

# SENATE TRANSPORTATION COMMITTEE

## STATEMENT TO

### **SENATE, No. 1499**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 18, 1996

The Senate Transportation Committee reports without recommendation Senate Bill No. 1499 with committee amendments.

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

This legislation constitutes the changes to New Jersey's law which are required to facilitate the transfer of the assets and liabilities of the South Jersey Port Corporation to the New Jersey Economic Development Authority (EDA) and the operation of its port facilities by a subsidiary or other corporation of the DRPA. The legislation would also authorize the EDA to issue bonds for port development purposes, as well as for the refinancing or refunding of the currently outstanding bonds of a port corporation or authority, including the South Jersey Port Corporation. The EDA is authorized to enter into an agreement with a subsidiary corporation of the DRPA or any other entity with respect to the lease, management or other operation of the port facilities, subject to the approval of the State Treasurer. However, the EDA is authorized to enter into an agreement with a subsidiary corporation of the DRPA only on the following conditions: that the Governor has the discretion to veto the minutes of a meeting of the subsidiary corporation; that the corporation has the same number of members from New Jersey as from Pennsylvania; and that actions be taken by simple majority vote not by an extraordinary or qualified majority. On the date on which the bonds of the South Jersey Port Corporation cease to be outstanding, the port facilities,

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

The legislation also provides specifically for the following:

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

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

(3) Indemnification of the South Jersey Port Corporation, its employees or members for acts or omissions by or on behalf of the South Jersey Port Corporation, or the subsidiary corporation or in relation to the port facilities transferred pursuant to this bill or arising from or as a result of the condition of these facilities.

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

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

(6) Authorizing the State Treasurer to enter into an agreement, with the DRPA and/or the subsidiary corporation to provide that the State shall indemnify and save harmless the DRPA and/or the subsidiary corporation from any and all claims or causes of action which are based on the condition of the port facilities transferred to the EDA pursuant to this bill.

(7) Providing that any agreements between the EDA and the State Treasurer entered into pursuant to section 13 of this bill shall require the subsidiary corporation to indemnify and save harmless the EDA, its members or employees, from claims of any type relating to the lease, operation, and management of the port facilities by the subsidiary corporation.

(8) Continuation of membership in the State pension and health benefits system of employees of the South Jersey Port Corporation who are employed by a subsidiary corporation or other corporation of the DRPA within 365 days of the effective date of this bill. All officers and employees of the corporation are to be employed by the subsidiary corporation until determined otherwise by that corporation.

(9) Creation of a subsidiary of the EDA to carry out the purposes of this bill.

The bill additionally provides for any port facilities of the Salem Municipal Port Authority previously acquired by the South Jersey Port Corporation to be leased to a private marine terminal operator within six months of the effective date of the bill and after the expiration of the lease to be transferred to the EDA, unless the lessee or operator has exercised an option to purchase or acquire the facilities. If the South Jersey Port Corporation fails to enter into the lease arrangement within the six months period, the facilities are to be transferred to the EDA at the expiration of that period.

The bill finally provides that when undertaking any construction, reconstruction or other improvement of property which is part of the marine facilities or redevelopment facilities (defined as port facilities excluding marine facilities and personal property), the EDA shall provide to the City of Camden Planning Board a written summary, for informational purposes only, or an informational presentation which shall describe the proposed development.

The committee amended the bill to exclude the former port facilities of the Salem Municipal Port Authority from the port facilities to be transferred to the EDA, made technical and clarifying changes to the sections of the bill dealing with the issuance of bonds, made changes to the indemnification sections, provided in more detail for the authority of the EDA to create a subsidiary to deal with port matters, and provided for additional amendments to existing law to ensure the continuation of pension and other benefits of employees to be employed by the subsidiary or other corporation of the DRPA.

The amendments also provide for the final disposition of the former Salem Municipal Port Authority facilities, veto power for the Governor over the subsidiary corporation minutes, as well as equal membership thereon for New Jersey and Pennsylvania and actions to be taken by a simple majority vote of the corporation, and notice to the City of Camden of proposed development by the EDA.

The committee is concerned and cognizant that this legislation not supplant private industry operations where these operations are effectively satisfying market need.