

# SENATE, No. 2794

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MARCH 12, 2015

**Sponsored by:**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Morris, Somerset and Union)**

**Co-Sponsored by:**

**Senators Addiego, Allen, Bateman, Beck, A.R.Bucco, Cardinale, Holzapfel,  
Oroho, O'Toole, Pennacchio, Singer and Thompson**

**SYNOPSIS**

Implements certain governance and transparency reforms at PANYNJ.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/17/2015)**

1 AN ACT reforming the Port Authority of New York and New Jersey,  
2 amending various parts of the statutory law, and supplementing  
3 Title 32 of the Revised Statutes.

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

7  
8 1. (New section) a. At the time that a commissioner of the  
9 Port Authority of New York and New Jersey takes and subscribes  
10 the commissioner's oath of office, or within 60 days after the  
11 effective date of P.L. , c. (C. ) (pending before the  
12 Legislature as this bill) if the commissioner has already taken and  
13 subscribed the commissioner's oath of office, the commissioner  
14 shall execute a statement declaring that the commissioner  
15 understands the commissioner's independence and fiduciary  
16 obligation to perform duties and responsibilities to the best of the  
17 commissioner's abilities, in good faith and with proper diligence  
18 and care, consistent with the enabling compact, mission, and by-  
19 laws of the port authority and the applicable laws of both states; and  
20 that the fiduciary duty to the port authority is derived from and  
21 governed by its mission.

22 b. The commissioners shall perform each of their duties as  
23 board members in good faith and with that degree of diligence, care,  
24 and skill which an ordinarily prudent person in like position would  
25 use under similar circumstances.

26 c. A commissioner shall not vote on or participate in any board  
27 or committee discussions or decisions with respect to an item if the  
28 commissioner, a member of the commissioner's immediate family,  
29 or a business in which the commissioner has an interest has a direct  
30 or indirect financial involvement that may reasonably be expected  
31 to impair the commissioner's objectivity or independent judgment  
32 or that may reasonably create the appearance of impropriety. The  
33 public shall be informed of any recusals prior to any board action  
34 and the minutes shall clearly reflect that recusal.

35 d. The commissioners shall file annual financial disclosure  
36 statements pursuant to the laws of New Jersey and New York as  
37 may be required by the law or Executive Order of the state from  
38 which the commissioner is appointed. The financial disclosure  
39 statements shall be posted on the port authority's official website.

40 e. For purposes of this section:

41 "Immediate family" means the commissioner's spouse, child,  
42 parent, or sibling residing in the same household.

43 "Interest" means if the business organization is a partnership, the  
44 commissioner or the commissioner's immediate family is a partner  
45 or owner of 10 percent or more of the assets of the partnership; or if

**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 the business organization is a corporation, the commissioner or the  
2 commissioner's immediate family owns or controls 10 percent or  
3 more of the stock of the corporation, or serves as a director or  
4 officer of the corporation.

5

6 2. (New section) a. The board of commissioners shall establish  
7 a committee structure that shall include, but need not be limited to,  
8 the following responsibilities:

9 (1) a governance responsibility to be assigned to a committee  
10 comprised of not fewer than three commissioners, who shall  
11 constitute a majority on the committee, and who shall possess the  
12 necessary skills to undertake the governance duties and functions.  
13 It shall be the responsibility of the members of this committee to:  
14 keep the board informed of current best governance practices;  
15 review corporate governance trends; update the port authority's  
16 corporate governance principles; examine ethical and conflict of  
17 interest issues; perform board self-evaluations; investigate term  
18 limits, reappointments, and board responsibilities; develop by-laws  
19 which include rules and procedures for the conduct of board  
20 business; and advise the port authority on the skills and experiences  
21 required of potential commissioners;

22 (2) an audit responsibility to be assigned to a committee  
23 comprised of not fewer than three commissioners, who shall  
24 constitute a majority on the committee, and who shall possess the  
25 necessary skills to undertake the audit duties and functions. It shall  
26 be the responsibility of the members of this committee to:  
27 recommend to the board the hiring of an independent firm of  
28 certified public accountants to audit the port authority; establish the  
29 compensation to be paid to the accounting firm; and provide direct  
30 oversight of the annual independent financial audit performed by  
31 the accounting firm hired for auditing purposes. Members of this  
32 committee shall be familiar with corporate financial and accounting  
33 practices and shall be financially literate about applicable financial  
34 laws, rules, regulations, and standard industry practices; and

35 (3) a finance responsibility to be assigned to a committee  
36 comprised of not fewer than three commissioners, who shall  
37 constitute a majority on the committee, and who shall possess the  
38 necessary skills to undertake the finance duties and functions. It  
39 shall be the responsibility of the members of this committee to  
40 oversee and approve the issuance of debt that the port authority or  
41 its subsidiaries issue.

42 b. Every committee established by the board of commissioners  
43 shall promulgate a written charter to be approved by the board.  
44 Each charter promulgated in accordance with this section shall be  
45 made available to the public and posted on the port authority's  
46 official website.

47

48 3. (New section) The board of commissioners shall:

1 a. adopt a mission statement that the port authority's mission is  
2 to meet the critical transportation infrastructure needs of the bi-state  
3 region's people, businesses, and visitors by providing the highest  
4 quality and most efficient transportation and port commerce  
5 facilities and services to move people and goods within the region,  
6 provide access to the nation and the world, and promote the  
7 region's economic development. The port authority shall not take  
8 any action inconsistent with the mission statement, including the  
9 purchase of real estate or the engagement in real estate development  
10 efforts unrelated to its mission;

11 b. adopt a code of conduct applicable to commissioners,  
12 employees, and vendors and other contractors with the port  
13 authority based upon the recommendations of the port authority's  
14 Chief Ethics and Compliance Officer that shall, at minimum,  
15 include the applicable standards established by law in each state;

16 c. establish a whistleblower access and assistance program  
17 protecting employees from retaliation for disclosing information  
18 concerning acts of wrongdoing, misconduct, malfeasance, or other  
19 inappropriate conduct based upon the recommendations of the Chief  
20 Ethics and Compliance Officer, which program shall adhere to the  
21 requirements of subsection d. of section 5 of P.L. , c. (C. )  
22 (pending before the Legislature as this bill); and

23 d. establish a policy requiring all commissioners, officers, and  
24 employees with decision-making authority to maintain records  
25 regarding contact with lobbyists. As used in this subsection,  
26 "contact" means any conversation, in person, by telephone, or other  
27 electronic means, or correspondence between any lobbyist engaged  
28 in the act of lobbying and any person within the port authority who  
29 can make or influence a decision on the subject of the lobbying on  
30 behalf of the port authority, and shall include, at a minimum, all  
31 members of the board of commissioners and all officers of the port  
32 authority.

33

34 4. (New section) The board of commissioners shall appoint:

35 a. a Chief Executive Officer who shall serve as head of the  
36 senior management executive team of the port authority and shall be  
37 directly accountable to the board of commissioners;

38 b. a Chief Ethics and Compliance Officer who shall be a  
39 member of the port authority's senior management executive team  
40 and shall be directly accountable to the board of commissioners;  
41 and

42 c. an Inspector General who shall be directly accountable to the  
43 board of commissioners.

44

45 5. (New section) a. The Chief Ethics and Compliance Officer  
46 shall establish a comprehensive code of conduct, including financial  
47 disclosure requirements, meeting industry best practice that shall  
48 govern the actions of the board, employees of the port authority,

1 and parties contracting with the port authority. The Chief Ethics  
2 and Compliance Officer shall review the code of conduct annually  
3 to ensure it meets industry best practices.

4 b. In addition to the financial disclosures required of the  
5 commissioners pursuant to subsection d. of section 1 of P.L. ,  
6 c. (C. ) (pending before the Legislature as this bill), financial  
7 disclosures of employees shall, at a minimum, be required of the  
8 Chief Executive Officer, the Chief Ethics and Compliance Officer,  
9 the Chief Financial Officer, the Inspector General, and employees  
10 who hold policy-making positions, as determined by the port  
11 authority, and employees whose total compensation, either in the  
12 current or previous year, equals or exceeds \$200,000, which amount  
13 shall be adjusted for inflation annually in accordance with the  
14 consumer price index for all urban wage earners and clerical  
15 workers (CPI-W) as calculated by the federal government. These  
16 financial disclosures shall be updated not less than annually and  
17 shall be made available on the port authority's official website.

18 c. Commissioners and employees of the port authority shall  
19 report to the Chief Ethics and Compliance Officer and the Inspector  
20 General when conduct within the port authority appears to violate  
21 any code of conduct applicable to the port authority or the criminal  
22 law of either state, or otherwise appears to constitute acts of  
23 wrongdoing, misconduct, malfeasance, or other inappropriate  
24 conduct. Failure to report potential violations of any code of  
25 conduct applicable to the port authority or the criminal law of either  
26 state, or acts of wrongdoing, misconduct, malfeasance, or other  
27 inappropriate conduct may result in removal from office or  
28 employment or other appropriate penalty.

29 d. The Chief Ethics and Compliance Officer, after consultation  
30 with the Attorney General of both states, shall recommend to the  
31 board of commissioners a whistleblower access and assistance  
32 program to be administered by the Inspector General which shall  
33 include, but not be limited to:

34 (1) establishing toll-free telephone and facsimile lines available  
35 to employees;

36 (2) offering advice regarding employee rights under applicable  
37 state and federal laws and advice and options available to all  
38 persons; and

39 (3) offering an opportunity for employees to identify concerns  
40 regarding any issue at the port authority. Any communication  
41 between an employee and the Inspector General pursuant to this  
42 paragraph shall be held strictly confidential by the Inspector  
43 General, unless the employee specifically waives in writing the  
44 right to confidentiality, except that this confidentiality shall not  
45 exempt the Inspector General from disclosing information, where  
46 appropriate, to any law enforcement authority.

47 e. The port authority shall not fire, discharge, demote, suspend,  
48 threaten, harass, or discriminate against an employee because of the

1 employee's role as a whistleblower, insofar as the actions taken by  
2 the employee are legal.

3 f. As used in this section:

4 "Attorney General of both states" means the Attorney General of  
5 the State of New York and the Attorney General of the State of  
6 New Jersey.

7 "Employees" means those persons employed at the port  
8 authority, including but not limited to: full-time and part-time  
9 employees, those employees on probation, and temporary  
10 employees.

11 "Whistleblower" means any employee of the port authority who  
12 discloses information concerning acts of wrongdoing, misconduct,  
13 malfeasance, or other inappropriate behavior by an employee or  
14 board member of the port authority, concerning the port authority's  
15 investments, travel, acquisition of real or personal property, the  
16 disposition of real or personal property, or the procurement of  
17 goods and services.

18

19 6. (New section) a. The Inspector General shall be responsible  
20 for receiving and investigating, where appropriate, all complaints  
21 regarding fraud, waste, and abuse by commissioners, officers, and  
22 employees of the port authority or third-parties doing business with  
23 the port authority. The Inspector General shall also be responsible  
24 for conducting investigations upon the Inspector General's own  
25 initiative, as the Inspector General shall deem appropriate.

26 b. The Inspector General shall inform the board of  
27 commissioners and the Chief Executive Officer of allegations  
28 received by the Inspector General and the progress of investigations  
29 related thereto, unless special circumstances require confidentiality.

30 c. The Inspector General shall determine with respect to  
31 allegations received by the Inspector General whether disciplinary  
32 action or civil prosecution by the port authority is appropriate, and  
33 whether the matter should be referred to an appropriate  
34 governmental agency for further action.

35 d. The Inspector General shall prepare and make available to  
36 the public written reports of completed investigations, as  
37 appropriate and to the extent permitted by law, subject to redaction  
38 to protect the confidentiality of witnesses. The release of all or  
39 portions of reports may be deferred to protect the confidentiality of  
40 ongoing investigations.

41 e. The Inspector General shall have the power to:

42 (1) subpoena and enforce the attendance of witnesses;

43 (2) administer oaths or affirmations and examine witnesses  
44 under oath;

45 (3) require the production of any books and papers deemed  
46 relevant or material to any investigation, examination or review;

1 (4) notwithstanding any law to the contrary, examine and copy  
2 or remove documents or records of any kind prepared, maintained  
3 or held by the port authority and its subsidiaries;

4 (5) require any officer or employee of the port authority or its  
5 subsidiaries to answer questions concerning any matter related to  
6 the performance of the officer or employee's official duties. No  
7 statement or other evidence derived therefrom may be used against  
8 the officer or employee in any subsequent criminal prosecution  
9 other than for perjury or contempt arising from the testimony. The  
10 refusal of any officer or employee to answer questions shall be  
11 cause for removal from office or employment or other appropriate  
12 penalty. To the extent that any portion of this paragraph is  
13 inconsistent with any current contractual obligations of the port  
14 authority, this paragraph shall not be applicable to those obligations  
15 until the earliest expiration of those terms under the contract;

16 (6) monitor the implementation by the port authority of any  
17 recommendations made by the Inspector General; and

18 (7) perform any other functions that are necessary or appropriate  
19 to fulfill the duties and responsibilities of office.

20  
21 7. (New section) The board of commissioners shall:

22 a. develop a capital plan which, after adoption by the board of  
23 commissioners, shall be available to the public and posted on the  
24 port authority's official website. All capital expenditures shall be  
25 consistent with the capital plan. The capital plan shall not include  
26 any discretionary regional development funds. Any regional  
27 development funds unallocated as of the effective date of P.L. ,  
28 c. (C. ) (pending before the Legislature as this bill) shall be  
29 redeployed to specific transportation projects consistent with the  
30 port authority's mission as provided in subsection a. of section 3 of  
31 P.L. , c. (C. ) (pending before the Legislature as this bill).  
32 As used in this subsection, "discretionary regional development  
33 funds" means funds allocated for certain transportation, economic  
34 development, and infrastructure renewal projects in the State of  
35 New Jersey and the State of New York to be undertaken at the  
36 request of the respective Governor thereof;

37 b. annually prepare an operating budget that shall be balanced  
38 in accordance with generally accepted accounting principles and  
39 that shall, after adoption by the board of commissioners, be  
40 available to the public and posted on the port authority's official  
41 website;

42 c. have an annual audit performed by a certified public  
43 accountant in accordance with generally accepted auditing  
44 standards and shall submit the annual audit to the governor, state  
45 comptroller, and legislature of each state; and

46 d. have an efficiency study conducted by an independent entity  
47 upon the request of the Governors of New York and New Jersey,

1 and if no request is made, no later than 10 years after the most  
2 recent efficiency study was conducted.

3

4 8. R.S.32:1-8 is amended to read as follows:

5 ARTICLE VII.

6 The port authority shall have [such] additional powers and  
7 duties as may hereafter be delegated to or imposed upon it from  
8 time to time by the action of the legislature of either state concurred  
9 in by the legislature of the other. Unless and until otherwise  
10 provided, it shall make an annual report to the legislature of both  
11 states setting forth in detail the operations and transactions  
12 conducted by it, including operations and transactions conducted by  
13 all subsidiary corporations, pursuant to this agreement and any  
14 legislation thereunder. The annual report also shall list all real  
15 property of the port authority. The annual report shall include a list  
16 and full description of real and personal property disposed of during  
17 the period and shall include the price received by the port authority  
18 and the name of the purchaser for all property sold by the port  
19 authority during the period. The port authority shall not pledge the  
20 credit of either state except by and with the authority of the  
21 legislature thereof.

22 (cf: R.S.32:1-8)

23

24 9. (New section) a. All meetings of the port authority shall be  
25 open to the public at all times except upon a majority vote taken in  
26 an open meeting pursuant to a motion identifying the general area  
27 or areas of the subject or subjects to be considered. The board of  
28 commissioners may exclude the public only from that portion of a  
29 meeting at which the board of commissioners discusses any:

30 (1) matter in which the release of information would impair a  
31 right to receive funds from the Government of the United States;

32 (2) material the disclosure of which would constitute an  
33 unwarranted invasion of individual or personal privacy;

34 (3) collective bargaining agreement, or the terms and conditions  
35 which are proposed for inclusion in any collective bargaining  
36 agreement, including the negotiation of the terms and conditions  
37 thereof with employees or representatives of employees of the port  
38 authority;

39 (4) matter involving the purchase, lease, or acquisition of real  
40 property with port authority funds, the proposed acquisition of  
41 securities, the sale or exchange of securities held by the port  
42 authority, or the investment of port authority funds, if public  
43 discussion of the matter would adversely affect the public interest;

44 (5) matter which would imperil the public safety if disclosed;

45 (6) pending or anticipated litigation or contract negotiation in  
46 which the port authority is, or may become, a party, or matters  
47 falling within the attorney-client privilege, to the extent that



1 confidentiality is required for the attorney to exercise the attorney's  
2 ethical duties as a lawyer;

3 (7) matter involving the employment, appointment, termination  
4 of employment, terms and conditions of employment, evaluation of  
5 the performance of, promotion or disciplining of any specific  
6 prospective officer or employee or current officer or employee  
7 employed or appointed by the port authority, unless all the  
8 individual employees or appointees whose rights could be adversely  
9 affected request in writing that the matter or matters be discussed at  
10 a public meeting; or

11 (8) deliberation of the port authority occurring after a public  
12 hearing that may result in the imposition of a specific civil penalty  
13 upon the responding party or the suspension or loss of a license or  
14 permit belonging to the responding party as a result of an act or  
15 omission for which the responding party bears responsibility.

16 b. The port authority shall make meeting agendas available to  
17 the public at least 72 hours before each meeting of the board and  
18 each meeting of each committee. In addition, the port authority  
19 shall send via electronic mail the agenda and public documents  
20 pertaining to a board or committee meeting to the public  
21 information office of each state's legislature at least 72 hours before  
22 the meeting. Public notice of the time and place of a meeting shall  
23 be provided to appropriate media outlets, shall be conspicuously  
24 posted in one or more designated areas, and shall be conspicuously  
25 posted via the port authority's official website at least five business  
26 days before the meeting.

27 c. The port authority shall make the following documents  
28 available to the public as follows: the agenda and public documents  
29 pertaining to a board or committee meeting shall be available for  
30 public inspection at an office of the port authority; and the agenda  
31 and public documents pertaining to a board or committee meeting  
32 shall be posted on the port authority's official website.

33 d. At each public meeting of the board and at each public  
34 meeting of each committee, the public shall be allotted at least 30  
35 minutes to speak on any topic on the agenda. The board or  
36 committee shall expand the comment time when necessary to  
37 provide a reasonable opportunity for the public to comment. The  
38 public speaking period shall take place prior to any board or  
39 committee action.

40 e. The port authority shall keep reasonably comprehensible  
41 minutes of all its meetings showing the time and place, the members  
42 present, the subjects considered, the actions taken, and the vote of  
43 each member. The minutes shall be available to the public within  
44 two weeks from the date of the meeting to the extent that public  
45 disclosure shall not be inconsistent with subsection a. of this  
46 section. The minutes shall indicate for each item on the agenda the  
47 vote or recusal of each board member in attendance at an open

1 meeting, or an executive session of the board or a committee of the  
2 board. Each item on the agenda shall be voted on separately.

3

4 10. Section 2 of P.L.1991, c.395 (C.32:1-6.2) is amended to read  
5 as follows:

6 2. As used in **[this act]** P.L.1991, c.395 (C.32:1-6.1 et seq.):

7 **[a.]** "Board" means the Board of Commissioners of the Port  
8 Authority of New York and New Jersey.

9 "Committee" or "committees" means any committee established  
10 by the board including, but not limited to any committees holding  
11 the responsibilities required pursuant to section 2 of P.L. ,  
12 c. (C. ) (pending before the Legislature as this bill).

13 **[b.]** "Meeting" means any gathering, whether corporeal or by  
14 means of communication equipment, which is attended by, or open  
15 to, the board, held with the intent, on the part of the board members  
16 present, to discuss or act as a unit upon the specific public business  
17 of the authority. "Meeting" does not mean a gathering (1) attended  
18 by less than an effective majority of the board, or (2) attended by or  
19 open to all the members of three or more similar public bodies at a  
20 convention or similar gathering.

21 **[c.]** "News media" means persons representing major wire  
22 services, television news services, radio news services, and  
23 newspapers, whether located in the States of New York or New  
24 Jersey or any other state.

25 "Public business" means matters which relate in any way,  
26 directly or indirectly, to the performance of the functions of the Port  
27 Authority of New York and New Jersey or the conduct of its  
28 business.

29 (cf: P.L.1991, c.395, s.2)

30

31 11. Section 3 of P.L.1991, c.395 (C.32:1-6.3) is amended to read  
32 as follows:

33 3. a. The board shall adopt [and promulgate] , within six  
34 months of the effective date of P.L. ,c. (C. ) (pending  
35 before the Legislature as this bill), appropriate rules and regulations  
36 concerning proper notice to the public and the news media of its  
37 meetings and the right of the public and the news media to be  
38 present at meetings of the authority. The rules and regulations  
39 adopted pursuant to this section shall provide for the same notice  
40 and right of the public and news media to be present, as well as any  
41 other rights and duties as are provided in section 9 of  
42 P.L. , c. (C. ) (pending before the Legislature as this bill).

43 The board may incorporate in its rules and regulations conditions  
44 under which it may exclude the public from a meeting or a portion  
45 thereof.

46 b. Any rules or regulations adopted hereunder shall become a  
47 part of the minutes of the Port Authority of New York and New

1 Jersey and shall be subject to the approval of the Governor of New  
2 Jersey and the Governor of New York.

3 c. The port authority shall make or cause to be made all  
4 reasonable efforts to ensure that meetings are held in facilities that  
5 permit barrier-free physical access to people with disabilities. If the  
6 board determines to use videoconferencing or similar technology to  
7 conduct its meetings, it shall provide an opportunity for the public  
8 to attend, listen, and observe at a public location.

9 (cf: P.L.1991, c.395, s.3)

10

11 12. (New section) The port authority shall require that a needs  
12 assessment be conducted by an independent entity prior to any  
13 increase in fees, tolls, charges, or fares. The assessment shall be  
14 presented by the independent entity to the board of commissioners  
15 at a public meeting to be held at least 90 days prior to any meeting  
16 of the board of commissioners to vote to increase any fees, tolls,  
17 charges, or fares.

18

19 13. (New section) Not less than 30 days prior to any vote or  
20 action taken by the board of commissioners relating to any increase  
21 in the tolls for the use of any port authority bridge or tunnel, or  
22 fares for the use of the Port Authority Trans-Hudson Corporation  
23 rail system, the port authority shall conduct at least six public  
24 hearings in the manner prescribed pursuant to this section:

25 a. Locations for public hearings shall be selected in such a way  
26 as to be geographically accessible to a majority of users of the  
27 facility or facilities to be impacted by the toll or fare increase, as  
28 determined by port authority data, provided that at least one hearing  
29 shall be held in each state.

30 b. At least 72 hours before the first hearing held pursuant to  
31 this section, the port authority shall make the following information  
32 available to the public, including posting on the port authority's  
33 official website:

34 (1) a written explanation of why the increase in tolls or fares is  
35 necessary;

36 (2) the amount of revenue expected to be generated from the  
37 increase in tolls or fares; and

38 (3) a detailed explanation of how the revenues raised from the  
39 increase in tolls or fares is expected to be spent.

40 c. Each hearing shall be attended by at least two  
41 commissioners from New York and two commissioners from New  
42 Jersey in office at the time of the hearing.

43 d. The port authority shall hold no more than one public  
44 hearing in a single day, and at least one-half of the public hearings  
45 shall be scheduled to begin after 6:30 p.m., Eastern Standard Time,  
46 on a weekday.

47 e. The port authority shall ensure that each of the requirements  
48 set forth in this section and in section 9 of P.L. , c. (C. )

1 (pending before the Legislature as this bill) shall be complied with  
2 before placing on the meeting agenda of the board of  
3 commissioners any item or matter relating to an increase in tolls or  
4 fares.

5  
6 14. (New section) When there is a request from a committee of  
7 either house of the state legislature of New York or New Jersey that  
8 has been approved by both the Presiding Officer and Minority  
9 Leader of the house, the port authority shall present testimony on  
10 the requested topic or subject. The port authority shall, at a  
11 minimum, be represented by staff members determined by the chair  
12 or vice-chair of the board and the Chief Executive Officer to have  
13 the appropriate knowledge of the topic or subject to present  
14 testimony or respond to questions.

15  
16 15. (New section) Notwithstanding any law to the contrary, the  
17 port authority shall be deemed an “agency” and treated as such  
18 under the laws of New York, for all purposes under articles 6 and 6-  
19 A of the Public Officers Law, and shall be deemed a “public  
20 agency” and treated as such under the laws of New Jersey,  
21 P.L.1963, c.73 (C.47:1A-1 et seq.), pertaining to the disclosure of  
22 government records.

23  
24 16. (New section) If any clause, sentence, paragraph,  
25 subdivision, section or part of this act shall be adjudged by any  
26 court of competent jurisdiction to be invalid, such judgment shall  
27 not affect, impair, or invalidate the remainder thereof, but shall be  
28 confined in its operation to the clause, sentence, paragraph,  
29 subdivision, section or part thereof directly involved in the  
30 controversy in which such judgment shall have been rendered. It is  
31 hereby declared to be the intent of the Legislature that this act  
32 would have been enacted even if such invalid provisions had not  
33 been included herein.

34  
35 17. This act shall take effect upon the enactment into law by the  
36 State of New York of legislation having an identical effect with this  
37 act, but if the State of New York shall have already enacted such  
38 legislation, this act shall take effect immediately.

39  
40  
41 STATEMENT

42  
43 Established almost a century ago, the Port Authority of New  
44 York and New Jersey (Port Authority) was created to oversee the  
45 harbor interests shared by New Jersey and New York. Over the  
46 decades, the Port Authority has expanded to manage new  
47 opportunities and face new challenges. Today, the Port Authority  
48 operates a wide-array of transportation programs under a multi-

1 billion-dollar yearly budget. In August 2011, Governors Christie  
2 and Cuomo required the Port Authority to undergo a comprehensive  
3 audit of its finances and operations. As a result of those audit  
4 findings, the Port Authority has taken numerous steps towards  
5 reform and positive change. Subsequently, in 2014, Governors  
6 Christie and Cuomo created the bi-state Special Panel on the Future  
7 of the Port Authority (Special Panel) to further review the role and  
8 functionality of the Port Authority. This bill would statutorily  
9 codify reforms the Port Authority has undertaken to ensure that its  
10 functions are open and transparent, and includes other reforms  
11 recommended by the Special Panel regarding the Port Authority's  
12 overall organization and its role in the region.

13 This bill requires members of the Board of Commissioners (the  
14 board) to take a fiduciary oath, comply with the financial disclosure  
15 requirements of the State from which they were appointed, recuse  
16 themselves from voting on, or participating in, discussion with  
17 respect to an item if the commissioner or a member of the  
18 commissioner's immediate family, or a business in which the  
19 commissioner has interest, or has a direct or indirect financial  
20 involvement that may reasonably be expected to impair their  
21 objectivity or independent judgment or that may reasonably create  
22 the appearance of impropriety. The Chief Executive Officer, Chief  
23 Ethics and Compliance Officer, Chief Financial Officer, Inspector  
24 General, employees who hold policy-making positions, as  
25 determined by the Port Authority, and employees whose total  
26 compensation, either in the current or previous year, equals or  
27 exceeds \$200,000, which amount shall be adjusted for inflation  
28 annually are required to submit financial disclosure forms. The bill  
29 also requires that the financial disclosure statements be posted on  
30 the Port Authority's official website.

31 The bill requires the board to establish a committee structure that  
32 is to include, but is not limited to, governance responsibility, audit  
33 responsibility, and finance responsibility. The bill requires each  
34 committee established by the board to promulgate a written charter,  
35 to be approved by the board, which shall be made available to the  
36 public and posted on the Port Authority's website.

37 The bill requires the board to adopt a mission statement that the  
38 Port Authority's mission is to meet the critical transportation needs  
39 of the bi-state region's people, businesses, and visitors by providing  
40 the highest quality and most efficient transportation and port  
41 commerce facilities and services to move people and goods within  
42 the region, provide access to the nation and the world and promote  
43 the region's economic development. The bill prohibits the Port  
44 Authority from taking any action inconsistent with the mission  
45 statement, including the purchase of real estate or the engagement  
46 in real estate development efforts unrelated to its mission.

47 The bill also requires the board to: adopt a code of conduct  
48 applicable to commissioners, employees, and vendors and other

1 contractors with the agency based upon the recommendations of the  
2 Chief Ethics and Compliance Officer that shall, at minimum,  
3 include the applicable standards established by law in each state;  
4 establish a whistleblower policy to protect employees from  
5 retaliation for disclosing information concerning acts of  
6 wrongdoing, misconduct, malfeasance, or other inappropriate  
7 conduct; and establish a policy requiring all commissioners,  
8 officers, and employees with decision-making authority to maintain  
9 records regarding interaction with lobbyists.

10 The bill requires the board to appoint a Chief Executive Officer  
11 who will serve as head of the senior management executive team of  
12 the Port Authority, a Chief Ethics and Compliance Officer who will  
13 be a member of the Port Authority's senior management executive  
14 team, and an Inspector General; all of whom will be directly  
15 accountable to the board.

16 The bill requires the Chief Ethics and Compliance Officer to  
17 establish a comprehensive code of conduct, including financial  
18 disclosure requirements, to be approved by the board. The Chief  
19 Ethics and Compliance Office is also required to establish a  
20 whistleblower access and assistance program, to be approved by the  
21 board and administered by the Inspector General, for the protection  
22 of employees from retaliation for disclosing information concerning  
23 acts of wrongdoing, misconduct, malfeasance, or other  
24 inappropriate conduct.

25 The bill statutorily codifies the existing Office of Inspector  
26 General and provides that the Inspector General is responsible for  
27 receiving and investigating, where appropriate, all complaints  
28 regarding fraud, waste, and abuse by commissioners, officers, and  
29 employees of the Port Authority or third-parties doing business with  
30 the Port Authority. The Inspector General is to determine with  
31 respect to allegations received by the Inspector General whether  
32 disciplinary action or civil prosecution by the Port Authority is  
33 appropriate, and whether the matter should be referred to an  
34 appropriate governmental agency for further action. The Inspector  
35 General is required to prepare and make available to the public  
36 written reports of completed investigations, as appropriate and to  
37 the extent permitted by law, subject to redaction to protect the  
38 confidentiality of witnesses. The release of all or portions of  
39 reports may be deferred to protect the confidentiality of ongoing  
40 investigations.

41 The bill requires that the Port Authority develop a capital plan  
42 which, after adoption by the board of commissioners, is to be  
43 available to the public and posted on the Port Authority's official  
44 website. The bill mandates that all capital expenditures be  
45 consistent with the capital plan. In addition, the bill provides that  
46 the capital plan may not include any discretionary regional  
47 development funds and requires that any regional development  
48 funds unallocated as of the effective date of this act be redeployed

1 to specific transportation projects consistent with the Port  
2 Authority's mission.

3 The bill also requires the Port Authority to annually prepare an  
4 operating budget that is balanced in accordance with generally  
5 accepted accounting principles; have an annual audit performed by  
6 a certified public accountant in accordance with generally accepted  
7 auditing standards that is to be submitted to the governor, state  
8 comptroller, and legislature of each state; and have an efficiency  
9 study conducted by an independent entity upon the request of the  
10 Governors of New York and New Jersey, and if no request is made,  
11 have an efficiency study conducted no later than 10 years after the  
12 most recent study was conducted.

13 The bill requires that the Port Authority's annual report to the  
14 legislatures of both states detailing the Port Authority's operations  
15 and transactions include the operations and transactions conducted  
16 by all subsidiary corporations. The bill also requires the annual  
17 report to include: a list the Port Authority's real property; a list, full  
18 description, including the price received by the Port Authority, of  
19 real and personal property disposed of during the period, and the  
20 name of the purchaser for all property sold by the Port Authority  
21 during the period.

22 The bill provides that all meetings of the Port Authority are to be  
23 open to the public at all times unless a majority of the  
24 commissioners votes that a portion of the meeting may be  
25 conducted in closed session. The Port Authority may only exclude  
26 the public if the discussion concerns: a matter in which the release  
27 of information would impair a right to receive funds from the  
28 government of the United States; material the disclosure of which  
29 constitutes an unwarranted invasion of individual or personal  
30 privacy; a collective bargaining agreement; a matter involving the  
31 purchase, lease or acquisition of real property with Port Authority  
32 funds, the proposed acquisition of securities, or sale or exchange of  
33 securities held by the Port Authority, or investment of Port  
34 Authority funds, if it could adversely affect the public interest if  
35 discussion of the matters were disclosed; matters which will imperil  
36 the public safety if disclosed; pending or anticipated litigation or  
37 contract negotiation in which the Port Authority is, or may become,  
38 a party, or matters falling within the attorney-client privilege, to the  
39 extent that confidentiality is required in order for the attorney to  
40 exercise the attorney's ethical duties as a lawyer; a matter involving  
41 the employment, appointment, termination of employment, terms  
42 and conditions of employment, evaluation of the performance of,  
43 promotion, or discipline of any specific prospective officer or  
44 employee or current officer or employee employed or appointed by  
45 the Port Authority; or deliberations of the Port Authority occurring  
46 after a public hearing that may result in the imposition of a specific  
47 civil penalty upon the responding party or the suspension or loss of  
48 a license or permit belonging to the responding party as a result of

1 an act or omission for which the responding party bears  
2 responsibility.

3 In addition, the Port Authority is required to make available to  
4 the public meeting agendas at least 72 hours before each meeting of  
5 the board and each meeting of each committee. Public notice of the  
6 time and place of a meeting is to be provided to appropriate media  
7 outlets, conspicuously posted in one or more designated areas, and  
8 conspicuously posted via the Port Authority's official website at  
9 least five business days before the meeting. The bill also requires  
10 the Port Authority to send the agenda and public documents  
11 pertaining to a board or committee meeting to the public  
12 information office of each state's legislature at least 72 hours before  
13 the meeting.

14 The bill also requires the board to make all reasonable efforts to  
15 ensure that meetings are held in facilities that permit barrier-free  
16 physical access to people with disabilities. If the board determines  
17 to use videoconferencing or similar technology to conduct its  
18 meetings, it shall provide an opportunity for the public to attend,  
19 listen, and observe at a public location.

20 The bill requires that the public be given at least 30 minutes, or  
21 longer when necessary, to speak on any topic on the agenda prior to  
22 the board taking action.

23 The bill requires the Port Authority to keep reasonably  
24 comprehensible minutes of all its meetings showing the time and  
25 place, the members present, the subjects considered, the actions  
26 taken, and the vote or recusal of each member which are to be  
27 promptly available to the public. Minutes of each meeting are to be  
28 available to the public within two weeks from the date of the  
29 meeting.

30 The bill also requires the Port Authority to hold at least six  
31 public hearings not less than 30 days prior to any vote or action  
32 taken by the board relating to any increase in the tolls for the use of  
33 any Port Authority bridge or tunnel, or fares for the use of the Port  
34 Authority Trans-Hudson Corporation rail system. The locations for  
35 public hearings are to be selected in such a way as to be  
36 geographically accessible to a majority of users of the facility or  
37 facilities to be impacted by the toll or fare increase, as determined  
38 by Port Authority data, provided that at least one hearing shall be  
39 held in each state.

40 In addition, at least 72 hours before the first hearing on a toll or  
41 fare increase, the Port Authority is required to make available to the  
42 public: the amount of revenue expected to be generated from the  
43 increase in tolls or fares; a detailed explanation of how the revenue  
44 raised from the increase in tolls or fares is expected to be spent; and  
45 a written explanation of why the increase in tolls or fares is  
46 necessary.

47 The Port Authority is also required to have a needs assessment  
48 conducted by an independent entity prior to any increase in fees,



1 tolls, charges, or fares. The assessment is to be presented by the  
2 independent entity to the board of commissioners at a public  
3 meeting to be held at least 90 days prior to any meeting of the board  
4 to vote to increase any fees, tolls, charges, or fares.

5 The bill requires that each public hearing regarding a toll or fare  
6 increase be attended by at least two commissioners from the State  
7 of New York and two commissioners from the State of New Jersey  
8 and no more than one public hearing may be held in a single day.  
9 At least one-half of the public hearings are to be scheduled to begin  
10 after 6:30 p.m., Eastern Standard Time, on a weekday.

11 The bill requires the Port Authority to present testimony on the  
12 requested topic or subject when there is a request from a committee  
13 of either house of the state legislature of New York or New Jersey  
14 that has been approved by both the Presiding Officer and Minority  
15 Leader of the house. The Port Authority is to be represented, at a  
16 minimum, by staff members determined by the chair or vice-chair  
17 of the board and the Chief Executive Officer to have the appropriate  
18 knowledge of the topic or subject to present testimony or respond to  
19 questions.

20 Finally, the bill makes the Port Authority subject to each state's  
21 open public records laws.