

ASSEMBLY, No. 22

STATE OF NEW JERSEY

INTRODUCED APRIL 6, 1959

By Assemblymen KESSELHAUT, HYLAND, KURTZ, BEADLESTON, BARKALOW, BATEMAN and SALSBURG

(Without Reference)

AN ACT relating to the purchase, financing and rental of commuter railroad cars by the Port of New York Authority and agreeing with the State of New York with respect thereto.

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

1 1. Upon the occurrence of the events set forth in section 7 of this act,
2 the States of New York and New Jersey agree that each such State may elect
3 by appropriate legislation to provide for the purchase and rental by the
4 Port of New York Authority of railroad cars for passenger transportation
5 in accordance with this act.

1 2. For the purpose of this act:

2 (a) Port Authority shall mean the Port of New York Authority.

3 (b) Commuter railroad of an electing State shall mean a railroad trans-
4 porting passengers between municipalities in the portion of the Port of New
5 York District within such State, the majority of the trackage of which
6 within the Port of New York District utilized for the transportation of pas-
7 sengers shall be in such State.

8 (c) Railroad cars shall mean railroad passenger cars, including self-
9 propelled cars, and locomotives and other rolling stock used in passenger
10 transportation.

1 3. (a) Upon the election by either State as provided in section 1 hereof,
2 the Port Authority shall be authorized and empowered to:

3 (i) purchase and own railroad cars for the purpose of leasing them to
4 any commuter railroad of such State; provided, however, that no railroad
5 cars shall be so purchased except with advances received or money borrowed
6 pursuant to subparagraphs (ii) and (iii) of this paragraph (a), nor shall
7 the Port Authority incur expenses in connection with such purchase and
8 ownership except out of such advances or borrowed money or the rentals re-
9 ceived from such leasing;

10 (ii) receive and accept advances from such State for such purchase upon
11 such terms and conditions as such State may specify;

12 (iii) borrow money from any source for such purchase or for the repay-
13 ment of such advances or money borrowed, subject to the provisions of
14 paragraph (b) of this section;

15 (iv) secure the repayment of principal of and interest upon any such
16 borrowed money by and only by a lien upon such railroad cars, a pledge of
17 the rentals therefrom and the liability of the electing State for the repay-
18 ment of such principal and interest;

19 (v) lease such railroad cars directly or indirectly to any commuter rail-
20 road of such State upon such terms and conditions as the Port Authority
21 shall deem in the public interest, including postponement of receipt of
22 rentals by the Port Authority in the interest of increasing and improving
23 the service rendered to the commuting public; provided, however, that no
24 such lease shall become effective until it has been approved in writing by
25 the officer of the electing State designated by appropriate legislation; and

26 (vi) sell or otherwise dispose of such cars upon such terms and condi-
27 tions and to such persons as the Port Authority shall deem in the public
28 interest, except as may be otherwise directed by such electing State.

29 (b) The Port Authority shall not borrow money pursuant to subpara-
30 graph (a) (iii) of this section unless and until the electing State shall have
31 duly amended its constitution, if necessary, making or authorizing making

32 the State liable for the repayment of the money so borrowed and interest
33 thereon or for the fulfillment of the rental obligations to the Port Author-
34 ity, or both; and the Port Authority shall not borrow any such money un-
35 less and until the electing State shall be made liable for the repayment of
36 any such money.

1 4. The purchase and ownership by the Port Authority of railroad cars
2 and the rental thereof to commuter railroads of the States of New York or
3 New Jersey are and will be in all respects for the benefit of the people of
4 the said 2 States for the increase of their commerce and prosperity and for
5 the improvement of their health, safety and living conditions and shall be
6 deemed to be public purposes; and the Port Authority shall be regarded as
7 performing an essential governmental function in undertaking such purchase,
8 ownership and rental and in carrying out the provisions of law relating
9 thereto.

1 5. The bonds or other evidences of indebtedness which may be issued
2 by the Port Authority pursuant to this act are hereby made securities in
3 which all State and municipal officers and bodies, all banks, bankers, trust
4 companies, savings banks, savings and loan associations, investment com-
5 panies and other persons carrying on a banking business, all insurance com-
6 panies, insurance associations and other persons carrying on an insurance
7 business, and all administrators, executors, guardians, trustees and other
8 fiduciaries and all other persons whatsoever who are now or may hereafter
9 be authorized to invest in bonds or other obligations of the electing State,
10 may properly and legally invest any funds, including capital, belonging to
11 them or within their control; and said bonds or other evidences of indebted-
12 ness are hereby made securities which may properly and legally be deposited
13 with and shall be received by any State or municipal officer or agency for
14 any purpose for which the deposit of bonds or other evidences of indebted-
15 ness of the electing State is now or may hereafter be authorized. Such bonds
16 or other evidences of indebtedness shall constitute negotiable instruments.

17 Notwithstanding the provisions of this or any other legislation the rentals

18 received by the Port Authority from the leasing of any railroad cars under
19 this act shall not be pooled or applied to the establishment or maintenance of
20 any reserve fund of the Port Authority pledged as security for any bonds or
21 other evidences of indebtedness other than those issued pursuant to this act,
22 and the bonds or other evidences of indebtedness issued pursuant to this act
23 shall not be included in measuring the principal amount of bonds or other
24 evidences of indebtedness upon which the amount of any such reserve fund is
25 calculated.

1 6. No taxes or assessment shall be levied or collected upon any railroad
2 cars owned by the Port Authority pursuant to this act or upon any leasehold
3 interest therein.

1 7. This act shall take effect upon enactment into law by the State of
2 New York of legislation having identical effect with section 1 to 6, inclusive,
3 of this act, but if the State of New York shall have already enacted such
4 legislation, this act shall take effect immediately; provided, however, that
5 its operation shall nonetheless be suspended until the enactment by the States
6 of New York and New Jersey of concurrent legislation to provide for the
7 New York-New Jersey Transportation Agency Compact as set forth in chap-
8 ter 13 of the laws of the State of New Jersey, 1959, as amended or about to
9 be amended, and until the Congress of the United States has consented to the
10 making of said compact pursuant to the Constitution of the United States.

STATEMENT

Sections 1 through 6 of this bill represents concurrent legislation requested by the State of New York in order to provide authorization to the Port Authority to administer a program of the State of New York to finance railroad cars for commuter railroads in that State. As the bill is drawn, no Port Authority moneys are in any way applied or risked in carrying out the program. For the time being, the State of New York will appropriate \$20,000,000.00 as an advance, to be used to buy railroad cars. With this equity, it is thought that the Port

Authority will be able to obtain additional funds so as to finance about \$60,000,000.00 more. The railroad cars so purchased will be leased to the Long Island, New Haven and New York Central Railroads. In 1961, if the Legislature of the State of New York in that year concurs, there will be submitted to the people of that State a proposed constitutional amendment to allow New York to guarantee bonds on railroad cars for up to \$100,000,000.00. If approved, the bonds so issued would be used to repay the \$20,000,000.00 advance to New York, and to provide the railroad car financing.

Port Authority administration of this program will be in all respects separate and apart from its present activities, financially and legally, and it is to be reimbursed for its administrative costs by the State of New York if rental receipts should be insufficient.

The New York program does not have any interstate aspect. It deals entirely with commuters traveling from and to points in New York only. In theory, it could have been established for administration by a suitable agency of the State of New York. Concurrent legislation on the part of New Jersey is required because the program contemplates Port Authority administration, which is beyond its present powers. It is believed that the purpose of seeking Port Authority administration is to avoid what would probably be a higher administrative expense if a new agency for this purpose were created.

While the program is one applicable only to New York, that State solicits New Jersey's concurrence upon the ground that New Jersey should accommodate New York's views as to what kind of program will be of help in solving that State's own commuter problem, even though it may be much different in nature, and presumably in the expectation that New York would consider itself obliged as a matter of honor and comity to similarly concur in order to effectuate such program as New Jersey may desire to establish hereafter and which may call for concurrent legislation.

New York has also enacted a law closely similar to this year's Assembly Bill No. 10 (now chapter 13 of P. L. 1959, approved March 12, 1959), but has made a number of changes in the proposed compact for a bi-state agency such

that New Jersey's present law must be amended in order to establish the agency. At the same time, New York provided that its statute to establish the agency should not take effect unless New Jersey enacts this bill for New York's equipment program.

By reason of this "tie-in" clause, New Jersey's position is opened to the risk that unless Congressional consent to the compact be first obtained, the equipment program might take effect but the bi-state agency might not. Accordingly, section 7 suspends the operation of this bill until such time as Congress gives its consent to the bi-state compact. It is to be hoped that New York's Senators and Representatives in Washington will join with New Jersey's in securing prompt approval of the compact.