

SENATE, No. 3989

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 24, 2021

Sponsored by:

Senator JOSEPH P. CRYAN

District 20 (Union)

SYNOPSIS

Authorizes NJT to impose civil fines for certain violations of code of conduct.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the powers of the New Jersey Transit
2 Corporation and amending P.L.1979, c.150 and P.L.1997, c.357.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 5 of P.L.1979, c.150 (C.27:25-5) is amended to read
8 as follows:

9 5. In addition to the powers and duties conferred upon it
10 elsewhere in this act, the corporation may do all acts necessary and
11 reasonably incident to carrying out the objectives of this act,
12 including but not in limitation thereof the following:

13 a. Sue and be sued;

14 b. Have an official seal and alter the same at pleasure;

15 c. Make and alter bylaws for its organization and internal
16 management and for the conduct of its affairs and business;

17 d. Maintain an office at such place or places within the State as
18 it may determine;

19 e. Adopt, amend and repeal such rules and regulations as it
20 may deem necessary to effectuate the purposes of this act, which
21 shall have the force and effect of law; it shall publish the same and
22 file them in accordance with the "Administrative Procedure Act,"
23 P.L.1968, c.410 (C.52:14B-1 et seq.) with the Director of the Office
24 of Administrative Law;

25 f. Call to its assistance and avail itself of the service of such
26 employees of any federal, State, county or municipal department or
27 agency as it may require and as may be available to it for said
28 purpose;

29 g. Apply for, accept and expend money from any federal, State,
30 county or municipal agency or instrumentality and from any private
31 source as gifts, grants, or loans; comply with federal statutes, rules
32 and regulations, and qualify for and receive all forms of financial
33 assistance available under federal law to assure the continuance of,
34 or for the support or improvement of public transportation and as
35 may be necessary for that purpose to enter into agreements,
36 including federally required labor protective agreements;

37 h. Plan, design, construct, equip, operate, improve, maintain,
38 and, through the New Jersey Transportation Trust Fund Authority,
39 finance either directly or by contract with any public or private
40 entity, public transportation services, capital equipment and
41 facilities or any parts or functions thereof, and other transportation
42 projects, or any parts or functions thereof, which may be funded
43 under section 3 of the federal Urban Mass Transportation Act of
44 1964, Pub.L.88-365 (49 U.S.C. s.1602), or any successor or
45 additional federal act having substantially the same or similar

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

Matter underlined thus is new matter.

- 1 purposes or functions; the operation of the facilities of the
2 corporation, by the corporation or any public or private entity, may
3 include appropriate and reasonable limitations on competition in
4 order that maximum service may be provided most efficiently to the
5 public;
- 6 i. Apply for and accept, from appropriate regulatory bodies,
7 authority to operate public transportation services where necessary;
- 8 j. Purchase, lease as lessee, or otherwise acquire, own, hold,
9 improve, use and otherwise deal in and with real or personal
10 property, or any interest therein, from any public or private entity,
11 wherever situated;
- 12 k. Lease as lessor, sell or otherwise dispose of on terms which
13 the corporation may prescribe, real and personal property, including
14 tangible or intangible property and consumable goods, or any
15 interest therein, to any public or private entity, in the exercise of its
16 powers and the performance of its duties under this act. In order to
17 provide or encourage adequate and efficient public transportation
18 service, the corporation may lease or otherwise permit the use or
19 occupancy of property without cost or at a nominal rental;
- 20 l. Restrict the rights of persons to enter upon or construct any
21 works in or upon any property owned or leased by the corporation,
22 except under such terms as the corporation may prescribe; suspend
23 the rights of persons to access any facility, property or equipment
24 owned, leased or maintained by the corporation for a definite period
25 of time in a manner and process established by the corporation for
26 persons who, by their conduct, jeopardize the safety or well-being
27 of the Corporation's operational employees or the riding public;
28 perform or contract for the performance of all acts necessary for the
29 management, maintenance and repair of real or personal property
30 leased or otherwise used or occupied pursuant to this act; establish a
31 code of conduct regulating the conduct and safety of the public in
32 and upon the corporation's equipment and facilities, the violation of
33 which shall constitute a civil offense punishable by fines
34 established by the corporation by regulation, with enforcement of
35 such fines to be pursuant to the terms of section 11 of P.L.1997,
36 c.357 (C.27:25-5.16), provided that nothing herein shall be
37 construed to limit the authority of the New Jersey Transit Police
38 Department or any other law enforcement entity to enforce the
39 criminal laws of the State of New Jersey, including in and upon the
40 corporation's equipment and facilities, where a violation of the
41 corporation's code of conduct also constitutes a violation of the
42 "New Jersey Code of Criminal Justice;"
- 43 m. Establish one or more operating divisions as deemed
44 necessary;
- 45 n. Set and collect fares and determine levels of service for
46 service provided by the corporation either directly or by contract
47 including, but not limited to, such reduced fare programs as deemed
48 appropriate by the corporation; revenues derived from such service

- 1 may be collected by the corporation and shall be available to the
2 corporation for use in furtherance of any of the purposes of this act;
- 3 o. Set and collect rentals, fees, charges or other payments from
4 the lease, use, occupancy or disposition of properties owned or
5 leased by the corporation; such revenues shall be available to the
6 corporation for use in furtherance of any of the purposes of this act;
- 7 p. Deposit corporate revenues in interest bearing accounts or in
8 the State of New Jersey Cash Management Fund established
9 pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4);
- 10 q. Delegate to subordinate officers of the corporation such
11 powers and duties as the corporation shall deem necessary and
12 proper to carry out the purposes of this act;
- 13 r. (1) Procure and enter into contracts for any type of insurance
14 and indemnify against loss or damage to property from any cause,
15 including loss of use and occupancy, against death or injury of any
16 person, against employees' liability, against any act of any member,
17 officer, employee or servant of the corporation, whether part-time,
18 full-time, compensated or noncompensated, in the performance of
19 the duties of his office or employment or any other insurable risk.
20 In addition, the corporation may carry its own liability insurance
21 and may also establish and utilize a wholly-owned insurance
22 subsidiary or captive provided the subsidiary or captive is
23 domiciled in the United States in a state which is accredited by the
24 National Association of Insurance Commissioners and which
25 licenses and regulates wholly-owned insurance subsidiaries or
26 captives; and
- 27 (2) Pursuant to paragraph (1) of this subsection, the
28 corporation's chief of procurement is authorized to reach an
29 agreement to defend and indemnify a person against claims, causes
30 of action, demands, costs or judgments against that person arising
31 as a direct result of that person's contract with the corporation, upon
32 the terms and limitations the chief deems reasonable and
33 appropriate. An agreement to defend and indemnify pursuant to
34 this subsection shall not bar, reduce, limit or affect any remedies
35 which the corporation may have to enforce the corporation's
36 agreement or to assert a claim for damages to which the corporation
37 may be entitled arising out of the person's failure to perform the
38 agreement, or for the recovery of funds expended for the defense of
39 a person if the defense was undertaken in response to a claim or
40 cause of action brought against the person which is proven to have
41 arisen from gross negligence, willful misconduct, fraud, intentional
42 tort, bad faith, or criminal conduct. No one other than the person
43 who is party to the agreement with the corporation may enforce any
44 agreement for defense or indemnification between that person and
45 the corporation;
- 46 s. Promote the use of public transportation services, coordinate
47 ticket sales and passenger information and sell, lease or otherwise

1 contract for advertising in or on the equipment or facilities of the
2 corporation;

3 t. Adopt and maintain employee benefit programs for
4 employees of the corporation including, but not limited to, pension,
5 deferred compensation, medical disability, and death benefits, and
6 which programs may utilize insurance contracts, trust funds, and
7 any other appropriate means of providing the stipulated benefits,
8 and may involve new plans or the continuation of plans previously
9 established by entities acquired by the corporation;

10 u. Own, control, vote, and exercise any and all other rights
11 incidental to the ownership of any equity, membership interest, or
12 any shares of the capital stock of any incorporated entity acquired,
13 formed, incorporated, or established by law by the corporation
14 pursuant to the powers granted by this act. Any such corporate
15 entity may be utilized in order to enable the corporation to
16 participate with other private or public entities in any transaction,
17 memorandum of understanding, undertaking, or arrangement that
18 the corporation would have the power to conduct by itself, whether
19 or not such participation involves sharing or delegation of control
20 with or to other public or private entities regarding the ownership,
21 operation, control, and management of services, equipment, or
22 facilities. For purposes of this subsection, "corporate entity" means
23 any business entity, including but not limited to, any corporation,
24 limited liability company, joint venture, limited partnership, general
25 partnership, association of any kind, or collaborative arrangement
26 that may be jointly owned by the corporation and any other public
27 or private entities that provide public transportation services;

28 v. Enter into any and all agreements or contracts, execute any
29 and all instruments, and do and perform any and all acts or things
30 necessary, convenient or desirable for the purposes of the
31 corporation, or to carry out any power expressly or implicitly given
32 in this act;

33 w. Notwithstanding the provisions of section 17 of P.L.1979,
34 c.150 (C.27:25-17) or any other law to the contrary, (1) issue
35 operating grant anticipation notes which shall be secured and retired
36 from operating assistance grants authorized under section 9 of the
37 federal Urban Mass Transportation Act of 1964, Pub.L.88-365 (49
38 U.S.C. s.1602), or any successor or additional federal act having
39 substantially the same or similar purposes or functions and (2) issue
40 capital grant anticipation notes which shall be secured and retired
41 from capital assistance grants authorized under section 3 or section
42 9 of the federal Urban Mass Transportation Act of 1964, Pub.L.88-
43 365 (49 U.S.C. s.1602), or any successor or additional federal act
44 having substantially the same or similar purposes or functions. As
45 used in this subsection, "operating grant anticipation notes" or
46 "capital grant anticipation notes" (hereinafter referred to as "notes")
47 means credit obligations issued in anticipation of these grants. All
48 grant anticipation notes shall be authorized by a resolution or

1 resolutions of the corporation, and may be issued in one or more
2 series and shall bear the date, or dates, bear interest at the rate or
3 rates of interest per annum, be in the denomination or
4 denominations, be in the form, carry the conversion or registration
5 privileges, have the rank or priority, be executed in such manner as
6 the resolution or resolutions require. The notes may be sold at
7 public or private sale at the price or prices and in the manner that
8 the corporation determines. The notes of the corporation, the sale or
9 transfer thereof, and the income derived therefrom by the
10 purchasers of the notes, shall, at all times, be free from taxation for
11 State or local purposes, under any law of the State or any political
12 subdivision thereof. Notes may be issued under the provisions of
13 P.L.1979, c.150 (C.27:25-1 et seq.) without obtaining the consent of
14 any department, division, commission, board, bureau or agency of
15 the State, and without any other proceedings, conditions, or things
16 which are specifically required by P.L.1979, c.150 (C.27:25-1 et
17 seq.). The notes issued pursuant to P.L.1979, c.150 (C.27:25-1 et
18 seq.) shall not in any way create or constitute any indebtedness,
19 liability or obligation of the State or of any political subdivision
20 thereof or of the corporation, except as provided herein.

21 The grant anticipation notes shall be payable solely from (1) note
22 proceeds, to the extent not disbursed to the corporation, (2) grant
23 payments if, as, and when received from the federal government,
24 and (3) investment earnings on note proceeds, to the extent not
25 disbursed to the corporation. Each note shall contain on its face a
26 statement to the effect that the corporation is obligated to pay the
27 principal thereof or the interest thereon only from these grants to
28 the corporation and from the proceeds of the notes and investment
29 earnings on the proceeds of the notes, to the extent not disbursed to
30 the corporation, and that neither the faith and credit nor the taxing
31 power of the State or of any political subdivision thereof or of the
32 corporation is pledged to the payment of the principal and interest
33 on these notes. Neither the members of the corporation's board nor
34 any person executing the transactions are personally liable on those
35 notes nor are they otherwise liable for their actions. Subject to any
36 agreement with the debtholders, the corporation may invest moneys
37 of the corporation not required for immediate use, including
38 proceeds from the sale of any notes, in such obligations, securities
39 and other investments as the corporation shall deem prudent;

40 x. Enter into agreements with a public or private entity or
41 consortia thereof to provide for the development of demonstration
42 projects through the use of public-private partnerships pursuant to
43 sections 1 through 9 of P.L.1997, c.136 (C.27:1D-1 through
44 C.27:1D-9);

45 y. Enter into agreements with a public or private entity or
46 consortia thereof to provide for the development of projects through
47 the use of public-private partnerships. All building construction
48 projects under a public-private partnership agreement entered into

1 pursuant to this subsection shall contain a project labor agreement,
2 unless the federal government or a court of competent jurisdiction
3 determines that requiring such an agreement would violate federal
4 law or regulation, or including such an agreement would preclude
5 the corporation from receiving federal funding for the project.
6 Project labor agreements shall be subject to the provisions of
7 P.L.2002, c.44 (C.52:38-1 et seq.); and

8 z. To employ and retain legal counsel at the corporation's
9 discretion, including choosing representation by the Attorney
10 General.

11 (cf: P.L.2018, c.162, s.4)

12
13 2. Section 11 of P.L.1997, c.357 (C.27:25-5.16) is amended to
14 read as follows:

15 11. A violation of the provisions of **[this act]** chapter 25 of this
16 Title or any rules or regulations adopted pursuant to **[this act]**
17 chapter 25 of this Title by the corporation shall be punishable by a
18 civil penalty not exceeding **[\$100]** \$500, in addition to court costs,
19 enforced in a summary proceeding pursuant to **["the penalty**
20 **enforcement law," N.J.S.2A:58- 1 et seq]** the "Penalty Enforcement
21 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Rules
22 Governing the Courts of the State of New Jersey shall govern the
23 practice and procedure in such proceedings. Notwithstanding any
24 other law to the contrary, the court shall remit 50% of any civil
25 penalty imposed to the corporation for use in furtherance of any of
26 the corporation's purposes **[of this act]** and 50% shall be forwarded
27 to the proper financial officer of the local government entity in
28 which the municipal or central municipal court has been established
29 to be used for the local government entity to defray the cost of
30 operating the court and for general government use.

31 (cf: P.L.1997, c.357, s.11)

32
33 3. This act shall take effect immediately.

34 35 36 STATEMENT

37
38 This bill authorizes the New Jersey Transit Corporation (NJ
39 Transit) to suspend individuals from NJ Transit services and
40 facilities who endanger the safety and wellbeing of NJ Transit
41 employees or the public and to establish a code of conduct
42 regulating the conduct and safety of the public on NJ Transit's
43 equipment and facilities and to establish civil penalties for
44 violations of the code of conduct. The bill also increases the
45 maximum penalty for violations of NJ Transit's enabling statutes
46 from \$100 to \$500.