ASSEMBLY, No. 3215

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED SEPTEMBER 16, 2010

Sponsored by:
Assemblyman DOMENICK DICICCO, JR.
District 4 (Camden and Gloucester)

Co-Sponsored by:
Assemblyman Chiusano

SYNOPSIS

Eliminates power of DRPA to finance economic development; imposes restrictions concerning DRPA financing, charitable contributions, commissioners, and employees regarding employment, and conflicts of interest; imposes requirements concerning DRPA audits, contracts, and procurement; creates commuter's council.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 10/1/2010)

AN ACT concerning the Delaware River Port Authority and amending and supplementing P.L.1931, c.391, authorizing the Governor, on behalf of the State of New Jersey, to enter into a supplemental compact or agreement with the Commonwealth of Pennsylvania amending and supplementing the compact or agreement between the State of New Jersey and the Commonwealth of Pennsylvania entitled "Agreement Between the Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as amended and supplemented, and authorizing the Governor to apply, on behalf of the State of New Jersey, to the Congress of the United States for its consent to such supplemental compact or agreement.

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

1. The Governor is authorized to enter into a supplemental compact or agreement, on behalf of the State of New Jersey, with the Commonwealth of Pennsylvania amending Articles I, II, IV, XII, and XIII of the compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey entitled "Agreement Between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," and supplementing that compact or agreement as set forth in P.L. , c. (C.) (pending before the Legislature as this bill) and amending section 3 of P.L.1991, c.400.

2. Article I of the agreement "Agreement Between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as amended and supplemented (R.S.32:3-2), is amended to read as follows:

32:3-2. The body corporate and politic, heretofore created and known as the Delaware River Joint Commission hereby is continued under the name of the Delaware River Port Authority (hereinafter in this agreement called the "commission"), which shall constitute the public corporate instrumentality of the Commonwealth of Pennsylvania and the State of New Jersey for the following public purposes, and which shall be deemed to be exercising an essential governmental function in effectuating such purposes, to wit:

(a) The operation and maintenance of the bridge, owned jointly by the two States, across the Delaware river between the city of

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 <u>thus</u> is new matter.

Philadelphia in the Commonwealth of Pennsylvania and the city of Camden in the State of New Jersey, including its approaches, and the making of additions and improvements thereto.

(b) The effectuation, establishment, construction, acquisition, operation and maintenance of railroad or other facilities for the transportation of passengers across any bridge or tunnel owned or controlled by the commission, including extensions of such railroad or other facilities necessary for efficient operation in the Port District.

(c) The improvement and development of the Port District for port purposes by or through the acquisition, construction, maintenance or operation of any and all projects for the improvement and development of the Port District for port purposes, or directly related thereto, either directly by purchase, lease or contract, or by lease or agreement with any other public or private body or corporation or in any other manner.

(d) Co-operation with all other bodies interested or concerned with, or affected by the promotion, development or use of the Delaware river and the Port District.

(e) The procurement from the Government of the United States of any consents which may be requisite to enable any project within its powers to be carried forward.

(f) The construction, acquisition, operation and maintenance of other bridges and tunnels across or under the Delaware river, between the city of Philadelphia or the county of Delaware in the Commonwealth of Pennsylvania and the State of New Jersey, including approaches and the making of additions and improvements thereto.

(g) The promotion as a highway of commerce of the Delaware river, and the promotion of increased passenger and freight commerce on the Delaware river and for such purpose the publication of literature and the adoption of any other means as may be deemed appropriate.

(h) To study and make recommendations to the proper authorities for the improvement of terminal, lighterage, wharfage, warehouse and other facilities necessary for the promotion of commerce on the Delaware river.

(i) Institution through its counsel, or such other counsel as it shall designate, or intervention in, any litigation involving rates, preferences, rebates or other matters vital to the interest of the Port District; provided, that notice of any such institution of or intervention in litigation shall be given promptly to the Attorney General of the Commonwealth of Pennsylvania and to the Attorney General of the State of New Jersey, and provision for such notices shall be made in a resolution authorizing any such intervention or litigation and shall be incorporated in the minutes of the commission.

(j) The establishment, maintenance, rehabilitation, construction and operation of a rapid transit system for the transportation of passengers, express, mail, and baggage, or any of them, between points in New Jersey within the Port District and points in Pennsylvania within the Port District, and intermediate points. Such system may be established either by utilizing existing rapid transit systems, railroad facilities, highways and bridges within the territory involved or by the construction or provision of new rail facilities where deemed necessary, and may be established either directly by purchase, lease or contract, or by lease or agreement with any other public or private body or corporation, or in any other manner.

(k) The performance of such other functions which may be of mutual benefit to the Commonwealth of Pennsylvania and the State of New Jersey insofar as concerns the promotion and development of the Port District for port purposes and the use of its facilities by commercial vessels.

(l) The performance or effectuation of such additional bridge, tunnel, railroad, rapid transit, transportation, transportation facility, terminal, terminal facility, and port improvement and development purposes within the Port District as may hereafter be delegated to or imposed upon it by the action of either State concurred in by legislation of the other.

(m) The unification of the ports of the Delaware river through (i) the acquisition or taking control of any terminal, terminal facility, transportation facility or marine terminal or port facility or associated property within the Port District through purchase, lease or otherwise, or by the acquisition, merger, becoming the successor to or entering into contracts, agreements or partnerships with any other port corporation, port authority or port related entity which is located within the Port District, all in accordance with the applicable laws of the State in which the facility, corporation or authority is located; (ii) the exercise of the other powers granted by this compact; or (iii) the establishment (whether solely or jointly with any other entity or entities) of such subsidiary corporation or corporations or maritime or port advisory committees as may be necessary or desirable to effectuate this purpose.

(n) The planning, financing, development, acquisition, construction, purchase, lease, maintenance, marketing, improvement and operation of any project, including but not limited to any terminal, terminal facility, transportation facility, or any other facility of commerce **[**or economic development activity**]**; from funds available after appropriate allocation for maintenance of bridge and other capital facilities.

(cf: P.L.1991, c.515, s.2)

3. Article II of the agreement (R.S.32:3-3) is amended to read as follows:

32:3-3. The commission shall consist of sixteen commissioners, eight resident voters of the Commonwealth of Pennsylvania and eight resident voters of the State of New Jersey, who shall serve without compensation.

The commissioners for the State of New Jersey shall be appointed by the Governor of New Jersey with the advice and consent of the Senate of New Jersey, for terms of five years, and in case of a vacancy occurring in the office of commissioner during a recess of the Legislature, it may be filled by the Governor by an ad interim appointment which shall expire at the end of the next regular session of the Senate unless a successor shall be sooner appointed and qualify and, after the end of the session, no ad interim appointment to the same vacancy shall be made unless the Governor shall have submitted to the Senate a nomination to the office during the session and the Senate shall have adjourned without confirming or rejecting it, and no person nominated for any such vacancy shall be eligible for an ad interim appointment to such office if the nomination shall have failed of confirmation by the Senate.

[Six**]** Two of the eight commissioners for the Commonwealth of Pennsylvania shall be appointed by the Governor of Pennsylvania for terms of five years. One commissioner shall be appointed by the President Pro Tempore of the Pennsylvania Senate for a term of five years. One commissioner shall be appointed by the Minority Floor Leader of the Pennsylvania Senate for a term of five years. One commissioners shall be appointed by the Speaker of the Pennsylvania House of Representatives for a term of five years. One commissioner shall be appointed by the Minority Floor Leader of the Pennsylvania House of Representatives for a term of five years. The Auditor General and the State Treasurer of said Commonwealth shall ex-officio be commissioners for said Commonwealth, each having the privilege of appointing a representative to serve in his place at any meeting of the commission which he does not attend personally. Any commissioner who is an elected public official shall have the privilege of appointing a representative to serve and act in his place at any meeting of the commission which he does not attend personally.

All commissioners shall continue to hold office after the expiration of the terms for which they are appointed or elected until their respective successors are appointed and qualify, but no period during which any commissioner shall hold over shall be deemed to be an extension of his term of office for the purpose of computing the date on which his successor's term expires.

(cf: P.L.1991, c.515, s.3)

4. Section 3 of P.L.1991, c.400 (C.32:3-4.7) is amended to read as follows:

a. Notwithstanding any inconsistent provisions of any general or special law, all meetings of the Port Authority are declared to be public meetings and shall be open to the public and members of the news media, individually and collectively, for the purpose of observing the full details of all phases of the deliberation, policy-making and decision-making of the board.

b. The board shall adopt within six months of the effective date of this act, appropriate rules and regulations concerning proper notice to the public and the news media of its meetings and the right of the public and the news media to be present at its meetings. The rules and regulations adopted pursuant to this section shall provide for the same notice and right of the public and news media to be present as well as any other rights and duties provided in the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.) and the "Sunshine Act," 65 Pa. Cons. Stat. s.701 et seq. To the extent these laws conflict, the Port Authority shall incorporate into the rules and regulations the provisions of that law which provides for the greatest rights to the public and the news media.

<u>c. The board shall not vote on any matter concerning a commission contract unless notice is provided to the public at least 30 days prior to the scheduled action by the board.</u>

(cf: P.L.1991, c.400, s.3)

5. Article IV of the agreement (R.S.32:3-5) is amended to read as follows:

2. Article IV of the “Agreement Between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as amended and supplemented (R.S.32:3-5) is amended to read as follows

[R.S.32:3-5**]** <u>32:3-5</u>. For the effectuation of its authorized purposes the commission is hereby granted the following powers:

(a) To have perpetual succession.

(b) To sue and be sued.

(c) To adopt and use an official seal.

(d) To elect a chairman, vice-chairman, secretary and treasurer, and to adopt suitable bylaws for the management of its affairs. The secretary and treasurer need not be members of the commission.

(e) To appoint, hire, or employ counsel and such other officers and such agents and employees as it may require for the performance of its duties, by contract or otherwise, and fix and determine their qualifications, duties and compensation**[**, provided that the**]** <u>. The</u> employees of the **[**Delaware River Port Authority**]** <u>commission</u> shall be subject to the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) and shall have all of the rights provided to employees by that act, including but not limited to, the right to form, join or assist an employee organization, and the right to have that employee

organization engage in collective bargaining on behalf of the employees, except that the commission may not simultaneously hire, after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), more than one individual from any immediate family, including, but not limited to, the spouse, parent, grandparent, child, grandchild, brother, sister, stepparent, stepchild, stepbrother, stepsister, half-brother, or half-sister, of any current commissioner, officer, or employee whether related by blood, marriage, or adoption. For employees residing in the State of New Jersey, immediate family shall also include a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3).

(f) To enter into contracts.

(g) To acquire, own, hire, use, operate and dispose of personal property.

(h) To acquire, own, use, lease, operate, mortgage and dispose of real property and interests in real property, and to make improvements thereon.

(i) To grant by franchise, lease or otherwise, the use of any property or facility owned or controlled by the commission and to make charges therefor.

(j) To borrow money upon its bonds or other obligations for the purpose of financing any project authorized by or pursuant to this compact or agreement, either with or without security, and to make, enter into and perform any and all such covenants and agreements with the holders of such bonds or other obligations as the commission may determine to be necessary or desirable for the security and payment thereof, including without limitation of the foregoing, covenants and agreements as to the management and operation of any property or facility owned or controlled by it, the tolls, rents, rates or other charges to be established, levied, made and collected for any use of any such property or facility, or the application, use and disposition of the proceeds of any bonds or other obligations of the commission or the proceeds of any such tolls, rents, rates or other charges or any other revenues or moneys of the commission.

(k) To exercise the right of eminent domain within the Port District.

(l) To determine the exact location, system and character of and all other matters in connection with any and all improvements or facilities which it may be authorized to own, construct, establish, effectuate, operate or control.

(m) In addition to the foregoing, to exercise the powers, duties, authority and jurisdiction heretofore conferred and imposed upon the aforesaid Delaware River Joint Commission by the Commonwealth of Pennsylvania or the State of New Jersey, or both of the said two States.

(n) To exercise all other powers not inconsistent with the constitutions of the two States or of the United States, which may

be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

(o) To acquire, purchase, construct, lease, operate, maintain and undertake any project, including any terminal, terminal facility, transportation facility, or any other facility of commerce and to make charges for the use thereof.

(p) To make expenditures anywhere in the United States and foreign countries, to pay commissions, and hire or contract with experts or consultants, and otherwise to do indirectly anything which the commission may do directly.

(q) To establish one or more operating divisions as deemed necessary to exercise the power and effectuate the purposes of this agreement.

Notwithstanding the powers granted pursuant to this section, the commission shall not donate any funds or anything of value, including any item, concession, or service to any organization, whether civic, charitable or otherwise.

No increase in the amount of any of the tolls or fares levied by the commission shall take effect unless a majority of the members of the commission from Pennsylvania and a majority of the members of the commission from New Jersey shall vote in favor thereof and a two-thirds majority of all of the commissioners appointed shall vote in favor thereof.

The commission shall not negotiate, extend, amend, or otherwise alter the terms of a contract, or enter into any contract, unless such action is voted on and approved by the board in a public session and notice of such session is provided to the public pursuant to subsection c. of section 3 of P.L.1991, c.400 (C.32:3-4.7).

The commission shall use best practices in the procurement of necessary items and services which shall include the requirement that the commission procure all supplies, services, and construction pursuant to the provisions of Title 62 Pa. Cons. Stat., Part I and all pertinent laws of the State of New Jersey.

The commission shall establish, on its official Internet site, a secure online process to allow prospective qualified vendors to complete online any documents the commission requires concerning requests for proposals.

The commission shall also have such additional powers as may hereafter be delegated to or imposed upon it from time to time by the action of either State concurred in by legislation of the other.

It is the policy and intent of the Legislature of the Commonwealth of Pennsylvania and the State of New Jersey that the powers granted by this article shall be so exercised that the

American system of free competitive private enterprise is given full consideration and is maintained and furthered. In making its reports and recommendations to the Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey on the need for any facility or project which the commission believes should be undertaken for the promotion and development of the Port District, the commission shall include therein its findings which fully set forth that the facility or facilities operated by private enterprise within the Port District and which it is intended shall be supplanted or added to are not adequate.
(cf: P.L.2009, c.210, s.2)

6. Article XII of the agreement (R.S.32:3-13) is amended to read as follows:

32:3-13. The commission shall, within 90 days after the end of each fiscal year, submit to the Governors and Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey a complete and detailed report of the following:

(1) its operations and accomplishments during the completed fiscal year;

(2) its receipts and disbursements or revenues and expenses during that year in accordance with the categories and classifications established by the commission for its own operating and capital outlay purposes;

(3) its assets and liabilities at the end of the fiscal year, including the status of reserve, depreciation, special or other funds including debits and credits of these funds;

(4) a schedule of bonds and notes outstanding at the end of the fiscal year;

(5) a list of all contracts exceeding $100,000 entered into during the fiscal year;

(6) a business or strategic plan for the commission and for each of its operating divisions; and

(7) a five year capital plan.

[Not less than once every five years the commission shall cause a management audit of its operational effectiveness and efficiency to be conducted by an independent consulting firm selected by the commission. The first management audit to be conducted shall commence within three years of the date of coming into force of the supplemental compact or agreement authorized by this 1991 amendatory act. This audit is in addition to any other audit which the commission determines to conduct from time to time.**]**

<u>Every two years the commission shall submit to an audit of its budget which shall be conducted by an independent auditor selected by the New Jersey State Comptroller and the Auditor General of Pennsylvania, and approved by the Governor of New Jersey and the Governor of Pennsylvania. Such audit shall be provided to the Governors and Legislatures of the State of New Jersey and the</u>

Commonwealth of Pennsylvania no later than December 31 of every even-numbered year, and shall include, but not be limited to, all expenditures, revenues, and financial operations of the commission. Failure to submit to this audit shall result in the forfeiture of the salary of every officer of the commission or employee employed by the commission at a level at or exceeding the level of director, or acting director until such time as the audit is complete.

Every two years the commission shall submit to a performance review audit conducted by an independent auditor selected by the New Jersey State Comptroller and the Auditor General of Pennsylvania and approved by the Governor of New Jersey and the Governor of Pennsylvania. Such audit shall include an evaluation of whether the commission is achieving efficiency and effectiveness in the employment of its financial and operational resources and shall be provided to the Governors and Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey no later than December 31 of every odd-numbered year. Failure to submit to this audit shall result in the forfeiture of the salary of every officer of the commission or employee employed by the commission at a level at or exceeding the level of director, or acting director until such time as the audit is complete.

Every two years the commission shall conduct a review of the compensation of commission employees and officers for the purpose of ensuring that compensation is commensurate with duties performed. The commission shall provide a report on the compensation of its employees and officers to the Governors and Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey on or before June 30 of every even-numbered year. The report shall provide the salary range of each job title and shall include, but not be limited to, the following information concerning each commission employee and officer:

(a) name;

(b) annual salary;

(c) job title;

(d) hiring date; and

(e) job description.

Failure to conduct this review shall result in the forfeiture of the salary of every officer of the commission or employee employed by the commission at a level at or exceeding the level of director, or acting director until such time as the audit is complete.

The commission shall, not later than two years after the date of the coming into force of the supplemental compact or agreement authorized by this 1991 amendatory act, prepare a comprehensive master plan for the development of the Port District. The plan shall include, but not be limited to, plans for the construction, financing, development, reconstruction, purchase, lease, improvement and operation of any terminal, terminal facility, transportation facility or

any other facility of commerce [or economic development activity]. The master plan shall include the general location of such projects and facilities as may be included in the master plan and shall to the maximum extent practicable include, but not be limited to, a general description of each such projects and facilities, the land use requirements necessary therefor, and estimates of project costs and of a schedule for commencement of each such project. Prior to adopting such master plan, the commission shall give written notice to, afford a reasonable opportunity for comment, consult with and consider any recommendations from State, county and municipal government, as well as commissions, public corporations and authorities, and the private sector. The commission may modify or change any part of the plan in the same form and manner as provided for the adoption of the original plan. At the time the commission authorizes any project or facility, the commission shall promptly provide to the Governor and Legislature of each state a detailed report on the project including its status within the master plan. The commission shall include within the authorization a status of the project or facility in the master plan and any amendment thereof, and no project shall be authorized if not included in the master plan or amendment thereof. Any project which has been commenced and approved by the commission prior to the adoption of the master plan shall be included, for informational purposes only, in the master plan. The commission shall provide notice of such on-going projects to those State, county and municipal governments, as well as entities in the private sector who would be entitled to such notice had the project not been commenced in anticipation of adopting the master plan, but there shall be no requirement that the project be delayed or deferred due to these provisions.

In addition to other powers conferred upon it, and not in limitation thereof, the commission may acquire all right, title and interest in and to the Tacony-Palmyra bridge, across the Delaware river at Palmyra, New Jersey, together with any approaches and interests in real property necessary thereto. The acquisition of such bridge, approaches and interests by the commission shall be by purchase or by condemnation in accordance with the provisions of the Federal law consenting to or authorizing the construction of such bridge or approaches, or the acquisition of such bridge, approaches or interests by the commission shall be pursuant to and in accordance with the provisions of section 48:5-22 and 48:5-23 of the Revised Statutes of New Jersey, and for all the purposes of said provisions and sections the commission is hereby appointed as the agency of the State of New Jersey and the Commonwealth of Pennsylvania exercising the rights and powers granted or reserved by said Federal law or sections to the State of New Jersey and Commonwealth of Pennsylvania jointly or to the State of New Jersey acting in conjunction with the Commonwealth of

Pennsylvania. The commission shall have authority to so acquire such bridge, approaches and interests, whether the same be owned, held, operated or maintained by any private person, firm, partnership, company, association or corporation or by any instrumentality, public body, commission, public agency or political subdivision (including any county or municipality) of, or created by or in, the State of New Jersey or the Commonwealth of Pennsylvania, or by any instrumentality, public body, commission or public agency of, or created by or in, a political subdivision (including any county or municipality) of the State of New Jersey or the Commonwealth of Pennsylvania. None of the provisions of the preceding paragraph shall be applicable with respect to the acquisition by the commission, pursuant to this paragraph, of said Tacony-Palmyra bridge, approaches and interests. The power and authority herein granted to the commission to acquire said Tacony-Palmyra bridge, approaches and interests shall not be exercised unless and until the Governor of the State of New Jersey and the Governor of the Commonwealth of Pennsylvania have filed with the commission their written consents to such acquisition.

Notwithstanding any provision of this agreement, nothing herein contained shall be construed to limit or impair any right or power granted or to be granted to the Pennsylvania Turnpike Commission or the New Jersey Turnpike Authority, to finance, construct, operate and maintain the Pennsylvania Turnpike System or any turnpike project of the New Jersey Turnpike Authority, respectively, throughout the Port District, including the right and power, acting alone or in conjunction with each other, to provide for the financing, construction, operation and maintenance of one bridge across the Delaware river south of the city of Trenton in the State of New Jersey; provided that such bridge shall not be constructed within a distance of ten miles, measured along the boundary line between the Commonwealth of Pennsylvania and the State of New Jersey, from the existing bridge, operated and maintained by the commission, across the Delaware river between the city of Philadelphia in the Commonwealth of Pennsylvania and the city of Camden in the State of New Jersey, so long as there are any outstanding bonds or other securities or obligations of the commission for which the tolls, rents, rates, or other revenues, or any part thereof, of said existing bridge shall have been pledged. Nothing contained in this agreement shall be construed to authorize the commission to condemn any such bridge.

Anything herein contained to the contrary notwithstanding, no bridge or tunnel shall be constructed, acquired, operated or maintained by the commission across or under the Delaware river north of the boundary line between Bucks county and Philadelphia county in the Commonwealth of Pennsylvania as extended across the Delaware river to the New Jersey shore of said river, and any new bridge or tunnel authorized by or pursuant to this compact or

agreement to be constructed or erected by the commission may be constructed or erected at any location south of said boundary line notwithstanding the terms and provisions of any other agreement between the Commonwealth of Pennsylvania and the State of New Jersey. Except as may hereafter be otherwise provided in conformity with Article IX hereof with respect to specific properties designated by action of the Legislatures of both of the signatory States, no property or facility owned or controlled by the commission shall be acquired from it by any exercise of powers of condemnation or eminent domain.

(cf: P.L.1991, c.515, s.6)

7. Article XIII of the agreement, section 1(6) of P.L.1951, c.288 (C.32:3-13.23), is amended to read as follows:

1 (6). As used herein, unless a different meaning clearly appears from the context:

"Port District" shall mean all the territory within the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia in Pennsylvania, and all the territory within the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem in New Jersey.

"Commission" shall mean the Delaware River Port Authority and, when required by the context, the board constituting the governing body thereof in charge of its property and affairs.

"Commissioner" shall mean a member of the governing body of the Delaware River Port Authority.

["Economic development activity" or "economic development" means any structure or facility or any development within the Port District in connection with manufacturing, port-oriented development, foreign trade zone site development or research, commercial, industrial, or recreational purposes, or for purposes of warehousing or consumer and supporting services directly relating to any of the foregoing or to any authority project or facility which are required for the sound economic development of the Port District.**]**

"Terminal" shall include any marine, motor truck, motorbus, railroad and air terminal or garage, also any coal, grain and lumber terminal and any union freight and other terminals used or to be used in connection with the transportation of passengers and freight, and equipment, materials and supplies therefor.

"Transportation facility" and "facilities for transportation of passengers" shall include railroads operated by steam, electricity or other power, rapid transit lines, motor trucks, motorbuses, tunnels, bridges, airports, boats, ferries, carfloats, lighters, tugs, floating elevators, barges, scows, or harbor craft of any kind, and aircraft, and equipment, materials and supplies therefor.

"Terminal facility" shall include wharves, piers, slips, berths, ferries, docks, dry-docks, ship repair yards, bulkheads, dock walls,

basins, carfloats, floatbridges, dredging equipment, radio receiving and sending stations, grain or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, bunker coal, oil and fresh water stations, markets, and every kind of terminal, storage or supply facility now in use, or hereafter designed for use to facilitate passenger transportation and for the handling, storage, loading or unloading of freight at terminals, and equipment, materials and supplies therefor.

"Transportation of passengers" and "passenger transportation" shall mean the transportation of passengers by railroad or other facilities.

"Rapid transit system" shall mean a transit system for the transportation of passengers, express, mail and baggage by railroad or other facilities, and equipment, materials and supplies therefor.

"Project" shall mean any improvement, betterment, facility or structure authorized by or pursuant to this compact or agreement to be constructed, erected, acquired, owned or controlled or otherwise undertaken by the commission. "Project" shall not include undertakings for purposes described in Article I, subdivisions (d), (e), (g), (h) and (i).

"Railroad" shall include railways, extensions thereof, tunnels, subways, bridges, elevated structures, tracks, poles, wires, conduits, powerhouses, substations, lines for the transmission of power, carbarns, shops, yards, sidings, turnouts, switches, stations and approaches thereto, cars and motive equipment.

"Bridge" and "tunnel" shall include such approach highways and interests in real property necessary therefor in the Commonwealth of Pennsylvania or the State of New Jersey as may be determined by the commission to be necessary to facilitate the flow of traffic in the vicinity of a bridge or tunnel or to connect a bridge or tunnel with the highway system or other traffic facilities in said Commonwealth or said State; provided, however, that the power and authority herein granted to the commission to construct new or additional approach highways shall not be exercised unless and until the Department of Transportation of the Commonwealth of Pennsylvania shall have filed with the commission its written approval as to approach highways to be located in said Commonwealth and the State Highway Department of the State of New Jersey shall have filed with the commission its written approval as to approach highways to be located in said State.

"Facility" shall include all works, buildings, structures, property, appliances, and equipment, together with appurtenances necessary and convenient for the proper construction, equipment, maintenance and operation of a facility or facilities or any one or more of them.

"Personal property" shall include choses in action and all other property now commonly, or legally, defined as personal property, or which may hereafter be so defined.

"Lease" shall include rent or hire.

"Municipality" shall include a county, city, borough, village, township, town, public agency, public authority or political subdivision.

Words importing the singular number include the plural number and vice versa.

Wherever legislation or action by the Legislature of either signatory State is herein referred to it shall mean an act of the Legislature duly adopted in accordance with the provisions of the Constitution of such State.

(cf: P.L.1991, c.515, s.7)

8. (New section) a. All commissioners, officers, and employees of the commission, shall practice due diligence to avoid situations in which their personal interest, activities, or financial affairs are, or are reasonably perceived as being, in conflict with the interests of the commission. Prior to each board meeting conducted pursuant to section 3 of P.L.1991, c.400 (C.32:3-4.7), the commission shall circulate a list of entities that will be the subject of board action. Board members shall identify in writing any conflicts in advance of board meetings.

b. It shall be a conflict of interest for commissioners, officers, or employees to engage in political activity or electioneering using commission resources or equipment.

c. It shall be a conflict of interest for commissioners, officers, or employees to engage in political activity or electioneering at a time when the individual is being compensated by the commission.

d. No commissioner, officer, or employee of the commission shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of the commissioner’s, officer’s, or employee’s duties in the public interest. No commissioner, officer, or employee shall use or attempt to use an official position to secure unwarranted privileges, advantages, or employment.

e. Commissioners, officers, and employees of the commission are prohibited from using commission resources in pursuit of any political activity.

f. Commissioners, officers, and employees of the commission are prohibited from engaging in any political activity during work hours, commission meetings, or other activities primarily related to employment with the commission.

g. No commissioner, officer, or employee of the commission or any immediate family member thereof shall solicit or accept any gift or item of value for personal benefit under any circumstance which could be reasonably expected to influence, or which may be perceived as being reasonably expected to influence, the manner in which a commissioner, officer, or employee conducts the public business of the commission. “Immediate family” shall include, but

not limited to, the spouse, parent, grandparent, child, grandchild, brother, sister, stepparent, stepchild, stepbrother, stepsister, half-brother, or half-sister, of any current commissioner, officer, or employee whether related by blood, marriage, or adoption. For employees residing in the State of New Jersey, immediate family shall also include a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3).

h. No commissioner, officer, or employee of the commission or any immediate family member thereof shall exert any undue influence with respect to any act of the commission including, but not limited to, the selection of contractors, the hiring of or dismissal of employees, or the making of any other decision where the influence of the commissioner, officer, or employee is, or is likely to be perceived as, an interference with the independent and objective decisions of the commission. "Immediate family" shall include, but not be limited to, the spouse, parent, grandparent, child, grandchild, brother, sister, stepparent, stepchild, stepbrother, stepsister, half-brother, or half-sister, of any current commissioner, officer, or employee whether related by blood, marriage, or adoption. For employees residing in the State of New Jersey, immediate family shall also include a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3).

i. No employee employed as an officer, director, or acting director, or employed at a level exceeding that of an officer, director, or acting director, shall accept or engage in employment with any professional service provider, vendor, or independent contractor of the commission for a period of two years from the date of, or after, the termination of such employment with the commission.

j. No employee employed as a director, or acting director, or employed at a level exceeding that of an officer, director, or acting director, shall hold outside employment.

k. Each commissioner shall file financial statements in compliance with the law of the State from which the commissioner was appointed.

9. (New section) a. No commissioner, officer, or employee of the commission shall be paid compensation higher than the lesser salary of either of the Governor of the State of New Jersey or the Governor of the Commonwealth of Pennsylvania.

b. The commission shall not compensate any commissioner, officer, or employee for expenses related to the use of a vehicle that is procured by or for the commissioner, officer, or employee primarily for personal use or for the purpose of commuting between home and work.

c. The commission shall not extend to any commissioner, officer, or employee a personal line of credit or any other form of credit agreement or compensation for any purpose.

d. No commissioner, officer, or employee shall receive any lump sum expense allowance, or contingent fund for personal or official expenses except where such allowance or fund is expressly provided for by statute or legislative appropriation.

e. No commissioner, officer, or employee or former commissioner, officer, or employee shall be exempt from payment of any toll relating to the use of a commission toll bridge or toll road and the commission shall not compensate any such commissioner, officer, or employee for payment of any such toll.

10. (New section) The commission shall require any current or prospective vendor with which it conducts business for any purpose or is in the process of establishing a business relationship for any purpose to disclose a list of political campaign contributions made by such vendor within four years prior to such vendor's involvement with the commission.

11. (New section) The commission shall revise its policies concerning open public records after undertaking a review, within 90 days of the effective date of this act, of the current statutes in both the State of New Jersey, under P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.), and the Commonwealth of Pennsylvania, the act of February 14, 2008 (P.L. 6, No. 3), known as the Right-to-Know Law, in this regard. Within 30 days of the completion of this review, the commission shall adopt an open records policy reflecting the law which provides for the greatest extent of public access to records. Within 10 business days thereafter, the commission shall provide notification of its adoption of an open records policy to the Governors and Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey and shall publish such policy on the Internet website maintained by the commission. Every two years, the commission shall review its policy and incorporate any subsequent change to the either state law which increases public access to records. Within 10 business days of such modification, the commission shall provide notification of any modification of its policy to the Governors and Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey.

12. (New section) a. There is created under the commission the Port Authority Transit Corporation ("PATCO") Commuter's Council, to study, investigate, monitor, and make recommendations with respect to the maintenance and operation of PATCO's facilities for the transportation of passengers. The council shall study and investigate all aspects of the day to day operations of PATCO, monitor its performance, and recommend changes to improve the efficiency of the operation of PATCO service.

b. The council shall consist of eight members, four resident voters of the Commonwealth of Pennsylvania and four resident voters of the State of New Jersey, who shall be commuters regularly using the transportation services of PATCO. The members from the Commonwealth of Pennsylvania shall be appointed by the Governor of Pennsylvania and the members from the State of New Jersey shall be appointed by the Governor of New Jersey. Each of the members shall serve for a term of three years. Vacancies occurring in the membership of the council shall be filled in the same manner as the original appointment.

c. Members of the council shall serve without compensation but may be reimbursed, subject to the limits of funds appropriated or otherwise made available for such purposes, for expenses actually incurred in attending meetings of the council and in performance of their duties as members thereof.

d. The commission shall provide the council with assistance and information as may be necessary for the purposes of this section.

13. (New section) The commission shall hold executive sessions consisting of the majority of the members of the commission from Pennsylvania and a majority of the members of the commission from New Jersey to address confidential matters including, but not limited to, matters concerning litigation, personnel, contractual negotiations and contract review. At no time shall the commissioners from the Pennsylvania or the commissioners from New Jersey meet in caucus separately from the members of the other state.

14. (New section) The provisions of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) amending R.S.32:3-5:

a. shall be applicable prospectively, and shall not be construed to affect the power of the commission to complete the acquisition or construction of any project commenced prior to the effective date of this act, or to operate, maintain or support any such project or any other project completed prior to the effective date; and

b. shall not impair any vested right or obligation under any contract prior to that effective date.

15. (New section) Any, commissioner, officer, or employee of the commission who willfully engages, or whose immediate family member willfully engages, in a violation of the provisions of P.L. , c. (C.) (pending before the Legislature as this bill) shall be subject to removal from office or employment. In addition, any former commissioner, officer, or employee of the commission who willfully engages in a violation of subsection i. of section 8 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be fined not less than $500 nor more than $10,000, which penalty

may be collected in a summary proceeding pursuant to the laws of the state in which the commissioner, officer, or employee was employed by the commission.

16. The Governor is hereby authorized to apply on behalf of the State of New Jersey to the Congress of the United States for its consent and approval to the amendments to this compact or agreement provided in P.L. , c. (C.) (pending before the Legislature as this bill), but in the absence of such consent and approval, the Delaware River Port Authority shall have all the powers the Commonwealth of Pennsylvania and the State of New Jersey may confer upon it without the consent and approval of Congress.

17. This act shall take effect immediately but the Governor shall not enter into the supplemental compact or agreement hereinabove set forth on behalf of the State of New Jersey until passage by the Commonwealth of Pennsylvania of a substantially similar act embodying the supplemental compact or agreement between the two States.

STATEMENT

This bill amends the compact between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Port Authority ("DRPA"). The bill eliminates the power of the DRPA to plan, finance, develop, acquire, construct, purchase, lease, maintain, market, improve and operate an economic development activity. The bill provides that the DRPA's power to issue bonds shall be limited to the financing of authorized projects and eliminates the authority's power to issue bonds for the purpose of financing an economic development activity.

The bill reduces the number of commissioners appointed by the Governor of Pennsylvania from six to two and provides that the President Pro Tempore of the Pennsylvania Senate, the Minority Leaders of the Pennsylvania Senate and House of Representatives, and Speaker of the House of Representatives shall each appoint one commissioner.

The bill makes changes to the compact to impose various requirements and restrictions upon the DRPA and its commissioners, officers, employees and their immediate family. Such requirements and restrictions relate to actions and circumstances involving the business of the DRPA.

The bill requires the DRPA to:

- establish an online system to accept requests for proposals from vendors;

- use best practices in procurement of necessary items and services to include the procurement of all supplies, services, and construction pursuant to the provisions of Pennsylvania's Procurement Code;
- submit every two years to two separate audits: (1) in even-numbered years, an audit of its budget to include at a minimum all of its expenditures, revenues, and financial operations, and (2) in odd-numbered years, a performance review audit which to include an evaluation of whether it is achieving efficiency and effectiveness. Both audits are to be conducted by an independent auditor selected the New Jersey State Comptroller and the Auditor General of Pennsylvania, with the approval of the Governors of New Jersey and Pennsylvania and submitted to the Governors and Legislatures of the New Jersey and Pennsylvania. Failure to conduct either of the audits will result in the forfeiture of the salary of the commissioners, officers, and directors or acting directors of the commission until the audit is complete;
- conduct a review every two years of the compensation of employees and officers for the purpose of ensuring that compensation is commensurate with duties performed and report such compensation and identifying information to the Governors and Legislatures of the New Jersey and Pennsylvania. Failure to conduct the review will result in the forfeiture of the salary of the commissioners, officers, and directors or acting directors of the commission until the review is complete;
- hold executive sessions to address confidential matters;
- require current and prospective vendors to disclose a list of political campaign contributions;
- provide that all contracts will be voted on by the board and that advance public notice shall be given of all such votes; and
- revise its policies concerning open public records after undertaking a review of current statutes in both states.

The bill prohibits the DRPA from:

- donating money, or any item of value to any organization, whether civic, charitable, or otherwise;
- increasing tolls or train fares without a two-thirds majority of all of the commissioners appointed to the commission;
- allowing commissioners from each compacting state to caucus separately from members of the other compacting state;
- simultaneously hiring, as of the effective date of the bill, more than one individual from any immediate family;
- compensating any commissioner, officer, or employee for a expenses related to commuting or a personal vehicle;

- providing any lump sum expense or allowance for personal or official expenses without legislative action;
- extending to any commissioner, officer, or employee a line of credit or any other form of credit agreement or compensation;
- exempting any commissioner, officer, or employee from payment of any of its tolls or reimbursing any such individual for use of any of its tolls; and
- paying any commissioner, officer, or employee a salary in excess of the salary Governor of New Jersey or the salary of the Governor of Pennsylvania, whichever is lower.

The bill prohibits DRPA commissioners, officers, and employees from:

- if employed at the level of officer, director or above, holding outside employment without board approval or engaging in employment with any vendor, professional service provider, or independent contractor of the commission for two years after termination, or be subject to a fine of $500 to $10,000;
- using authority time and resources for political activity and such activity would be considered a conflict of interest;
- exerting undue influence with respect to any act of the authority. Members of the immediate family of an authority commissioner, officer or employee are also barred from such action;
- having an interest in a business organization or engage in any business or activity which is in substantial conflict with duties in the public interest;
- using or attempting to use their position to secure unwarranted privileges, advantages, or employment; and
- soliciting or accepting any gift under any circumstance which could reasonably be expected to influence the manner in which authority business is conducted, immediate family are also barred from such action.

A commissioner, officer, or employee who violates these provisions, or whose immediate family member violates these provisions, will be subject to removal from office or employment.

The bill requires all commissioners, officers, and employees of the DRPA to practice due diligence to avoid situations in which their personal interest, or financial affairs are, or are reasonably perceived as being, in conflict with the interests of the authority. Commissioners are required to file financial statements in compliance with the law of the from the State from which the commissioner was appointed.

Finally, the bill creates the Port Authority Transit Corporation (“PATCO”) Commuter’s Council to study and make recommendations with respect to maintenance and operation of PATCO’s facilities for the transportation of passengers.

The enactment by Pennsylvania of substantially similar legislation will be required, and approval of Congress may be required, before the supplemental compact authorized by this bill may be entered into.