

12:11A-20

August 17, 1970

LEGISLATIVE HISTORY OF R.S. 12:11A-20
(South Jersey Port Corporation - exemption
from real property taxation)

L. 1969 - Chapt. ²⁴⁰- A969
Introduced May 5 by Dickey

Bill had statement (copy enclosed)
Not amended during passage

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V.F.—New Jersey—Ports

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ASSEMBLY, No. 969

STATE OF NEW JERSEY

INTRODUCED MAY 5, 1969

By Assemblyman DICKEY

Referred to Committee on State Government

AN ACT to amend "The South Jersey Port Corporation Act,"
approved June 13, 1968 (P. L. 1968, c. 60).

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

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

3 20. a. The exercise of the powers granted by this act will
4 be in all respects for the benefit of the people of the State, for
5 the increase of their commerce and prosperity, and for the improve-
6 ment of their health and living conditions, and as the development,
7 operation and maintenance of marine terminals by the corporation
8 will constitute the performance of essential governmental functions,
9 the corporation shall not be required to pay any taxes or assess-
10 ments upon any marine terminal or any property acquired or used
11 by the corporation under the provisions of this act or upon the
12 income therefrom, and any marine terminal and any property
13 acquired or used by the corporation under the provisions of this
14 act and the income therefrom, and the bonds or notes issued under
15 the provisions of this act, their transfer and the income therefrom
16 (including any profit made on the sale thereof) shall be exempt
17 from taxation]; provided, however, that any portion of the real
18 property owned by the corporation and leased to any private
19 marine terminal operator shall not be exempt from taxation].

20 b. To the end that counties and municipalities may not suffer
21 undue loss of future tax revenue by reason of the acquisition of
22 real property therein by the corporation, the corporation is hereby
23 authorized, empowered and directed to enter into agreement or
24 agreements (hereinafter called "tax agreements") with any county
25 or municipality, prior to the issuance of bonds of the corporation
26 for financing such acquisitions or the expenditure of moneys (other

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

27 than proceeds of such bonds) for improvement of said property
28 for the purposes of the corporation, whereby it will undertake to
29 pay a fair and reasonable sum or sums (herein called "tax pay-
30 ment") to compensate the said county or municipality for any loss
31 of such tax revenue by reason of the acquisition of any such prop-
32 erty by the corporation. Any such tax payments which the corpora-
33 tion is hereby authorized, empowered and directed to make may
34 be computed on an annual basis which shall not be less than the
35 amount of taxes upon the property when last assessed prior to its
36 acquisition by the corporation. Every county and municipality
37 wherein such property shall be acquired by the corporation is
38 authorized, empowered and directed to enter into such tax agree-
39 ments with the corporation to accept tax payments which the
40 corporation is herein authorized, empowered and directed to make.
41 The obligation of the corporation to make any tax payments from
42 its funds or moneys (other than from moneys in the special fund
43 hereinafter referred to) shall in every instance be in the manner
44 and to the extent set forth and provided for in such tax agreements
45 and shall be at all times subject to prior use and application of
46 funds and moneys of the corporation to provide for its operating
47 and maintenance expenses and reserve therefor and for principal,
48 interest and retirement of bonds and reserves and securities
49 therefor as provided in any contract with holders of its bonds.

50 The corporation shall establish and maintain a special fund called
51 the "South Jersey Port Corporation Tax Reserve Fund" in which
52 there shall be deposited (1) moneys appropriated therefor by the
53 State, (2) proceeds of bonds or notes required to be deposited
54 therein by terms of any contract between the corporation and its
55 bondholders or noteholders, and (3) other moneys or funds of the
56 corporation available for such deposit pursuant to the terms of tax
57 agreements or said contract. Moneys in such funds shall be held
58 and applied solely to the payment of tax payments of the corpora-
59 tion as the same shall be due and payable, and shall not be with-
60 drawn therefrom if such withdrawal would reduce the amount in
61 such fund to less than the "property tax reserve," as hereinafter
62 defined, except for payment of tax payments then due and payable
63 and for which payments other moneys of the corporation are not
64 then available in accordance with the terms of any tax agreements
65 or said contracts. As herein used "property tax reserve" means,
66 as of any date of computation in a particular year, the total amount
67 of money required by the terms of all tax agreements of the
68 corporation to be raised in such year for tax payments reduced by
69 the amount of all prior tax payments made in such year.

70 In order to assure provision of the property tax reserve in said
71 fund, there shall be annually appropriated and paid to the corpora-
72 tion for deposit in said fund, such sum, if any, as shall be certified
73 by the chairman of the corporation to the Governor as then neces-
74 sary to provide in said fund an amount equal to the property tax
75 reserve. The chairman shall annually, on or before December 1,
76 make and deliver to the Governor his certificate stating the sum if
77 any needed to provide in said fund the amount of the property tax
78 reserve as of said date, and the sum or sums so certified shall be
79 appropriated and paid to the corporation during the then current
80 fiscal year. For purpose of any valuation hereunder investment of
81 said fund shall be valued at current market value.

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this amendment to “the South Jersey Port Corporation Act” is to provide increased flexibility to the Corporation and, thereby, increase the profitability of its operations, by eliminating a provision in the original legislation which had the unintentional effect of limiting the corporation’s ability to lease its marine terminal facilities.

The original legislation (chapter 60 of the Laws of 1968) authorized the South Jersey Port Corporation to operate or lease its marine terminal facilities. This authorization is consistent with the practice of port agencies and and authorities throughout the United States, and was intended to provide the maximum profitability of port development in South Jersey. The provision deleted by this amendatory act, however, might have had the effect of eliminating, or at least decreasing, the profitability of leasing since the corporation would have been forced to pay taxes on leased facilities—payments which would have had to be passed on to tenants in the form of higher rents. Port development, being a highly competitive business, would have suffered under this requirement, since the corporation’s tax liability would have diminished the desirability of its leases to “private marine terminal operators,” who would have had to pay higher rents than those charged by other port agencies. In this context it should be noted that the New York Port Authority has received tax immunity on its leases. One point should be made clear—this amendment will not in any way limit or alter any “payment-in-lieu” of tax liability that the original legislation placed upon the corporation. Municipalities and counties wherein the corporation acquires any property will continue to receive such tax payments “which shall not be less

than the amount of taxes upon the property when last assessed prior to its acquisition by the corporation." In other words, this amendatory legislation will not deprive any governmental entity of any tax revenue which they presently receive.