

34:1B-144 to 34:1B-164

**LEGISLATIVE HISTORY CHECKLIST**  
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(S. Jersey Port)

NJSA: 34:1B-144 to 34:1B-164

LAWS OF: 1997 CHAPTER: 150

BILL NO: A2370

SPONSOR(S): Bodine and Geist

DATE INTRODUCED: September 26, 1996

COMMITTEE: ASSEMBLY: Transportation & Communications;  
Appropriations

SENATE: Budget

AMENDED DURING PASSAGE: Yes Assembly committee substitute  
(3R) enacted

DATE OF PASSAGE: ASSEMBLY: May 22, 1997 Re-enacted 6-23-97

SENATE: June 23, 1997 Re-enacted 6-23-97

DATE OF APPROVAL: June 30, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes 12-16-96 & 1-9-97

SENATE: Yes

FISCAL NOTE: Yes

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

[Passed Both Houses]

[Third Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 2370

**STATE OF NEW JERSEY**

ADOPTED DECEMBER 16, 1996

**Sponsored by Assemblymen BODINE, GEIST, LeFevre, Blee,  
Senators Haines, Bryant and Adler**

1 AN ACT concerning the unification of the ports of the Delaware river  
2 <sup>2</sup> supplementing<sup>2</sup> and revising various parts of the statutory law.

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

6  
7 1. (New section) Sections 2 through 19 of this act shall be known  
8 and may be cited as the "Port Unification and Financing Act."

9  
10 2. (New section) The Legislature finds and declares:

11 a. The Legislature of the State of New Jersey approved legislation  
12 in 1992, concurred in by the Commonwealth of Pennsylvania and  
13 approved by the Congress of the United States, amending the Compact  
14 creating the Delaware River Port Authority to facilitate the unification  
15 of the ports of the Delaware river by authorizing the creation of a  
16 subsidiary corporation or corporations and the taking of other  
17 measures to effectuate the unification.

18 b. Pursuant to the provisions of the Compact amendments, the  
19 merger or unification of port facilities in the State of New Jersey must  
20 be done in accordance with State law.

21 c. It is therefore in the public interest, pursuant to existing law, for  
22 this Legislature to consent to legislation that will direct that, upon the

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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly AAP committee amendments adopted January 9, 1997.

<sup>2</sup> Senate SBA committee amendments adopted May 8, 1997.

<sup>3</sup> Assembly amendments adopted in accordance with Governor's recommendations June 23, 1997.

1 refunding <sup>1</sup> refinancing or defeasance<sup>1</sup> of the outstanding bonds of the  
2 South Jersey Port Corporation, the port facilities of that corporation,  
3 along with its assets, liabilities and obligations, will be transferred to  
4 the New Jersey Economic Development Authority for operation and  
5 maintenance of all or a portion of the facilities by a subsidiary  
6 corporation of the Delaware River Port Authority, with the employees  
7 of the South Jersey Port Corporation to be employed by the subsidiary  
8 corporation. <sup>2</sup>The subsidiary corporation shall operate pursuant to the  
9 same principles set forth in R.S.32:3-1 et seq. for the operation of the  
10 Delaware River Port Authority.<sup>2</sup>

11

12 3. (New section) As used in this act:

13 "Authority" or "New Jersey Economic Development Authority"  
14 means the New Jersey Economic Development Authority created  
15 pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4) <sup>1</sup>or a subsidiary  
16 corporation of the authority created pursuant to section 16 of this act<sup>1</sup>.

17 "Compact creating the Delaware River Port Authority" or  
18 "Compact" means the compact or agreement between the State of  
19 New Jersey and the Commonwealth of Pennsylvania entitled  
20 "Agreement between the Commonwealth of Pennsylvania and the State  
21 of New Jersey creating the Delaware River Joint Commission as a  
22 body corporate and politic and defining its powers and duties," as  
23 amended and supplemented (R.S.32:3-1 et seq.).

24 "Marine facilities" means port facilities to be used for piers,  
25 wharves, docks, bulkheads, slips, basins, vehicular roadways, railroad  
26 connections, side tracks, sidings, warehousing, storage or other  
27 buildings and structures, facilities or improvements, or other real  
28 property, necessary, convenient or accessory to the support, operation,  
29 maintenance or accommodation of steamships or other vessels and  
30 their cargoes or passengers, as shall be determined by the authority on  
31 or before the entering into of the initial agreement provided for in  
32 subsection <sup>2</sup>**[c.] b.**<sup>2</sup> of section 4 of this act <sup>1</sup>with respect to the lease,  
33 management, or other operation of all or a portion of the port  
34 facilities<sup>1</sup>, and upon subsequent changes in use or control <sup>1</sup>of the  
35 marine facilities<sup>1</sup>.

36 "Port facility" means a marine terminal or part thereof or any port  
37 property or facility <sup>2</sup>**[and, in] . In**<sup>2</sup> the case of the port facilities of the  
38 South Jersey Port Corporation, shall include the foregoing and any  
39 other real or personal property under the jurisdiction, ownership or  
40 control of that corporation and transferred to or acquired by the  
41 authority pursuant to this act <sup>2</sup>**[except]**<sup>2</sup> <sup>1</sup>**[for the property of the**  
42 South Jersey Port Corporation located in the City of Salem or the  
43 county of Salem and leased to the Salem Terminals, limited liability  
44 company, an Ohio limited liability company, which property consists  
45 of the former port facilities of the Salem Municipal Port Authority  
46 acquired previously from that authority by the South Jersey Port

1 Corporation or certain other real property previously acquired by the  
2 corporation from the county of Salem or the City of Salem and located  
3 in the City of Salem] <sup>2</sup>[Salem facility rights<sup>1</sup> ]<sup>2</sup>.

4 "Port Facility Revenue Fund" means the fund created by section 6  
5 of this act.

6 "Redevelopment facilities" means port facilities excluding the  
7 marine facilities and any personal property.

8 <sup>1</sup>"Salem facility rights" means (1) property owned by the South  
9 Jersey Port Corporation and leased to Salem Terminals, Limited  
10 Liability Company, an Ohio limited liability company; (2) property  
11 owned by the South Jersey Port Corporation and leased to the Mid-  
12 Atlantic Shipping and Stevedoring, Inc.; and (3) all rights under the  
13 foreign trade zone approved by the United States Department of  
14 Commerce-Foreign Trade Zone Board by Order Number 358  
15 establishing Foreign Trade Zone 142; provided, however, that the  
16 property described in paragraphs (1) and (2) of this definition shall not  
17 be deemed to be Salem facility rights at the time such property is no  
18 longer subject to the leases described in this definition.<sup>1</sup>

19 "South Jersey Port Corporation" means the South Jersey Port  
20 Corporation <sup>2</sup>[.]<sup>2</sup> created pursuant to P.L.1968, c.60 (C.12:11A-1 et  
21 seq.).

22 "State contract" means the contract or agreement entered into by  
23 the State Treasurer and the authority concerning the payment of the  
24 bonds issued pursuant to this act.

25 "Subsidiary" means a subsidiary corporation of the New Jersey  
26 Economic Development Authority created pursuant to section 16 of  
27 this act.

28 "Subsidiary corporation" means a subsidiary corporation <sup>2</sup>[or other  
29 corporation]<sup>2</sup> which has been established by the Delaware River Port  
30 Authority pursuant to subdivision (m) of Article I of the compact  
31 creating the Delaware River Port Authority (R.S.32:3-2).

32 "Transfer date" means the date on which all bonds issued by the  
33 South Jersey Port Corporation cease to be outstanding within the  
34 meaning of the resolutions pursuant to which those bonds were issued,  
35 as certified by the trustee or trustees thereunder.

36  
37 4. (New section) a. For the purpose of providing funds for the  
38 financing of the establishment, acquisition, construction, rehabilitation,  
39 improvement and ownership of port facilities, the authority shall have  
40 the power to issue bonds or notes, incur indebtedness, borrow money  
41 or incur other obligations secured in whole or in part by the monies in  
42 the Port Facility Revenue Fund or by any state contract or both and  
43 also to issue such bonds, notes or other indebtedness for the purpose  
44 of <sup>1</sup>defeasing, <sup>1</sup> refinancing or refunding the existing bonded and other  
45 indebtedness of an authority or corporation having jurisdiction,  
46 ownership or control of port facilities. However, the authority shall

1 not issue bonds, notes or other obligations for <sup>2</sup>defeasing,<sup>2</sup> refinancing  
2 or refunding the bonds or notes of the South Jersey Port Corporation  
3 until <sup>2</sup>a subsidiary corporation has been formally established by the  
4 Delaware River Port Authority and<sup>2</sup> the State Treasurer and the  
5 authority have approved an agreement pursuant to subsection <sup>2</sup>[c.] b.<sup>2</sup>  
6 of this section providing for the <sup>1</sup>[operation and maintenance] lease,  
7 management or other operation<sup>1</sup> of all or a portion of the port facilities  
8 of the South Jersey Port Corporation. The bonds or notes shall be  
9 authorized by resolution, which shall stipulate the manner of execution  
10 and form of the bonds or notes, whether the bonds or notes are in one  
11 or more series, the date of issue, time or times of maturity, which (in  
12 the case of bonds) shall not exceed 30 years, the rate or rates of  
13 interest payable on the bonds or notes, the denomination or  
14 denominations in which the bonds or notes are issued, conversion or  
15 registration privileges, the sources and medium of payment and place  
16 or places of payment and terms of redemption. The bonds or notes  
17 may be sold at a public or private sale at a price or prices determined  
18 by the authority.

19 <sup>2</sup>[b. The authority is hereby authorized to acquire or lease port  
20 facilities additional to the port facilities transferred to it pursuant to  
21 this act either (1) from the proceeds of bonds or notes, (2) in  
22 consideration of the assumption of the liabilities of another entity,  
23 either directly or by virtue of the refinancing of outstanding  
24 obligations, (3) with any monies in the Port Facility Revenue Fund, or  
25 (4) with funds from any other source, including any appropriations by  
26 the Legislature, subject to the approval of the State Treasurer.

27 c.] b.<sup>2</sup> The authority is hereby authorized to enter into any  
28 agreement with a subsidiary corporation <sup>2</sup>[or any other entity,  
29 including the South Jersey Port Corporation,]<sup>2</sup> with respect to the  
30 lease, management or other operation of all or a portion of the port  
31 facilities <sup>2</sup>[, including defense of litigation against the South Jersey  
32 Port Corporation,]<sup>2</sup> on such terms as the authority shall deem  
33 appropriate, such agreement to be subject to the approval of the State  
34 Treasurer.

35 The authority shall, however, be authorized to enter into an  
36 agreement with a subsidiary corporation <sup>2</sup>[or any other entity]<sup>2</sup> under  
37 this section where <sup>2</sup>[some of]<sup>2</sup> the directors <sup>2</sup>[or members]<sup>2</sup> of such  
38 subsidiary corporation <sup>2</sup>[or other entity]<sup>2</sup> are required to be residents  
39 of the State of New Jersey and <sup>2</sup>[of]<sup>2</sup> one or more other states only  
40 on the following conditions: The by-laws of the subsidiary  
41 corporation <sup>2</sup>[or other entity]<sup>2</sup> shall provide, and continue to provide,  
42 for the exercise of a veto by the Governor of the State of New Jersey  
43 with respect to an action of a director of the subsidiary corporation  
44 <sup>2</sup>[or of a director or member of the other entity]<sup>2</sup> appointed from the  
45 State of New Jersey, which exercise is hereby authorized in the same

1 form and manner as provided in P.L.1991, c.516 (C.32:3-4a et seq.)  
2 for the veto of an action of a commissioner of the Delaware River Port  
3 Authority appointed from the State of New Jersey; the exercise of the  
4 veto by the Governor of the State of New Jersey pursuant to this  
5 section shall not serve to dissolve the subsidiary corporation <sup>2</sup>[or  
6 other entity]<sup>2</sup>; the number of directors of the corporation [or <sup>2</sup>  
7 directors or members of the other entity]<sup>2</sup> from the State of New  
8 Jersey shall be the same as the number of directors of the corporation  
9 <sup>2</sup>[or directors or members of the other entity]<sup>2</sup> from each <sup>2</sup>of the <sup>2</sup>  
10 other <sup>2</sup>[state] states<sup>2</sup>; <sup>3</sup>[<sup>2</sup>four of the total number of directors of the  
11 corporation from the State of New Jersey provided for in the by-laws  
12 shall be appointed by the Legislature, two by the President of the  
13 Senate and two by the Speaker of the General Assembly;<sup>2</sup>]<sup>3</sup> and no  
14 action of the corporation <sup>2</sup>[or of the other entity]<sup>2</sup> shall be binding  
15 unless at least a simple majority of the directors <sup>2</sup>[or members]<sup>2</sup> from  
16 each <sup>2</sup>[other]<sup>2</sup> state and at least a simple majority of the directors  
17 <sup>2</sup>[or members]<sup>2</sup> from New Jersey shall vote in favor thereof. The  
18 provisions of this section shall also be binding on any entity which is  
19 a successor to the authority.

20 <sup>2</sup>The authority is hereby authorized also to enter into any  
21 agreement with the South Jersey Port Corporation with respect to the  
22 defense of litigation against the South Jersey Port Corporation.<sup>2</sup>

23 <sup>2</sup>[d.] c.<sup>2</sup> The authority is hereby authorized to convey or reconvey  
24 the port facilities to any other entity, including but not limited to the  
25 South Jersey Port Corporation, subject to the approval of the State  
26 Treasurer <sup>2</sup>and the Legislature. The authority shall submit for  
27 approval to the Legislature, on a day when both the General Assembly  
28 and the Senate are in session, a plan for conveying or reconveying the  
29 port facilities to an entity other than the subsidiary corporation. The  
30 date of the submission shall be entered into the Senate Journal and the  
31 Minutes of the General Assembly. The Legislature shall be deemed to  
32 have approved the plan unless within 45 days of the submission of the  
33 plan by the authority to the Legislature, the Legislature adopts by  
34 affirmative vote of a majority of the authorized membership of both of  
35 the houses a concurrent resolution disapproving the plan. The time  
36 period shall commence on the day of submission and expire on the  
37 45th day after submission or for a house not meeting on the 45th day,  
38 on the next meeting of that house.

39 d. In addition to any other provisions of an agreement, an  
40 agreement between the authority and a subsidiary corporation for the  
41 lease, management or other operation of port facilities acquired from  
42 the South Jersey Port Corporation, except as provided in section 15  
43 of this act, shall require <sup>3</sup>[, for a period of ten years from the date the  
44 agreement is executed,]<sup>3</sup> an annual payment to the authority for the  
45 rental of the port facilities in New Jersey. <sup>3</sup>[The annual payment

1 amount shall equal the average for the three years immediately  
2 preceding the year in which the port facilities of the South Jersey Port  
3 Corporation are acquired by the authority of revenues realized by the  
4 South Jersey Port Corporation in excess of operation expenses.<sup>3</sup> The  
5 annual payment shall be deposited into the Port Facility Revenue Fund  
6 created by section 6 of this act. <sup>3</sup>Following the ten year period, the  
7 agreement between the authority and the subsidiary corporation may  
8 continue to provide for such payments.<sup>2</sup><sup>3</sup>

9  
10 5. (New section) The authority may, in any resolution authorizing  
11 the issuance of bonds or notes pursuant to this act, pledge the Port  
12 Facility Revenue Fund or a portion thereof for payment of the  
13 redemption of the bonds or notes, or the principal and interest thereon,  
14 and covenant as to the use and disposition of monies in the Port  
15 Facility Revenue Fund. All costs associated with the issuance of the  
16 bonds or notes by the authority for the purposes set forth in this act  
17 may be paid by the authority from the proceeds of bonds or notes or  
18 from the Port Facility Revenue Fund, as the authority shall determine,  
19 which costs may include, but shall not be limited to, any costs related  
20 to the issuance of bonds or notes, operating expenses of the authority  
21 attributable to the payment of current and anticipated liabilities and  
22 expenses, and costs of, and any payment due under, any agreement,  
23 including any agreement entered into pursuant to the provisions of  
24 subsection b. of section 7 of this act. Monies in the Port Facility  
25 Revenue Fund shall not be used for any other purposes of the authority  
26 than those provided in this act.

27  
28 6. (New section) There is created within the authority a special  
29 nonlapsing fund, to be known as the "Port Facility Revenue Fund."  
30 This fund shall consist of:

31 a. Such monies as may be transferred to the fund by the State  
32 Treasurer, upon appropriation by the Legislature;

33 b. Such monies as may have been or may be authorized by, or  
34 appropriated to, the South Jersey Port Corporation for the payment of  
35 debt service with respect to the port facilities of the corporation and  
36 which may be transferred to the authority by the corporation on or  
37 after the acquisition of the port facilities of the corporation by the  
38 authority <sup>1</sup>or which may be transferred to the authority pursuant to  
39 section 14 of this act<sup>1</sup>; <sup>2</sup>[and]<sup>2</sup>

40 c. Interest or other income derived from the investment of monies  
41 in the fund <sup>2</sup>; and

42 d. Payments received by the authority under subsection d. of  
43 section 4 of this act<sup>2</sup>.

44 Monies in the fund shall be managed and invested by the Division  
45 of Investment in the Department of the Treasury.

1       7. (New section) a. The authority may use monies in the Port  
2 Facility Revenue Fund to pay the principal and interest and premium,  
3 if any, on the bonds or notes issued by it pursuant to this act <sup>1</sup>and in  
4 connection with the lease, management, or other operation of the port  
5 facilities transferred pursuant to this act and as provided in subsection  
6 b. of section 4 of this act<sup>1</sup>. The authority may create any other fund  
7 or funds by resolution of the authority which it deems necessary to  
8 further secure the bonds or notes or otherwise effectuate the purposes  
9 of this act, including funds for the deposit of the proceeds from bonds  
10 or notes issued pursuant to this act.

11       b. The authority may, in connection with its duties and  
12 responsibilities under this act or in connection with any duties and  
13 responsibilities provided for in P.L.1974, c.80 (C.34:1B-1 et seq.),  
14 enter into any revolving credit agreement, agreement establishing a  
15 line of credit or letter of credit, reimbursement agreement, interest rate  
16 exchange or other like agreement, forward purchase  
17 agreement, insurance contract, surety bond, commitment to purchase  
18 bonds or notes, purchase or sale agreement or commitments or other  
19 contracts or agreements in connection with the authorization, issuance,  
20 sale or payment of bonds or notes.

21       c. All bonds or notes issued by the authority are deemed to be  
22 issued by a body corporate and politic of the State for an essential  
23 governmental purpose, and the interest thereon or to be received by  
24 the authority and pledged and available to pay or secure the payment  
25 on bonds or notes or pledged or available to pay or secure payment on  
26 such bonds or notes or interest thereon shall be exempt from all taxes  
27 levied pursuant to the provisions of Title 54 of the Revised Statutes or  
28 Title 54A of the New Jersey Statutes, except for transfer, inheritance  
29 and estate taxes pursuant to Subtitle 5 of Title 54 of the Revised  
30 Statutes.

31  
32       8. (New section) Bonds and notes issued by the authority  
33 pursuant to the provisions of this act shall be special and limited  
34 obligations which are payable only from the sources enumerated in this  
35 act. Neither the members of the authority nor any other person  
36 executing the bonds or notes issued pursuant to this act shall be liable  
37 personally with respect to payment of interest and principal on these  
38 bonds, notes, or any other obligations issued pursuant to this act. The  
39 bonds, notes, or any other obligations issued pursuant to the  
40 provisions of this act shall not be a debt or liability of the State or any  
41 agency or instrumentality thereof, either legal, moral or otherwise, and  
42 nothing contained in this act shall be construed to authorize the  
43 authority to incur any indebtedness on behalf of or in any way to  
44 obligate the State or any political subdivision and all debt instruments  
45 issued by the authority shall contain a statement to that effect on their  
46 face.



1       9. (New section) The State hereby pledges and covenants with  
2 holders of any bonds, notes or other obligations issued pursuant to this  
3 act that it will not limit or alter the rights or powers vested in the  
4 authority by this act, nor limit or alter the rights or powers of the State  
5 Treasurer in any manner which would jeopardize the interest of the  
6 holders or any trustee of such holders, or inhibit or prevent  
7 performance or fulfillment by the authority or the State Treasurer with  
8 respect to the terms of any agreement made with the holders of these  
9 bonds, notes or other obligations. The State also pledges and  
10 covenants with the holders of any such bonds, notes or obligations,  
11 that it will not act to prevent the authority from obtaining any of the  
12 revenues provided for in this act, which shall be sufficient to meet all  
13 costs and expenses in connection with the issuance of such obligations,  
14 until the bonds, notes or other obligations, together with interest  
15 thereon, are fully met and discharged or payment thereof is fully  
16 provided for, except that the failure of the State to appropriate monies  
17 for any purposes of this act shall not be deemed a violation of this  
18 section.

19

20       10. (New section) Notwithstanding the provisions of any other  
21 law to the contrary, the State shall indemnify and save harmless the  
22 authority, its members or employees from any actions, claims,  
23 judgments or awards of any type, arising from or as the result of any  
24 act or omission by or on behalf of the South Jersey Port Corporation  
25 or the subsidiary corporation or in relation to the port facilities  
26 transferred to the authority pursuant to this act or arising from or as  
27 the result of the condition of those facilities. The State may, in  
28 addition, enter into an agreement with the authority to provide for the  
29 payment of liability insurance premiums for the provision of liability  
30 insurance coverage for the authority, its members or employees with  
31 respect to any such action or claim instituted or asserted after the  
32 transfer of the port facilities. The amount and terms of such liability  
33 coverage shall be subject to the approval of the State Treasurer. The  
34 State shall, in addition, provide for the payment of annual  
35 administrative expenses of the authority associated with the ownership  
36 and operation of port facilities, in an amount authorized by the State  
37 Treasurer.

38

39       11. (New section) Notwithstanding the provisions of any other  
40 law to the contrary, the State Treasurer is authorized to enter into an  
41 agreement with the South Jersey Port Corporation on or after the  
42 transfer of the port facilities of the corporation to the authority, which  
43 shall provide that the State shall indemnify and save harmless the  
44 South Jersey Port Corporation, its members, or employees from any  
45 actions, claims, judgments or awards of any type, arising from or as  
46 the result of any act or omission by or on behalf of the South Jersey

1 Port Corporation. Such agreement may, in addition, provide for the  
2 payment of liability insurance premiums for the provision of liability  
3 insurance coverage for the South Jersey Port Corporation, its  
4 members, or employees with respect to any such action or claim  
5 instituted or asserted after the transfer of the port facilities to the  
6 authority. The amount and terms of any such liability insurance  
7 coverage shall be subject to the approval of the State Treasurer.

8  
9 12. (New section) Notwithstanding any other provision of law to  
10 the contrary, the State Treasurer is authorized to enter into an  
11 agreement with the Delaware River Port Authority or the subsidiary  
12 corporation, or both, which would provide that the State shall  
13 indemnify and save harmless the Delaware River Port Authority or the  
14 subsidiary corporation, or both, from any and all claims or causes of  
15 action which are based on the condition of the port facilities  
16 transferred pursuant to this act. The State Treasurer is not authorized  
17 to enter into an agreement which obligates the State to indemnify or  
18 save harmless the Delaware River Port Authority or the subsidiary  
19 corporation from any damages which directly result from any act or  
20 omission by the Delaware River Port Authority or the subsidiary  
21 corporation, or both, or any of their agents, servants or employees.

22  
23 13. (New section) The State Treasurer and the authority may  
24 enter into any agreements as may be necessary to effectuate the  
25 provisions of this act, which may include, but not be limited to,  
26 procedures for the transfer of monies to the Port Facility Revenue  
27 Fund as provided for in section 6 of this act, with respect to the terms  
28 and conditions relative to the securing of bonds, notes and other  
29 obligations of the authority, the pledge and assignment of any  
30 agreement or agreements authorized by this act, or any payments to  
31 the trustees of the holders of these bonds. Notwithstanding any  
32 provision of P.L.1974, c.80 (C.34:1B-1 et seq.), this act or any  
33 regulation of the authority to the contrary, the authority shall be paid  
34 only such fees as shall be determined by an agreement entered into  
35 pursuant to this section. Any such agreements entered into pursuant  
36 to this section shall require that the subsidiary corporation shall  
37 indemnify and save harmless the authority, its members or employees  
38 from any actions, claims, judgments or awards of any type regarding  
39 the lease, operation and management of the port facilities by the  
40 subsidiary corporation.

41  
42 14. (New section) a. The South Jersey Port Corporation shall  
43 cooperate with the authority in the <sup>2</sup>defeasing, <sup>2</sup> refunding or  
44 refinancing of the outstanding obligations of the corporation by the  
45 authority as authorized by this act and the corporation shall take such  
46 steps as are necessary in order to implement such <sup>2</sup>defeasing, <sup>2</sup>

1 refunding or refinancing.

2 b. On the transfer date:

3 (1) All right, title and interest of the South Jersey Port  
4 Corporation in its port facilities, <sup>2</sup>except as provided in section 15 of  
5 this act.<sup>2</sup> and in any of its records and papers, as well as its assets,  
6 funds, obligations and liabilities, are hereby transferred to the  
7 authority to be held, used and applied for the purposes of this act.

8 (2) All powers and duties which hitherto were exercised by the  
9 corporation with respect to its port facilities transferred pursuant to  
10 this section may henceforth be exercised by the authority. The  
11 authority may permit the exercise of these powers and duties by the  
12 subsidiary corporation as may be necessary or convenient to operate  
13 and maintain the port facilities which are the subject of the lease,  
14 management or operational agreement between the authority and the  
15 subsidiary corporation authorized pursuant to subsection <sup>2</sup>**[c.] b.**<sup>2</sup> of  
16 section 4 of this act.

17 (3) All monies transferred pursuant to this act shall be deposited  
18 in the "Port Facility Revenue Fund" established by section 6 of this  
19 act.

20 (4) All creditors of the corporation and persons having claims  
21 against or contracts with the corporation of any kind or character may  
22 enforce such debts, claims and contracts against the authority in the  
23 same manner as they might have had against the corporation, and the  
24 rights and remedies of such creditors and persons having claims or  
25 contracts shall not be limited or restricted in any manner by this act,  
26 except as provided in this section. All debts, liabilities, obligations,  
27 agreements and covenants of the corporation, except to the extent  
28 otherwise specifically provided or established to the contrary in this  
29 act, are hereby imposed upon the authority. In continuing the  
30 functions and carrying out the contracts, obligations, powers and  
31 duties of the corporation, the authority, or the subsidiary corporation,  
32 as the case may be, are authorized to act in their own name or in the  
33 name of the corporation as may be convenient or advisable under the  
34 circumstances from time to time.

35 (5) The lease, management or operational agreement referred to  
36 in paragraph (2) of this subsection shall provide that all officers and  
37 employees of the corporation shall be employed by the subsidiary  
38 corporation until determined otherwise by that corporation. The  
39 employees shall retain all of their rights and benefits under existing  
40 collective bargaining agreements or contracts until such time as new  
41 or revised agreements or contracts are agreed to or these agreements  
42 or contracts shall expire. All existing bargaining agents shall be  
43 retained to act on behalf of those employees until such time as the  
44 employees shall, pursuant to law, elect to change those agents. The  
45 provisions of this paragraph shall not apply to any officer or employee  
46 appointed or employed, or any collective bargaining agreement entered

1 into, on or after the effective date of this act.

2 c. As soon as may be practicable after the transfer date, the  
3 authority shall notify the Governor, the presiding officers of each  
4 house of the Legislature, and the President of the Delaware River Port  
5 Authority that the transfer has occurred, the date of the transfer, and  
6 any other information concerning the transfer the authority deems  
7 appropriate.

8 d. <sup>2</sup>(1)<sup>2</sup> After the transfer date, the subsidiary corporation which  
9 has entered into the lease, management or operational agreement shall  
10 annually submit to the authority a written report on the carrying out  
11 of its responsibilities under the agreement in addition to any other  
12 reports as may be required by the agreement. <sup>2</sup>The annual report shall  
13 include a financial summary of revenues and expenditures relating to  
14 the ports. The report shall also be submitted to the Legislature.

15 (2) In addition to any other reports required to be submitted to the  
16 Legislature, the Delaware River Port Authority shall submit to the  
17 Legislature, at least 60 days prior to action taken to authorize or  
18 adopt, any plan developed by the Delaware River Port Authority to  
19 finance any capital project for the construction, reconstruction,  
20 development or improvement of the port facilities located in New  
21 Jersey that are operated and maintained by the subsidiary corporation  
22 pursuant to the provisions of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)(now pending  
23 before the Legislature as this bill). Upon the initial submission of such  
24 a plan, the authority shall annually thereafter submit written progress  
25 reports on the implementation of the plan with the final progress  
26 report submitted upon the completion of projects set forth in the initial  
27 plan.<sup>2</sup>

28  
29 15. (New section) Notwithstanding the provisions of this act to  
30 the contrary, the <sup>2</sup>authority shall not acquire from the South Jersey  
31 Port Corporation the former port facilities of the Salem Municipal Port  
32 Authority as acquired previously from the Salem Municipal Port  
33 Authority by the South Jersey Port Corporation. The<sup>2</sup> South Jersey  
34 Port Corporation shall, not later than six months after the effective  
35 date of this act, enter into a lease or other agreement with a person  
36 other than a public entity to operate and maintain the former port  
37 facilities of the Salem Municipal Port Authority previously acquired by  
38 the South Jersey Port Corporation, including other real property  
39 previously acquired by that corporation from the county of Salem or  
40 the City of Salem and located in the City of Salem.

41 If the South Jersey Port Corporation fails to enter into such a lease  
42 or other agreement within that six month period, the South Jersey Port  
43 Corporation shall, at the expiration of that period, transfer all right,  
44 title and interest to those facilities to the New Jersey Economic  
45 Development Authority. If the South Jersey Port Corporation has  
46 entered into such lease or other agreement within the six month

1 period, the South Jersey Port Corporation shall, at the expiration or  
2 termination of such lease or other agreement, transfer all right, title  
3 and interest to those facilities to the New Jersey Economic  
4 Development Authority unless the lessee or operator of those facilities  
5 shall have exercised an option to purchase or acquire the facilities  
6 pursuant to the lease or agreement. <sup>2</sup>The New Jersey Economic  
7 Development Authority shall be authorized to acquire all right, title,  
8 and interest to those facilities if transferred pursuant to this section.<sup>2</sup>

9 <sup>1</sup>Any agreement entered into pursuant to this section shall be  
10 subject to the approval of the State Treasurer and if such an agreement  
11 shall result in any payments to the South Jersey Port Corporation such  
12 payments shall be remitted to the State Treasurer for deposit in the  
13 General Fund less those amounts that the South Jersey Port  
14 Corporation is required to pay to other public entities under the terms  
15 of leases referred to in paragraphs (1) and (2) of "Salem facility rights"  
16 as defined in section 3 of this act.<sup>1</sup>

17  
18 16. (New section). a. To effectuate any of its authorized  
19 purposes either directly or indirectly, the authority, in addition to any  
20 powers granted to it elsewhere in P.L. , c. (C. ) (now before the  
21 Legislature as this bill), shall have the authority to form, purchase or  
22 assume control of one or more subsidiaries, in the manner and for the  
23 purposes set forth in this section.

24 b. The authority may form a subsidiary by filing with the Secretary  
25 of State a certificate of incorporation, which may be amended from  
26 time to time and which shall set forth the name of the subsidiary, its  
27 duration, the location of its principal office, the joint owners thereof  
28 if any such joint owners shall be provided for by an agreement between  
29 the authority and the joint owners, and the purposes of the subsidiary.

30 c. The directors of the subsidiary shall be members or employees  
31 of the authority, who shall constitute at least a majority, and such  
32 other persons representing any joint owner or owners, if any, as may  
33 be provided for in the agreement in connection with the incorporation  
34 of the subsidiary.

35 d. The subsidiary shall have all the powers vested in the authority  
36 which the authority may delegate to it by terms of the agreement  
37 entered into pursuant to subsection b. of this section, except that it  
38 shall not have the power to contract indebtedness independently of the  
39 authority. The subsidiary and any of its properties, functions and  
40 activities shall have all the privileges, immunities, tax exemptions and  
41 other exemptions as the authority's property, functions and activities.  
42 The subsidiary shall also be subject to the restrictions and limitations  
43 to which the authority is subject. The subsidiary shall be subject to  
44 suit as if it were the authority itself.

45 e. Whenever the State or any municipality, commission, public  
46 authority, agency, office, department, board, or division is authorized

1 and empowered for any purposes of P.L. , c. (C. ) (now before the  
2 Legislature as this bill) to cooperate and enter into agreements with  
3 the authority or to grant any consent to the authority or to grant,  
4 convey, lease or otherwise transfer any property to the authority or to  
5 execute any document, the State or such municipality, commission,  
6 public authority, agency, officer, department, board, or division shall  
7 have the same authorization and power for any of such purposes to  
8 cooperate and enter into agreements with the subsidiary, to grant  
9 consents to the subsidiary, to grant, convey, lease or otherwise  
10 transfer property to the subsidiary and to execute documents for the  
11 subsidiary.

12 f. Among the powers that shall be granted to a subsidiary  
13 established by the authority, or which may be exercised by the  
14 authority itself, are:

15 (1) The power to participate as a co-owner or co-venturer in any  
16 activity financed by a loan from the authority;

17 (2) The power to issue its stock and employ the proceeds of such  
18 issuance for capital investment in, or other expenses in connection  
19 with, the projects of the subsidiary, upon authorization by the  
20 authority; and

21 (3) The power to enter into leases, subleases or other conveyances  
22 of property, or to grant easements, or licenses for the use of property.

23

24 17. (New section) The authority, or any subsidiary, may enter  
25 into agreements with any individual, partnership, trust, association or  
26 corporation, or any public agency, under which the authority or  
27 subsidiary and such other entity or entities shall undertake a project as  
28 a joint venture, with the authority or subsidiary providing such  
29 financial assistance, through loans, grants or the acquisition of an  
30 ownership interest in the project, and such technical or managerial  
31 assistance or advice, as the agreement may provide for.

32

33 18. (New section) When undertaking any construction,  
34 reconstruction, or other improvement of property which is part of the  
35 marine facilities or redevelopment facilities located in the City of  
36 Camden, the authority shall provide the Planning Board of the City of  
37 Camden with a written summary, for informational purposes only, or  
38 an informational presentation to the Planning Board of the City of  
39 Camden which shall describe the proposed development.

40

41 19. (New section) a. The exercise of the powers granted by this  
42 act shall constitute the performance of an essential governmental  
43 function and the authority shall not be required to pay any taxes or  
44 assessments upon or in respect of its port facilities as defined in  
45 section 3 of P.L. , c. (C. ) (now before the Legislature as this  
46 bill), or any property or moneys of the authority, and the authority, its

1 port facilities, property and moneys and any bonds and notes issued  
2 under the provisions of this act, their transfer and the income there-  
3 from, including any profit made on the sale thereof, shall at all times  
4 be free from taxation of every kind by the State except for transfer,  
5 inheritance and estate taxes and by any political subdivision of the  
6 State.

7 b. Notwithstanding the provisions of section 15 of P.L.1974, c.80  
8 (C.34:1B-15) to the contrary: (1) any person occupying port facilities  
9 of the authority used as redevelopment facilities for commercial  
10 purposes, whether as lessee, vendee or otherwise, except a subsidiary  
11 corporation as defined in section 3 of P.L. , c. (C. ) (now before  
12 the Legislature as this bill), shall pay to any political subdivision in  
13 which such redevelopment facilities are located a payment in lieu of  
14 taxes which shall equal the taxes on real and personal property,  
15 including water and sewer service charges and assessments, which that  
16 person would have been required to pay to the respective political  
17 subdivisions had it been the owner of the property during the period  
18 for which such payment is made and neither the subsidiary  
19 <sup>1</sup>【corporation】<sup>1</sup> nor the authority nor any of their projects, properties,  
20 moneys or bonds and notes shall be obligated, liable or subject to lien  
21 of any kind for the enforcement, collection or payment thereof; (2) the  
22 State shall make a payment in lieu of taxes on the authority's port  
23 facilities used as marine facilities for commercial purposes and  
24 occupied by any person as lessee, except a subsidiary corporation as  
25 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
26 as this bill) and neither the subsidiary <sup>1</sup>【corporation】<sup>1</sup> nor the  
27 authority nor any of their projects, properties, moneys, or bonds and  
28 notes shall be obligated, liable or subject to lien of any kind for the  
29 enforcement, collection or payment thereof. The payment by the  
30 State shall be made to the City of Camden, subject to annual  
31 appropriation by the Legislature, and shall be equal to 40 percent of  
32 the <sup>1</sup>fair market<sup>1</sup> value of the property, determined by the Department  
33 of the Treasury at the time of transfer of the facilities to the authority  
34 pursuant to this act, multiplied by the local <sup>1</sup>municipal<sup>1</sup> purposes tax  
35 rate.

36 c. Payments made pursuant to this section shall be paid to the  
37 political subdivision in the fiscal year commencing on July 1 following  
38 the year in which the occupancy occurred. Such payments shall only  
39 be payable for that portion of the year in which the facilities subject to  
40 the payment were actually occupied by a lessee, vendee or otherwise  
41 or in the case of paragraph (2) of subsection b. of this section by a  
42 lessee.

43 d. Any property transferred to the authority pursuant to the  
44 provisions of this act, which is not occupied by a lessee, vendee or  
45 otherwise, as provided in this section, shall not be subject to a  
46 payment in lieu of taxes.

1 e. In the event that the port facilities of the authority are  
2 transferred to another entity which is not subject to taxation, the  
3 provisions of this section concerning payments in lieu of taxes shall  
4 continue, and any person occupying the transferred <sup>1</sup>**[port]**  
5 redevelopment<sup>1</sup> facilities as a lessee, vendee or otherwise, except a  
6 subsidiary corporation defined in section 3 of P.L. , c. (C. ) (now  
7 before the Legislature as this bill), shall make the payments prescribed  
8 in paragraph (1) of subsection b. of this section, and the entity to  
9 which the marine facilities are transferred, rather than the State, shall  
10 continue to make the payments prescribed in paragraph (2) of  
11 subsection b. of this section unless the entity and the City of Camden  
12 shall enter into an agreement to provide for a different method of  
13 determining the amount of payment in lieu of taxes or otherwise to  
14 alter the amount of the payment provided for in paragraph (2) of  
15 subsection b. of this section.

16 f. Notwithstanding the provisions of this section to the contrary,  
17 the governing body of a county or municipality in which the port  
18 facilities of the authority used as redevelopment facilities are located  
19 may, by resolution or ordinance, as appropriate, provide for the  
20 reduction in the amount of the in lieu of tax payment which a vendee,  
21 lessee or otherwise is required to pay under paragraph (1) of  
22 subsection b. of this section. The reduction in the amount shall be for  
23 a term of no greater than 20 years from the date of initial occupancy  
24 by the vendee, lessee or otherwise and shall be so structured that the  
25 <sup>1</sup>total<sup>1</sup> reduction shall constitute no greater than 75 percent of the in  
26 lieu of tax payment required under paragraph (1) of subsection b. of  
27 this section over the 20 year <sup>1</sup>or lesser<sup>1</sup> period, and shall only be  
28 adopted upon a finding that the reduction would be in the best interest  
29 of the county or municipality.

30

31 20. Section 1 of P.L.1968, c.60 (C.12:11A-1) is amended to read  
32 as follows:

33 1. The Legislature hereby finds and declares: a. that overlapping  
34 jurisdiction and responsibility for port development is not conducive  
35 to the provision of adequate port facilities in southern New Jersey;  
36 that the South Jersey Port Corporation hereinafter established by this  
37 act, should be the sole agency for the port development which is the  
38 purpose of this act; that said corporation should be vested with powers  
39 and responsibilities sufficient to fulfill not only its port development  
40 purposes but its financial obligations to the government and people of  
41 the State of New Jersey; that the Camden Marine Terminals, presently  
42 operated and maintained by the South Jersey Port Commission, are  
43 ideally suited to serve as the basis from which future port development  
44 in South Jersey may proceed; that the acquisition of said Camden  
45 Marine Terminals by the South Jersey Port Corporation will enable  
46 said corporation to accomplish the purposes of this act; that the



1 indebtedness of the South Jersey Port Commission to its creditors and  
2 bondholders and to the city of Camden is properly an obligation of the  
3 State of New Jersey and a responsibility of the State of New Jersey to  
4 repay to the extent and in the manner provided herein; that prior to the  
5 disposition of the Camden Marine Terminals the financial obligations  
6 of the South Jersey Port Commission to the city of Camden must be  
7 discharged; that the State has already recognized its responsibility and  
8 taken steps to fulfill its obligation to the city of Camden by virtue of  
9 the appropriation of \$1.5 million from the General Treasury of the  
10 State of New Jersey to the South Jersey Port Commission, pursuant  
11 to chapter 84 of the Laws of 1967, which sum was applied towards the  
12 reduction of the indebtedness of the commission to the city of  
13 Camden.

14 b. In order to facilitate the unification of the ports of the Delaware  
15 river, as provided in subdivision (m) of the Compact creating the  
16 Delaware River Port Authority (R.S.32:3-2), it is in the public interest  
17 to provide for the transfer of the port facilities of the corporation to  
18 the New Jersey Economic Development Authority so that all or a  
19 portion of them may be operated by a subsidiary corporation of the  
20 Delaware River Port Authority; that the current outstanding bonded  
21 indebtedness of the corporation shall be refunded by the issuance of  
22 bonds by the New Jersey Economic Development Authority in order  
23 to facilitate that transfer; that provision be made for the employees of  
24 the corporation who may be employed by the subsidiary corporation;  
25 and that other measures be taken to facilitate the transfer.

26 (cf: P.L.1968, c.60, s.1)

27

28 21. Section 6 of P.L.1968, c.60 (C.12:11A-6) is amended to read  
29 as follows:

30 6. The corporation shall be a body corporate and politic and shall  
31 have perpetual succession and shall have the following powers:

32 (a) To adopt by-laws for the regulation of its affairs and the  
33 conduct of its business;

34 (b) To adopt an official seal and alter the same at pleasure;

35 (c) To maintain an office at such place or places within the district  
36 as it may designate;

37 (d) To sue and be sued in its own name;

38 (e) To establish, acquire, construct, rehabilitate, improve, own,  
39 operate and maintain marine terminals at such locations within the  
40 district as it shall determine;

41 (f) To enter into lease agreements with private marine terminal  
42 operators for the purpose of operating and maintaining any of the  
43 marine terminals established, acquired, owned, constructed,  
44 rehabilitated or improved by the corporation;

45 (g) To issue bonds or notes of the corporation for any of its  
46 corporate purposes and to provide for the rights of the holders thereof

1 as provided in this act;

2 (h) To fix and revise from time to time and charge and collect  
3 rents, tolls, fees and charges for use of the several functions and  
4 services of any marine terminal acquired or constructed by it;

5 (i) To establish rules and regulations for the use of any terminal;

6 (j) To acquire, hold and dispose of real and personal property in  
7 the exercise of its powers and the performance of its duties under this  
8 act;

9 (k) To acquire in the name of the corporation by purchase or  
10 otherwise, on such terms and conditions and in such manner as it may  
11 deem proper, or by the exercise of the power of eminent domain any  
12 land and other property which it may determine is reasonably  
13 necessary for any marine terminal or for the relocation or  
14 reconstruction of any highway by the corporation and any and all  
15 rights, title and interest in such land and other property, including  
16 public lands, parks, playgrounds, reservations, highways or parkways,  
17 owned by or in which any county, city, borough, town, township,  
18 village, or other political subdivision of the State of New Jersey has  
19 any right, title or interest, or parts thereof or rights therein and any fee  
20 simple absolute or any lesser interest in private property, and any fee  
21 simple absolute in, easements upon, or the benefit of restrictions upon,  
22 abutting property to preserve and protect any marine terminal.

23 Upon the exercise of the power of eminent domain, the  
24 compensation to be paid thereunder shall be ascertained and paid in  
25 the manner provided in [chapter 1 of the Title 20 Revised Statutes]  
26 the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et  
27 seq.), insofar as the provisions thereof are applicable and not  
28 inconsistent with the provisions contained in this act. The  
29 corporation may join in separate subdivisions in one petition or  
30 complaint the descriptions of any number of tracts or parcels of land  
31 or property to be condemned and the names of any number of owners  
32 and other parties who may have an interest therein and all such land or  
33 property included in said petition or complaint may be condemned in  
34 a single proceeding; provided, however, that separate awards be made  
35 for each tract or parcel of land or property; and provided further, that  
36 each of said tracts or parcels of land or property lies wholly in or has  
37 a substantial part of its value lying wholly within the same county.

38 Upon the filing of such petition or complaint or at any time  
39 thereafter the corporation may file with the clerk of the county in  
40 which such property is located and also with the Clerk of the Superior  
41 Court a declaration of taking, signed by the corporation declaring that  
42 possession of one or more of the tracts or parcels of land or property  
43 described in the petition or complaint is thereby being taken by and for  
44 the use of the corporation. The said declaration of taking shall be  
45 sufficient if it sets forth (1) a description of each tract or parcel of land  
46 or property to be so taken sufficient for the identification thereof to

1 which there shall be attached a plan or map thereof; (2) a statement  
2 of the estate or interest in the said land or property being taken; (3) a  
3 statement of the sum of money estimated by the corporation by  
4 resolution to be just compensation for the taking of the estate or  
5 interest in each tract or parcel of land or property described in said  
6 declaration; and (4) that, in compliance with the provisions of this act,  
7 the corporation has established and is maintaining a trust fund as  
8 hereinafter provided.

9       Upon the filing of the said declaration, the corporation shall  
10 deposit with the Clerk of the Superior Court the amount of the  
11 estimated compensation stated in said declaration. In addition to the  
12 said deposits with the Clerk of the Superior Court the corporation at  
13 all times shall maintain a special trust fund on deposit with a bank or  
14 trust company doing business in this State in an account at least equal  
15 to twice the aggregate amount deposited with the Clerk of the  
16 Superior Court as estimated compensation for all property described  
17 in declarations of taking with respect to which the compensation has  
18 not been finally determined and paid to the persons entitled thereto or  
19 into court. Said trust fund shall consist of cash or securities readily  
20 convertible into cash constituting legal investment for trust funds  
21 under the laws of this State. Said trust fund shall be held solely to  
22 secure and may be applied to the payment of just compensation for the  
23 land or other property described in such declarations of taking. The  
24 corporation shall be entitled to withdraw from said trust fund from  
25 time to time so much as may then be in excess of twice the aggregate  
26 of the amount deposited with the Clerk of the Superior Court as  
27 estimated compensation for all property described in declarations of  
28 taking with respect to which the compensation has not been finally  
29 determined and paid to the persons entitled thereto or into court.

30       Upon the filing of the said declaration as aforesaid and depositing  
31 with the Clerk of the Superior Court the amount of the estimated  
32 compensation stated in said declaration, the corporation without other  
33 process or proceedings, shall be entitled to the exclusive possession  
34 and use of each tract of land or property described in said declaration  
35 and may forthwith enter into and take possession of said land or  
36 property, it being the intent of this provision that the proceedings for  
37 compensation or any other proceedings relating to the taking of said  
38 land or interest therein or other property shall not delay the taking of  
39 possession thereof and the use thereof by the corporation for the  
40 purpose or purposes for which the corporation is authorized by law to  
41 acquire or condemn such land or other property or interest therein.

42       The corporation shall cause notice of the filing of said declaration  
43 and the making of said deposit to be served upon each party in interest  
44 named in the petition residing in this State, either personally or by  
45 leaving a copy thereof at his residence, if known, and upon each party  
46 in interest residing out of the State, by mailing a copy thereof to him

1 at his residence, if known. In the event that the residence of any such  
2 party or the name of such party is unknown, such notice shall be  
3 published at least once in a newspaper published or circulating in the  
4 county or counties in which the land is located. Such service, mailing  
5 or publication shall be made within 10 days after filing such  
6 declaration. Upon the application of any party in interest and after  
7 notice to other parties in interest, including the corporation, any judge  
8 of the Superior Court assigned to sit for said county may order that  
9 the money deposited with the Clerk of the Superior Court or any part  
10 thereof be paid forthwith to the person or persons entitled thereto for  
11 or on account of the just compensation to be awarded in said  
12 proceeding; provided, that each such person shall have filed with the  
13 Clerk of the Superior Court a consent in writing that, in the event the  
14 award in the condemnation proceeding shall be less than the amount  
15 deposited, the court, after notice as herein provided and hearing, may  
16 determine his liability, if any, for the return of such difference or any  
17 part thereof and enter judgment therefor. If the amount of the award  
18 as finally determined shall exceed the amount so deposited, the person  
19 or persons to whom the award is payable shall be entitled to recover  
20 from the corporation the difference between the amount of the deposit  
21 and the amount of the award, with interest at the rate of 6% per  
22 annum thereon from the date of making the deposit. If the amount of  
23 the award shall be less than the amount so deposited, the Clerk of the  
24 Superior Court shall return the difference between the amount of the  
25 award and the deposit to the corporation unless the amount of the  
26 deposit or any part thereof shall have theretofore been distributed, in  
27 which event the court, on petition of the corporation and notice to all  
28 persons interested in the award and affording them an opportunity to  
29 be heard, shall enter judgment in favor of the corporation for such  
30 difference against the party or parties liable for the return thereof. The  
31 corporation shall cause notice of the date fixed for such hearing to be  
32 served upon each party thereto residing in this State either personally  
33 or by leaving a copy thereof at his residence, if known, and upon each  
34 party residing out of the State by mailing a copy to him at his  
35 residence, if known. In the event that the residence of any party or the  
36 name of such party is unknown, such notice shall be published at least  
37 once in a newspaper published or circulating in the county or counties  
38 in which the land is located. Such service, mailing or publication shall  
39 be made at least 10 days before the date fixed for such hearing.

40 Whenever under [chapter 1 of Title 20 of the Revised Statutes]  
41 the "Eminent Domain Act of 1971" the amount of the award may be  
42 paid into court, payment may be made into the Superior Court and  
43 may be distributed according to law. The corporation shall not  
44 abandon any condemnation proceeding subsequent to the date upon  
45 which it has taken possession of the land or property as herein  
46 provided;

1 (l) To make and enter into all contracts and agreements necessary  
2 or incidental to the performance of its duties and the execution of its  
3 powers under this act;

4 (m) To appoint such additional officers, who need not be members  
5 of the corporation as the corporation deems advisable, and to employ  
6 consulting engineers, attorneys, accountants, construction and  
7 financial experts, superintendents, managers, and such other employees  
8 and agents as may be necessary in its judgment; to fix their  
9 compensation; and to promote and discharge such officers, employees  
10 and agents; all without regard to the provisions of Title ~~11~~ of the  
11 Revised Statutes 11A of the New Jersey Statutes; provided, however  
12 that in the hiring of any employees or agents the corporation shall hire  
13 any full-time employees of the Camden Marine Terminals or of the  
14 South Jersey Port Commission, dissolved as hereinafter provided by  
15 this act, who express a desire to be employed by the corporation; and  
16 provided further, that the corporation shall provide for the protection  
17 and maintenance of any contract, agreement or memorandum of  
18 understanding concerning wages, working conditions or benefits of  
19 any nature whatsoever between said Camden Marine Terminals or  
20 South Jersey Port Commission and such employees or their designated  
21 representative, and the corporation shall guarantee any pension rights  
22 or benefits, including membership in any State, private or other  
23 pension plan, of any such employees of the Camden Marine Terminals  
24 or the South Jersey Port Commission.

25 (n) To apply for, receive and accept from any Federal agency,  
26 subject to the approval of the Governor, grants for or in aid of the  
27 planning or construction of any marine terminal, and to receive and  
28 accept aid or contributions from any source, of either money,  
29 property, labor or other things of value, to be held, used and applied  
30 only for the purposes for which such grants and contributions may be  
31 made;

32 (o) To acquire any lands under water in the State of New Jersey  
33 for marine terminal, purposes by grant, transfer or conveyance from  
34 the Resource Development Council in the Department of Conservation  
35 and Economic Development in accordance with the statutes of the  
36 State governing the making of riparian grants and leases, upon such  
37 terms and conditions as may be determined by said council;

38 (p) To acquire any real property required or used for State  
39 highway purposes in the State of New Jersey, by grant, transfer or  
40 conveyance from the State Department of Transportation of the State  
41 of New Jersey upon such terms and conditions as may be determined  
42 by said State Department of Transportation.

43 (q) To promote the use of the port facilities in the district and the  
44 use of the Delaware river and bay as a highway of commerce and in  
45 furtherance of such promotion to make expenditures in the United  
46 States and foreign countries, to pay commissions, and hire or contract

1 with experts and consultants, and otherwise to do indirectly anything  
2 which the corporation may do directly;

3 (r) To co-operate with all other bodies interested or concerned  
4 with, or affected by the promotion, development or use of the  
5 Delaware river and bay and the port district;

6 (s) To enter into contracts and agreements with the Delaware  
7 River Port Authority or any other regional agency concerned with  
8 marine terminal purposes providing for joint participation by the  
9 parties in any undertaking for marine terminal purposes authorized by  
10 this act;

11 (t) Subject to the terms of any agreement by the corporation with  
12 the holders of bonds and notes and in the interests of promoting and  
13 establishing unity of authority in the control, development and over the  
14 use of the port facilities of the district, to lend, lease, grant or convey  
15 to or merge or consolidate with any other regional agency concerned  
16 with marine terminal purposes upon such terms and conditions and  
17 with such reservations as the corporation shall deem reasonable and  
18 fair, any marine terminal or **[port]** part thereof or any port facility or  
19 property which it owns or controls, provided, however, that the  
20 corporation shall not act under this subsection until it has submitted  
21 to the Legislature any proposed loan, lease, grant or conveyance to or  
22 merger with any other regional agency of any marine terminal or port  
23 thereof or any other port facility which it owns or controls, and the  
24 Legislature has expressed its approval thereof in the form of a  
25 concurrent resolution expressing such approval passed by both houses  
26 of the Legislature, provided, however, that no such approval shall be  
27 required for any action of the corporation or otherwise, pursuant to  
28 the provisions of P.L. , c. (C. )(now before the Legislature as  
29 this bill).

30 (u) Subject to the terms of any agreement by the corporation with  
31 the holders of bonds and notes, to lend, lease, transfer, grant or  
32 convey to the New Jersey Economic Development Authority any port  
33 facility, as defined in section 3 of P.L. , c. (C. )(now  
34 before the Legislature as this bill), which is under its jurisdiction,  
35 ownership or control.

36 **[(u)]** (v) To do all acts and things necessary or convenient to  
37 carry out the powers expressly granted in this act.  
38 (cf: P.L.1968, c.60, s.6)

39  
40 22. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read  
41 as follows:

42 3. As used in this act, unless a different meaning clearly appears  
43 from the context:

44 a. "Authority" means the New Jersey Economic Development  
45 Authority, created by section 4 of this act.

46 b. "Bonds" means bonds or other obligations issued by the

1 authority pursuant to this act or "Economic Recovery Bonds or  
2 Notes" issued pursuant to P.L.1992, c.16 (C.34:1B-7.10 et al.).

3 c. "Cost" means the cost of the acquisition, construction,  
4 reconstruction, repair, alteration, improvement and extension of any  
5 building, structure, facility including water transmission facilities, or  
6 other improvement; the cost of machinery and equipment; the cost of  
7 acquisition, construction, reconstruction, repair, alteration,  
8 improvement and extension of energy saving improvements or  
9 pollution control devices, equipment or facilities; the cost of lands,  
10 rights-in-lands, easements, privileges, agreements, franchises, utility  
11 extensions, disposal facilities, access roads and site development  
12 deemed by the authority to be necessary or useful and convenient for  
13 any project or in connection therewith; discount on bonds; cost of  
14 issuance of bonds; engineering and inspection costs; costs of financial,  
15 legal, professional and other estimates and advice; organization,  
16 administrative, insurance, operating and other expenses of the  
17 authority or any person prior to and during any acquisition or  
18 construction, and all such expenses as may be necessary or incident to  
19 the financing, acquisition, construction or completion of any project  
20 or part thereof, and also such provision for reserves for payment or  
21 security of principal of or interest on bonds during or after such  
22 acquisition or construction as the authority may determine.

23 d. "County" means any county of any class.

24 e. "Development property" means any real or personal property,  
25 interest therein, improvements thereon, appurtenances thereto and air  
26 or other rights in connection therewith, including land, buildings,  
27 plants, structures, systems, works, machinery and equipment acquired  
28 or to be acquired by purchase, gift or otherwise by the authority within  
29 an urban growth zone.

30 f. "Person" means any person, including individuals, firms,  
31 partnerships, associations, societies, trusts, public or private  
32 corporations, or other legal entities, including public or governmental  
33 bodies, as well as natural persons. "Person" shall include the plural as  
34 well as the singular.

35 g. "Pollution control project" means any device, equipment,  
36 improvement, structure or facility, or any land and any building,  
37 structure, facility or other improvement thereon, or any combination  
38 thereof, whether or not in existence or under construction, or the  
39 refinancing thereof in order to facilitate improvements or additions  
40 thereto or upgrading thereof, and all real and personal property  
41 deemed necessary thereto, having to do with or the end purpose of  
42 which is the control, abatement or prevention of land, sewer, water,  
43 air, noise or general environmental pollution, including, but not limited  
44 to, any air pollution control facility, noise abatement facility, water  
45 management facility, thermal pollution control facility, radiation  
46 contamination control facility, wastewater collection system,

1 wastewater treatment works, sewage treatment works system, sewage  
2 treatment system or solid waste disposal facility or site; provided that  
3 the authority shall have received from the Commissioner of the State  
4 Department of Environmental Protection or his duly authorized  
5 representative a certificate stating the opinion that, based upon  
6 information, facts and circumstances available to the State Department  
7 of Environmental Protection and any other pertinent data, (1) said  
8 pollution control facilities do not conflict with, overlap or duplicate  
9 any other planned or existing pollution control facilities undertaken or  
10 planned by another public agency or authority within any political  
11 subdivision, and (2) that such facilities, as designed, will be a pollution  
12 control project as defined in this act and are in furtherance of the  
13 purpose of abating or controlling pollution.

14 h. "Project" means: (1) (a) acquisition, construction,  
15 reconstruction, repair, alteration, improvement and extension of any  
16 building, structure, facility, including water transmission facilities or  
17 other improvement, whether or not in existence or under construction,  
18 (b) purchase and installation of equipment and machinery,  
19 (c) acquisition and improvement of real estate and the extension or  
20 provision of utilities, access roads and other appurtenant facilities; and  
21 (2) (a) the acquisition, financing, or refinancing of inventory, raw  
22 materials, supplies, work in process, or stock in trade, or (b) the  
23 financing, refinancing or consolidation of secured or unsecured debt,  
24 borrowings, or obligations, or (c) the provision of financing for any  
25 other expense incurred in the ordinary course of business; all of which  
26 are to be used or occupied by any person in any enterprise promoting  
27 employment, either for the manufacturing, processing or assembly of  
28 materials or products, or for research or office purposes, including,  
29 but not limited to, medical and other professional facilities, or for  
30 industrial, recreational, hotel or motel facilities, public utility and  
31 warehousing, or for commercial and service purposes, including, but  
32 not limited to, retail outlets, retail shopping centers, restaurant and  
33 retail food outlets, and any and all other employment promoting  
34 enterprises, including, but not limited to, motion picture and television  
35 studios and facilities and commercial fishing facilities, commercial  
36 facilities for recreational fishermen, fishing vessels, aquaculture  
37 facilities and marketing facilities for fish and fish products and  
38 (d) acquisition of an equity interest in, including capital stock of, any  
39 corporation; or any combination of the above, which the authority  
40 determines will: (i) tend to maintain or provide gainful employment  
41 opportunities within and for the people of the State, or (ii) aid, assist  
42 and encourage the economic development or redevelopment of any  
43 political subdivision of the State, or (iii) maintain or increase the tax  
44 base of the State or of any political subdivision of the State, or (iv)  
45 maintain or diversify and expand employment promoting enterprises  
46 within the State; and (3) the cost of acquisition, construction,



1 reconstruction, repair, alteration, improvement and extension of an  
2 energy saving improvement or pollution control project which the  
3 authority determines will tend to reduce the consumption in a building  
4 devoted to industrial or commercial purposes, or in an office building,  
5 of nonrenewable sources of energy or to reduce, abate or prevent  
6 environmental pollution within the State; and (4) the acquisition,  
7 construction, reconstruction, repair, alteration, improvement,  
8 extension, development, financing or refinancing of infrastructure and  
9 transportation facilities or improvements related to economic  
10 development and of cultural, recreational and tourism facilities or  
11 improvements related to economic development and of capital facilities  
12 for primary and secondary schools and of mixed use projects  
13 consisting of housing and commercial development; and (5) the  
14 establishment, acquisition, construction, rehabilitation, improvement,  
15 and ownership of port facilities as defined in section 3 of P.L. \_\_\_\_\_,  
16 c. (C. \_\_\_\_\_) (now before the Legislature as this bill). Project may  
17 also include: (i) reimbursement to any person for costs in connection  
18 with any project, or the refinancing of any project or portion thereof,  
19 if determined by the authority as necessary and in the public interest  
20 to maintain employment and the tax base of any political subdivision  
21 and will facilitate improvements thereto or the completion thereof, and  
22 (ii) development property and any construction, reconstruction,  
23 improvement, alteration, equipment or maintenance or repair, or  
24 planning and designing in connection therewith. For the purpose of  
25 carrying out mixed use projects consisting of both housing and  
26 commercial development, the authority may enter into agreements with  
27 the New Jersey Housing and Mortgage Finance Agency for loan  
28 guarantees for any such project in accordance with the provisions of  
29 P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall  
30 allocate to the New Jersey Housing and Mortgage Finance Agency,  
31 under such agreements, funding available pursuant to subsection a. of  
32 section 4 of P.L.1992, c.16 (C.34:1B-7.13).

33 i. "Revenues" means receipts, fees, rentals or other payments to  
34 be received on account of lease, mortgage, conditional sale, or sale,  
35 and payments and any other income derived from the lease, sale or  
36 other disposition of a project, moneys in such reserve and insurance  
37 funds or accounts or other funds and accounts, and income from the  
38 investment thereof, established in connection with the issuance of  
39 bonds or notes for a project or projects, and fees, charges or other  
40 moneys to be received by the authority in respect of projects and  
41 contracts with persons.

42 j. "Resolution" means any resolution adopted or trust agreement  
43 executed by the authority, pursuant to which bonds of the authority  
44 are authorized to be issued.

45 k. "Energy saving improvement" means the construction, purchase  
46 and installation in a building devoted to industrial or commercial

1 purposes of any of the following, designed to reduce the amount of  
2 energy from nonrenewable sources needed for heating and cooling that  
3 building: insulation, replacement burners, replacement high efficiency  
4 heating and air conditioning units, including modular boilers and  
5 furnaces, water heaters, central air conditioners with or without heat  
6 recovery to make hot water for industrial or commercial purposes or  
7 in office buildings, and any solar heating or cooling system  
8 improvement, including any system which captures solar radiation to  
9 heat a fluid which passes over or through the collector element of that  
10 system and then transfers that fluid to a point within the system where  
11 the heat is withdrawn from the fluid for direct usage or storage. These  
12 systems shall include, but not necessarily be limited to, systems  
13 incorporating flat plate, evacuated tube or focusing solar collectors.

14 The foregoing list shall not be construed to be exhaustive, and shall  
15 not serve to exclude other improvements consistent with the legislative  
16 intent of this amendatory act.

17 1. "Urban growth zone" means any area within a municipality  
18 receiving State aid pursuant to the provisions of P.L.1978, c.14  
19 (C.52:27D-178 et seq.) or a municipality certified by the  
20 Commissioner of Community Affairs to qualify under such law in  
21 every respect except population, which area has been so designated  
22 pursuant to an ordinance of the governing body of such municipality.  
23 (cf: P.L.1995, c.359, s.8)

24

25 23. Section 7 of P.L.1954, c.84 (C.43:15A-7) is amended to read  
26 as follows:

27 7. There is hereby established the Public Employees' Retirement  
28 System of New Jersey in the Division of Pensions and Benefits of the  
29 Department of the Treasury. The membership of the retirement system  
30 shall include:

31 a. The members of the former "State Employees' Retirement  
32 System of New Jersey" enrolled as such as of December 30, 1954,  
33 who shall not have claimed for refund their accumulated deductions in  
34 said system as provided in this section;

35 b. Any person becoming an employee of the State or other  
36 employer after January 2, 1955 and every veteran, other than <sup>2</sup>a retired  
37 member who returns to service pursuant to subsection b. of section 27  
38 of P.L.1966, c.217 (C.43:15A-57.2) and other than<sup>2</sup> those whose  
39 appointments are seasonal, becoming an employee of the State or  
40 other employer after such date, including a temporary employee with  
41 at least one year's continuous service; and

42 c. Every employee veteran in the employ of the State or other  
43 employer on January 2, 1955, who is not a member of any retirement  
44 system supported wholly or partly by the State.

45 d. Membership in the retirement system shall be optional for  
46 elected officials other than veterans, and for school crossing guards,

1 who having become eligible for benefits under other pension systems  
2 are so employed on a part-time basis. Any such part-time school  
3 crossing guard who is eligible for benefits under any other pension  
4 system and who was hired as a part-time school crossing guard prior  
5 to March 4, 1976, may at any time terminate his membership in the  
6 retirement system by making an application in writing to the board of  
7 trustees of the retirement system. Upon receiving such application,  
8 the board of trustees shall terminate his enrollment in the system and  
9 direct the employer to cease accepting contributions from the member  
10 or deducting from the compensation paid to the member. State  
11 employees who become members of any other retirement system  
12 supported wholly or partly by the State as a condition of employment  
13 shall not be eligible for membership in this retirement system.  
14 Notwithstanding any other law to the contrary, all other persons  
15 accepting employment in the service of the State shall be required to  
16 enroll in the retirement system as a condition of their employment,  
17 regardless of age. No person in employment, office or position, for  
18 which the annual salary or remuneration is fixed at less than  
19 \$1,500.00, shall be eligible to become a member of the retirement  
20 system.

21 e. Membership of any person in the retirement system shall cease  
22 if he shall discontinue his service for more than two consecutive years.

23 f. The accumulated deductions of the members of the former  
24 "State Employees' Retirement System" which have been set aside in a  
25 trust fund designated as Fund A as provided in section 5 of this act  
26 and which have not been claimed for refund prior to February 1, 1955  
27 shall be transferred from said Fund A to the Annuity Savings Fund of  
28 the Retirement System, provided for in section 25 of this act. Each  
29 member whose accumulated deductions are so transferred shall receive  
30 the same prior service credit, pension credit, and membership credit in  
31 the retirement system as he previously had in the former "State  
32 Employees' Retirement System" and shall have such accumulated  
33 deductions credited to his individual account in the Annuity Savings  
34 Fund. Any outstanding obligations of such member shall be continued.

35 g. Any school crossing guard electing to terminate his membership  
36 in the retirement system pursuant to subsection d. of this section shall,  
37 upon his request, receive a refund of his accumulated deductions as of  
38 the date of his appointment to the position of school crossing guard.  
39 Such refund of contributions shall serve as a waiver of all benefits  
40 payable to the employee, to his dependent or dependents, or to any of  
41 his beneficiaries under the retirement system.

42 h. A temporary employee who is employed under the federal Job  
43 Training Partnership Act, Pub.L. 97-300 (29 U.S.C. §1501) shall not  
44 be eligible for membership in the system. Membership for temporary  
45 employees employed under the federal Job Training Partnership Act,  
46 Pub.L. 97-300 (29 U.S.C. §1501) who are in the system on <sup>2</sup>the

1 effective date of this 1986 amendatory act] September 19, 1986<sup>2</sup> me  
 2 shall be terminated, and affected employees shall receive a refund of  
 3 their accumulated deductions as of the date of commencement of  
 4 employment in a federal Job Training Partnership Act program. Such  
 5 refund of contributions shall serve as a waiver of all benefits payable  
 6 to the employee, to his dependent or dependents, or to any of his  
 7 beneficiaries under the retirement system.

8 <sup>1</sup>i. Membership in the retirement system shall be optional for a  
 9 special service employee who is employed under the federal Older  
 10 American Community Service Employment Act, Pub.L.94-135 (42  
 11 U.S.C. §3056). Any special service employee employed under the  
 12 federal Older American Community Service Employment Act,  
 13 Pub.L.94-135 (42 U.S.C. §3056), who is in the retirement system on  
 14 the effective date of this act, P.L.1996, c.39 (C.43:15A-7), may  
 15 terminate membership in the retirement system by making an  
 16 application in writing to the board of trustees of the retirement system.  
 17 Upon receiving the application, the board shall terminate enrollment  
 18 in the system and the member shall receive a refund of accumulated  
 19 deductions as of the date of commencement of employment in a  
 20 federal Older American Community Service Employment Act program.  
 21 This refund of contributions shall serve as a waiver of all benefits  
 22 payable to the employee, to any dependent or dependents, or to any  
 23 beneficiary under the retirement system.<sup>1</sup>

24 <sup>1</sup>[i.] j.<sup>1</sup> An employee of the South Jersey Port Corporation who  
 25 was employed by the South Jersey Port Corporation as of the effective  
 26 date of P.L. , c. (C. ) (now before the Legislature as this bill)  
 27 and who shall be re-employed within 365 days of such effective date  
 28 by a subsidiary corporation or other corporation, which has been  
 29 established by the Delaware River Port Authority pursuant to  
 30 subdivision (m) of Article I of the compact creating the Delaware  
 31 River Port Authority (R.S.32:3-2), as defined in section 3 of P.L. ,  
 32 c. (C. ) (now before the Legislature as this bill), shall be eligible  
 33 to continue membership while an employee of such subsidiary or other  
 34 corporation.

35 (cf: P.L.1996, c.139, s.1)

36  
 37 24. Section 73 of P.L.1954, c.84 (C.43:15A-73) is amended to  
 38 read as follows:

39 73. a. The Public Employees' Retirement System is hereby  
 40 authorized and directed to enroll eligible employees of the New Jersey  
 41 Turnpike Authority, the New Jersey Highway Authority, Palisades  
 42 Interstate Park Commission, Interstate Sanitation Commission, the  
 43 Delaware River Basin Commission and the Delaware River Joint Toll  
 44 Bridge Commission.

45 In the case of the Delaware River Joint Toll Bridge Commission,  
 46 the eligible employees shall be only those who are employed on the

1 free bridges across the Delaware river, under the control of said  
2 commission, or who are members of the retirement system at the time  
3 they begin employment with the commission.

4 The said employees shall be subject to the same membership,  
5 contribution and benefit provisions of the retirement system as State  
6 employees.

7 b. The State University of New Jersey, as an instrumentality of the  
8 State, shall, for all purposes of this act, be deemed an employer and its  
9 eligible employees, both veterans and nonveterans, shall be subject to  
10 the same membership, contribution and benefit provisions of the  
11 retirement system and to the provisions of chapter 3 of Title 43 of the  
12 Revised Statutes as are applicable to State employees and for all  
13 purposes of this act employment by the State University of New Jersey  
14 after April 16, 1945, and for the purposes of chapter 3 of Title 43 of  
15 the Revised Statutes any new employment after January 1, 1955, shall  
16 be deemed to be and shall be construed as service to and employment  
17 by the State of New Jersey.

18 c. The Compensation Rating and Inspection Bureau, created and  
19 established pursuant to the provisions of R.S.34:15-89, shall, for all  
20 purposes of this act, be deemed an employer and its eligible  
21 employees, both veterans and nonveterans, shall be subject to the same  
22 membership, contribution and benefit provisions of the retirement  
23 system and to the provisions of chapter 3 of Title 43 of the Revised  
24 Statutes as both are applicable to State employees.

25 The retirement system shall certify to the Commissioner of  
26 Insurance and the Commissioner of Insurance shall direct the  
27 Compensation Rating and Inspection Bureau to provide the necessary  
28 payments to the retirement system in accordance with procedures  
29 established by the retirement system. Such payments shall include (1)  
30 the contributions and charges, similar to those paid by other public  
31 agency employers, to be paid by the Compensation Rating and  
32 Inspection Bureau to the retirement system on behalf of its employee  
33 members, and (2) the contributions to be paid by the Compensation  
34 Rating and Inspection Bureau to provide the past service credits up to  
35 June 30, 1965 for these members, both veterans and nonveterans, who  
36 enroll before July 1, 1966.

37 d. The New Jersey Sports and Exposition Authority, created and  
38 established pursuant to the "New Jersey Sports and Exposition  
39 Authority Law," P.L.1971, c.137 (C.5:10-1 et seq.) shall for all  
40 purposes of this act, be deemed an employer and its eligible employees  
41 both veterans and nonveterans, shall be subject to the same  
42 membership, contribution and benefit provisions of the retirement  
43 system and to the provisions of chapter 3 of Title 43 of the Revised  
44 Statutes as are applicable to State employees.

45 (1) Eligible employees as used herein shall not include persons  
46 who are not classified as salaried, or who are compensated on an

1 hourly or per diem basis, or whose employment is normally covered by  
2 other retirement systems to which the authority makes contributions.

3 (2) Eligible employees previously permitted to enroll in the  
4 retirement system shall redeposit the contributions previously made by  
5 them and all service credit shall then be restored and future  
6 contributions made at the date of contribution as originally assigned.  
7 The authority shall redeposit the employer payments it had made, with  
8 interest to the date of redeposit.

9 e. The New Jersey Transit Corporation created and established  
10 pursuant to the "New Jersey Public Transportation Act of 1979,"  
11 P.L.1979, c.150 (C.27:25-1 et seq.) shall for all purposes of this act,  
12 be deemed an employer and its eligible employees both veterans and  
13 nonveterans, shall be subject to the same membership, contribution and  
14 benefit provisions of the retirement system and to the provisions of  
15 chapter 3 of Title 43 of the Revised Statutes as are applicable to State  
16 employees. Eligible employees as used herein means only those  
17 individuals who are members of the Public Employees' Retirement  
18 System or any other State-administered retirement system immediately  
19 prior to their initial employment by the corporation.

20 f. (1) The Casino Reinvestment Development Authority, created  
21 and established pursuant to P.L.1984, c.218 (C.5:12-153 et seq.), the  
22 New Jersey Urban Development Corporation, created and established  
23 pursuant to P.L.1985, c.227 (C.55:19-1 et seq.), the South Jersey  
24 Food Distribution Authority, created and established pursuant to  
25 P.L.1985, c.383 (C.4:26-1 et seq.), the New Jersey Development  
26 Authority for Small Businesses, Minorities and Women's Enterprises,  
27 created and established pursuant to P.L.1985, c.386 (C.34:1B-47 et  
28 seq.), and the Catastrophic Illness in Children Relief Fund  
29 Commission, created and established pursuant to P.L.1987, c.370  
30 (C.26:2-148 et seq.) shall each, for all purposes of this act, be deemed  
31 an employer and eligible authority, corporation, or commission.  
32 Employees, both veterans and nonveterans, shall be subject to the  
33 same membership, contribution and benefit provisions of the  
34 retirement system and to the provisions of chapter 3 of Title 43 of the  
35 Revised Statutes as are applicable to State employees.

36 (2) The current or former employees of the authorities, the  
37 corporation, and the commission may purchase credit for all service  
38 with the authority, corporation, or commission rendered prior to the  
39 effective date of this amendatory and supplementary act, P.L.1990,  
40 c.25 (C.43:15A-73.2 et al.), if that service would otherwise be eligible  
41 for credit in the retirement system. This purchase shall be made in the  
42 same manner and shall be subject to the same terms and conditions  
43 provided for the purchase of previous membership service by section  
44 8 of P.L.1954, c.84 (C.43:15A-8). The authority, corporation, or  
45 commission shall pay the unfunded liability as determined by the  
46 actuary for prior service purchased by its employees in accordance

1 with a schedule approved by the actuary. This obligation of the  
2 authority, corporation, or commission shall be known as the accrued  
3 liability for prior service credit.

4 (3) For any employee of the authorities or of the corporation or  
5 commission who is in service with the authority, corporation, or  
6 commission on the effective date of this amendatory and  
7 supplementary act, P.L.1990, c.25 (C.43:15A-73.2 et al.), the age of  
8 enrollment for the purposes of the member contribution rate under  
9 section 25 of P.L.1954, c.84 (C.43:15A-25) shall be the age of the  
10 employee on the date the continuous service with the authority began.  
11 Any employee who was a member of the retirement system on the date  
12 continuous service with the authority, corporation, or commission  
13 began but whose membership expired before the effective date of  
14 participation by the authority, corporation, or commission in the  
15 retirement system, and who has not withdrawn the employee  
16 contributions from the system, shall participate in the retirement  
17 system under the former membership and shall contribute to the system  
18 at the rate applicable to the former membership.

19 g. A subsidiary corporation or other corporation established by the  
20 Delaware River Port Authority pursuant to subdivision (m) of Article  
21 I of the compact creating the authority (R.S.32:3-2), as defined in  
22 section 3 of P.L. , c. (C. ) (now before the Legislature as this bill),  
23 shall, for all purposes of this act, be deemed an employer and its  
24 eligible employees, both veterans and nonveterans, shall be subject to  
25 the same membership, contribution and benefit provisions of the  
26 retirement system and to the provisions of chapter 3 of Title 43 of the  
27 Revised Statutes as are applicable to State employees. Employees of  
28 the subsidiary or other corporation eligible for participation in the  
29 retirement system under this subsection shall include only persons who  
30 are employees of the South Jersey Port Corporation on the effective  
31 date of P.L. , c. (C. ) (now before the Legislature as this bill) and  
32 are re-employed by the subsidiary or other corporation within 365  
33 days of the effective date.

34 (cf: P.L.1990, c.25, s.1)

35

36 25. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to  
37 read as follows:

38 2. As used in this act:

39 (a) The term "State" means the State of New Jersey.

40 (b) The term "commission" means the State Health Benefits  
41 Commission, created by section 3 of this act.

42 (c) The term "employee" means an appointive or elective officer  
43 or full-time employee of the State of New Jersey. For the purposes of  
44 this act an employee of Rutgers, The State University of New Jersey,  
45 shall be deemed to be an employee of the State, and an employee of  
46 the New Jersey Institute of Technology shall be considered to be an

1 employee of the State during such time as the Trustees of the Institute  
2 are party to a contractual agreement with the State Treasurer for the  
3 provision of educational services. The term "employee" shall further  
4 mean, for purposes of this act, a former employee of the South Jersey  
5 Port Corporation, who is employed by a subsidiary corporation or  
6 other corporation, which has been established by the Delaware River  
7 Port Authority pursuant to subdivision (m) of Article I of the compact  
8 creating the Delaware River Port Authority (R.S.32:3-2), as defined  
9 in section 3 of P.L. , c. (C. ) (now before the Legislature as  
10 this bill), and who is eligible for continued membership in the Public  
11 Employees' Retirement System pursuant to subsection i. of section 7  
12 of P.L.1954, c.84 (C.43:15A-7).

13 For the purposes of this act the term "employee" shall not include  
14 persons employed on a short-term, seasonal, intermittent or emergency  
15 basis, persons compensated on a fee basis, persons having less than  
16 two months of continuous service or persons whose compensation  
17 from the State is limited to reimbursement of necessary expenses  
18 actually incurred in the discharge of their official duties. An employee  
19 paid on a 10-month basis, pursuant to an annual contract, will be  
20 deemed to have satisfied the two-month waiting period if the employee  
21 begins employment at the beginning of the contract year. The term  
22 "employee" shall also not include retired persons who are otherwise  
23 eligible for benefits under this act but who, although they meet the age  
24 eligibility requirement of Medicare, are not covered by the complete  
25 federal program. A determination by the commission that a person is  
26 an eligible employee within the meaning of this act shall be final and  
27 shall be binding on all parties.

28 (d) The term "dependents" means an employee's spouse and the  
29 employee's unmarried children under the age of 23 years who live with  
30 the employee in a regular parent-child relationship. "Children" shall  
31 include stepchildren, legally adopted children and foster children  
32 provided they are reported for coverage and are wholly dependent  
33 upon the employee for support and maintenance. A spouse or child  
34 enlisting or inducted into military service shall not be considered a  
35 dependent during the military service. The term "dependents" shall not  
36 include spouses of retired persons who are otherwise eligible for the  
37 benefits under this act but who, although they meet the age eligibility  
38 requirement of Medicare, are not covered by the complete federal  
39 program.

40 (e) The term "carrier" means a voluntary association, corporation  
41 or other organization, including a health maintenance organization as  
42 defined in section 2 of the "Health Maintenance Organizations Act,"  
43 P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing  
44 or paying for or reimbursing the cost of, personal health services,  
45 including hospitalization, medical and surgical services, under  
46 insurance policies or contracts, membership or subscription contracts,



1 or the like, in consideration of premiums or other periodic charges  
2 payable to the carrier.

3 (f) The term "hospital" means (1) an institution operated pursuant  
4 to law which is primarily engaged in providing on its own premises,  
5 for compensation from its patients, medical diagnostic and major  
6 surgical facilities for the care and treatment of sick and injured persons  
7 on an inpatient basis, and which provides such facilities under the  
8 supervision of a staff of physicians and with 24 hour a day nursing  
9 service by registered graduate nurses, or (2) an institution not meeting  
10 all of the requirements of (1) but which is accredited as a hospital by  
11 the Joint Commission on Accreditation of Hospitals. In no event shall  
12 the term "hospital" include a convalescent nursing home or any  
13 institution or part thereof which is used principally as a convalescent  
14 facility, residential center for the treatment and education of children  
15 with mental disorders, rest facility, nursing facility or facility for the  
16 aged or for the care of drug addicts or alcoholics.

17 (g) The term "State managed care plan" means a health care plan  
18 under which comprehensive health care services and supplies are  
19 provided to eligible employees, retirees, and dependents: (1) through  
20 a group of doctors and other providers employed by the plan; or (2)  
21 through an individual practice association, preferred provider  
22 organization, or point of service plan under which services and  
23 supplies are furnished to plan participants through a network of  
24 doctors and other providers under contracts or agreements with the  
25 plan on a prepayment or reimbursement basis and which may provide  
26 for payment or reimbursement for services and supplies obtained  
27 outside the network. The plan may be provided on an insured basis  
28 through contracts with carriers or on a self-insured basis, and may be  
29 operated and administered by the State or by carriers under contracts  
30 with the State.

31 (h) The term "Medicare" means the program established by the  
32 "Health Insurance for the Aged Act," Title XVIII of the "Social  
33 Security Act," Pub.Law 89-97 (42 U.S.C.1395 et seq.), as amended,  
34 or its successor plan or plans.

35 (i) The term "traditional plan" means a health care plan which  
36 provides basic benefits, extended basic benefits and major medical  
37 expense benefits as set forth in section 5 of P.L.1961, c.49  
38 (C.52:14-17.29) by indemnifying eligible employees, retirees, and  
39 dependents for expenses for covered health care services and supplies  
40 through payments to providers or reimbursements to participants.

41 (cf: P.L.1996, c.8, s.1)

42

43 26. Section 4 of P.L.1964, c.125 (C.52:14-17.34) is amended to  
44 read as follows:

45 4. As used in this act and in the act to which this act is a  
46 supplement:

1 (a) The term "employer" means a county, municipality, school  
2 district, public agency or organization as defined in section 71 of  
3 P.L.1954, c. 84, including the New Jersey Turnpike Authority, the  
4 New Jersey Highway Authority, the Interstate Sanitation Commission,  
5 the Delaware River Basin Commission, New Jersey Housing Finance  
6 Agency, New Jersey Educational Facilities Authority, Hackensack  
7 Meadowlands Development Commission and the Compensation Rating  
8 and Inspection Bureau. The term "employer" shall include a subsidiary  
9 corporation or other corporation established by the Delaware River  
10 Port Authority pursuant to subdivision (m) of Article I of the compact  
11 creating the authority (R.S.32:3-2), as defined in section 3 of P.L. ,  
12 c. (C. ) (now before the Legislature as this bill), except that only  
13 persons who are employees of the South Jersey Port Corporation on  
14 the effective date of P.L. , c. (C. )(now before the Legislature as  
15 this bill) and are re-employed by the subsidiary or other corporation  
16 within 365 days of the effective date are eligible to participate in the  
17 program.

18 (b) The term "State Treasury" means the State agency responsible  
19 for the administration of the New Jersey State Health Benefits  
20 Program Act which is to be located in the Division of Pensions in the  
21 Department of the Treasury.  
22 (cf: P.L.1972, c.75, s.8)

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24 27. (New section) A subsidiary corporation or other corporation  
25 established by the Delaware River Port Authority which has employees  
26 eligible to participate in the State Health Benefits Program as provided  
27 in section 4 of P.L.1964, c.125 (C.52:14-17.34) shall participate in the  
28 program in accordance with the laws and rules governing the program  
29 as long as it has employees participating in the program.

30  
31 <sup>2</sup>28. (New section) At any time, the Legislature may express its  
32 disapproval of a decision, action or procedure of the subsidiary  
33 corporation established by the Delaware River Port Authority pursuant  
34 to the provisions of the "Port Unification and Financing Act," P.L. ,  
35 c. (C. )(now pending before the Legislature as this bill), by an  
36 affirmative vote of a majority of the authorized membership of both  
37 houses adopting a concurrent resolution setting forth the Legislature's  
38 findings and declarations and expressing the Legislature's disapproval  
39 of the matter at issue. Upon adoption, the concurrent resolution shall  
40 be transmitted by the Clerk of the General Assembly or the Secretary  
41 of the Senate to the Governor, all the directors of the subsidiary  
42 corporation from each state, the chairman and executive director of  
43 the Delaware River Port Authority, and the chairman and executive  
44 director of the New Jersey Economic Development Authority.<sup>2</sup>

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46 <sup>2</sup>[28.] 29.<sup>2</sup> This act shall take effect immediately.

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3 Provides for transfer of facilities of South Jersey Port Corporation to  
4 New Jersey Economic Development Authority, issuance of bonds and  
5 other measures to facilitate port unification.

## 1 STATEMENT

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The purpose of this bill is to facilitate the unification of the ports of the Delaware river. In 1992, amendments were approved to the Compact between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Port Authority (DRPA). One of the fundamental purposes of those changes was to permit the DRPA to take action to unify the ports of the Delaware river through the acquisition or control of marine terminals or facilities or transportation facilities or by the acquisition of, or merger with, the existing port authorities or corporations within the Port District, such as the South Jersey Port Corporation or the Philadelphia Regional Port Authority. Such action would have to conform to the applicable laws of the two respective states. The DRPA was also empowered to set up subsidiary corporations for this purpose.

This legislation constitutes the changes to New Jersey's law which are required to facilitate the transfer of the assets and liabilities of the South Jersey Port Corporation to the New Jersey Economic Development Authority (EDA) and the operation of its port facilities by a subsidiary or other corporation of the DRPA. The legislation would also authorize the EDA to issue bonds for port development purposes, including the refinancing of the currently outstanding bonds of the South Jersey Port Corporation, and to enter into an agreement with a subsidiary corporation of the DRPA or any other entity with respect to the lease, management or other operation of the port facilities, subject to the approval of the State Treasurer. On the date on which the outstanding bonds of the South Jersey Port Corporation are refunded, the port facilities, and the assets and liabilities of the corporation, would be transferred to the EDA. Before this could happen, however, the State Treasurer and the EDA must approve the lease, management or operation agreement with the subsidiary corporation or other entity.

The legislation also provides specifically for the following:

(1) Creation of a Port Facility Revenue Fund which may be pledged to pay for the redemption of bonds or notes, or to pay the principal and interest on bonds issued by the EDA.

(2) Indemnification by the State of the EDA from actions, claims, judgments or awards relating to the port facilities acquired by the EDA or from acts or omissions by the South Jersey Port Corporation or the subsidiary corporation.

(3) An agreement to indemnify the South Jersey Port Corporation employees or members for acts or omissions by or on behalf of the South Jersey Port Corporation.

(4) The State Treasurer and the EDA are authorized to enter into agreements as may be necessary to effectuate the provisions of this bill, such as procedures for the transfer of monies to the Port Facility

1 Revenue Fund.

2 (5) Exempting the actions by the South Jersey Port Corporation or  
3 otherwise pursuant to this bill from the requirements of subsection (t)  
4 of section 6 of P.L.1968, c.60 (C.12:11A-6) and making the  
5 corporation's powers under that section subject to agreements with the  
6 bondholders to transfer the port facilities to the EDA.

7 (6) Authorizing the State and/or the EDA to enter into any  
8 agreement, at the direction of the State Treasurer, with the DRPA  
9 and/or the subsidiary corporation to provide that the State and /or the  
10 EDA will indemnify and save harmless the DRPA and/or the subsidiary  
11 corporation from any and all claims or causes of action which are  
12 based on the condition of the port facilities.

13 (7) Requiring any agreements between the EDA and the State  
14 Treasurer entered into pursuant to section 13 of this bill to require the  
15 subsidiary corporation to indemnify and save harmless the EDA, its  
16 members or employees, from claims of any type relating to the lease,  
17 operation, and management of the subsidiary corporation.

18 (8) Continuation of membership in the State pension and health  
19 benefits system of employees of the South Jersey Port Corporation  
20 who are employed by a subsidiary corporation or other corporation of  
21 the DRPA within 365 days of the effective date of this bill.

22 The bill additionally provides for any port facilities of the Salem  
23 Municipal Port Authority acquired by the South Jersey Port  
24 Corporation to be leased to a private marine terminal operator and  
25 after the expiration of the lease either to be operated by the EDA, a  
26 subsidiary corporation of the DRPA, the Delaware River and Bay  
27 Authority or other public entity, or transferred to any one of them.

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32 Provides for transfer of facilities of South Jersey Port Corporation to  
33 New Jersey Economic Development Authority, issuance of bonds and  
34 other measures to facilitate port unification.

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS  
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2370**

**STATE OF NEW JERSEY**

DATED: DECEMBER 16, 1996

The Assembly Transportation and Communications Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2370.

The purpose of this substitute bill is to facilitate the unification of the ports of the Delaware river. In 1992, amendments were approved to the Compact between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Port Authority (DRPA). One of the fundamental purposes of those changes was to permit the DRPA to take action to unify the ports of the Delaware river through the acquisition or control of marine terminals or facilities or transportation facilities or by the acquisition of, or merger with, the existing port authorities or corporations within the Port District, such as the South Jersey Port Corporation or the Philadelphia Regional Port Authority. Such action would have to conform to the applicable laws of the two respective states. The DRPA was also empowered to set up subsidiary corporations for this purpose.

This legislation constitutes the changes to New Jersey's law which are required to facilitate the transfer of the assets and liabilities of the South Jersey Port Corporation to the New Jersey Economic Development Authority (EDA) and the operation of all or portion of its port facilities by a subsidiary or other corporation of the DRPA. The legislation would also authorize the EDA to issue bonds for port development purposes, as well as for the refinancing or refunding of the currently outstanding bonds of a port corporation or authority, including the South Jersey Port Corporation. The EDA is authorized to enter into an agreement with a subsidiary corporation of the DRPA or any other entity with respect to the lease, management or other operation of all or a portion of the port facilities, subject to the approval of the State Treasurer. However, the EDA is authorized to enter into an agreement with a subsidiary corporation of the DRPA or other entity only on the following conditions: that the By-Laws of the subsidiary corporation or other entity provide for the exercise of a

veto by the Governor of New Jersey with respect to the actions of the directors or members of the subsidiary corporation or any other entity from the State of New Jersey in the same fashion as the Governor is permitted to veto the actions of DRPA commissioners from New Jersey; that the corporation or other entity has the same number of members or directors from New Jersey as it has from each of the other states; and no action of the corporation or other entity shall be binding unless at least a simple majority of the directors or members from New Jersey and of the members or directors from each of the other states vote in favor thereof. The gubernatorial veto under this bill would not result in a dissolution of the subsidiary corporation or other entity. On the date on which the bonds of the South Jersey Port Corporation cease to be outstanding, the port facilities, and the assets and liabilities of the corporation, with the exception of the port facilities previously acquired from the Salem Municipal Port Authority, or from the county of Salem or the City of Salem, would be transferred to the EDA. Before this could happen, however, the State Treasurer and the EDA must approve the lease, management or operation agreement with the subsidiary corporation or other entity.

The legislation also provides specifically for the following:

(1) Creation of a Port Facility Revenue Fund which may be pledged to pay for the redemption of bonds or notes, or to pay the principal and interest on bonds issued by the EDA.

(2) Indemnification by the State of the EDA from actions, claims, judgments or awards relating to the port facilities acquired by the EDA or from acts or omissions by the South Jersey Port Corporation or the subsidiary corporation.

(3) Indemnification of the South Jersey Port Corporation, its employees or members for acts or omissions by or on behalf of the South Jersey Port Corporation, or the subsidiary corporation or in relation to the port facilities transferred pursuant to this bill or arising from or as a result of the condition of these facilities.

(4) The State Treasurer and the EDA are authorized to enter into agreements as may be necessary to effectuate the provisions of this bill, such as procedures for the transfer of monies to the Port Facility Revenue Fund.

(5) Exempting the actions by the South Jersey Port Corporation or otherwise pursuant to this bill from the requirements of subsection (t) of section 6 of P.L.1968, c.60 (C.12:11A-6) and making the corporation's powers under that section subject to agreements with the bondholders to transfer the port facilities to the EDA.

(6) Authorizing the State Treasurer to enter into an agreement, with the DRPA and/or the subsidiary corporation to provide that the State shall indemnify and save harmless the DRPA and/or the subsidiary corporation from any and all claims or causes of action which are based on the condition of the port facilities transferred to the EDA pursuant to this bill.

(7) Providing that any agreements between the EDA and the State Treasurer entered into pursuant to section 13 of this bill shall require the subsidiary corporation to indemnify and save harmless the EDA, its members or employees, from claims of any type relating to the lease, operation, and management of the port facilities by the subsidiary corporation.

(8) Continuation of membership in the State pension and health benefits system of employees of the South Jersey Port Corporation who are employed by a subsidiary corporation or other corporation of the DRPA within 365 days of the effective date of this bill. All officers and employees of the corporation are to be employed by the subsidiary corporation until determined otherwise by that corporation.

(9) Creation of a subsidiary of the EDA to carry out the purposes of this bill.

The bill additionally provides for any port facilities of the Salem Municipal Port Authority or of the county of Salem or the City of Salem previously acquired by the South Jersey Port Corporation to be leased to a private marine terminal operator within six months of the effective date of the bill and after the expiration of the lease to be transferred to the EDA, unless the lessee or operator has exercised an option to purchase or acquire the facilities. If the South Jersey Port Corporation fails to enter into the lease arrangement within the six month period, the facilities are to be transferred to the EDA at the expiration of that period.

The bill also provides that when undertaking any construction, reconstruction or other improvement of property which is part of the marine facilities or redevelopment facilities located in the City of Camden, the EDA shall provide to the City of Camden Planning Board a written summary, for informational purposes only, or an informational presentation which shall describe the proposed development. "Redevelopment facilities" are defined as port facilities excluding marine facilities and personal property.

The bill finally provides for the port facilities transferred to the EDA to be the subject of in lieu of tax payments. One class of payment is to be made by the person occupying the port facilities of the authority used as redevelopment facilities for commercial purposes as a vendee, lessee or otherwise and is to be paid to the political subdivisions in which the facilities are located, based upon the period of occupancy. The amount of this payment is to equal the taxes on real and personal property, including water and sewer charges and assessments, which that person would have been required to pay had the person been the owner of the property for the period in question. The other class of payment is to be made by the State on the authority's port facilities used as marine facilities for commercial purposes and occupied by a lessee. The payment by the State, which is subject to annual appropriation by the Legislature, is to be equal to 40 percent of the value of the property, as determined by the



Department of the Treasury, multiplied by the local purposes tax rate in the year in which payments are made. Additional provisions continue these requirements if the port facilities should be transferred to another tax exempt entity, although the tax exempt entity rather than the State would be responsible for continuing the payments which would have been made by the State unless the entity and the City of Camden enter into an agreement to provide for a different method of determining the amount of the payment or otherwise to alter the amount. The county or municipal governing body is authorized to grant by ordinance or resolution, as appropriate, a reduction in the in lieu of tax payments which a vendee or lessee occupying redevelopment facilities would be required to pay, for a period of no more than 20 years, if the governing body finds it is in the best interest of the county or municipality. The reduction is to be not greater than 75 percent of the payment in lieu of taxes which would ordinarily be paid under the bill over the 20 year period.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 2370**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 9, 1997

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2370 (ACS), with committee amendments.

Assembly Bill No. 2370 (ACS), as amended, facilitates the unification of the ports of the Delaware river. In 1992, amendments were approved to the Compact between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Port Authority (DRPA). One of the fundamental purposes of those changes was to permit the DRPA to take action to unify the ports of the Delaware River through the acquisition or control of marine terminals or facilities or transportation facilities or by the acquisition of, or merger with, the existing port authorities or corporations within the Port District, such as the South Jersey Port Corporation (SJPC) or the Philadelphia Regional Port Authority. Such action would have to conform to the applicable laws of the two states. The DRPA was also empowered to set up subsidiary corporations for this purpose.

This bill makes the changes to New Jersey law required to facilitate the transfer of the assets and liabilities of the SJPC to the New Jersey Economic Development Authority (EDA) and the operation of all or portion of its port facilities by a subsidiary or other corporation of the DRPA. The bill also authorizes the EDA to issue bonds for port development purposes and for the refinancing or refunding of the currently outstanding bonds of a port corporation or authority, including the SJPC. The bill authorizes the EDA to enter into an agreement with a subsidiary corporation of the DRPA or any other entity with respect to the lease, management or other operation of all or a portion of the port facilities, subject to the approval of the State Treasurer. However, the EDA is authorized to enter into an agreement with a subsidiary corporation of the DRPA or other entity only on the following conditions: that the By-Laws of the subsidiary corporation or other entity provide for the exercise of a veto by the Governor of New Jersey with respect to the actions of the directors or members of the subsidiary corporation or any other entity from the State of New Jersey in the same fashion as the Governor is permitted

to veto the actions of DRPA commissioners from New Jersey; that the corporation or other entity has the same number of members or directors from New Jersey as it has from each of the other states; and that no action of the corporation or other entity shall be binding unless at least a simple majority of the directors or members from New Jersey and of the members or directors from each of the other states vote in favor thereof. The gubernatorial veto under this bill would not result in a dissolution of the subsidiary corporation or other entity. On the date on which the bonds of the SJPC cease to be outstanding, the port facilities, and the assets and liabilities of the corporation, with the exception of the port facilities previously acquired from the Salem Municipal Port Authority, or from the county of Salem or the City of Salem, would be transferred to the EDA. Before this can happen, however, the State Treasurer and the EDA must approve the lease, management or operation agreement with the subsidiary corporation or other entity.

The bill also provides specifically for the following:

(1) Creation of a Port Facility Revenue Fund which may be pledged to pay for the redemption of bonds or notes, or to pay the principal and interest on bonds issued by the EDA.

(2) EDA indemnification of the State from actions, claims, judgments or awards relating to the port facilities acquired by the EDA or from acts or omissions by the SJPC or the subsidiary corporation.

(3) Indemnification of the SJPC, its employees or members for acts or omissions by or on behalf of the SJPC, or the subsidiary corporation or in relation to the port facilities transferred pursuant to this bill or arising from or as a result of the condition of these facilities.

(4) Authorization of the State Treasurer and the EDA to enter into agreements as may be necessary to effectuate the provisions of this bill, such as procedures for the transfer of monies to the Port Facility Revenue Fund.

(5) Exemption of the actions by the SJPC or otherwise pursuant to this bill from the requirements of subsection (t) of section 6 of P.L.1968, c.60 (C.12:11A-6) and making the corporation's powers under that section subject to agreements with the bondholders to transfer the port facilities to the EDA.

(6) Authorization of the State Treasurer to enter into an agreement, with the DRPA and/or the subsidiary corporation to provide that the State shall indemnify and save harmless the DRPA and/or the subsidiary corporation from any and all claims or causes of action which are based on the condition of the port facilities transferred to the EDA pursuant to this bill.

(7) Stipulation that any agreements between the EDA and the State Treasurer entered into pursuant to section 13 of this bill require the subsidiary corporation to indemnify and save harmless the EDA, its members or employees, from claims of any type relating to the lease, operation, and management of the port facilities by the

subsidiary corporation.

(8) Continuation of membership in the State pension and health benefits system of employees of the SJPC who are employed by a subsidiary corporation or other corporation of the DRPA within 365 days of the effective date of this bill. All officers and employees of the corporation are to be employed by the subsidiary corporation until determined otherwise by that corporation.

(9) Creation of a subsidiary of the EDA to carry out the purposes of this bill.

The bill additionally provides for any port facilities of the Salem Municipal Port Authority or of the county of Salem or the City of Salem previously acquired by the SJPC to be leased to a private marine terminal operator within six months of the effective date of the bill and after the expiration of the lease to be transferred to the EDA, unless the lessee or operator has exercised an option to purchase or acquire the facilities. If the SJPC fails to enter into the lease arrangement within the six month period, the facilities are to be transferred to the EDA at the expiration of that period. Any agreement entered into pursuant to section 15 of the bill shall be subject to the approval of the State Treasurer and if such an agreement shall result in any payments to the SJPC such payments shall be remitted to the State Treasurer for deposit in the General Fund less those payments that the SJPC is required to pay to other public entities under the leases referred to in the definition of "Salem facility rights."

The bill also provides that when undertaking any construction, reconstruction or other improvement of property which is part of the marine facilities or redevelopment facilities located in the City of Camden, the EDA shall provide to the City of Camden Planning Board a written summary, for informational purposes only, or an informational presentation which shall describe the proposed development. "Redevelopment facilities" are defined as port facilities excluding marine facilities and personal property.

The bill finally provides for the port facilities transferred to the EDA to be the subject of in-lieu-of-tax payments. One class of payment is to be made by the person occupying the port facilities of the authority used as redevelopment facilities for commercial purposes as a vendee, lessee or otherwise and is to be paid to the political subdivisions in which the facilities are located, based upon the period of occupancy. The amount of this payment is to equal the taxes on real and personal property, including water and sewer charges and assessments, which that person would have been required to pay had the person been the owner of the property for the period in question. The other class of payment is to be made by the State on the authority's port facilities used as marine facilities for commercial purposes and occupied by a lessee. The payment by the State, which is subject to annual appropriation by the Legislature, is to be equal to 40 percent of the value of the property, as determined by the Department of the Treasury, multiplied by the local purposes tax rate

in the year in which payments are made. Additional provisions continue these requirements if the port facilities should be transferred to another tax exempt entity, although the tax exempt entity rather than the State would be responsible for continuing the payments which would have been made by the State unless the entity and the City of Camden enter into an agreement to provide for a different method of determining the amount of the payment or otherwise to alter the amount. The county or municipal governing body is authorized to grant by ordinance or resolution, as appropriate, a reduction in the in-lieu-of-tax payments that a vendee or lessee occupying redevelopment facilities would be required to pay, for a period of no more than 20 years, if the governing body finds it is in the best interest of the county or municipality. The reduction is to be not greater than 75 percent of the payment in lieu of taxes that would ordinarily be paid under the bill over the 20 year or lesser period.

FISCAL IMPACT:

Although it is possible to identify major areas that may require expenditure of State funds, it is not possible to specify the amount of future expenditures because of uncertainty as to when, or if, State assistance would be requested. These major areas are:

- (1) annual debt service for EDA issued bonds to refinance about \$85.4 million in outstanding SJPC debt;
- (2) indemnification of the SJPC, EDA and DRPA;
- (3) liability insurance premiums for the SJPC and EDA regarding the transfer ;
- (4) EDA administrative expenses associated with the port facilities;
- (5) acquisition of additional port facilities; and
- (6) payments in lieu of taxes to Camden.

COMMITTEE AMENDMENTS:

The committee amendments define "Salem facility rights" as those dealing with certain property and rights relating to the former port facilities of the Salem Municipal Port Authority and exempting these from the transfer provisions. The amendments further clarify the status of the Port Facility Revenue Fund as being able to receive funds other than bond funds and to expend funds for port operational purposes. The amendments also clarify the payment in lieu of taxes provisions, as well as the status of the EDA subsidiary. Finally, the amendments update the text of section 23 of the bill to include the latest version of the law.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2370**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 8, 1997

The Senate Budget and Appropriations Committee reports without recommendation Assembly Bill No. 2370 (ACS/1R) of 1996 with amendments.

Assembly Bill No. 2370 (ACS/1R), as amended, provides for the unification of the ports of the Delaware River. In 1992, amendments were approved to the Compact between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Port Authority (DRPA). One of the fundamental purposes of those changes was to permit the DRPA to take action to unify the ports of the Delaware River through the acquisition or control of marine terminals or facilities or transportation facilities or by the acquisition of, or merger with, the existing port authorities or corporations within the Port District, such as the South Jersey Port Corporation (SJPC) or the Philadelphia Regional Port Authority. The DRPA was also empowered to set up subsidiary corporations for this purpose. Such action would have to conform to the applicable laws of the two states.

This bill makes the changes to New Jersey law required to facilitate the transfer of the assets and liabilities of the SJPC to the New Jersey Economic Development Authority (EDA) and the operation of all or portion of its port facilities by a subsidiary corporation of the DRPA. The bill also authorizes the EDA to issue bonds for port development purposes and for the refinancing or refunding of the currently outstanding bonds of a port corporation or authority, including the SJPC. The bill authorizes the EDA to enter into an agreement with a subsidiary corporation of the DRPA with respect to the lease, management or other operation of all or a portion of the port facilities, subject to the approval of the State Treasurer. However, the EDA is authorized to enter into an agreement with a subsidiary corporation of the DRPA only upon certain conditions set forth in the bill. On the date on which the bonds of the SJPC cease to be outstanding, the port

facilities, and the assets and liabilities of the corporation, with the exception of the port facilities previously acquired from the Salem Municipal Port Authority, or from the county of Salem or the City of Salem, would be transferred to the EDA. Before this can happen, however, the subsidiary corporation must be established and the State Treasurer and the EDA must approve the lease, management or operation agreement with the subsidiary corporation.

The bill also provides for the creation of a Port Facility Revenue Fund which may be pledged to pay for the redemption of bonds or notes, or to pay the principal and interest on bonds issued by the EDA.

The bill contains indemnification requirements for various entities and continues the membership in the State pension and health benefits system of employees of the SJPC who are employed by a subsidiary corporation or other corporation of the DRPA within 365 days of the effective date of this bill. All officers and employees of the corporation are to be employed by the subsidiary corporation until determined otherwise by that corporation.

The bill additionally provides for any port facilities of the Salem Municipal Port Authority or of the county of Salem or the City of Salem previously acquired by the SJPC to be leased to a private marine terminal operator within six months of the effective date of the bill and after the expiration of the lease to be transferred to the EDA, unless the lessee or operator has exercised an option to purchase or acquire the facilities.

The bill finally provides for the port facilities transferred to the EDA to be the subject of certain in-lieu-of-tax payments to both the city and county of Camden. The in-lieu-of-tax payment by the State to the City of Camden, which is subject to annual appropriation by the Legislature, is to be equal to 40 percent of the value of the property, as determined by the Department of the Treasury, multiplied by the local purposes tax rate in the year in which payments are made. The county or municipal governing body is authorized to grant by ordinance or resolution, as appropriate, a reduction in the in-lieu-of-tax payments that a vendee or lessee occupying redevelopment facilities would be required to pay, for a period of no more than 20 years, if the governing body finds it is in the best interest of the county or municipality. The reduction is to be not greater than 75 percent of the payment in lieu of taxes that would ordinarily be paid under the bill over the 20 year or lesser period.

The committee reported the bill but stated that it would request of the President of the Senate that the bill not be posted for full Senate consideration until certain financial information on port unification, not available at the committee meeting, is provided to the committee members for review.

As amended and reported, this bill is identical to the Senate Committee Substitute for Senate Bill No. 1499 (1R) as adopted and reported by this committee on May 8, 1997.

COMMITTEE AMENDMENTS:

The committee amended the bill to make it identical to the Senate Committee Substitute for Senate Bill No. 1499 (1R). The amendments:

- \* Require the establishment of the a wholly-owned subsidiary of the DRPA before any bonds can be issued by the EDA to acquire the port facilities of the SJPC so that the form of the subsidiary and its operating procedures are set before the bonds are issued;

- \* Eliminate the powers for additional bonding and the future purchase of additional port facilities the bill gives to the EDA since these additional powers are extraneous to the main purpose;

- \* Require the subsidiary corporation to pay rent annually to EDA for a period of ten years for the port facilities located in New Jersey; The annual payment will equal the average for the three years immediately preceding the year in which the port facilities of the SJPC are acquired by the authority of revenues realized by the SJPC;

- \* Require the EDA to report to the Legislature any plan to convey or reconvey the acquired port facilities to an entity other than the subsidiary corporation to give the Legislature time to review the plan and disapprove it;

- \* Require the subsidiary corporation to provide certain information to the Legislature annually, and require the Delaware River Port Authority to provide the Legislature with a copy of any plan developed by the authority to finance any capital project for the construction, reconstruction, development or improvement of the port facilities located in New Jersey and operated by the subsidiary corporation;

- \* Provides for the appointment of four of the directors of the subsidiary corporation by the Legislature;

- \* Declares the Legislature intent that the subsidiary corporation be operated under the same principles as the DRPA are operated; and

- \* Recognizes a mechanism by which the Legislature can formally express its displeasure of an action taken by the subsidiary corporation.

In addition, several technical amendments have been made in order to clarify the wording and intent of the bill to avoid ambiguities and future problems with interpretations, and to update the bill to current law.

FISCAL IMPACT

In a fiscal estimate prepared by the Office of Legislative Services (OLS), the OLS estimates that the State may incur financial obligations in the following areas under this bill: (1) annual debt service appropriations to help repay bonds that would be issued by EDA to refinance about \$83.4 million in outstanding SJPC debt; (2) indemnifying and saving harmless the SJPC, EDA, and DRPA or subsidiary thereof from certain actions, claims, judgments or awards arising from the transfer of port facilities; (3) the payment of premiums



for liability insurance coverage for the SJPC and EDA regarding the transfer of port facilities; (4) the payment of annual EDA administrative expenses associated with the ownership and operation of the transferred port facilities; and (5) an annual payment in lieu of taxes to the City of Camden by the State in an amount equal to 40 percent of the value of port facilities used as marine facilities for commercial purposes multiplied by the local purposes tax rate.

State contributions to maintain the SJPC's reserve fund over the past three years have been \$3.6 million, \$5.5 million and \$3.2 million. Under this bill, EDA will issue \$83.4 million in refunding bonds to refinance the existing debt of the South Jersey Port Corporation. EDA will contract with the State Treasurer to have the State pay the full debt service on the EDA bonds, subject to annual appropriations by the Legislature. There are various ways to structure the debt service on the EDA bonds. Under one scenario, the new bonds could be paid off so that the debt service on the refunding bonds approximates the debt service on the existing SJPC bond issues over roughly the same period.

Under the bill, the consolidated Port of Philadelphia and Camden, which will take over port operations in both states, will pay EDA an annual "rental" payment for the Camden port facilities that would equal the most recent three-year average amount of net revenues realized by the SJPC. Those payments would be approximately \$3.2 million. The payments would continue for 10 years, and would have the effect of reducing the State's net cost during that period to the approximate level it currently contributes to the SJPC.

The Legislature has not appropriated funds for the SJPC's in-lieu-of property tax payments, pursuant to section 20 of P.L.1968, c.60 (C.12:11A-20), since FY 1994 when \$3.9 million was provided for that purpose. The Department of the Treasury has noted that a fair market appraisal would have to be made of the Camden port facilities, since the assessed value on file with county clerk are probably out of date. The department has estimated that the annual these payments to the city could range from \$1 million to \$2 million depending on the final valuation of the property. Private lessees occupying those portions of the Camden port facilities slated for commercial redevelopment would also have to make such payments to the city.

LEGISLATIVE FISCAL ESTIMATE TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 2370

**STATE OF NEW JERSEY**

DATED: JANUARY 27, 1997

Assembly Committee Substitute for Assembly Bill No. 2370 of 1996 authorizes the refunding of the outstanding bonds of the South Jersey Port Corporation (SJPC) and the transfer of the port facilities of that corporation, along with its assets, liabilities and obligations, to the New Jersey Economic Development Authority (EDA) for operation and maintenance of all or a portion of the facilities by a subsidiary corporation of the Delaware River Port Authority (DRPA).

The Office of Legislative Services (OLS) estimates that the State may incur financial obligations in the following areas under this bill: (1) annual debt service appropriations to help repay bonds that would be issued by EDA to refinance about \$85.4 million in outstanding SJPC debt; (2) indemnifying and saving harmless the SJPC, EDA, and DRPA or subsidiary thereof from certain actions, claims, judgments or awards arising from the transfer of port facilities; (3) the payment of premiums for liability insurance coverage for the SJPC and EDA regarding the transfer of port facilities; (4) the payment of annual EDA administrative expenses associated with the ownership and operation of the transferred port facilities; (5) the authorization to acquire or lease port facilities that are in addition to the transferred port facilities; and (6) an annual payment in lieu of taxes to the City of Camden which amount is equal to 40 percent of the value of port facilities used as marine facilities for commercial purposes, determined by the Department of the Treasury at the time of the transfer of the facilities, multiplied by the local purposes tax rate.

Although OLS has identified the major areas wherein the State may incur financial obligations, OLS cannot quantify these obligations because of the uncertainty as to when, if, or the amount of State assistance that would be requested.

However, for comparison, OLS would note that the Legislature appropriated \$3.148 million in FY 1997, pursuant to section 14 of P.L.1968, c.60 (C.12:11A-14), to assist the SJPC with its current year debt service requirement of about \$7.4 million. This \$3.148 million amount assumes savings and efficiencies that would occur as a result of the refinancing of outstanding SJPC bonds and the port unification contemplated by this bill, in contrast with the FY 1996 appropriation of \$3.648 million for SJPC debt service assistance.

The Legislature has not appropriated funds for an SJPC property tax reserve payment, pursuant to section 20 of P.L.1968, c.60

(C.12:11A-20), since FY 1994 when \$3.9 million was provided for that purpose.

As a final comment, OLS would note that a letter dated July 18, 1996 from the Department of Environmental Protection to EDA affirmed that the Industrial Site Recovery Act was not applicable to certain transactions contemplated by the proposed port unification legislation.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

# LEGISLATIVE FISCAL ESTIMATE TO

[Second Reprint]

## ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2370

# STATE OF NEW JERSEY

DATED: JUNE 9, 1997

### **BILL SUMMARY**

The Second Reprint of Assembly Committee Substitute for Assembly Bill No. 2370 of 1996 provides for the unification of the Delaware River public ports in the Philadelphia-Camden region. The bill makes changes to New Jersey law to facilitate the transfer of the assets, liabilities and obligations of the South Jersey Port Corporation (SJPC) to the New Jersey Economic Development Authority (EDA). It authorizes EDA to issue bonds for port development purposes, to issue refunding bonds to refinance and defease the existing debt of the SJPC, and to enter into a contract with the State Treasurer to pay an amount equal to the debt service on the EDA bonds, subject to future appropriations by the Legislature. The bill also authorizes EDA to enter into an agreement with a subsidiary corporation of the Delaware River Port Authority (DRPA) to lease, manage, operate and maintain the transferred port facilities, subject to the approval of the State Treasurer.

The bill requires the subsidiary corporation (which is now the Port of Philadelphia and Camden) to make annual "rental" payments to EDA for ten years in return for operating the port facilities located in New Jersey. The annual payment will equal the most recent three-year average of revenues realized in excess of operation expenses by the SJPC. Currently, any excess revenues of the SJPC are applied toward maintaining the SJPC debt reserve fund at its maximum level, thereby offsetting the amount the State contributes as a subsidy to that fund.

The bill provides that the State will make payments in lieu of local taxes to the City of Camden on the port facilities used as commercial marine facilities and occupied by a lessee. The payments will be equal to 40 percent of the fair market value of the property, as determined by the Department of the Treasury at the time of the transfer of the property to EDA, multiplied by the municipal purposes tax rate.

### **AGENCY COMMENTS**

The Department of Commerce and Economic Development, the EDA and the SJPC did not respond to a formal request for a fiscal note on this bill. However, EDA, SJPC and the Department of the

Treasury have since provided fiscal information on the current version of the bill.

**OLS COMMENTS: POTENTIAL COST FACTORS**

The Office of Legislative Services (OLS) estimates that the State may incur financial obligations in the following areas under the bill's provisions:

(1) Annual debt service payments to repay the bonds issued by EDA to refinance about \$78.7 million in outstanding SJPC debt. However, the State is currently subsidizing SJPC's own debt service obligations.

(2) Indemnifying and saving harmless the SJPC, EDA, DRPA or DRPA subsidiary corporation from certain actions, claims, judgments or awards arising from the transfer of the port facilities.

(3) The payment of premiums for liability insurance coverage for the SJPC and EDA regarding the transfer of port facilities.

(4) The payment of EDA's annual administrative expenses associated with the ownership and operation of the transferred port facilities.

(5) Annual payments in lieu of taxes to the City of Camden.

OLS is unable to quantify the State's contingent liabilities with regard to third party indemnification since the circumstances requiring indemnification cannot be defined in advance. The State's payment of liability insurance premiums for SJPC and EDA is permissive, not mandatory, and is subject to the approval of the State Treasurer. However, EDA anticipates that the need for insurance is real, especially with regard to environmental insurance on properties that may have contamination. With regard to EDA's administrative expenses, they could be significant in the year that the port facilities of the SJPC are transferred to EDA, and then leased or otherwise assigned to the DRPA subsidiary, the Port of Philadelphia and Camden. These would be primarily legal, financial advisory and environmental audit costs. Most of these initial costs, whether or not directly related to the cost of issuing bonds, appear to be eligible under section 5 of the bill to be capitalized as part of the bond issue and amortized over time. In future years, EDA's administrative expenses "associated with the ownership and operation of the port facilities" should be lower, since EDA has indicated that it will not be involved in the actual operation of the port facilities in New Jersey. However, EDA believes that at least one full-time position would have to be devoted to port facility oversight, asset accounting and real estate management. If this is so, OLS estimates that EDA's future administrative costs could be in the range of \$75,000 to \$125,000 annually, including fringe benefits and support costs.

**Debt Service Payments**

The South Jersey Port Corporation currently has \$78.7 million in debt outstanding, following the recent calling of certain series of subordinated debt in advance of maturity. Future debt service payments, including interest, equal \$148.2 million, according to the Department of the Treasury. Under the provisions of the SJPC law, the SJPC makes debt service payments to bondholders, but the State makes up any shortfall in the SJPC's debt service reserve fund. The reserve fund serves as a backup security to bondholders in the event of an inability to service debt from regular cash flow. State contributions to maintain the bond reserve fund over the past three years have been \$3.6 million (1994), \$5.5 million (1995) and \$5.3 million (1996, including an anticipated supplemental appropriation).

Under the bill, the assets and liabilities of the SJPC will be transferred to EDA. EDA will issue about \$77 million in refunding bonds to refinance and legally defease the existing SJPC debt. EDA will contract with the State Treasurer to have the State pay the full debt service on the EDA bonds, subject to annual appropriations by the Legislature. Due to federal IRS restrictions on the advance funding of tax-exempt debt originally issued for "private purposes," roughly two-thirds of the face value of the refunding bonds will have to be issued as taxable debt, with the remainder tax-exempt. This will have the effect of raising the true interest cost on the EDA refunding bonds. Under three scenarios prepared by the Department of the Treasury, total debt service on the refunding bonds could range from \$162.8 million (current interest rates) to \$169.8 million (current rates plus 50 basis points), assuming final maturity in 2023. Each scenario is based on a sale date of October 1, 1997. Treasury's calculations show a net present value cost (negative savings) from the refunding transaction, due to the higher interest rates on the taxable bonds. However, the refunding would still have to be conducted to defease existing restrictive bond covenants on the SJPC debt.

Under the Treasury outline, annual debt service (assuming current interest rates) would be flat at \$6.5 million per year beginning in calendar 1998 and ending in 2023. Therefore, the State's gross annual cost to service the EDA debt will be higher by roughly \$1.2 million per year than the \$5.3 million the State is contributing this year to subsidize the SJPC debt reserve fund. It is important to note, however, that the actual debt service schedule for EDA's refunding bond issue will not be established until the time of sale and will depend in part on market conditions at that time, as well as Treasury determinations on how best to structure the bond issue.

**Payments in Lieu of Taxes**

The SJPC has not made payments in lieu of property taxed to the

City of Camden and Camden County since FY 1994, which was the last year that the State subsidized those payments under a provision in the current SJPC law. The State appropriation in FY 1994 was \$3.9 million for this purpose.

Section 19 of the Second Reprint of the Assembly Committee Substitute for A-2370 requires the State to make in lieu of tax payments to the City of Camden (but not to Camden County) after the EDA takes ownership of the port facilities. The payments would be made on behalf of those port facilities utilized as marine facilities, as opposed to the portion of the property designated for commercial redevelopment. The payment would equal 40 percent of the fair market value of the property, times the municipal purposes tax rate. The Department of the Treasury would establish the fair market value at the time of the transfer.

A Treasury analysis prepared in January 1997 noted that a market appraisal of the Camden port facilities would have to be conducted, since the assessed values of the parcels which are currently on file with the county clerk are probably out of date. Treasury estimated that annual P.I.L.O.T. payments to the city could range from \$1 million to \$2 million depending on the final valuation. Private lessees occupying the parcels slated for commercial redevelopment would also have to make P.I.L.O.T. payments to the city.

#### **"Rental" Payments to the State**

As noted above, the bill requires the DRPA's port management subsidiary (the Port of Philadelphia and Camden) to make annual "rental" payments to EDA for ten years in return for operating and managing the port facilities located in New Jersey. The annual payment will equal the most recent three-year average of revenues realized in excess of operation expenses by the SJPC. Currently, any excess revenues of the SJPC are applied toward maintaining the SJPC debt reserve fund at its maximum level, thereby offsetting the amount the State contributes as a subsidy to that fund.

The Department of the Treasury and the SJPC have provided different interpretations of how this three-year average is calculated. The difference appears to be based on how much the SJPC is currently contributing from its own resources toward retiring its debt. Based on Treasury data, SJPC contributions for the past three calendar years were \$3.6 million (1994), \$1.9 million (1995) and \$2.1 million (1996), for a three-year average of \$2.55 million. The SJPC figures show excess revenues of \$2.3 million, \$1.4 million and \$1.7 million over the same three-year period, for an average of \$1.8 million. OLS cannot at this point verify the accuracy of either figure, which will eventually require interpreting the SJPC's audited financial statements against the wording of the bill ("...revenues realized by the South Jersey Port Corporation in excess of operation expenses").

At this point, the rental payments to be made by the Port of Philadelphia and Camden to the EDA would appear to be between \$1.8 million and \$2.55 million annually for a period of ten years.

**Summary of State Costs**

The following table summarizes the major cost factors discussed above from the perspective of the State:

1. Estimated annual debt svc., EDA bonds	\$6.5 million*
2. Estimated P.I.L.O.T. to Camden (max.)	<u>\$2.0 million</u>
3. Total annual State costs	\$8.5 million
4. Less: Port rental payments to EDA	<u>(\$1.8m - \$2.55m)</u>
5. Net annual State cost	\$5.95m - \$6.7m
6. Less: Current (FY97) State subsidy to SJPC	<u>\$5.3 million</u>
7. Incremental annual State costs	\$0.65 m - \$1.4m**

\* Subject to future determination

\*\*Plus EDA operating expenses and insurance costs

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.



ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY BILL NO. 2370  
(Second Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning the Assembly Committee Substitute for Assembly Bill No. 2370 (Second Reprint) with my recommendations for reconsideration.

A. Summary of the Bill

This bill facilitates the unification of the ports of Camden and Philadelphia. In 1992, the New Jersey Legislature approved legislation which amended the compact between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Port Authority ("DRPA"). The fundamental change in the Compact was to allow the acquisition or control of marine terminals or facilities or transportation facilities within the Camden port district, which are owned by the South Jersey Port Corporation ("SJPC"), and the Philadelphia port district, which are operated by the Philadelphia Regional Port Authority. The DRPA was authorized to set up a subsidiary corporation for the purpose of unifying both ports.

The bill makes necessary changes to New Jersey law which would facilitate the transfer of the assets and liabilities of SJPC in the Port of Camden to the New Jersey Economic Development Authority ("EDA") and the transfer of the operation of that port's facilities by a subsidiary corporation of the DRPA. The bill authorizes the EDA to issue bonds for port development and to refinance SJPC's outstanding bonds. At the same time, the legislation provides for EDA's acquisition of the assets and liabilities of the SJPC in Camden. The EDA also is given the authority to enter into an agreement with the subsidiary corporation of the DRPA or any other entity with respect to the lease, management or other operation of the port. There are three conditions upon which the EDA may enter into an agreement with the subsidiary corporation: (1) the by-laws of the subsidiary corporation must provide for the exercise of a

veto of the Governor of New Jersey with respect to the actions of the directors or members of the subsidiary corporation must in the same manner as the Governor is permitted to veto the actions of the DRPA commissioners from New Jersey; (2) the subsidiary corporation must have the same number of directors from New Jersey as it has from any other state; and (3) no action of the subsidiary corporation may be binding unless at least a simple majority of the directors or members of both states vote in favor of the action.

The bill provides for other items necessary for the transfer of the port of Camden to the subsidiary corporation. These include provisions for rental payments, employee benefits, and payments in lieu of taxes to the City of Camden. The bill also provides for the transfer of certain SJPC assets and liabilities in the Port of Salem to the EDA.

B. Recommended Action

I strongly support the bill's objectives to unify the ports of Philadelphia and Camden. The unification of these ports will vastly improve and strengthen both ports' market share and business. The steamship lines which utilize these ports have run into the problem of dealing with multiple agencies. Further, the competition between the ports of Philadelphia and Camden prevents either port from effectively competing with other eastern seaboard ports, such as Wilmington, Baltimore and Norfolk. By unifying these ports, New Jersey will be able to take advantage of both port facilities which will help increase the cargo to be introduced into the region.

In its present form, however, I have serious constitutional concerns about the bill. Specifically, the bill allows for both the President of the Senate and the Speaker of the General Assembly to appoint two members to the board of the subsidiary corporation of the DRPA. Article V, Section I, Paragraph 12 of the State Constitution clearly provides that the Governor "shall nominate and appoint, with the advice and consent of the Senate, all officers

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

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for whose election or appointment provision is not otherwise made by this Constitution or by law." Further, Article IV, Section V, Paragraph 5 states that "neither the Legislature nor either house thereof shall elect or appoint any executive, administrative or judicial officer except the State Auditor." While I understand that the purpose of the Senate's amendments granting legislative appointments was to counterbalance the legislative appointees made by Pennsylvania, I am advised that these provisions are constitutionally infirm. Further, the veto power of the Governor over the directors of the subsidiary corporation -- a power not enjoyed by Pennsylvania -- is sufficient power to negate any action of the board which may be detrimental to New Jersey. Therefore, I am recommending that the appointments be removed.

In addition, I believe that the bill unduly restricts the ability of EDA and Treasury to negotiate the collection of rent from the subsidiary corporation to the EDA. Specifically, the bill restricts Treasury's ability to require the payment of rent for ten years after the date of the bill. Further, the bill provides for a formula to calculate those rents which is overly restrictive. EDA and Treasury should have the discretion to set appropriate annual rental payments for the use of the property which would be based upon its analysis of market conditions, the cyclical nature of cargo shipments, the need for infrastructure payments, and other factors which represent the business condition of the port in any given year. Further, any action related to the payment of rent is subject to the approval of both EDA and the subsidiary corporation, whose decisions are subject to the veto power of the Governor, and legislative oversight exists through the appropriations process necessary for the port development and refinancing bonds issued by the EDA.

Therefore, I herewith return the Assembly Committee Substitute for Assembly No. Bill 2370 (Second Reprint) and recommend that it be amended as follows:

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Page 5, Section 4, Lines 6-9:

Delete "four of the total number of directors of the corporation from the State of New Jersey provided for in the by-laws shall be appointed by Legislature, two by the President of the Senate and two by the Speaker of the General Assembly;"

Page 5, Section 4, Lines 39-40:

Delete ",for a period of ten years from the date the agreement is executed,"

Pages 5, Section 4, Lines 41-45:

Delete "The annual payment amount shall equal the average for the three years immediately preceding the year in which the port facilities of the South Jersey Port Corporation are acquired by the authority of revenues realized by the South Jersey Port Corporation in excess of operation expenses."

Page 6, Section 4, Lines 2-4:

Delete "Following the ten year period, the agreement between the authority and the subsidiary corporation may continue to provide for such payments."

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Michael P. Torpey

Chief Counsel to the Governor