

ASSEMBLY, No. 1904

STATE OF NEW JERSEY

216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Concerns rights of Delaware River and Bay Authority employees.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning the Delaware River and Bay Authority,
2 amending P.L.1961, c.66 and P.L.1941, c.100, and
3 supplementing P.L.1961, c.66 (C.32:11E-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) The Governor is authorized to enter into a
9 supplemental compact or agreement, on behalf of the State of New
10 Jersey, with the State of Delaware supplementing the compact or
11 agreement between the State of Delaware and the State of New
12 Jersey known as the "Delaware-New Jersey Compact," as set forth
13 in P.L. , c. (C.) (pending before the legislature as this bill).
14

15 2. Section 1 of P.L.1961, c.66 (C.32:11E-1) is amended to read as
16 follows:

17 1. The State of New Jersey hereby agrees with the State of
18 Delaware, upon enactment by the State of Delaware of legislation
19 having the same effect as this section, to the following compact:
20

21 DELAWARE-NEW JERSEY COMPACT
22

23 **WHEREAS**, The states of Delaware and New Jersey are separated by
24 the Delaware River and Bay which create a natural obstacle to the
25 uninterrupted passage of traffic other than by water and with
26 normal commercial activity between the two states thereby
27 hindering the economic growth and development of those areas in
28 both states which border the river and bay; and

29 **WHEREAS**, The pressures of existing trends from increasing traffic,
30 growing population, and greater industrialization indicate the need
31 for closer cooperation between the two states in order to advance
32 the economic development and to improve crossings,
33 transportation, terminal, and other facilities of the area; and

34 **WHEREAS**, The financing, construction, operation, and maintenance of
35 such crossings, transportation, terminal, and other facilities of
36 commerce and the overall planning for future economic
37 development of the area may be best accomplished for the benefit
38 of the two states and their citizens, the region and nation, by the
39 cordial cooperation of Delaware and New Jersey by and through a
40 joint or common agency or authority; and

41 **WHEREAS**, The Delaware-New Jersey Compact, enacted pursuant to
42 53 Laws of Delaware, Chapter 145 (17 Del. C. s.1701) and
43 P.L.1961, c.66 (C.32:11E-1 et seq.) of the Pamphlet Laws of New
44 Jersey, with the consent of the United States Congress in
45 accordance with Pub.L.87-678 (1962), created the Delaware River

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 and Bay Authority with the intention of advancing the economic
2 growth and development of those areas in both states which border
3 the Delaware River and Bay by the financing, development,
4 construction, operation, and maintenance of crossings,
5 transportation, or terminal facilities, and other facilities of
6 commerce, and by providing for overall planning for the future
7 economic development of those areas; and

8 **WHEREAS,** The economic growth and development of areas of both
9 states will be further advanced by authorizing the authority to
10 undertake economic development projects, other than major
11 projects as defined in Article II, at its own initiative, and to
12 undertake major projects after securing only such approvals as may
13 be required by legislation of the state in which the project is to be
14 located, except that the authority is prohibited from undertaking any
15 major project, to be located in the Delaware River or Bay,
16 including, without limitation, any deep-water port or superport,
17 without the prior approval, by concurrent legislation, of the two
18 states; and

19 **WHEREAS,** The natural environment of those areas in the two states
20 which border the Delaware River and Bay would be better
21 preserved by requiring that the projects, other than crossings, of the
22 authority shall be in complete compliance with all applicable
23 environmental protection laws and regulations before the authority
24 may undertake the planning, development, construction or
25 operation of any project, other than a crossing;

26
27 **NOW, THEREFORE,** The State of Delaware and the State of New
28 Jersey do hereby solemnly covenant and agree, each with the other
29 as follows:

30
31 **ARTICLE I**

32
33 **SHORT TITLE**

34
35 This compact shall be known as the "Delaware-New Jersey
36 Compact."

37
38 **ARTICLE II**

39
40 **DEFINITIONS**

41
42 "Charge card" means any card, plate, coupon book, or other
43 device existing for the purpose of obtaining money, property, labor,
44 services, or anything else of value on credit which is not subject to
45 a finance charge.

46 "Credit card" means any card, plate, coupon book, or other
47 device existing for the purpose of obtaining money, property, labor,

1 services, or anything else of value on credit which may be subject
2 to a finance charge.

3 "Financial records" mean all receipts and records of
4 disbursements, revenues and expenses, operating and capital outlay
5 expenses, assets and liabilities, including the fiscal status of
6 authority facilities, projects, and developments, including the status
7 of reserve, depreciation, special, or other funds and the receipts and
8 payments of these funds, and schedules of authority bonds and
9 notes.

10 "Information" means all authority books, papers, maps,
11 photographs, cards, or other documentary materials, regardless of
12 physical form or characteristics.

13 "Crossing" means any structure or facility adapted for public use
14 in crossing the Delaware River or Bay between the states, whether
15 by bridge, tunnel, ferry, or other device, and by any vehicle or
16 means of transportation of persons or property, as well as all
17 approaches thereto and connecting and service routes and all
18 appurtenances and equipment relating thereto.

19 "Transportation facility" and "terminal facility" mean any
20 structure or facility other than a crossing as herein defined, adapted
21 for public use within each of the states party hereto in connection
22 with the transportation of persons or property, including railroads,
23 motor vehicles, watercraft, airports and aircraft, docks, wharves,
24 piers, slips, basins, storage places, sheds, warehouses, and every
25 means or vehicle of transportation now or hereafter in use for the
26 transportation of persons and property or the storage, handling, or
27 loading of property, as well as all appurtenances and equipment
28 related thereto.

29 "Commerce facility or development" means any structure or
30 facility adapted for public use or any development for a public
31 purpose within each of the states party hereto in connection with
32 recreational and commercial fishery development, recreational
33 marina development, aquaculture (marine farming), shoreline
34 preservation and development (including wetlands and open-lands
35 acquisition, active recreational and park development, beach
36 restoration and development, dredge spoil disposal, and port-
37 oriented development), foreign trade zone site development,
38 manufacturing and industrial facilities, and any other facility or
39 activity designed, directly or indirectly, to promote business or
40 commerce which, in the judgment of the authority, is required for
41 the sound economic development of the area.

42 "Appurtenances" and "equipment" mean all works, buildings,
43 structures, devices, appliances, and supplies, as well as every kind
44 of mechanism, arrangement, object, or substance related to and
45 necessary or convenient for the proper construction, equipment,
46 maintenance, improvement, and operation of any crossing,

1 transportation facility or terminal facility, or commerce facility or
2 development.

3 "Project" means any undertaking or program for the acquisition
4 or creation of any crossing, transportation facility or terminal
5 facility, or commerce facility or development, or any part thereof,
6 as well as for the operation, maintenance and improvement thereof.

7 "Major project" means any project, other than a crossing, having
8 or likely to have significant environmental impacts on the Delaware
9 River and Bay, its shorelines or estuaries, or any other area in the
10 State of Delaware or the New Jersey counties of Cape May,
11 Cumberland, Gloucester and Salem, as determined in accordance
12 with state law by the environmental agency of the state in which the
13 major project is to be located.

14 "Tunnel" means a tunnel of one or more tubes.

15 "Governor" means any person authorized by the Constitution and
16 law of each state to exercise the functions, powers, and duties of
17 that office.

18 "Authority" means the authority created by this compact or any
19 agency successor thereto.

20 The singular whenever used in this compact shall include the
21 plural, and the plural shall include the singular.

22

23 ARTICLE III

24

25 FAITHFUL COOPERATION

26

27 They agree to and pledge, each to the other, faithful cooperation
28 in the effectuation of this compact and any future amendment or
29 supplement thereto, and of any legislation expressly in
30 implementation thereof hereafter enacted, and in the planning,
31 development, financing, construction, operation, maintenance, and
32 improvement of all projects entrusted to the authority created by
33 this compact.

34

35 ARTICLE IV

36

37 ESTABLISHMENT OF AGENCY; PURPOSES

38

39 The two states agree that there shall be created and they do
40 hereby create a body politic, to be known as "The Delaware River
41 and Bay Authority" (for brevity hereinafter referred to as the
42 "authority"), which shall constitute an agency of government of the
43 State of Delaware and the State of New Jersey for the following
44 general public purposes, and which shall be deemed to be
45 exercising essential government functions in effectuating such
46 purposes, to wit:

1 (a) The planning, financing, development, construction,
2 purchase, lease, maintenance, improvement, and operation of
3 crossings between the states of Delaware and New Jersey across the
4 Delaware River or Bay at any location south of the boundary line
5 between the State of Delaware and the Commonwealth of
6 Pennsylvania as extended across the Delaware River to the New
7 Jersey shore of said river, together with such approaches or
8 connections thereto as in the judgment of the authority are required
9 to make adequate and efficient connections between such crossings
10 and any public highway, or other routes in the State of Delaware or
11 in the State of New Jersey; and

12 (b) The planning, financing, development, construction,
13 purchase, lease, maintenance, improvement, and operation of any
14 transportation or terminal facility within the State of Delaware or
15 the New Jersey counties of Cape May, Cumberland, Gloucester and
16 Salem, which facility, in the judgment of the authority, is required
17 for the sound economic development of the area; and

18 (c) The planning, financing, development, construction,
19 purchase, lease, maintenance, improvement, and operation of any
20 commerce facility or development within the State of Delaware or
21 the New Jersey counties of Cape May, Cumberland, Gloucester and
22 Salem, which in the judgment of the authority is required for the
23 sound economic development of the area; and

24 (d) The performance of such other functions as may be hereafter
25 entrusted to the authority by concurrent legislation expressly in
26 implementation hereof.

27 The authority shall not undertake any major project or part
28 thereof without having first secured such approvals as may be
29 required by legislation of the state in which the project is to be
30 located.

31 The authority shall not undertake any major project, or part
32 thereof, to be located in the Delaware River or Bay, including,
33 without limitation, any deep-water port or superport, without having
34 first secured approval thereof by concurrent legislation of the two
35 states expressly in implementation thereof.

36 The authority shall not undertake any major project or part
37 thereof without first giving public notice and holding a public
38 hearing, if requested, on any proposed major project, in accordance
39 with the law of the state in which the major project is to be located.
40 Each state shall provide by law for the time and manner for the
41 giving of such public notice, the requesting of a public hearing, and
42 the holding of such public hearings.

43 (e) The commissioners of the authority shall be responsible for
44 appointing a Director of Economic Development or Deputy
45 Executive Director and an appropriate number of supporting staff as
46 deemed necessary by the authority to oversee commerce and
47 economic development activity by the authority in the New Jersey

1 counties of Cape May, Cumberland, Gloucester, and Salem. The
2 commissioners of the authority shall also be responsible for
3 appointing a separate Director of Economic Development or Deputy
4 Executive Director and an appropriate number of supporting staff
5 as deemed necessary by the authority to oversee commerce and
6 economic development activity by the authority in the State of
7 Delaware. The authority shall not permit the appointment of the
8 Directors of Economic Development or Deputy Executive Directors
9 and supporting staff pursuant to this subsection to increase the
10 budget of the authority.

11

12

ARTICLE V

13

14

COMMISSIONERS

15

16 a. The authority shall consist of 12 commissioners, six of
17 whom shall be residents of and qualified to vote in, and shall be
18 appointed from, the State of Delaware, and six of whom shall be
19 residents of and qualified to vote in, and shall be appointed from,
20 the State of New Jersey; not more than three of the commissioners
21 of each state shall be of the same political party; the commissioners
22 for each state shall be appointed in the manner fixed and determined
23 from time to time by the law of each state respectively. Each
24 commissioner shall hold office for a term of five years, and until
25 **[his]** the commissioner's successor shall have been appointed and
26 qualified, but the terms of the first commissioners shall be so
27 designated that the term of at least one commissioner from each
28 state shall expire each year. All terms shall run to the first day of
29 July. Any vacancy, however created, shall be filled for the
30 unexpired term only. Any commissioner may be suspended or
31 removed from office as provided by law of the state from which
32 **[he]** the commissioner shall be appointed.

33 Commissioners shall be entitled to reimbursement for necessary
34 expenses to be paid only from revenues of the authority and may
35 not receive any other compensation for services to the authority
36 except such as may from time to time be authorized from such
37 revenues by concurrent legislation.

38 b. The authority shall not permit any commissioner or other
39 person acting on its behalf to use a credit card or charge card
40 established in the name of, or the account of which is paid for by,
41 the authority for the purpose of obtaining money, property, labor,
42 services, or anything else of value, except that such credit card or
43 charge card may be used for the purposes of the business of the
44 authority provided that the expenses and purchases by credit card or
45 charge card do not exceed the maximum annual amount established
46 by joint agreement between the Governor of the State of Delaware

1 and the Governor of the State of New Jersey for the use of such
2 cards.

3 c. The authority shall not permit any commissioner or other
4 person acting on its behalf to incur expenses and purchases, other
5 than by credit card or charge card, in the performance of their
6 official duties or on behalf of the authority except that such
7 expenses and purchases may be incurred for the purposes of the
8 business of the authority provided that such expenses do not exceed
9 the maximum annual amount established by joint agreement
10 between the Governor of the State of Delaware and the Governor of
11 the State of New Jersey for such expenses and purchases.

12 13 ARTICLE VI

14 15 BOARD ACTION

16
17 The commissioners shall have charge of the authority's property
18 and affairs and shall, for the purpose of doing business, constitute a
19 board; but no action of the commissioners including, but not limited
20 to the adoption of the annual capital plan, including specifically the
21 economic development portion of that plan, shall be binding or
22 effective unless taken at a meeting at which at least four
23 commissioners from each state are present, and unless at least four
24 commissioners from each state shall vote in favor thereof. The vote
25 of any one or more of the commissioners from each state shall be
26 subject to cancellation by the Governor of such state at any time
27 within 10 days ~~[(1) , Saturdays, Sundays, and public holidays in the~~
28 ~~particular state excepted]~~, after receipt at the Governor's office
29 of a certified copy of the minutes of the meeting at which such vote
30 was taken. Each state may provide by law for the manner of
31 delivery of such minutes, and for notification of the action thereon.

32 33 ARTICLE VII

34 35 GENERAL POWERS

36
37 For the effectuation of its authorized purposes, the authority is
38 hereby granted the following powers:

39 a. To have perpetual succession.

40 b. To adopt and use an official seal.

41 c. To elect a chairman and a vice-chairman from among the
42 commissioners. The chairman and vice-chairman shall be elected
43 from different states, and shall each hold office for two years. The
44 chairmanship and vice-chairmanship shall be alternated between the
45 two states.

46 d. To adopt bylaws to govern the conduct of its affairs by the
47 board of commissioners, and it may adopt rules and regulations and

1 may make appropriate orders to carry out and discharge its powers,
2 duties, and functions, but no bylaw, or rule, regulation, or order
3 shall take effect until it has been filed with the Secretary of State of
4 each state or in such other manner in each state as may be provided
5 by the law thereof. In the establishment of rules, regulations, and
6 orders respecting the use of any crossing, transportation, or terminal
7 facility or commerce facility or development owned or operated by
8 the authority, including approach roads, it shall consult with
9 appropriate officials of both states in order to insure, as far as
10 possible, uniformity of such rules, regulations, and orders with the
11 law of both states.

12 e. To appoint, or employ, such other officers, agents, attorneys,
13 engineers, and employees as it may require for the performance of
14 its duties and to fix and determine their qualifications, duties,
15 compensation, pensions, terms of office, and all other conditions
16 and terms of employment and retention, provided that the
17 employees of the Delaware River and Bay Authority shall be
18 subject to the "New Jersey Employer-Employee Relations Act,"
19 P.L.1941, c.100 (C.34:13A-1 et seq.) and shall have all of the rights
20 provided to employees by that act, including but not limited to, the
21 right to form, join, or assist an employee organization, and the right
22 to have the employee organization engage in collective bargaining
23 on behalf of the employees.

24 f. To enter into contracts and agreements with either state or
25 with the United States, or with any public body, department, or
26 other agency of either state or of the United States or with any
27 individual, firm, or corporation, deemed necessary or advisable for
28 the exercise of its purposes and powers.

29 g. To accept from any government or governmental
30 department, agency, or other public or private body, or from any
31 other source, grants or contributions of money or property as well
32 as loans, advances, guarantees, or other forms of financial
33 assistance which it may use for or in aid of any of its purposes.

34 h. To acquire **[(]by gift, purchase, or condemnation[)]**, own,
35 hire, lease, use, operate, and dispose of property, whether real,
36 personal or mixed, or of any interest therein, including any rights,
37 franchise, and property for any crossing, facility, or other project
38 owned by another, and which the authority is authorized to own and
39 operate.

40 i. To designate as express highways, and control public and
41 private access thereto, all or any approaches to any crossing or other
42 facility of the authority for the purpose of connecting the same with
43 any highway or other route in either state.

44 j. To borrow money and to evidence such loans by bonds,
45 notes, or other obligations, either secured or unsecured, and either
46 in registered or unregistered form, and to fund or refund such
47 evidences of indebtedness, which may be executed with facsimile

1 signatures of such persons as may be designated by the authority
2 and by a facsimile of its corporate seal.

3 k. To procure and keep in force adequate insurance or
4 otherwise provide for the adequate protection of its property, as
5 well as to indemnify it or its officers, agents, or employees against
6 loss or liability with respect to any risk to which it or they may be
7 exposed in carrying out any function hereunder.

8 l. To grant the use of, by franchise, lease, or otherwise, and to
9 make charges for the use of, any crossing, facility, or other project
10 or property owned or controlled by it.

11 m. To exercise the right of eminent domain to acquire any
12 property or interest therein.

13 n. To determine the exact location, system, and character of
14 and all other matters in connection with any and all crossings,
15 transportation or terminal facilities, commerce facilities or
16 developments, or other projects which it may be authorized to own,
17 construct, establish, effectuate, operate, or control.

18 o. To exercise all other powers not inconsistent with the
19 Constitutions of the two states or of the United States, which may
20 be reasonably necessary or incidental to the effectuation of its
21 authorized purposes or to the exercise of any of the foregoing
22 powers, except the power to levy taxes or assessments, and
23 generally to exercise in connection with its property and affairs, and
24 in connection with property within its control, any and all powers
25 which might be exercised by a natural person or a private
26 corporation in connection with similar property and affairs.

27
28 ARTICLE VIII

29
30 ADDITIONAL POWERS

31
32 For the purpose of effectuating the authorized purposes of the
33 authority, additional powers may be granted to the authority by
34 legislation of either state without the concurrence of the other, and
35 may be exercised within such state, or may be granted to the
36 authority by Congress and exercised by it; but no additional duties
37 or obligations shall be undertaken by the authority under the law of
38 either state or of Congress without authorization by the law of both
39 states.

40
41 ARTICLE IX

42
43 EMINENT DOMAIN

44
45 If the authority shall find and determine that any property or
46 interest therein is required for a public use in furtherance of the
47 purposes of the authority, [said] that determination shall not be

1 affected by the fact that such property has theretofore been taken
2 over or is then devoted to a public use, but the public use in the
3 hands or under the control of the authority, shall be deemed
4 superior to the public use for which it has theretofore been taken or
5 to which it is then devoted. The authority shall not exercise the
6 power of eminent domain granted herein to acquire any property,
7 other than a crossing, devoted to a public use, of either state, or of
8 any municipality, local government, agency, public authority, or
9 commission, or of two or more of them, for any purpose other than
10 a crossing, without having first secured the authorization of the
11 holder of the title to the land in question and such other approvals
12 as may be required by legislation of the state in which the project is
13 to be located. The authority shall not exercise the power of eminent
14 domain in connection with any commerce facility or development.

15 In any condemnation proceeding in connection with the
16 acquisition by the authority of property or property rights of any
17 character in either state and the right of inspection and immediate
18 entry thereon, through the exercise by it of its power of eminent
19 domain, any existing or future law or rule of court of the state in
20 which such property is located with respect to the condemnation of
21 property for the construction, reconstruction, and maintenance of
22 highways therein, shall control. The authority shall have the same
23 power and authority with respect thereto as the state agency named
24 in any such law; provided that nothing herein contained shall be
25 construed as requiring joint or concurrent action by the two states
26 with respect to the enactment, repeal, or amendment of any law or
27 rule of court on the subject of condemnation under which the
28 authority may proceed by virtue of this article.

29 If the established grade of any street, avenue, highway, or other
30 route shall be changed by reason of the construction by the
31 authority of any work so as to cause loss or injury to any property
32 abutting on such street, avenue, highway, or other route, the
33 authority may enter into voluntary agreements with such abutting
34 property owners and pay reasonable compensation for any loss or
35 injury so sustained, whether or not it be compensable as damages
36 under the condemnation law of the state.

37 The power of the authority to acquire property by condemnation
38 shall be a continuing power, and no exercise thereof shall be
39 deemed to exhaust it.

40

41 ARTICLE X

42

43 REVENUES AND APPLICATION

44

45 a. The authority is hereby authorized to establish, levy, and
46 collect [such] tolls and other charges as it may deem necessary,
47 proper, or desirable, in connection with any crossing, transportation

1 or terminal facility, commerce facility or development, or other
 2 project which it is or may be authorized at any time to construct,
 3 own, operate or control, and the aggregate of said tolls and charges
 4 shall be at least sufficient (1) to meet the combined expenses of
 5 operation, maintenance, and improvement thereof, (2) to pay the
 6 cost of acquisition or construction, including the payment,
 7 amortization, and retirement of bonds or other securities or
 8 obligations assumed, issued, or incurred by the authority, together
 9 with interest thereon and (3) to provide reserves for such purposes;
 10 and the authority is hereby authorized and empowered, subject to
 11 prior pledges, if any, to pledge such tolls and other revenues or any
 12 part thereof as security for the repayment with interest of any
 13 moneys borrowed by it or advanced to it for its authorized purposes
 14 and as security for the satisfaction of any other obligations assumed
 15 by it in connection with such loans or advances. There shall be
 16 allocated to the cost of the acquisition, construction, operation,
 17 maintenance, and improvement of such facilities and projects, such
 18 proportion of the general expenses of the authority as it shall deem
 19 properly chargeable thereto.

20 b. No action taken by the authority to increase tolls, charges, or
 21 fares on the Delaware Memorial Bridge or the Cape May-Lewes
 22 Ferry shall have force or effect without first giving public notice
 23 and holding public hearings within the New Jersey counties of Cape
 24 May, Cumberland, Gloucester, and Salem and all counties in the
 25 State of Delaware concerning the proposed increase in tolls,
 26 charges, or fares. The authority shall be required to provide
 27 appropriate supporting information and financial records related to
 28 the proposed increase in tolls, charges, or fares to the presiding
 29 officers of the Legislature of the State of Delaware and the
 30 Legislature of the State of New Jersey at least five days in advance
 31 of the first public hearing required to be held on the proposed
 32 increase.

33

34

ARTICLE XI

35

36

COVENANT WITH BONDHOLDERS

37

38 The two said states covenant and agree with each other and with
 39 the holders of any bonds or other securities or obligations of the
 40 authority, assumed, issued, or incurred by it and as security for
 41 which there may be pledged the tolls and revenues or any part
 42 thereof of any crossing, transportation or terminal facility,
 43 commerce facility or development, or other project, that the two
 44 said states will not, so long as any of such bonds or other
 45 obligations remain outstanding and unpaid, diminish or impair the
 46 power of the authority to establish, levy, and collect tolls and other
 47 charges in connection therewith, and that neither of the two said

1 states will, so long as any of such bonds or other obligations remain
2 outstanding and unpaid, authorize any crossing of the Delaware
3 River or Delaware Bay south of the line mentioned in Article IV (a)
4 of this compact, by any person or body other than the authority;
5 unless, in either case, adequate provision shall be made by law for
6 the protection of those advancing money upon such obligations.

7
8 ARTICLE XII

9
10 SECURITIES LAWFUL INVESTMENTS

11
12 The bonds or other securities or obligations which may be issued
13 by the authority pursuant to this compact, or any amendments
14 hereof or supplements hereto, are hereby declared to be negotiable
15 instruments, and are hereby made securities in which all state and
16 municipal officers and bodies of each state, all banks, bankers, trust
17 companies, savings banks, building and loan associations, savings
18 and loan associations, investment companies, and other persons
19 carrying on a banking business, all insurance companies, insurance
20 associations, and other persons carrying on an insurance business,
21 and all administrators, executors, guardians, trustees, and other
22 fiduciaries and all other persons whatsoever who are now or may
23 hereafter be authorized to invest in bonds or other obligations of
24 either state, may properly and legally invest any funds, including
25 capital, belonging to them or within their control; and said
26 obligations are hereby made securities which may properly and
27 legally be deposited with and shall be received by any state or
28 municipal officer or agency of either state for any purpose for
29 which the deposit of bonds or other obligations of such state is now
30 or may hereafter be authorized.

31
32 ARTICLE XIII

33
34 TAX STATUS

35
36 The powers and functions exercised by the authority under this
37 compact and any amendments hereof or supplements hereto are and
38 will be in all respects for the benefit of the people of the states of
39 Delaware and New Jersey, the region and nation, for the increase of
40 their commerce and prosperity and for the enhancement of their
41 general welfare. To this end, the authority shall be regarded as
42 performing essential governmental functions in exercising such
43 powers and functions and in carrying out the provisions of this
44 compact and of any law relating thereto, and shall not be required to
45 pay any taxes or assessments of any character, levied by either state
46 or political subdivision thereof, upon any of the property used by it
47 for such purposes, or any income or revenue therefrom, including

1 any profit from a sale or exchange. The bonds or other securities or
2 obligations issued by the authority, their transfer, and the interest
3 paid thereon or income therefrom, including any profit from a sale
4 or exchange, shall at all times be free from taxation by either state
5 or any subdivision thereof.

6
7 ARTICLE XIV

8
9 JURISDICTION; USE OF LANDS

10
11 Each of the two states hereby consents to the use and occupancy
12 by the authority of any lands and property of the authority in such
13 state for the construction, operation, maintenance, or improvement
14 of any crossing, transportation or terminal facility, commerce
15 facility or development, or other project which it is or may be
16 authorized at any time to construct, own, or operate, including lands
17 lying under water.

18
19 ARTICLE XV

20
21 REVIEW AND ENFORCEMENT OF RULES

22
23 Judicial proceedings to review any bylaw, rule, regulation, order,
24 or other action of the authority or to determine the meaning or
25 effect thereof, may be brought in such court of each state, and
26 pursuant to such law or rules thereof, as a similar proceeding with
27 respect to any agency of such state might be brought.

28 Each state may provide by law what penalty or penalties shall be
29 imposed for violation of any lawful rule, regulation, or order of the
30 authority, and, by law or rule of court, for the manner of enforcing
31 the same.

32
33 ARTICLE XVI

34
35 NO PLEDGE OF CREDIT

36
37 The authority shall have no power to pledge the credit or to
38 create any debt or liability of the State of Delaware, of the State of
39 New Jersey, or of any other agency or of any political subdivision
40 of said states.

41
42 ARTICLE XVII

43
44 LOCAL COOPERATION AND AGREEMENTS

45
46 a. All municipalities, political subdivisions, and every
47 department, agency, or public body of each of the states are hereby

1 authorized and empowered to cooperate with, aid, and assist the
2 authority in effectuating the provisions of this compact and of any
3 amendment hereof or supplement hereto.

4 b. The authority is authorized and empowered to cooperate
5 with each of the states, or any political subdivision thereof, and
6 with any municipality, local government, agency, public authority,
7 or commission of the foregoing, in connection with the acquisition,
8 planning, rehabilitation, construction, or development of any
9 project, other than a crossing, and to enter into an agreement or
10 agreements, subject to compliance with the laws of the state in
11 which the project is to be located, with each of the states, or with
12 any political subdivision thereof, and with any municipality,
13 county, local government, agency, public authority, or commission
14 or with two or more of them, for or relating to such purposes.

15 c. The authority and the city, town, municipality, or other
16 political subdivision in which any project, other than a crossing, is
17 to be located are hereby authorized and empowered, subject to
18 compliance with the laws of the state in which the project is to be
19 located, to enter into an agreement or agreements to provide which
20 local laws, resolutions, ordinances, rules, and regulations, if any, of
21 the city, town, municipality, or other political subdivision affected
22 by such project shall apply to such project. All other existing local
23 laws, resolutions, ordinances, or rules and regulations not provided
24 for in the agreement shall be applicable to the project, other than a
25 crossing. All local laws, resolutions, ordinances, or rules and
26 regulations enacted after the date of the agreement shall not be
27 applicable to such projects unless made applicable by the agreement
28 or any modification thereto.

30 ARTICLE XVIII

32 DEPOSITARIES

34 All banks, bankers, trust companies, savings banks, and other
35 persons carrying on a banking business under the laws of either
36 state are authorized to give security for the safekeeping and prompt
37 payment of moneys of the authority deposited by it with them, in
38 such manner and form as may be required by and may be approved
39 by the authority, which security may consist of a good and
40 sufficient undertaking with such sureties as may be approved by the
41 authority, or may consist of the deposit with the authority or other
42 depository approved by the authority as collateral of such securities
43 as the authority may approve.

ARTICLE XIX

AGENCY POLICE

Members of the police force established by the authority, regardless of their residence, shall have in each state, on the crossings, transportation or terminal facilities, commerce facilities or developments, and other projects and the approaches thereto, owned, operated, or controlled by the authority, and at such other places and under such circumstances as the law of each state may provide, all the powers of investigation, detention, and arrest conferred by law on peace officers, sheriffs, or constables in such state or usually exercised by such officers in each state.

ARTICLE XX

REPORTS AND AUDITS

a. The authority shall make annual reports to the Governors and Legislatures of the State of Delaware and the State of New Jersey, setting forth in detail its operations and transactions, and may make such additional reports from time to time to the Governors and Legislatures as it may deem desirable.

It shall, at least annually, cause an independent audit of its fiscal affairs to be made and shall furnish a copy of such audit report together with such additional information or data with respect to its affairs as it may deem desirable to the Governors and Legislatures of each state.

It shall furnish such information or data with respect to its affairs as may be requested by the Governor or Legislature of each state.

b. The authority shall, within 180 days after the end of each fiscal year of the authority, submit to the Governor and Legislature of the State of Delaware and the Governor and Legislature of 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 authority 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;

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

3 (7) a capital plan containing specific goals and objectives
4 including, but not limited to, economic development goals and
5 objectives in the State of Delaware and in the New Jersey counties
6 of Cape May, Cumberland, Gloucester and Salem; and

7 (8) the authority's progress toward meeting the prior year's
8 economic development goals and objectives.

9
10 ARTICLE XXI

11
12 BOUNDARIES UNAFFECTED

13
14 The existing territorial or boundary lines of the states, or the
15 jurisdiction of the two states established by said boundary lines,
16 shall not be changed hereby.

17
18 ARTICLE XXII

19
20 ENVIRONMENTAL PROTECTION

21
22 a. The planning, development, construction, and operation of
23 any project, other than a crossing, shall comply with all
24 environmental protection laws, regulations, directives, and orders,
25 including, without limitation, any coastal zone laws, wetlands laws,
26 or subaqueous land laws or natural resource laws, now or hereafter
27 enacted, or promulgated by the state in which the project, or any
28 part thereof, is located.

29 b. The planning, development, construction, and operation of
30 any project, other than a crossing, to be located in the Delaware
31 River and Bay shall comply with all environmental protection laws,
32 regulations, directives, and orders, including, without limitation,
33 any coastal zone laws, wetlands laws, subaqueous land laws or
34 natural resource laws, now or hereafter enacted or promulgated by
35 either state.

36 c. The planning, development, construction, and operation of
37 any project, other than a crossing, located in the coastal zone of
38 Delaware (as defined in Chapter 70 of Title 7 of the Delaware
39 Code, as in effect on January 1, 1989), shall be subject to the same
40 limitations, requirements, procedures and appeals as apply to any
41 other person under the Delaware Coastal Zone Act, Chapter 70 of
42 Title 7 of the Delaware Code, as in effect on January 1, 1989.
43 Nothing in this compact shall be deemed to preempt, modify, or
44 supersede any provision of the Delaware Coastal Zone Act, Chapter
45 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989.
46 The interpretation and application of this paragraph shall be

1 governed by the laws of the State of Delaware and be determined by
2 the courts of the State of Delaware.

3 d. The planning, development, construction, and operation of
4 any project, other than a crossing, located in New Jersey, shall be
5 subject to the provisions of New Jersey law, when applicable,
6 including, but not limited to, "The Wetlands Act of 1970,"
7 P.L.1970, c.272 (C.13:9A-1 et seq.) and the "Coastal Area Facility
8 Review Act," P.L.1973, c.185 (C.13:19-1 et seq.).
9 (cf: P.L.2003, c.192, s.1)

10
11 3. (New section) The Governor is authorized to apply, on
12 behalf of the State of New Jersey, to the Congress of the United
13 States for its consent and approval to such supplemental compact or
14 agreement, but in the absence of such consent and approval, the
15 authority referred to in such supplemental compact or agreement
16 shall have all of the powers the State of Delaware and the State of
17 New Jersey may confer upon it without the consent and approval of
18 Congress.

19
20 4. Section 3 of P.L.1941, c.100 (C.34:13A-3) is amended to
21 read as follows:

22 3. When used in **[this act]** P.L.1941, c.100 (C.34:13A-1 et
23 seq.):

24 (a) The term "board" shall mean New Jersey State Board of
25 Mediation.

26 (b) The term "commission" shall mean New Jersey Public
27 Employment Relations Commission.

28 (c) The term "employer" includes an employer and any person
29 acting, directly or indirectly, on behalf of or in the interest of an
30 employer with the employer's knowledge or ratification, but a labor
31 organization, or any officer or agent thereof, shall be considered an
32 employer only with respect to individuals employed by such
33 organization. This term shall include "public employers" and shall
34 mean the State of New Jersey, or the several counties and
35 municipalities thereof, or any other political subdivision of the
36 State, or a school district, or any special district, or any authority,
37 commission, or board, or any branch or agency of the public
38 service. The term shall also include the Delaware River Port
39 Authority, established pursuant to R.S.32:3-1 et seq., and the
40 Delaware River and Bay Authority, established pursuant to
41 P.L.1961, c.66 (C.32:11E-1 et seq.).

42 (d) The term "employee" shall include any employee, and shall
43 not be limited to the employees of a particular employer unless this
44 act explicitly states otherwise, and shall include any individual
45 whose work has ceased as a consequence of or in connection with
46 any current labor dispute or because of any unfair labor practice and
47 who has not obtained any other regular and substantially equivalent

1 employment. This term, however, shall not include any individual
2 taking the place of any employee whose work has ceased as
3 aforesaid, nor shall it include any individual employed by his parent
4 or spouse, or in the domestic service of any person in the home of
5 the employer, or employed by any company owning or operating a
6 railroad or railway express subject to the provisions of the Railway
7 Labor Act (45 U.S.C. s.151 et seq.). This term shall include any
8 public employee, i.e., any person holding a position, by
9 appointment or contract, or employment in the service of a public
10 employer, including the Delaware River Port Authority and the
11 Delaware River and Bay Authority, except elected officials,
12 members of boards and commissions, managerial executives, and
13 confidential employees.

14 (e) The term "representative" is not limited to individuals but
15 shall include labor organizations, and individual representatives
16 need not themselves be employed by, and the labor organization
17 serving as a representative need not be limited in membership to the
18 employees of, the employer whose employees are represented. This
19 term shall include any organization, agency, or person authorized or
20 designated by a public employer, public employee, group of public
21 employees, or public employee association to act on its behalf and
22 represent it or them.

23 (f) "Managerial executives" of a public employer, in the case of
24 the State of New Jersey, means persons who formulate management
25 policies and practices, but shall not mean persons who are charged
26 with the responsibility of directing the effectuation of such
27 management policies and practices, except that, in the case of the
28 Executive Branch of the State of New Jersey, "managerial
29 executive" shall include only personnel at or above the level of
30 assistant commissioner.

31 In the case of any public employer other than the State of New
32 Jersey, "managerial executives" of a public employer means persons
33 who formulate management policies and practices, and persons who
34 are charged with the responsibility of directing the effectuation of
35 such management policies and practices, except that in any school
36 district this term shall include only the superintendent or other chief
37 administrator, and the assistant superintendent of the district.

38 (g) "Confidential employees" of a public employer means
39 employees whose functional responsibilities or knowledge in
40 connection with the issues involved in the collective negotiations
41 process would make their membership in any appropriate
42 negotiating unit incompatible with their official duties.

43 "Confidential employees" of the State of New Jersey means
44 employees who have direct involvement in representing the State in
45 the collective negotiations process making their membership in any
46 appropriate negotiating unit incompatible with their official duties.

47 (cf: P.L.2009, c.314, s.1)

1 5. This section and sections 1 through 3 of this act shall take
2 effect immediately; but the Governor shall not enter into the
3 supplemental compact or agreement hereinabove set forth on behalf
4 of the State of New Jersey until passage by the State of Delaware of
5 a substantially similar act embodying the supplemental compact or
6 agreement between the two States. Section 4 shall take effect upon
7 passage of that substantially similar act, and the consent and
8 approval of Congress to that supplemental compact or agreement, if
9 that consent and approval is required to confer the powers granted
10 in this act upon the Delaware River and Bay Authority.

11

12

13

STATEMENT

14

15 This bill amends the compact between the State of Delaware and
16 the State of New Jersey creating the Delaware River and Bay
17 Authority. The bill provides that employees of the Delaware River
18 and Bay Authority are to be subject to the provisions of the “New
19 Jersey Employer – Employee Relations Act,” and have all of the
20 rights provided to employees by that act, including but not limited
21 to, the right to form, join, or assist an employee organization, and
22 the right to have that employee organization engage in collective
23 bargaining on behalf of the employees. The bill also amends the
24 “New Jersey Employer-Employee Relations Act” by adding the
25 Delaware River and Bay Authority as a public employer subject to
26 the act.

27 The enactment by Delaware of substantially similar legislation is
28 required, and approval of Congress may be required, before the
29 bill’s provisions may become operative.