

SENATE, No. 1499

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1996

By Senators HAINES and BRYANT

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 15 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 the facilities by a subsidiary corporation of the Delaware River Port
28 Authority, with the employees of the South Jersey Port Corporation
29 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"
33 means the New Jersey Economic Development Authority created
34 pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4) or a subsidiary

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 corporation of the authority created pursuant to section 7 of this act.

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

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

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

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

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

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

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

30

31 4. (New section) a. For the purpose of providing funds for the
32 financing or refinancing of port facilities, the authority shall have the
33 power to provide for the funding or refunding of any bonds or notes,
34 incur indebtedness, borrow money and issue bonds, notes or other
35 obligations secured in whole or in part by the monies in the Port
36 Facility Revenue Fund or by any state contract or both. However, the
37 authority shall not issue bonds, notes or other obligations refunding
38 the bonds or notes of the South Jersey Port Corporation until the State
39 Treasurer and the authority have approved an agreement pursuant to
40 subsection d. of this section providing for the operation and
41 maintenance of the port facilities of the South Jersey Port Corporation.
42 The bonds or notes shall be authorized by resolution, which shall
43 stipulate the manner of execution and form of the bonds or notes,
44 whether the bonds or notes are in one or more series, the date of issue,
45 time or times of maturity, which (in the case of bonds) shall not exceed
46 30 years, the rate or rates of interest payable on the bonds or notes,

1 the denomination or denominations in which the bonds or notes are
2 issued, conversion or registration privileges, the sources and medium
3 of payment and place or places of payment and terms of redemption.
4 The bonds or notes may be sold at a public or private sale at a price or
5 prices determined by the authority.

6 b. The authority is hereby authorized to acquire the port facilities
7 of the South Jersey Port Corporation transferred pursuant to this act
8 either (1) from the proceeds of bonds or notes, (2) in consideration of
9 the assumption of the liabilities of the South Jersey Port Corporation,
10 either directly or by virtue of the defeasance of the outstanding bonds
11 or notes and obligations of the South Jersey Port Corporation, (3)
12 with any monies in the Port Facility Revenue Fund, or (4) with funds
13 from any other source, including any appropriations by the Legislature.

14 c. The authority is hereby authorized to acquire or lease additional
15 port facilities either (1) from the proceeds of bonds or notes, (2) in
16 consideration of the assumption of the liabilities of another entity,
17 either directly or by virtue of the refinancing of outstanding
18 obligations, (3) with any monies in the Port Facility Revenue Fund, or
19 (4) with funds from any other source, including any appropriations by
20 the Legislature, subject to the approval of the State Treasurer.

21 d. The authority is hereby authorized to enter into any agreement
22 with a subsidiary corporation or any other entity, including the South
23 Jersey Port Corporation, with respect to the lease, management or
24 other operation of the port facilities, including defense of litigation
25 against the South Jersey Port Corporation, on such terms as the
26 authority shall deem appropriate, such agreement to be subject to the
27 approval of the State Treasurer.

28 e. The authority is hereby authorized to convey or reconvey the
29 port facilities to any other entity, including but not limited to the South
30 Jersey Port Corporation, upon the direction of the State 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, and covenant as to the use and
36 disposition of monies in the Port Facility Revenue Fund. All costs
37 associated with the issuance of the bonds or notes by the authority for
38 the purposes set forth in this act may be paid by the authority from the
39 proceeds of bonds or notes or from the Port Facility Revenue Fund, as
40 the authority shall determine, which costs may include, but shall not be
41 limited to, any costs related to the issuance of bonds or notes,
42 operating expenses of the authority attributable to the payment of
43 current and anticipated liabilities and expenses, and costs of, and any
44 payment due under, any agreement, including any agreement entered
45 into pursuant to the provisions of subsection b. of section 7 of this act.
46 Monies in the Port Facility Revenue Fund shall not be used for any

1 other purposes of the authority than those provided in this act.

2

3 6. (New section) There is created within the authority a special
4 nonlapsing fund, to be known as the "Port Facility Revenue Fund."

5 This fund shall consist of:

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

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

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

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

18

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

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

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

1 d. The authority may, in connection with its duties and
2 responsibilities under this act, create a subsidiary corporation of the
3 authority.

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

11

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

28

29 12. (New section) Notwithstanding any other provision of law to
30 the contrary, the State or the authority, or both, are authorized, at the
31 direction of the State Treasurer, to enter into an agreement with the
32 Delaware River Port Authority or the subsidiary corporation, or both,
33 which would provide that the State or the authority, or both, will
34 indemnify and save harmless the Delaware River Port Authority or the
35 subsidiary corporation, or both, from any and all claims or causes of
36 action which are based on the condition of the port facilities
37 transferred pursuant to this act. Neither the State nor the authority are,
38 however, authorized to enter into an agreement which obligates the
39 State or the authority to indemnify or save harmless the Delaware
40 River Port Authority or the subsidiary corporation from any damages
41 which directly result from any action or inaction by the Delaware River
42 Port Authority or the subsidiary corporation, or both, or any of their
43 agents, servants or employees.

44

45 13. (New section) The State Treasurer and the authority may enter
46 into any agreements as may be necessary to effectuate the provisions

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

16

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

22 b. On the transfer date:

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

27 (2) All powers and duties which hitherto were exercised by the
28 corporation with respect to its port facilities transferred pursuant to
29 this section may henceforth be exercised by the authority. The
30 authority may permit the exercise of these powers and duties by the
31 subsidiary corporation as may be necessary or convenient to operate
32 and maintain the port facilities which are the subject of the lease,
33 management or operational agreement between the authority and the
34 subsidiary corporation authorized pursuant to subsection d. of section
35 4 of this act.

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

31

32 15. (New section) Notwithstanding the provisions of this act to
33 the contrary, in the event that the port facilities of the Salem Municipal
34 Port Corporation are acquired by the South Jersey Port Corporation,
35 the corporation shall, not later than six months after the date of
36 acquisition of the facilities, or six months after the effective date of
37 this act, whichever is later, enter into an agreement with a person
38 other than a public entity to operate and maintain the facilities. Upon
39 the expiration of that agreement the corporation shall enter into an
40 agreement with the New Jersey Economic Development Authority, a
41 subsidiary corporation of the Delaware River Port Authority, the
42 Delaware River and Bay Authority or other public entity, to operate
43 and maintain the facilities, or shall enter into an agreement to transfer
44 the facilities to any one of the foregoing entities. Any agreement
45 entered into pursuant to this section shall be subject to the approval of
46 the State Treasurer and if such an agreement shall result in any

1 payments to the South Jersey Port Corporation such payments shall be
2 remitted to the State Treasurer for deposit in the General Fund.

3

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (k) To acquire in the name of the corporation by purchase or
29 otherwise, on such terms and conditions and in such manner as it may
30 deem proper, or by the exercise of the power of eminent domain any
31 land and other property which it may determine is reasonably
32 necessary for any marine terminal or for the relocation or
33 reconstruction of any highway by the corporation and any and all
34 rights, title and interest in such land and other property, including
35 public lands, parks, playgrounds, reservations, highways or parkways,
36 owned by or in which any county, city, borough, town, township,
37 village, or other political subdivision of the State of New Jersey has
38 any right, title or interest, or parts thereof or rights therein and any fee
39 simple absolute or any lesser interest in private property, and any fee
40 simple absolute in, easements upon, or the benefit of restrictions upon,
41 abutting property to preserve and protect any marine terminal.

42 Upon the exercise of the power of eminent domain, the
43 compensation to be paid thereunder shall be ascertained and paid in
44 the manner provided in chapter 1 of Title 20 of the Revised Statutes
45 insofar as the provisions thereof are applicable and not inconsistent
46 with the provisions contained in this act. The corporation may join

1 in separate subdivisions in one petition or complaint the descriptions
2 of any number of tracts or parcels of land or property to be
3 condemned and the names of any number of owners and other parties
4 who may have an interest therein and all such land or property
5 included in said petition or complaint may be condemned in a single
6 proceeding; provided, however, that separate awards be made for each
7 tract or parcel of land or property; and provided further, that each of
8 said tracts or parcels of land or property lies wholly in or has a
9 substantial part of its value lying wholly within the same county.

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

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

1 determined and paid to the persons entitled thereto or into court.

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

14 The corporation shall cause notice of the filing of said declaration
15 and the making of said deposit to be served upon each party in interest
16 named in the petition residing in this State, either personally or by
17 leaving a copy thereof at his residence, if known, and upon each party
18 in interest residing out of the State, by mailing a copy thereof to him
19 at his residence, if known. In the event that the residence of any such
20 party or the name of such party is unknown, such notice shall be
21 published at least once in a newspaper published or circulating in the
22 county or counties in which the land is located. Such service, mailing
23 or publication shall be made within 10 days after filing such
24 declaration. Upon the application of any party in interest and after
25 notice to other parties in interest, including the corporation, any judge
26 of the Superior Court assigned to sit for said county may order that
27 the money deposited with the Clerk of the Superior Court or any part
28 thereof be paid forthwith to the person or persons entitled thereto for
29 or on account of the just compensation to be awarded in said
30 proceeding; provided, that each such person shall have filed with the
31 Clerk of the Superior Court a consent in writing that, in the event the
32 award in the condemnation proceeding shall be less than the amount
33 deposited, the court, after notice as herein provided and hearing, may
34 determine his liability, if any, for the return of such difference or any
35 part thereof and enter judgment therefor. If the amount of the award
36 as finally determined shall exceed the amount so deposited, the person
37 or persons to whom the award is payable shall be entitled to recover
38 from the corporation the difference between the amount of the deposit
39 and the amount of the award, with interest at the rate of 6% per
40 annum thereon from the date of making the deposit. If the amount of
41 the award shall be less than the amount so deposited, the Clerk of the
42 Superior Court shall return the difference between the amount of the
43 award and the deposit to the corporation unless the amount of the
44 deposit or any part thereof shall have theretofore been distributed, in
45 which event the court, on petition of the corporation and notice to all
46 persons interested in the award and affording them an opportunity to

1 be heard, shall enter judgment in favor of the corporation for such
2 difference against the party or parties liable for the return thereof.
3 The corporation shall cause notice of the date fixed for such hearing
4 to be served upon each party thereto residing in this State either
5 personally or by leaving a copy thereof at his residence, if known, and
6 upon each party residing out of the State by mailing a copy to him at
7 his residence, if known. In the event that the residence of any party
8 or the name of such party is unknown, such notice shall be published
9 at least once in a newspaper published or circulating in the county or
10 counties in which the land is located. Such service, mailing or
11 publication shall be made at least 10 days before the date fixed for
12 such hearing.

13 Whenever under chapter 1 of Title 20 of the Revised Statutes the
14 amount of the award may be paid into court, payment may be made
15 into the Superior Court and may be distributed according to law. The
16 corporation shall not abandon any condemnation proceeding
17 subsequent to the date upon which it has taken possession of the land
18 or property as herein provided;

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

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

43 (n) To apply for, receive and accept from any Federal agency,
44 subject to the approval of the Governor, grants for or in aid of the
45 planning or construction of any marine terminal, and to receive and
46 accept aid or contributions from any source, of either money,

1 property, labor or other things of value, to be held, used and applied
2 only for the purposes for which such grants and contributions may be
3 made;

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

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

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

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

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

28 (t) Subject to the terms of any agreement by the corporation with
29 the holders of bonds and notes and in the interests of promoting and
30 establishing unity of authority in the control, development and over the
31 use of the port facilities of the district, to lend, lease, grant or convey
32 to or merge or consolidate with any other regional agency concerned
33 with marine terminal purposes upon such terms and conditions and
34 with such reservations as the corporation shall deem reasonable and
35 fair, any marine terminal or [port] part thereof or any port facility or
36 property which it owns or controls, provided, however, that the
37 corporation shall not act under this subsection until it has submitted
38 to the Legislature any proposed loan, lease, grant or conveyance to or
39 merger with any other regional agency of any marine terminal or port
40 thereof or any other port facility which it owns or controls, and the
41 Legislature has expressed its approval thereof in the form of a
42 concurrent resolution expressing such approval passed by both houses
43 of the Legislature, provided, however, that no such approval shall be
44 required for any action of the corporation or otherwise, pursuant to
45 the provisions of P.L. , c. (C.)(now before the Legislature as
46 this bill).

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

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

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

10
11 18. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read as
12 follows:

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

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

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

20 c. "Cost" means the cost of the acquisition, construction,
21 reconstruction, repair, alteration, improvement and extension of any
22 building, structure, facility including water transmission facilities, or
23 other improvement; the cost of machinery and equipment; the cost of
24 acquisition, construction, reconstruction, repair, alteration,
25 improvement and extension of energy saving improvements or
26 pollution control devices, equipment or facilities; the cost of lands,
27 rights-in-lands, easements, privileges, agreements, franchises, utility
28 extensions, disposal facilities, access roads and site development
29 deemed by the authority to be necessary or useful and convenient for
30 any project or in connection therewith; discount on bonds; cost of
31 issuance of bonds; engineering and inspection costs; costs of financial,
32 legal, professional and other estimates and advice; organization,
33 administrative, insurance, operating and other expenses of the
34 authority or any person prior to and during any acquisition or
35 construction, and all such expenses as may be necessary or incident to
36 the financing, acquisition, construction or completion of any project
37 or part thereof, and also such provision for reserves for payment or
38 security of principal of or interest on bonds during or after such
39 acquisition or construction as the authority may determine.

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

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

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

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

31 h. "Project" means: (1) (a) acquisition, construction,
32 reconstruction, repair, alteration, improvement and extension of any
33 building, structure, facility, including water transmission facilities or
34 other improvement, whether or not in existence or under construction,
35 (b) purchase and installation of equipment and machinery, (c)
36 acquisition and improvement of real estate and the extension or
37 provision of utilities, access roads and other appurtenant facilities; and
38 (2) (a) the acquisition, financing, or refinancing of inventory, raw
39 materials, supplies, work in process, or stock in trade, or (b) the
40 financing, refinancing or consolidation of secured or unsecured debt,
41 borrowings, or obligations, or (c) the provision of financing for any
42 other expense incurred in the ordinary course of business; all of which
43 are to be used or occupied by any person in any enterprise promoting
44 employment, either for the manufacturing, processing or assembly of
45 materials or products, or for research or office purposes, including,
46 but not limited to, medical and other professional facilities, or for

1 industrial, recreational, hotel or motel facilities, public utility and
2 warehousing, or for commercial and service purposes, including, but
3 not limited to, retail outlets, retail shopping centers, restaurant and
4 retail food outlets, and any and all other employment promoting
5 enterprises, including, but not limited to, motion picture and television
6 studios and facilities and commercial fishing facilities, commercial
7 facilities for recreational fishermen, fishing vessels, aquaculture
8 facilities and marketing facilities for fish and fish products and (d)
9 acquisition of an equity interest in, including capital stock of, any
10 corporation; or any combination of the above, which the authority
11 determines will: (i) tend to maintain or provide gainful employment
12 opportunities within and for the people of the State, or (ii) aid, assist
13 and encourage the economic development or redevelopment of any
14 political subdivision of the State, or (iii) maintain or increase the tax
15 base of the State or of any political subdivision of the State, or (iv)
16 maintain or diversify and expand employment promoting enterprises
17 within the State; and (3) the cost of acquisition, construction,
18 reconstruction, repair, alteration, improvement and extension of an
19 energy saving improvement or pollution control project which the
20 authority determines will tend to reduce the consumption in a building
21 devoted to industrial or commercial purposes, or in an office building,
22 of nonrenewable sources of energy or to reduce, abate or prevent
23 environmental pollution within the State; and (4) the acquisition,
24 construction, reconstruction, repair, alteration, improvement,
25 extension, development, financing or refinancing of infrastructure and
26 transportation facilities or improvements related to economic
27 development and of cultural, recreational and tourism facilities or
28 improvements related to economic development and of capital facilities
29 for primary and secondary schools and of mixed use projects
30 consisting of housing and commercial development; and (5) the
31 establishment, acquisition, construction, rehabilitation, improvement,
32 and ownership of port facilities as defined in section 3 of P.L. _____,
33 c. (C. _____) (now before the Legislature as this bill). Project may
34 also include: (i) reimbursement to any person for costs in connection
35 with any project, or the refinancing of any project or portion thereof,
36 if determined by the authority as necessary and in the public interest
37 to maintain employment and the tax base of any political subdivision
38 and will facilitate improvements thereto or the completion thereof, and
39 (ii) development property and any construction, reconstruction,
40 improvement, alteration, equipment or maintenance or repair, or
41 planning and designing in connection therewith. For the purpose of
42 carrying out mixed use projects consisting of both housing and
43 commercial development, the authority may enter into agreements with
44 the New Jersey Housing and Mortgage Finance Agency for loan
45 guarantees for any such project in accordance with the provisions of
46 P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall

1 allocate to the New Jersey Housing and Mortgage Finance Agency,
2 under such agreements, funding available pursuant to subsection a. of
3 section 4 of P.L.1992, c.16 (C.34:1B-7.13).

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

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

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

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

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

41

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

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

1 shall include:

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

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

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

14 d. Membership in the retirement system shall be optional for
15 elected officials other than veterans, and for school crossing guards,
16 who having become eligible for benefits under other pension systems
17 are so employed on a part-time basis. Any such part-time school
18 crossing guard who is eligible for benefits under any other pension
19 system and who was hired as a part-time school crossing guard prior
20 to March 4, 1976, may at any time terminate his membership in the
21 retirement system by making an application in writing to the board of
22 trustees of the retirement system. Upon receiving such application,
23 the board of trustees shall terminate his enrollment in the system and
24 direct the employer to cease accepting contributions from the member
25 or deducting from the compensation paid to the member. State
26 employees who become members of any other retirement system
27 supported wholly or partly by the State as a condition of employment
28 shall not be eligible for membership in this retirement system.
29 Notwithstanding any other law to the contrary, all other persons
30 accepting employment in the service of the State shall be required to
31 enroll in the retirement system as a condition of their employment,
32 regardless of age. No person in employment, office or position, for
33 which the annual salary or remuneration is fixed at less than
34 \$1,500.00, shall be eligible to become a member of the retirement
35 system.

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

38 f. The accumulated deductions of the members of the former "State
39 Employees' Retirement System" which have been set aside in a trust
40 fund designated as Fund A as provided in section 5 of this act and
41 which have not been claimed for refund prior to February 1, 1955 shall
42 be transferred from said Fund A to the Annuity Savings Fund of the
43 Retirement System, provided for in section 25 of this act. Each
44 member whose accumulated deductions are so transferred shall receive
45 the same prior service credit, pension credit, and membership credit in
46 the retirement system as he previously had in the former "State

1 Employees' Retirement System" and shall have such accumulated
2 deductions credited to his individual account in the Annuity Savings
3 Fund. Any outstanding obligations of such member shall be continued.

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

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

23 i. An employee of the South Jersey Port Corporation who was
24 employed by the South Jersey Port Corporation as of the effective date
25 of P.L. , c. (C.) (now before the Legislature as this bill) and
26 who shall be re-employed within 365 days of such effective date by a
27 subsidiary corporation or other corporation, which has been
28 established by the Delaware River Port Authority pursuant to
29 subdivision (m) of Article I of the compact creating the Delaware
30 River Port Authority (R.S.32:3-2), as defined in section 3 of P.L. ,
31 c. (C.) (now before the Legislature as this bill), shall be eligible
32 to continue membership while an employee of such subsidiary or other
33 corporation.

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

35

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

38 2. As used in this act:

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

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

42 (c) The term "employee" means an appointive or elective officer or
43 full-time employee of the State of New Jersey. For the purposes of
44 this act an employee of Rutgers, The State University of New Jersey,
45 shall be deemed to be an employee of the State, and an employee of
46 the New Jersey Institute of Technology shall be considered to be an

1 employee of the State during such time as the Trustees of the Institute
2 are party to a contractual agreement with the State Treasurer for the
3 provision of educational services. The term "employee" shall further
4 mean, for purposes of this act, a former employee of the South Jersey
5 Port Corporation, who is employed by a subsidiary corporation or
6 other corporation, which has been established by the Delaware River
7 Port Authority pursuant to subdivision (m) of Article I of the compact
8 creating the Delaware River Port Authority (R.S.32:3-2), as defined
9 in section 3 of P.L. , c. (C.) (now before the Legislature as
10 this bill), and who is eligible for continued membership in the Public
11 Employees' Retirement System pursuant to subsection i. of section 7
12 of P.L.1954, c.84 (C.43:15A-7).

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

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

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

1 or the like, in consideration of premiums or other periodic charges
2 payable to the carrier.

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

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

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

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

41 (cf: P.L.1996, c.8, s.1)

42

43 21. This act shall take effect immediately.

STATEMENT

1

2

3 The purpose of this bill is to facilitate the unification of the ports of
4 the Delaware river. In 1992, amendments were approved to the
5 Compact between the Commonwealth of Pennsylvania and the State
6 of New Jersey creating the Delaware River Port Authority (DRPA).
7 One of the fundamental purposes of those changes was to permit the
8 DRPA to take action to unify the ports of the Delaware river through
9 the acquisition or control of marine terminals or facilities or
10 transportation facilities or by the acquisition of, or merger with, the
11 existing port authorities or corporations within the Port District, such
12 as the South Jersey Port Corporation or the Philadelphia Regional Port
13 Authority. Such action would have to conform to the applicable laws
14 of the two respective states. The DRPA was also empowered to set
15 up subsidiary corporations for this purpose.

16 This legislation constitutes the changes to New Jersey's law which
17 are required to facilitate the transfer of the assets and liabilities of the
18 South Jersey Port Corporation to the New Jersey Economic
19 Development Authority (EDA) and the operation of its port facilities
20 by a subsidiary or other corporation of the DRPA. The legislation
21 would also authorize the EDA to issue bonds for port development
22 purposes, including the refinancing of the currently outstanding bonds
23 of the South Jersey Port Corporation, and to enter into an agreement
24 with a subsidiary corporation of the DRPA or any other entity with
25 respect to the lease, management or other operation of the port
26 facilities, subject to the approval of the State Treasurer. On the date
27 on which the outstanding bonds of the South Jersey Port Corporation
28 are refunded, the port facilities, and the assets and liabilities of the
29 corporation, would be transferred to the EDA. Before this could
30 happen, however, the State Treasurer and the EDA must approve the
31 lease, management or operation agreement with the subsidiary
32 corporation or other entity.

33 The legislation also provides specifically for the following:

34 (1) Creation of a Port Facility Revenue Fund which may be
35 pledged to pay for the redemption of bonds or notes, or to pay the
36 principal and interest on bonds issued by the EDA.

37 (2) Indemnification by the State of the EDA from actions, claims,
38 judgments or awards relating to the port facilities acquired by the EDA
39 or from acts or omissions by the South Jersey Port Corporation or the
40 subsidiary corporation.

41 (3) An agreement to indemnify the South Jersey Port Corporation
42 employees or members for acts or omissions by or on behalf of the
43 South Jersey Port Corporation.

44 (4) The State Treasurer and the EDA are authorized to enter into
45 agreements as may be necessary to effectuate the provisions of this
46 bill, such as procedures for the transfer of monies to the Port Facility

1 Revenue Fund.

2 (5) Exempting the actions by the South Jersey Port Corporation or
3 otherwise pursuant to this bill from the requirements of subsection (t)
4 of section 6 of P.L.1968, c.60 (C.12:11A-6) and making the
5 corporation's powers under that section subject to agreements with the
6 bondholders to transfer the port facilities to the EDA.

7 (6) Authorizing the State and/or the EDA to enter into any
8 agreement, at the direction of the State Treasurer, with the DRPA
9 and/or the subsidiary corporation to provide that the State and /or the
10 EDA will indemnify and save harmless the DRPA and/or the subsidiary
11 corporation from any and all claims or causes of action which are
12 based on the condition of the port facilities.

13 (7) Requiring any agreements between the EDA and the State
14 Treasurer entered into pursuant to section 13 of this bill to require the
15 subsidiary corporation to indemnify and save harmless the EDA, its
16 members or employees, from claims of any type relating to the lease,
17 operation, and management of the subsidiary corporation.

18 (8) Continuation of membership in the State pension and health
19 benefits system of employees of the South Jersey Port Corporation
20 who are employed by a subsidiary corporation or other corporation of
21 the DRPA within 365 days of the effective date of this bill.

22 The bill additionally provides for any port facilities of the Salem
23 Municipal Port Authority acquired by the South Jersey Port
24 Corporation to be leased to a private marine terminal operator and
25 after the expiration of the lease either to be operated by the EDA, a
26 subsidiary corporation of the DRPA, the Delaware River and Bay
27 Authority or other public entity, or transferred to any one of them.

28

29

30

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32 Provides for transfer of facilities of South Jersey Port Corporation to
33 New Jersey Economic Development Authority, issuance of bonds and
34 other measures to facilitate port unification.