted by this act shall constitute the performance of an essential governmental function and the authority shall not be required to pay any taxes or assessments upon or in respect of its port facilities as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), or any property or moneys of the authority, and the authority, its port facilities, property and moneys and any bonds and notes issued under the provisions of this act, their transfer and the income there-from, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the State except for transfer, inheritance and estate taxes and by any political subdivision of the State.

b. Notwithstanding the provisions of section 15 of P.L.1974, c.80 (C.34:1B-15) to the contrary: (1) any person occupying port facilities of the authority used as redevelopment facilities for commercial purposes, whether as lessee, vendee or otherwise, except a subsidiary corporation as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), shall pay to any political subdivision in which such redevelopment facilities are located a payment in lieu of taxes which shall equal the taxes on real and personal property, including water and sewer service charges and assessments, which that person would have been required to pay to the respective political subdivisions had it been the owner of the property during the period for which such payment is made and neither the subsidiary nor the authority nor any of their projects, properties, moneys or bonds and notes shall be obligated, liable or subject to lien of any kind for the enforcement, collection or payment thereof; (2) the State shall make a payment in lieu of taxes on the authority's port facilities used as marine facilities for commercial purposes and occupied by any person as lessee, except a subsidiary corporation as defined in section 3 of P.L.1997, c.150 (C.34:1B-146) and neither the subsidiary nor the authority nor any of their projects, properties, moneys, or bonds and notes shall be obligated, liable or subject to lien of any kind for the enforcement, collection or payment thereof. The payment by the State shall be made to the City of Camden, subject to annual appropriation by the Legislature, and shall be equal to 40 percent of the fair market value of the property, determined by the Department of the Treasury at the time of transfer of the facilities to the authority pursuant to this act, multiplied by the local municipal purposes tax rate.

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

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

e. In the event that the port facilities of the authority are transferred to another entity which is not subject to taxation, the provisions of this section concerning payments in lieu of taxes shall continue, and any person occupying the transferred redevelopment facilities as a lessee, vendee or otherwise, except a subsidiary corporation defined in section 3 of P.L.1997, c.150 (C.34:1B-146), shall make the payments prescribed in paragraph (1) of subsection b. of this section, and the entity to which the marine facilities are transferred, rather than the State, shall continue to make the payments prescribed in paragraph (2) of subsection b. of this section unless the entity and the City of Camden shall enter into an agreement to provide for a different method of determining the amount of payment in lieu of taxes or otherwise to alter the amount of the payment provided for in paragraph (2) of subsection b. of this section.

f. Notwithstanding the provisions of this section to the contrary, the governing body of a county or municipality in which the port facilities of the authority used as redevelopment facilities are located may, by resolution or ordinance, as appropriate, provide for the reduction in the amount of the in lieu of tax payment which a vendee, lessee or otherwise is required to pay under paragraph (1) of subsection b. of this section. The reduction in the amount shall be for a term of no greater than 20 years from the date of initial occupancy by the vendee, lessee or otherwise and shall be so structured that the total reduction shall constitute no greater than 75 percent of the in lieu of tax payment required under paragraph (1) of subsection b. of this section over the 20-year or lesser period, and shall only be adopted upon a finding that the reduction would be in the best interest of the county or municipality.

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

C.12:11A-1 Legislative findings.

1. The Legislature hereby finds and declares: a. that overlapping jurisdiction and responsibility for port development is not conducive to the provision of adequate port facilities in southern New Jersey; that the South Jersey Port Corporation hereinafter established by this

act, should be the sole agency for the port development which is the purpose of this act; that said corporation should be vested with powers and responsibilities sufficient to fulfill not only its port development purposes but its financial obligations to the government and people of the State of New Jersey; that the Camden Marine Terminals, presently operated and maintained by the South Jersey Port Commission, are ideally suited to serve as the basis from which future port development in South Jersey may proceed; that the acquisition of said Camden Marine Terminals by the South Jersey Port Corporation will enable said corporation to accomplish the purposes of this act; that the indebtedness of the South Jersey Port Commission to its creditors and bondholders and to the city of Camden is properly an obligation of the State of New Jersey and a responsibility of the State of New Jersey to repay to the extent and in the manner provided herein; that prior to the disposition of the Camden Marine Terminals the financial obligations of the South Jersey Port Commission to the city of Camden must be discharged; that the State has already recognized its responsibility and taken steps to fulfill its obligation to the city of Camden by virtue of the appropriation of \$1.5 million from the General Treasury of the State of New Jersey to the South Jersey Port Commission, pursuant to chapter 84 of the Laws of 1967, which sum was applied towards the reduction of the indebtedness of the commission to the city of Camden.

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

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

C.12:11A-6 Powers of corporation.

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

- (a) To adopt bylaws for the regulation of its affairs and the conduct of its business;
- (b) To adopt an official seal and alter the same at pleasure;
- (c) To maintain an office at such place or places within the district as it may designate;
- (d) To sue and be sued in its own name;
- (e) To establish, acquire, construct, rehabilitate, improve, own, operate and maintain marine terminals at such locations within the district as it shall determine;
- (f) To enter into lease agreements with private marine terminal operators for the purpose of operating and maintaining any of the marine terminals established, acquired, owned, constructed, rehabilitated or improved by the corporation;
- (g) To issue bonds or notes of the corporation for any of its corporate purposes and to provide for the rights of the holders thereof as provided in this act;
- (h) To fix and revise from time to time and charge and collect rents, tolls, fees and charges for use of the several functions and services of any marine terminal acquired or constructed by it;
- (i) To establish rules and regulations for the use of any terminal;
- (j) To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;
- (k) To acquire in the name of the corporation by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain any land and other property which it may determine is reasonably necessary for any marine terminal or for the relocation or reconstruction of any highway by the corporation and any and all rights, title and interest in such land and other property, including public lands, parks, playgrounds, reservations, highways or parkways, owned by or in which any county, city,

borough, town, township, village, or other political subdivision of the State of New Jersey has any right, title or interest, or parts thereof or rights therein and any fee simple absolute or any lesser interest in private property, and any fee simple absolute in, easements upon, or the benefit of restrictions upon, abutting property to preserve and protect any marine terminal.

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

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

Upon the filing of the said declaration, the corporation shall deposit with the Clerk of the Superior Court the amount of the estimated compensation stated in said declaration. In addition to the said deposits with the Clerk of the Superior Court the corporation at all times shall maintain a special trust fund on deposit with a bank or trust company doing business in this State in an account at least equal to twice the aggregate amount deposited with the Clerk of the Superior Court as estimated compensation for all property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court. Said trust fund shall consist of cash or securities readily convertible into cash constituting legal investment for trust funds under the laws of this State. Said trust fund shall be held solely to secure and may be applied to the payment of just compensation for the land or other property described in such declarations of taking. The corporation shall be entitled to withdraw from said trust fund from time to time so much as may then be in excess of twice the aggregate of the amount deposited with the Clerk of the Superior Court as estimated compensation for all property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court.

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

The corporation shall cause notice of the filing of said declaration and the making of said deposit to be served upon each party in interest named in the petition residing in this State, either personally or by leaving a copy thereof at his residence, if known, and upon each party in

interest residing out of the State, by mailing a copy thereof to him at his residence, if known. In the event that the residence of any such party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the land is located. Such service, mailing or publication shall be made within 10 days after filing such declaration. Upon the application of any party in interest and after notice to other parties in interest, including the corporation, any judge of the Superior Court assigned to sit for said county may order that the money deposited with the Clerk of the Superior Court or any part thereof be paid forthwith to the person or persons entitled thereto for or on account of the just compensation to be awarded in said proceeding; provided, that each such person shall have filed with the Clerk of the Superior Court a consent in writing that, in the event the award in the condemnation proceeding shall be less than the amount deposited, the court, after notice as herein provided and hearing, may determine his liability, if any, for the return of such difference or any part thereof and enter judgment therefor. If the amount of the award as finally determined shall exceed the amount so deposited, the person or persons to whom the award is payable shall be entitled to recover from the corporation the difference between the amount of the deposit and the amount of the award, with interest at the rate of 6% per annum thereon from the date of making the deposit. If the amount of the award shall be less than the amount so deposited, the Clerk of the Superior Court shall return the difference between the amount of the award and the deposit to the corporation unless the amount of the deposit or any part thereof shall have theretofore been distributed, in which event the court, on petition of the corporation and notice to all persons interested in the award and affording them an opportunity to be heard, shall enter judgment in favor of the corporation for such difference against the party or parties liable for the return thereof. The corporation shall cause notice of the date fixed for such hearing to be served upon each party thereto residing in this State either personally or by leaving a copy thereof at his residence, if known, and upon each party residing out of the State by mailing a copy to him at his residence, if known. In the event that the residence of any party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the land is located. Such service, mailing or publication shall be made at least 10 days before the date fixed for such hearing.

Whenever under the "Eminent Domain Act of 1971" the amount of the award may be paid into court, payment may be made into the Superior Court and may be distributed according to law. The corporation shall not abandon any condemnation proceeding subsequent to the date upon which it has taken possession of the land or property as herein provided;

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

(m) To appoint such additional officers, who need not be members of the corporation as the corporation deems advisable, and to employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment; to fix their compensation; and to promote and discharge such officers, employees and agents; all without regard to the provisions of Title 11A of the New Jersey Statutes; provided, however that in the hiring of any employees or agents the corporation shall hire any full-time employees of the Camden Marine Terminals or of the South Jersey Port Commission, dissolved as hereinafter provided by this act, who express a desire to be employed by the corporation; and provided further, that the corporation shall provide for the protection and maintenance of any contract, agreement or memorandum of understanding concerning wages, working conditions or benefits of any nature whatsoever between said Camden Marine Terminals or South Jersey Port Commission and such employees or their designated representative, and the corporation shall guarantee any pension rights or benefits, including membership in any State, private or other pension plan, of any such employees of the Camden Marine Terminals or the South Jersey Port Commission;

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

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

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

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

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

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

(t) Subject to the terms of any agreement by the corporation with the holders of bonds and notes and in the interests of promoting and establishing unity of authority in the control, development and over the use of the port facilities of the district, to lend, lease, grant or convey to or merge or consolidate with any other regional agency concerned with marine terminal purposes upon such terms and conditions and with such reservations as the corporation shall deem reasonable and fair, any marine terminal or part thereof or any port facility or property which it owns or controls, provided, however, that the corporation shall not act under this subsection until it has submitted to the Legislature any proposed loan, lease, grant or conveyance to or merger with any other regional agency of any marine terminal or port thereof or any other port facility which it owns or controls, and the Legislature has expressed its approval thereof in the form of a concurrent resolution expressing such approval passed by both houses of the Legislature, provided, however, that no such approval shall be required for any action of the corporation or otherwise, pursuant to the provisions of P.L.1997, c.150 (C.34:1B-144 et al.);

(u) Subject to the terms of any agreement by the corporation with the holders of bonds and notes, to lend, lease, transfer, grant or convey to the New Jersey Economic Development Authority any port facility, as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), which is under its jurisdiction, ownership or control;

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

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

C.34:1B-3 Definitions.

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

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

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

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

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

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

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

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

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

h. "Project" means: (1) (a) acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility, including water transmission facilities or other improvement, whether or not in existence or under construction, (b) purchase and installation of equipment and machinery, (c) acquisition and improvement of real estate and the extension or provision of utilities, access roads and other appurtenant facilities; and (2) (a) the acquisition, financing, or refinancing of inventory, raw materials, supplies, work in process, or stock in trade, or (b) the financing, refinancing or consolidation of secured or unsecured debt, borrowings, or obligations, or (c) the provision of financing for any other expense incurred in the ordinary course of business; all of which are to be used or occupied by any person in any enterprise promoting employment, either for the manufacturing, processing or assembly of materials or products, or for research or office purposes, including, but not limited to, medical and other professional facilities, or for industrial, recreational, hotel or motel facilities, public utility and warehousing, or for commercial and service purposes, including, but not limited to, retail outlets, retail shopping centers, restaurant and retail food outlets, and any and all other employment promoting enterprises, including, but not limited to, motion picture and television studios and facilities and commercial fishing facilities, commercial facilities for recreational fishermen, fishing vessels, aquaculture facilities and marketing facilities for fish and fish products and (d) acquisition of an equity interest in, including capital stock of, any corporation; or any combination of the above, which the authority determines will: (i) tend to maintain or provide gainful employment opportunities within and for the people of the State, or (ii) aid, assist and encourage the economic development or redevelopment of any political subdivision of the State,

or (iii) maintain or increase the tax base of the State or of any political subdivision of the State, or (iv) maintain or diversify and expand employment promoting enterprises within the State; and (3) the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of an energy saving improvement or pollution control project which the authority determines will tend to reduce the consumption in a building devoted to industrial or commercial purposes, or in an office building, of nonrenewable sources of energy or to reduce, abate or prevent environmental pollution within the State; and (4) the acquisition, construction, reconstruction, repair, alteration, improvement, extension, development, financing or refinancing of infrastructure and transportation facilities or improvements related to economic development and of cultural, recreational and tourism facilities or improvements related to economic development and of capital facilities for primary and secondary schools and of mixed use projects consisting of housing and commercial development; and (5) the establishment, acquisition, construction, rehabilitation, improvement, and ownership of port facilities as defined in section 3 of P.L.1997, c.150 (C.34:1B-146). Project may also include: (i) reimbursement to any person for costs in connection with any project, or the refinancing of any project or portion thereof, if determined by the authority as necessary and in the public interest to maintain employment and the tax base of any political subdivision and will facilitate improvements thereto or the completion thereof, and (ii) development property and any construction, reconstruction, improvement, alteration, equipment or maintenance or repair, or planning and designing in connection therewith. For the purpose of carrying out mixed use projects consisting of both housing and commercial development, the authority may enter into agreements with the New Jersey Housing and Mortgage Finance Agency for loan guarantees for any such project in accordance with the provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall allocate to the New Jersey Housing and Mortgage Finance Agency, under such agreements, funding available pursuant to subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13).

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

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

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

The foregoing list shall not be construed to be exhaustive, and shall not serve to exclude other improvements consistent with the legislative intent of this amendatory act.

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

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

C.43:15A-7 Public Employees' Retirement System, established, membership.

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

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

b. Any person becoming an employee of the State or other employer after January 2, 1955 and every veteran, other than a retired member who returns to service pursuant to subsection b. of section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those whose appointments are seasonal, becoming an employee of the State or other employer after such date, including a temporary employee with at least one year's continuous service; and

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

d. Membership in the retirement system shall be optional for elected officials other than veterans, and for school crossing guards, who having become eligible for benefits under other pension systems are so employed on a part-time basis. Any such part-time school crossing guard who is eligible for benefits under any other pension system and who was hired as a part-time school crossing guard prior to March 4, 1976, may at any time terminate his membership in the retirement system by making an application in writing to the board of trustees of the retirement system. Upon receiving such application, the board of trustees shall terminate his enrollment in the system and direct the employer to cease accepting contributions from the member or deducting from the compensation paid to the member. State employees who become members of any other retirement system supported wholly or partly by the State as a condition of employment shall not be eligible for membership in this retirement system. Notwithstanding any other law to the contrary, all other persons accepting employment in the service of the State shall be required to enroll in the retirement system as a condition of their employment, regardless of age. No person in employment, office or position, for which the annual salary or remuneration is fixed at less than \$1,500.00, shall be eligible to become a member of the retirement system.

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

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

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

h. A temporary employee who is employed under the federal Job Training Partnership Act, Pub.L. 97-300 (29 U.S.C. s.1501) shall not be eligible for membership in the system. Membership for temporary employees employed under the federal Job Training Partnership Act, Pub.L. 97-300 (29 U.S.C. s.1501) who are in the system on September 19, 1986 shall be terminated, and affected employees shall receive a refund of their accumulated deductions as of the date of commencement of employment in a federal Job Training Partnership Act program. Such refund of contributions shall serve as a waiver of all benefits payable to the employee, to his dependent or dependents, or to any of his beneficiaries under the retirement system.

i. Membership in the retirement system shall be optional for a special service employee who

is employed under the federal Older American Community Service Employment Act, Pub.L.94-135 (42 U.S.C. s.3056). Any special service employee employed under the federal Older American Community Service Employment Act, Pub.L.94-135 (42 U.S.C. s.3056), who is in the retirement system on the effective date of P.L.1996, c.139 may terminate membership in the retirement system by making an application in writing to the board of trustees of the retirement system. Upon receiving the application, the board shall terminate enrollment in the system and the member shall receive a refund of accumulated deductions as of the date of commencement of employment in a federal Older American Community Service Employment Act program. This refund of contributions shall serve as a waiver of all benefits payable to the employee, to any dependent or dependents, or to any beneficiary under the retirement system.

j. An employee of the South Jersey Port Corporation who was employed by the South Jersey Port Corporation as of the effective date of P.L.1997, c.150 (C.34:1B-144 et al.) and who shall be re-employed within 365 days of such effective date by a subsidiary corporation or other corporation, which has been established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the Delaware River Port Authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), shall be eligible to continue membership while an employee of such subsidiary or other corporation.

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

C.43:15A-73 Employees of certain authorities and commissions; State university; compensation rating and inspection bureau.

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

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

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

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

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

The retirement system shall certify to the Commissioner of Banking and Insurance and the Commissioner of Banking and Insurance shall direct the Compensation Rating and Inspection Bureau to provide the necessary payments to the retirement system in accordance with procedures established by the retirement system. Such payments shall include (1) the contributions and charges, similar to those paid by other public agency employers, to be paid by the Compensation Rating and Inspection Bureau to the retirement system on behalf of its employee members, and (2) the contributions to be paid by the Compensation Rating and Inspection Bureau to provide the past service credits up to June 30, 1965 for these members, both veterans and nonveterans, who enroll before July 1, 1966.

d. The New Jersey Sports and Exposition Authority, created and established pursuant to the

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

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

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

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

f. (1) The Casino Reinvestment Development Authority, created and established pursuant to P.L.1984, c.218 (C.5:12-153 et seq.), the New Jersey Urban Development Corporation, created and established pursuant to P.L.1985, c.227 (C.55:19-1 et seq.), the South Jersey Food Distribution Authority, created and established pursuant to P.L.1985, c.383 (C.4:26-1 et seq.), the New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises, created and established pursuant to P.L.1985, c.386 (C.34:1B-47 et seq.), and the Catastrophic Illness in Children Relief Fund Commission, created and established pursuant to P.L.1987, c.370 (C.26:2-148 et seq.) shall each, for all purposes of this act, be deemed an employer and eligible authority, corporation, or commission. Employees, both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees.

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

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

g. A subsidiary corporation or other corporation established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the authority

(R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), shall, for all purposes of this act, be deemed an employer and its eligible employees, both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees. Employees of the subsidiary or other corporation eligible for participation in the retirement system under this subsection shall include only persons who are employees of the South Jersey Port Corporation on the effective date of P.L.1997, c.150 (C.34:1B-144 et al.) and are re-employed by the subsidiary or other corporation within 365 days of the effective date.

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

C.52:14-17.26 Definitions relative to health care benefits for public employees.

2. As used in this act:

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

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

(c) The term "employee" means an appointive or elective officer or full-time employee of the State of New Jersey. For the purposes of this act an employee of Rutgers, The State University of New Jersey, shall be deemed to be an employee of the State, and an employee of the New Jersey Institute of Technology shall be considered to be an employee of the State during such time as the Trustees of the Institute are party to a contractual agreement with the State Treasurer for the provision of educational services. The term "employee" shall further mean, for purposes of this act, a former employee of the South Jersey Port Corporation, who is employed by a subsidiary corporation or other corporation, which has been established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the Delaware River Port Authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), and who is eligible for continued membership in the Public Employees' Retirement System pursuant to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

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

(d) The term "dependents" means an employee's spouse and the employee's unmarried children under the age of 23 years who live with the employee in a regular parent-child relationship. "Children" shall include stepchildren, legally adopted children and foster children provided they are reported for coverage and are wholly dependent upon the employee for support and maintenance. A spouse or child enlisting or inducted into military service shall not be considered a dependent during the military service. The term "dependents" shall not include spouses of retired persons who are otherwise eligible for the benefits under this act but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program.

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

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

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

(h) The term "Medicare" means the program established by the "Health Insurance for the Aged Act," Title XVIII of the "Social Security Act," Pub.L. 89-97 (42 U.S.C. s.1395 et seq.), as amended, or its successor plan or plans.

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

26. Section 4 of P.L.1964, c.125 (C.52:14-17.35) is amended to read as follows:

C.52:14-17.35 Definitions.

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

(a) The term "employer" means a county, municipality, school district, public agency or organization as defined in section 71 of P.L.1954, c.84, including the New Jersey Turnpike Authority, the New Jersey Highway Authority, the Interstate Sanitation Commission, the Delaware River Basin Commission, New Jersey Housing Finance Agency, New Jersey Educational Facilities Authority, Hackensack Meadowlands Development Commission and the Compensation Rating and Inspection Bureau. The term "employer" shall include a subsidiary corporation or other corporation established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), except that only persons who are employees of the South Jersey Port Corporation on the effective date of P.L.1997, c.150 (C.34:1B-144 et al.) and are re-employed by the subsidiary or other corporation within 365 days of the effective date are eligible to participate in the program.

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

C.34:1B-163 Eligibility of employees for State Health Benefits Program.

27. A subsidiary corporation or other corporation established by the Delaware River Port Authority which has employees eligible to participate in the State Health Benefits Program as provided in section 3 of P.L.1964, c.125 (C.52:14-17.34) shall participate in the program in accordance with the laws and rules governing the program as long as it has employees participating in the program.

C.34:1B-164 Concurrent resolution expressing disapproval of Legislature.

28. At any time, the Legislature may express its disapproval of a decision, action or procedure of the subsidiary corporation established by the Delaware River Port Authority pursuant to the provisions of the "Port Unification and Financing Act," P.L.1997, c.150 (C.34:1B-144 et al.), by an affirmative vote of a majority of the authorized membership of both houses adopting a concurrent resolution setting forth the Legislature's findings and declarations and expressing the Legislature's disapproval of the matter at issue. Upon adoption, the concurrent resolution shall be transmitted by the Clerk of the General Assembly or the Secretary of the Senate to the Governor, all the directors of the subsidiary corporation from each state, the chairman and executive director of the Delaware River Port Authority, and the chairman and executive director of the New Jersey Economic Development Authority.

29. This act shall take effect immediately.

Approved June 30, 1997.