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No

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No

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Yes

“New law tightens oversight of NRBA,” 11-24-2003 Courier-Post, p.B1

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P.L. 2003, CHAPTER 192, *approved November 21, 2003*

Senate, No. 1912 (*Second Reprint*)

1 **AN ACT** concerning the Delaware River and Bay Authority and
2 amending and supplementing P.L.1961, c.66.

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

6
7 1. Section 1 of P.L.1961, c.66 (C.32:11E-1) is amended to read as
8 follows:

9 1. The State of New Jersey hereby agrees with the State of
10 Delaware, upon enactment by the State of Delaware of legislation
11 having the same effect as this section, to the following compact:

12
13 **DELAWARE-NEW JERSEY COMPACT**

14
15 Whereas, The states of Delaware and New Jersey are separated by the
16 Delaware River and Bay which create a natural obstacle to the
17 uninterrupted passage of traffic other than by water and with
18 normal commercial activity between the two states thereby
19 hindering the economic growth and development of those areas in
20 both states which border the river and bay; and

21
22 Whereas, The pressures of existing trends from increasing traffic,
23 growing population and greater industrialization indicate the need
24 for closer cooperation between the two states in order to advance
25 the economic development and to improve crossings,
26 transportation, terminal and other facilities of the area; and

27
28 Whereas, The financing, construction, operation and maintenance of
29 such crossings, transportation, terminal and other facilities of
30 commerce and the overall planning for future economic
31 development of the area may be best accomplished for the benefit
32 of the two states and their citizens, the region and nation, by the
33 cordial cooperation of Delaware and New Jersey by and through a
34 joint or common agency or authority; and

35
36 Whereas, The Delaware-New Jersey Compact, enacted pursuant to 53
37 Laws of Delaware, Chapter 145 (17 Del. C. s.1701) and P.L.1961,
38 c.66 (C.32:11E-1 et seq.) of the Pamphlet Laws of New Jersey,
39 with the consent of the United States Congress in accordance with

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate STR committee amendments adopted October 24, 2002.

² Assembly ATR committee amendments adopted December 9, 2002.

1 Pub.L.87-678 (1962), created the Delaware River and Bay
2 Authority with the intention of advancing the economic growth and
3 development of those areas in both states which border the
4 Delaware River and Bay by the financing, development,
5 construction, operation and maintenance of crossings,
6 transportation or terminal facilities, and other facilities of
7 commerce, and by providing for overall planning for the future
8 economic development of those areas; and

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

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

29
30 NOW, THEREFORE, The State of Delaware and the State of New
31 Jersey do hereby solemnly covenant and agree, each with the other
32 as follows:

33
34 ARTICLE I
35 SHORT TITLE

36
37 This compact shall be known as the "Delaware-New Jersey
38 Compact."

39
40 ARTICLE II
41 DEFINITIONS

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

1 "Credit card" means any card, plate, coupon book or other device
2 existing for the purpose of obtaining money, property, labor, services
3 or anything else of value on credit which may be subject to a finance
4 charge.

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

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

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

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

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

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

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

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

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

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

16 "Authority" means the authority created by this compact or any
17 agency successor thereto.

18 The singular whenever used in this compact shall include the plural,
19 and the plural shall include the singular.

20
21 ARTICLE III

22 FAITHFUL COOPERATION

23
24 They agree to and pledge, each to the other, faithful cooperation in
25 the effectuation of this compact and any future amendment or
26 supplement thereto, and of any legislation expressly in implementation
27 thereof hereafter enacted, and in the planning, development, financing,
28 construction, operation, maintenance and improvement of all projects
29 entrusted to the authority created by this compact.

30
31 ARTICLE IV

32 ESTABLISHMENT OF AGENCY; PURPOSES

33
34 The two states agree that there shall be created and they do hereby
35 create a body politic, to be known as "The Delaware River and Bay
36 Authority" (for brevity hereinafter referred to as the "authority"),
37 which shall constitute an agency of government of the State of
38 Delaware and the State of New Jersey for the following general public
39 purposes, and which shall be deemed to be exercising essential
40 government functions in effectuating such purposes, to wit:

41 (a) The planning, financing, development, construction, purchase,
42 lease, maintenance, improvement and operation of crossings between
43 the states of Delaware and New Jersey across the Delaware River or
44 Bay at any location south of the boundary line between the State of
45 Delaware and the Commonwealth of Pennsylvania as extended across
46 the Delaware River to the New Jersey shore of said river, together

1 with such approaches or connections thereto as in the judgment of the
2 authority are required to make adequate and efficient connections
3 between such crossings and any public highway, or other routes in the
4 State of Delaware or in the State of New Jersey; and

5 (b) The planning, financing, development, construction, purchase,
6 lease, maintenance, improvement and operation of any transportation
7 or terminal facility within the State of Delaware or the New Jersey
8 counties of Cape May, Cumberland, Gloucester and Salem, which
9 facility, in the judgment of the authority, is required for the sound
10 economic development of the area; and

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

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

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

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

28 The authority shall not undertake any major project or part thereof
29 without first giving public notice and holding a public hearing, if
30 requested, on any proposed major project, in accordance with the law
31 of the state in which the major project is to be located. Each state
32 shall provide by law for the time and manner for the giving of such
33 public notice, the requesting of a public hearing and the holding of
34 such public hearings.

35 ¹[(e) The commissioners of the authority shall be responsible for
36 appointing a Director of Economic Development and an appropriate
37 number of supporting staff as deemed necessary by the authority to
38 oversee commerce and economic development activity by the authority
39 in the New Jersey counties of Cape May, Cumberland, Gloucester and
40 Salem. The commissioners of the authority shall also be responsible for
41 appointing a separate Director of Economic Development and an
42 appropriate number of supporting staff as deemed necessary by the
43 authority to oversee commerce and economic development activity by
44 the authority in the State of Delaware. The authority shall not permit
45 the appointment of the Directors of Economic Development and
46 supporting staff pursuant to this subsection to increase the budget of

1 the authority.]¹

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

16

17

ARTICLE V

18

COMMISSIONERS

19

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

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

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

1 the maximum annual amount established by joint agreement between
2 the Governor of the State of Delaware and the Governor of the State
3 of New Jersey for the use of such cards.

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

13
14 ARTICLE VI
15 BOARD ACTION
16

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

32
33 ARTICLE VII
34 GENERAL POWERS
35

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

- 38 a. To have perpetual succession.
39 b. To adopt and use an official seal.
40 c. To elect a chairman and a vice-chairman from among the
41 commissioners. The chairman and vice-chairman shall be elected from
42 different states, and shall each hold office for two years. The
43 chairmanship and vice-chairmanship shall be alternated between the
44 two states.
45 d. To adopt bylaws to govern the conduct of its affairs by the
46 board of commissioners, and it may adopt rules and regulations and

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

11 e. To appoint, or employ, such other officers, agents, attorneys,
12 engineers and employees as it may require for the performance of its
13 duties and to fix and determine their qualifications, duties,
14 compensation, pensions, terms of office and all other conditions and
15 terms of employment and retention.

16 f. To enter into contracts and agreements with either state or with
17 the United States, or with any public body, department, or other
18 agency of either state or of the United States or with any individual,
19 firm or corporation, deemed necessary or advisable for the exercise of
20 its purposes and powers.

21 g. To accept from any government or governmental department,
22 agency or other public or private body, or from any other source,
23 grants or contributions of money or property as well as loans,
24 advances, guarantees, or other forms of financial assistance which it
25 may use for or in aid of any of its purposes.

26 h. To acquire (by gift, purchase or condemnation), own, hire, lease,
27 use, operate and dispose of property, whether real, personal or mixed,
28 or of any interest therein, including any rights, franchise and property
29 for any crossing, facility or other project owned by another, and which
30 the authority is authorized to own and operate.

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

35 j. To borrow money and to evidence such loans by bonds, notes or
36 other obligations, either secured or unsecured, and either in registered
37 or unregistered form, and to fund or refund such evidences of
38 indebtedness, which may be executed with facsimile signatures of such
39 persons as may be designated by the authority and by a facsimile of its
40 corporate seal.

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

46 l. To grant the use of, by franchise, lease or otherwise, and to make

1 charges for the use of, any crossing, facility or other project or
2 property owned or controlled by it.

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

5 n. To determine the exact location, system and character of and all
6 other matters in connection with any and all crossings, transportation
7 or terminal facilities, commerce facilities or developments or other
8 projects which it may be authorized to own, construct, establish,
9 effectuate, operate or control.

10 o. To exercise all other powers not inconsistent with the
11 Constitutions of the two states or of the United States, which may be
12 reasonably necessary or incidental to the effectuation of its authorized
13 purposes or to the exercise of any of the foregoing powers, except the
14 power to levy taxes or assessments, and generally to exercise in
15 connection with its property and affairs, and in connection with
16 property within its control, any and all powers which might be
17 exercised by a natural person or a private corporation in connection
18 with similar property and affairs.

19

20

ARTICLE VIII

21

ADDITIONAL POWERS

22

23 For the purpose of effectuating the authorized purposes of the
24 authority, additional powers may be granted to the authority by
25 legislation of either state without the concurrence of the other, and
26 may be exercised within such state, or may be granted to the authority
27 by Congress and exercised by it; but no additional duties or obligations
28 shall be undertaken by the authority under the law of either state or of
29 Congress without authorization by the law of both states.

30

31

ARTICLE IX

32

EMINENT DOMAIN

33

34 If the authority shall find and determine that any property or
35 interest therein is required for a public use in furtherance of the
36 purposes of the authority, said determination shall not be affected by
37 the fact that such property has theretofore been taken over or is then
38 devoted to a public use, but the public use in the hands or under the
39 control of the authority, shall be deemed superior to the public use for
40 which it has theretofore been taken or to which it is then devoted. The
41 authority shall not exercise the power of eminent domain granted
42 herein to acquire any property, other than a crossing, devoted to a
43 public use, of either state, or of any municipality, local government,
44 agency, public authority or commission, or of two or more of them,
45 for any purpose other than a crossing, without having first secured the
46 authorization of the holder of the title to the land in question and such

1 other approvals as may be required by legislation of the state in which
2 the project is to be located. The authority shall not exercise the power
3 of eminent domain in connection with any commerce facility or
4 development.

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

19 If the established grade of any street, avenue, highway or other
20 route shall be changed by reason of the construction by the authority
21 of any work so as to cause loss or injury to any property abutting on
22 such street, avenue, highway or other route, the authority may enter
23 into voluntary agreements with such abutting property owners and pay
24 reasonable compensation for any loss or injury so sustained, whether
25 or not it be compensable as damages under the condemnation law of
26 the state.

27 The power of the authority to acquire property by condemnation
28 shall be a continuing power, and no exercise thereof shall be deemed
29 to exhaust it.

30

31

ARTICLE X

32

REVENUES AND APPLICATION

33

34 a. The authority is hereby authorized to establish, levy and collect
35 such tolls and other charges as it may deem necessary, proper or
36 desirable, in connection with any crossing, transportation or terminal
37 facility, commerce facility or development, or other project which it is
38 or may be authorized at any time to construct, own, operate or
39 control, and the aggregate of said tolls and charges shall be at least
40 sufficient (1) to meet the combined expenses of operation,
41 maintenance and improvement thereof, (2) to pay the cost of
42 acquisition or construction, including the payment, amortization and
43 retirement of bonds or other securities or obligations assumed, issued
44 or incurred by the authority, together with interest thereon and (3) to
45 provide reserves for such purposes; and the authority is hereby
46 authorized and empowered, subject to prior pledges, if any, to pledge

1 such tolls and other revenues or any part thereof as security for the
2 repayment with interest of any moneys borrowed by it or advanced to
3 it for its authorized purposes and as security for the satisfaction of any
4 other obligations assumed by it in connection with such loans or
5 advances. There shall be allocated to the cost of the acquisition,
6 construction, operation, maintenance and improvement of such
7 facilities and projects, such proportion of the general expenses of the
8 authority as it shall deem properly chargeable thereto.

9 b. No action taken by the authority to increase tolls, charges or
10 fares¹ on the Delaware Memorial Bridge or the Cape May-Lewes
11 Ferry¹ shall have force or effect without first giving public notice and
12 holding public hearings within the New Jersey counties of Cape May,
13 Cumberland, Gloucester and Salem¹ and all counties in the State of
14 Delaware¹ concerning the proposed increase in tolls, charges or fares.
15 The authority shall be required to provide appropriate supporting
16 information and financial records related to the proposed increase in
17 tolls, charges or fares to the presiding officers of the Legislature of the
18 State of Delaware and the Legislature of the State of New Jersey¹ [in
19 response to requests for the supporting information and financial
20 records from the Legislature of the State of Delaware or the
21 Legislature of the State of New Jersey, as the case may be. The
22 authority shall also be required to consider and respond in writing to
23 recommended spending and budget changes submitted to the authority
24 by the Legislature of the State of Delaware or by the Legislature of the
25 State of New Jersey for the purpose of advising the authority of
26 changes in the authority's spending or budget that would make the
27 proposed increase in tolls, charges or fares unnecessary] at least five
28 days in advance of the first public hearing required to be held on the
29 proposed increase¹.

30 31 ARTICLE XI

32 COVENANT WITH BONDHOLDERS

33
34 The two said states covenant and agree with each other and with
35 the holders of any bonds or other securities or obligations of the
36 authority, assumed, issued or incurred by it and as security for which
37 there may be pledged the tolls and revenues or any part thereof of any
38 crossing, transportation or terminal facility, commerce facility or
39 development, or other project, that the two said states will not, so
40 long as any of such bonds or other obligations remain outstanding and
41 unpaid, diminish or impair the power of the authority to establish, levy
42 and collect tolls and other charges in connection therewith, and that
43 neither of the two said states will, so long as any of such bonds or
44 other obligations remain outstanding and unpaid, authorize any
45 crossing of the Delaware River or Delaware Bay south of the line
46 mentioned in Article IV (a) of this compact, by any person or body
47 other than the authority; unless, in either case, adequate provision shall

1 be made by law for the protection of those advancing money upon
2 such obligations.

3 ARTICLE XII

4 SECURITIES LAWFUL INVESTMENTS

5
6 The bonds or other securities or obligations which may be issued by
7 the authority pursuant to this compact, or any amendments hereof or
8 supplements hereto, are hereby declared to be negotiable instruments,
9 and are hereby made securities in which all state and municipal officers
10 and bodies of each state, all banks, bankers, trust companies, savings
11 banks, building and loan associations, savings and loan associations,
12 investment companies and other persons carrying on a banking
13 business, all insurance companies, insurance associations and other
14 persons carrying on an insurance business, and all administrators,
15 executors, guardians, trustees and other fiduciaries and all other
16 persons whatsoever who are now or may hereafter be authorized to
17 invest in bonds or other obligations of either state, may properly and
18 legally invest any funds, including capital, belonging to them or within
19 their control; and said obligations are hereby made securities which
20 may properly and legally be deposited with and shall be received by
21 any state or municipal officer or agency of either state for any purpose
22 for which the deposit of bonds or other obligations of such state is
23 now or may hereafter be authorized.

24
25 ARTICLE XIII

26 TAX STATUS

27
28 The powers and functions exercised by the authority under this
29 compact and any amendments hereof or supplements hereto are and
30 will be in all respects for the benefit of the people of the states of
31 Delaware and New Jersey, the region and nation, for the increase of
32 their commerce and prosperity and for the enhancement of their
33 general welfare. To this end, the authority shall be regarded as
34 performing essential governmental functions in exercising such powers
35 and functions and in carrying out the provisions of this compact and
36 of any law relating thereto, and shall not be required to pay any taxes
37 or assessments of any character, levied by either state or political
38 subdivision thereof, upon any of the property used by it for such
39 purposes, or any income or revenue therefrom, including any profit
40 from a sale or exchange. The bonds or other securities or obligations
41 issued by the authority, their transfer and the interest paid thereon or
42 income therefrom, including any profit from a sale or exchange, shall
43 at all times be free from taxation by either state or any subdivision
44 thereof.

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ARTICLE XIV
JURISDICTION; USE OF LANDS

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

ARTICLE XV
REVIEW AND ENFORCEMENT OF RULES

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

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

ARTICLE XVI
NO PLEDGE OF CREDIT

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

ARTICLE XVII
LOCAL COOPERATION AND AGREEMENTS

- a. All municipalities, political subdivisions and every department, agency or public body of each of the states are hereby authorized and empowered to cooperate with, aid and assist the authority in effectuating the provisions of this compact and of any amendment hereof or supplement hereto.
- b. The authority is authorized and empowered to cooperate with each of the states, or any political subdivision thereof, and with any municipality, local government, agency, public authority or commission of the foregoing, in connection with the acquisition, planning, rehabilitation, construction or development of any project, other than a crossing, and to enter into an agreement or agreements, subject to compliance with the laws of the state in which the project

1 is to be located, with each of the states, or with any political
2 subdivision thereof, and with any municipality, county, local
3 government, agency, public authority or commission or with two or
4 more of them, for or relating to such purposes.

5 c. The authority and the city, town, municipality or other political
6 subdivision in which any project, other than a crossing, is to be located
7 are hereby authorized and empowered, subject to compliance with the
8 laws of the state in which the project is to be located, to enter into an
9 agreement or agreements to provide which local laws, resolutions,
10 ordinances, rules and regulations, if any, of the city, town, municipality
11 or other political subdivision affected by such project shall apply to
12 such project. All other existing local laws, resolutions, ordinances or
13 rules and regulations not provided for in the agreement shall be
14 applicable to the project, other than a crossing. All local laws,
15 resolutions, ordinances or rules and regulations enacted after the date
16 of the agreement shall not be applicable to such projects unless made
17 applicable by the agreement or any modification thereto.

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ARTICLE XVIII

20

DEPOSITARIES

21

22 All banks, bankers, trust companies, savings banks and other
23 persons carrying on a banking business under the laws of either state
24 are authorized to give security for the safekeeping and prompt
25 payment of moneys of the authority deposited by it with them, in such
26 manner and form as may be required by and may be approved by the
27 authority, which security may consist of a good and sufficient
28 undertaking with such sureties as may be approved by the authority,
29 or may consist of the deposit with the authority or other depository
30 approved by the authority as collateral of such securities as the
31 authority may approve.

32

33

ARTICLE XIX

34

AGENCY POLICE

35

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

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ARTICLE XX
REPORTS AND AUDITS

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

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

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

b. The authority shall, within ¹[90] 180¹ days after the end of each fiscal year of the authority, submit to the Governor and Legislature of the State of Delaware and the Governor and Legislature of the State of New Jersey a complete and detailed report of the following:

(1) its operations and accomplishments during the completed fiscal year;

(2) its receipts and disbursements or revenues and expenses during that year in accordance with the categories and classifications established by the authority for its own operating and capital outlay purposes;

(3) its assets and liabilities at the end of the fiscal year, including the status of reserve, depreciation, special or other funds including debits and credits of these funds;

(4) a schedule of bonds and notes outstanding at the end of the fiscal year;

(5) a list of all contracts exceeding \$100,000 entered into during the fiscal year;

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

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

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

ARTICLE XXI
BOUNDARIES UNAFFECTED

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

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ARTICLE XXII
ENVIRONMENTAL PROTECTION

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

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

c. The planning, development, construction and operation of any project, other than a crossing, located in the coastal zone of Delaware (as defined in Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989), shall be subject to the same limitations, requirements, procedures and appeals as apply to any other person under the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. Nothing in this compact shall be deemed to preempt, modify or supersede any provision of the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. The interpretation and application of this paragraph shall be governed by the laws of the State of Delaware and be determined by the courts of the State of Delaware.

d. The planning, development, construction and operation of any project, other than a crossing, located in New Jersey, shall be subject to the provisions of New Jersey law, when applicable, including, but not limited to, "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.) and the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.).
(cf: P.L.1989, c.191, s.1)

12. (New section) The authority shall revise its policies concerning open public records and open public meetings after undertaking a review of the current statutes in each of the two states in this regard. The authority shall adopt policies that reflect the more stringent standard as codified by the current law on this topic in either the State of Delaware or the State of New Jersey.¹

3. This act shall take effect immediately, but shall remain inoperative until passage by the State of Delaware of legislation having

1 substantially similar effect as this act; but if such legislation already has
2 been enacted, this act shall take effect immediately.

3

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6

7 Requires the Delaware River and Bay Authority to hold hearings prior
8 to increasing tolls, charges or fares, requires submission of yearly
9 reports, declares authority records to be public and requires a limit on
10 authority expenses.

SENATE, No. 1912

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED SEPTEMBER 30, 2002

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Requires the Delaware River and Bay Authority to hold hearings prior to increasing tolls, charges or fares, requires submission of yearly reports, declares authority records to be public and requires a limit on authority expenses.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the Delaware River and Bay Authority and
2 amending and supplementing P.L.1961, c.66.

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

6
7 1. Section 1 of P.L.1961, c.66 (C.32:11E-1) is amended to read as
8 follows:

9 1. The State of New Jersey hereby agrees with the State of
10 Delaware, upon enactment by the State of Delaware of legislation
11 having the same effect as this section, to the following compact:

12
13 DELAWARE-NEW JERSEY COMPACT

14
15 Whereas, The states of Delaware and New Jersey are separated by the
16 Delaware River and Bay which create a natural obstacle to the
17 uninterrupted passage of traffic other than by water and with
18 normal commercial activity between the two states thereby
19 hindering the economic growth and development of those areas in
20 both states which border the river and bay; and

21
22 Whereas, The pressures of existing trends from increasing traffic,
23 growing population and greater industrialization indicate the need
24 for closer cooperation between the two states in order to advance
25 the economic development and to improve crossings,
26 transportation, terminal and other facilities of the area; and

27
28 Whereas, The financing, construction, operation and maintenance of
29 such crossings, transportation, terminal and other facilities of
30 commerce and the overall planning for future economic
31 development of the area may be best accomplished for the benefit
32 of the two states and their citizens, the region and nation, by the
33 cordial cooperation of Delaware and New Jersey by and through a
34 joint or common agency or authority; and

35
36 Whereas, The Delaware-New Jersey Compact, enacted pursuant to 53
37 Laws of Delaware, Chapter 145 (17 Del. C. s.1701) and P.L.1961,
38 c.66 (C.32:11E-1 et seq.) of the Pamphlet Laws of New Jersey,
39 with the consent of the United States Congress in accordance with
40 Pub.L. 87-678 (1962), created the Delaware River and Bay
41 Authority with the intention of advancing the economic growth and
42 development of those areas in both states which border the
43 Delaware River and Bay by the financing, development,

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

Matter underlined thus is new matter.

1 construction, operation and maintenance of crossings,
2 transportation or terminal facilities, and other facilities of
3 commerce, and by providing for overall planning for the future
4 economic development of those areas; and
5

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

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

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

30 ARTICLE I
31 SHORT TITLE

32
33 This compact shall be known as the "Delaware-New Jersey
34 Compact."
35

36 ARTICLE II
37 DEFINITIONS

38
39 "Charge card" means any card, plate, coupon book or other device
40 existing for the purpose of obtaining money, property, labor, services
41 or anything else of value on credit which is not subject to a finance
42 charge.

43 "Credit card" means any card, plate, coupon book or other device
44 existing for the purpose of obtaining money, property, labor, services
45 or anything else of value on credit which may be subject to a finance
46 charge.

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

7 "Information" means all authority books, papers, maps,
8 photographs, cards or other documentary materials, regardless of
9 physical form or characteristics.

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

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

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

37 "Appurtenances" and "equipment" mean all works, buildings,
38 structures, devices, appliances and supplies, as well as every kind of
39 mechanism, arrangement, object or substance related to and necessary
40 or convenient for the proper construction, equipment, maintenance,
41 improvement and operation of any crossing, transportation facility or
42 terminal facility, or commerce facility or development.

43 "Project" means any undertaking or program for the acquisition or
44 creation of any crossing, transportation facility or terminal facility, or
45 commerce facility or development, or any part thereof, as well as for
46 the operation, maintenance and improvement thereof.

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

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

9 "Governor" means any person authorized by the Constitution and
10 law of each state to exercise the functions, powers and duties of that
11 office.

12 "Authority" means the authority created by this compact or any
13 agency successor thereto.

14 The singular whenever used in this compact shall include the plural,
15 and the plural shall include the singular.

16
17 ARTICLE III
18 FAITHFUL COOPERATION

19
20 They agree to and pledge, each to the other, faithful cooperation in
21 the effectuation of this compact and any future amendment or
22 supplement thereto, and of any legislation expressly in implementation
23 thereof hereafter enacted, and in the planning, development, financing,
24 construction, operation, maintenance and improvement of all projects
25 entrusted to the authority created by this compact.

26
27 ARTICLE IV
28 ESTABLISHMENT OF AGENCY; PURPOSES

29
30 The two states agree that there shall be created and they do hereby
31 create a body politic, to be known as "The Delaware River and Bay
32 Authority" (for brevity hereinafter referred to as the "authority"),
33 which shall constitute an agency of government of the State of
34 Delaware and the State of New Jersey for the following general public
35 purposes, and which shall be deemed to be exercising essential
36 government functions in effectuating such purposes, to wit:

37 (a) The planning, financing, development, construction, purchase,
38 lease, maintenance, improvement and operation of crossings between
39 the states of Delaware and New Jersey across the Delaware River or
40 Bay at any location south of the boundary line between the State of
41 Delaware and the Commonwealth of Pennsylvania as extended across
42 the Delaware River to the New Jersey shore of said river, together
43 with such approaches or connections thereto as in the judgment of the
44 authority are required to make adequate and efficient connections
45 between such crossings and any public highway, or other routes in the
46 State of Delaware or in the State of New Jersey; and

1 (b) The planning, financing, development, construction, purchase,
2 lease, maintenance, improvement and operation of any transportation
3 or terminal facility within the State of Delaware or the New Jersey
4 counties of Cape May, Cumberland, Gloucester and Salem, which
5 facility, in the judgment of the authority, is required for the sound
6 economic development of the area; and

7 (c) The planning, financing, development, construction, purchase,
8 lease, maintenance, improvement and operation of any commerce
9 facility or development within the State of Delaware or the New Jersey
10 counties of Cape May, Cumberland, Gloucester and Salem, which in
11 the judgment of the authority is required for the sound economic
12 development of the area; and

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

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

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

24 The authority shall not undertake any major project or part thereof
25 without first giving public notice and holding a public hearing, if
26 requested, on any proposed major project, in accordance with the law
27 of the state in which the major project is to be located. Each state
28 shall provide by law for the time and manner for the giving of such
29 public notice, the requesting of a public hearing and the holding of
30 such public hearings.

31 (e) The commissioners of the authority shall be responsible for
32 appointing a Director of Economic Development and an appropriate
33 number of supporting staff as deemed necessary by the authority to
34 oversee commerce and economic development activity by the authority
35 in the New Jersey counties of Cape May, Cumberland, Gloucester and
36 Salem. The commissioners of the authority shall also be responsible for
37 appointing a separate Director of Economic Development and an
38 appropriate number of supporting staff as deemed necessary by the
39 authority to oversee commerce and economic development activity by
40 the authority in the State of Delaware. The authority shall not permit
41 the appointment of the Directors of Economic Development and
42 supporting staff pursuant to this subsection to increase the budget of
43 the authority.

ARTICLE V
COMMISSIONERS

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a. The authority shall consist of 12 commissioners, six of whom shall be residents of and qualified to vote in, and shall be appointed from, the State of Delaware, and six of whom shall be residents of and qualified to vote in, and shall be appointed from, the State of New Jersey; not more than three of the commissioners of each state shall be of the same political party; the commissioners for each state shall be appointed in the manner fixed and determined from time to time by the law of each state respectively. Each commissioner shall hold office for a term of five years, and until his successor shall have been appointed and qualified, but the terms of the first commissioners shall be so designated that the term of at least one commissioner from each state shall expire each year. All terms shall run to the first day of July. Any vacancy, however created, shall be filled for the unexpired term only. Any commissioner may be suspended or removed from office as provided by law of the state from which he shall be appointed.

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

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

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

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ARTICLE VI
BOARD ACTION

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

ARTICLE VII
GENERAL POWERS

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

- a. To have perpetual succession.
- b. To adopt and use an official seal.
- c. To elect a chairman and a vice-chairman from among the commissioners. The chairman and vice-chairman shall be elected from different states, and shall each hold office for two years. The chairmanship and vice-chairmanship shall be alternated between the two states.
- d. To adopt bylaws to govern the conduct of its affairs by the board of commissioners, and it may adopt rules and regulations and may make appropriate orders to carry out and discharge its powers, duties and functions, but no bylaw, or rule, regulation or order shall take effect until it has been filed with the Secretary of State of each state or in such other manner in each state as may be provided by the law thereof. In the establishment of rules, regulations and orders respecting the use of any crossing, transportation or terminal facility or commerce facility or development owned or operated by the authority, including approach roads, it shall consult with appropriate officials of both states in order to insure, as far as possible, uniformity of such rules, regulations and orders with the law of both states.
- e. To appoint, or employ, such other officers, agents, attorneys, engineers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties,

- 1 compensation, pensions, terms of office and all other conditions and
2 terms of employment and retention.
- 3 f. To enter into contracts and agreements with either state or with
4 the United States, or with any public body, department, or other
5 agency of either state or of the United States or with any individual,
6 firm or corporation, deemed necessary or advisable for the exercise of
7 its purposes and powers.
- 8 g. To accept from any government or governmental department,
9 agency or other public or private body, or from any other source,
10 grants or contributions of money or property as well as loans,
11 advances, guarantees, or other forms of financial assistance which it
12 may use for or in aid of any of its purposes.
- 13 h. To acquire (by gift, purchase or condemnation), own, hire, lease,
14 use, operate and dispose of property, whether real, personal or mixed,
15 or of any interest therein, including any rights, franchise and property
16 for any crossing, facility or other project owned by another, and which
17 the authority is authorized to own and operate.
- 18 i. To designate as express highways, and control public and private
19 access thereto, all or any approaches to any crossing or other facility
20 of the authority for the purpose of connecting the same with any
21 highway or other route in either state.
- 22 j. To borrow money and to evidence such loans by bonds, notes or
23 other obligations, either secured or unsecured, and either in registered
24 or unregistered form, and to fund or refund such evidences of
25 indebtedness, which may be executed with facsimile signatures of such
26 persons as may be designated by the authority and by a facsimile of its
27 corporate seal.
- 28 k. To procure and keep in force adequate insurance or otherwise
29 provide for the adequate protection of its property, as well as to
30 indemnify it or its officers, agents or employees against loss or liability
31 with respect to any risk to which it or they may be exposed in carrying
32 out any function hereunder.
- 33 l. To grant the use of, by franchise, lease or otherwise, and to make
34 charges for the use of, any crossing, facility or other project or
35 property owned or controlled by it.
- 36 m. To exercise the right of eminent domain to acquire any property
37 or interest therein.
- 38 n. To determine the exact location, system and character of and all
39 other matters in connection with any and all crossings, transportation
40 or terminal facilities, commerce facilities or developments or other
41 projects which it may be authorized to own, construct, establish,
42 effectuate, operate or control.
- 43 o. To exercise all other powers not inconsistent with the
44 Constitutions of the two states or of the United States, which may be
45 reasonably necessary or incidental to the effectuation of its authorized
46 purposes or to the exercise of any of the foregoing powers, except the

1 power to levy taxes or assessments, and generally to exercise in
2 connection with its property and affairs, and in connection with
3 property within its control, any and all powers which might be
4 exercised by a natural person or a private corporation in connection
5 with similar property and affairs.

6
7 ARTICLE VIII
8 ADDITIONAL POWERS

9
10 For the purpose of effectuating the authorized purposes of the
11 authority, additional powers may be granted to the authority by
12 legislation of either state without the concurrence of the other, and
13 may be exercised within such state, or may be granted to the authority
14 by Congress and exercised by it; but no additional duties or obligations
15 shall be undertaken by the authority under the law of either state or of
16 Congress without authorization by the law of both states.

17
18 ARTICLE IX
19 EMINENT DOMAIN

20
21 If the authority shall find and determine that any property or
22 interest therein is required for a public use in furtherance of the
23 purposes of the authority, said determination shall not be affected by
24 the fact that such property has theretofore been taken over or is then
25 devoted to a public use, but the public use in the hands or under the
26 control of the authority, shall be deemed superior to the public use for
27 which it has theretofore been taken or to which it is then devoted. The
28 authority shall not exercise the power of eminent domain granted
29 herein to acquire any property, other than a crossing, devoted to a
30 public use, of either state, or of any municipality, local government,
31 agency, public authority or commission, or of two or more of them,
32 for any purpose other than a crossing, without having first secured the
33 authorization of the holder of the title to the land in question and such
34 other approvals as may be required by legislation of the state in which
35 the project is to be located. The authority shall not exercise the power
36 of eminent domain in connection with any commerce facility or
37 development.

38 In any condemnation proceeding in connection with the acquisition
39 by the authority of property or property rights of any character in
40 either state and the right of inspection and immediate entry thereon,
41 through the exercise by it of its power of eminent domain, any existing
42 or future law or rule of court of the state in which such property is
43 located with respect to the condemnation of property for the
44 construction, reconstruction and maintenance of highways therein,
45 shall control. The authority shall have the same power and authority
46 with respect thereto as the state agency named in any such law;

1 provided that nothing herein contained shall be construed as requiring
2 joint or concurrent action by the two states with respect to the
3 enactment, repeal or amendment of any law or rule of court on the
4 subject of condemnation under which the authority may proceed by
5 virtue of this article.

6 If the established grade of any street, avenue, highway or other
7 route shall be changed by reason of the construction by the authority
8 of any work so as to cause loss or injury to any property abutting on
9 such street, avenue, highway or other route, the authority may enter
10 into voluntary agreements with such abutting property owners and pay
11 reasonable compensation for any loss or injury so sustained, whether
12 or not it be compensable as damages under the condemnation law of
13 the state.

14 The power of the authority to acquire property by condemnation
15 shall be a continuing power, and no exercise thereof shall be deemed
16 to exhaust it.

17

18

ARTICLE X

19

REVENUES AND APPLICATION

20

21 a. The authority is hereby authorized to establish, levy and collect
22 such tolls and other charges as it may deem necessary, proper or
23 desirable, in connection with any crossing, transportation or terminal
24 facility, commerce facility or development, or other project which it is
25 or may be authorized at any time to construct, own, operate or
26 control, and the aggregate of said tolls and charges shall be at least
27 sufficient (1) to meet the combined expenses of operation,
28 maintenance and improvement thereof, (2) to pay the cost of
29 acquisition or construction, including the payment, amortization and
30 retirement of bonds or other securities or obligations assumed, issued
31 or incurred by the authority, together with interest thereon and (3) to
32 provide reserves for such purposes; and the authority is hereby
33 authorized and empowered, subject to prior pledges, if any, to pledge
34 such tolls and other revenues or any part thereof as security for the
35 repayment with interest of any moneys borrowed by it or advanced to
36 it for its authorized purposes and as security for the satisfaction of any
37 other obligations assumed by it in connection with such loans or
38 advances. There shall be allocated to the cost of the acquisition,
39 construction, operation, maintenance and improvement of such
40 facilities and projects, such proportion of the general expenses of the
41 authority as it shall deem properly chargeable thereto.

42 b. No action taken by the authority to increase tolls, charges or
43 fares shall have force or effect without first giving public notice and
44 holding public hearings within the New Jersey counties of Cape May,
45 Cumberland, Gloucester and Salem concerning the proposed increase
46 in tolls, charges or fares. The authority shall be required to provide

1 appropriate supporting information and financial records related to the
2 proposed increase in tolls, charges or fares to the presiding officers of
3 the Legislature of the State of Delaware and the Legislature of the
4 State of New Jersey in response to requests for the supporting
5 information and financial records from the Legislature of the State of
6 Delaware or the Legislature of the State of New Jersey, as the case
7 may be. The authority shall also be required to consider and respond
8 in writing to recommended spending and budget changes submitted to
9 the authority by the Legislature of the State of Delaware or by the
10 Legislature of the State of New Jersey for the purpose of advising the
11 authority of changes in the authority's spending or budget that would
12 make the proposed increase in tolls, charges or fares unnecessary.

13

14

ARTICLE XI

15

COVENANT WITH BONDHOLDERS

16

17 The two said states covenant and agree with each other and with
18 the holders of any bonds or other securities or obligations of the
19 authority, assumed, issued or incurred by it and as security for which
20 there may be pledged the tolls and revenues or any part thereof of any
21 crossing, transportation or terminal facility, commerce facility or
22 development, or other project, that the two said states will not, so
23 long as any of such bonds or other obligations remain outstanding and
24 unpaid, diminish or impair the power of the authority to establish, levy
25 and collect tolls and other charges in connection therewith, and that
26 neither of the two said states will, so long as any of such bonds or
27 other obligations remain outstanding and unpaid, authorize any
28 crossing of the Delaware River or Delaware Bay south of the line
29 mentioned in Article IV (a) of this compact, by any person or body
30 other than the authority; unless, in either case, adequate provision shall
31 be made by law for the protection of those advancing money upon
32 such obligations.

33

34

ARTICLE XII

35

SECURITIES LAWFUL INVESTMENTS

36

37 The bonds or other securities or obligations which may be issued by
38 the authority pursuant to this compact, or any amendments hereof or
39 supplements hereto, are hereby declared to be negotiable instruments,
40 and are hereby made securities in which all state and municipal officers
41 and bodies of each state, all banks, bankers, trust companies, savings
42 banks, building and loan associations, savings and loan associations,
43 investment companies and other persons carrying on a banking
44 business, all insurance companies, insurance associations and other
45 persons carrying on an insurance business, and all administrators,
46 executors, guardians, trustees and other fiduciaries and all other

1 persons whatsoever who are now or may hereafter be authorized to
2 invest in bonds or other obligations of either state, may properly and
3 legally invest any funds, including capital, belonging to them or within
4 their control; and said obligations are hereby made securities which
5 may properly and legally be deposited with and shall be received by
6 any state or municipal officer or agency of either state for any purpose
7 for which the deposit of bonds or other obligations of such state is
8 now or may hereafter be authorized.

9

10

ARTICLE XIII

11

TAX STATUS

12

13 The powers and functions exercised by the authority under this
14 compact and any amendments hereof or supplements hereto are and
15 will be in all respects for the benefit of the people of the states of
16 Delaware and New Jersey, the region and nation, for the increase of
17 their commerce and prosperity and for the enhancement of their
18 general welfare. To this end, the authority shall be regarded as
19 performing essential governmental functions in exercising such powers
20 and functions and in carrying out the provisions of this compact and
21 of any law relating thereto, and shall not be required to pay any taxes
22 or assessments of any character, levied by either state or political
23 subdivision thereof, upon any of the property used by it for such
24 purposes, or any income or revenue therefrom, including any profit
25 from a sale or exchange. The bonds or other securities or obligations
26 issued by the authority, their transfer and the interest paid thereon or
27 income therefrom, including any profit from a sale or exchange, shall
28 at all times be free from taxation by either state or any subdivision
29 thereof.

30

31

ARTICLE XIV

32

JURISDICTION; USE OF LANDS

33

34 Each of the two states hereby consents to the use and occupancy by
35 the authority of any lands and property of the authority in such state
36 for the construction, operation, maintenance or improvement of any
37 crossing, transportation or terminal facility, commerce facility or
38 development, or other project which it is or may be authorized at any
39 time to construct, own or operate, including lands lying under water.

40

41

ARTICLE XV

42

REVIEW AND ENFORCEMENT OF RULES

43

44 Judicial proceedings to review any bylaw, rule, regulation, order or
45 other action of the authority or to determine the meaning or effect
46 thereof, may be brought in such court of each state, and pursuant to

1 such law or rules thereof, as a similar proceeding with respect to any
2 agency of such state might be brought.

3 Each state may provide by law what penalty or penalties shall be
4 imposed for violation of any lawful rule, regulation or order of the
5 authority, and, by law or rule of court, for the manner of enforcing the
6 same.

7

8

ARTICLE XVI

9

NO PLEDGE OF CREDIT

10

11 The authority shall have no power to pledge the credit or to create
12 any debt or liability of the State of Delaware, of the State of New
13 Jersey, or of any other agency or of any political subdivision of said
14 states.

15

16

ARTICLE XVII

17

LOCAL COOPERATION AND AGREEMENTS

18

19 a. All municipalities, political subdivisions and every department,
20 agency or public body of each of the states are hereby authorized and
21 empowered to cooperate with, aid and assist the authority in
22 effectuating the provisions of this compact and of any amendment
23 hereof or supplement hereto.

24 b. The authority is authorized and empowered to cooperate with
25 each of the states, or any political subdivision thereof, and with any
26 municipality, local government, agency, public authority or
27 commission of the foregoing, in connection with the acquisition,
28 planning, rehabilitation, construction or development of any project,
29 other than a crossing, and to enter into an agreement or agreements,
30 subject to compliance with the laws of the state in which the project
31 is to be located, with each of the states, or with any political
32 subdivision thereof, and with any municipality, county, local
33 government, agency, public authority or commission or with two or
34 more of them, for or relating to such purposes.

35 c. The authority and the city, town, municipality or other political
36 subdivision in which any project, other than a crossing, is to be located
37 are hereby authorized and empowered, subject to compliance with the
38 laws of the state in which the project is to be located, to enter into an
39 agreement or agreements to provide which local laws, resolutions,
40 ordinances, rules and regulations, if any, of the city, town, municipality
41 or other political subdivision affected by such project shall apply to
42 such project. All other existing local laws, resolutions, ordinances or
43 rules and regulations not provided for in the agreement shall be
44 applicable to the project, other than a crossing. All local laws,
45 resolutions, ordinances or rules and regulations enacted after the date
46 of the agreement shall not be applicable to such projects unless made

1 applicable by the agreement or any modification thereto.

2 ARTICLE XVIII

3 DEPOSITARIES

4
5 All banks, bankers, trust companies, savings banks and other
6 persons carrying on a banking business under the laws of either state
7 are authorized to give security for the safekeeping and prompt
8 payment of moneys of the authority deposited by it with them, in such
9 manner and form as may be required by and may be approved by the
10 authority, which security may consist of a good and sufficient
11 undertaking with such sureties as may be approved by the authority,
12 or may consist of the deposit with the authority or other depository
13 approved by the authority as collateral of such securities as the
14 authority may approve.

15
16 ARTICLE XIX

17 AGENCY POLICE

18
19 Members of the police force established by the authority, regardless
20 of their residence, shall have in each state, on the crossings,
21 transportation or terminal facilities, commerce facilities or
22 developments and other projects and the approaches thereto, owned,
23 operated or controlled by the authority, and at such other places and
24 under such circumstances as the law of each state may provide, all the
25 powers of investigation, detention and arrest conferred by law on
26 peace officers, sheriffs or constables in such state or usually exercised
27 by such officers in each state.

28
29 ARTICLE XX

30 REPORTS AND AUDITS

31
32 a. The authority shall make annual reports to the Governors and
33 Legislatures of the State of Delaware and the State of New Jersey,
34 setting forth in detail its operations and transactions, and may make
35 such additional reports from time to time to the Governors and
36 Legislatures as it may deem desirable.

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

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

44 b. The authority shall, within 90 days after the end of each fiscal
45 year of the authority, submit to the Governor and Legislature of the
46 State of Delaware and the Governor and Legislature of the State of

1 New Jersey a complete and detailed report of the following:

2 (1) its operations and accomplishments during the completed fiscal
3 year;

4 (2) its receipts and disbursements or revenues and expenses during
5 that year in accordance with the categories and classifications
6 established by the authority for its own operating and capital outlay
7 purposes;

8 (3) its assets and liabilities at the end of the fiscal year, including
9 the status of reserve, depreciation, special or other funds including
10 debits and credits of these funds;

11 (4) a schedule of bonds and notes outstanding at the end of the
12 fiscal year;

13 (5) a list of all contracts exceeding \$100,000 entered into during
14 the fiscal year;

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

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

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

23

24

ARTICLE XXI

25

BOUNDARIES UNAFFECTED

26

27 The existing territorial or boundary lines of the states, or the
28 jurisdiction of the two states established by said boundary lines,
29 shall not be changed hereby.

30

31

ARTICLE XXII

32

ENVIRONMENTAL PROTECTION

33

34 a. The planning, development, construction and operation of any
35 project, other than a crossing, shall comply with all environmental
36 protection laws, regulations, directives and orders, including, without
37 limitation, any coastal zone laws, wetlands laws, or subaqueous land
38 laws or natural resource laws, now or hereinafter enacted, or
39 promulgated by the state in which the project, or any part thereof, is
40 located.

41 b. The planning, development, construction and operation of any
42 project, other than a crossing, to be located in the Delaware River and
43 Bay shall comply with all environmental protection laws, regulations,
44 directives and orders, including, without limitation, any coastal zone
45 laws, wetlands laws, subaqueous land laws or natural resource laws,
46 now or hereinafter enacted or promulgated by either state.

1 c. The planning, development, construction and operation of any
2 project, other than a crossing, located in the coastal zone of Delaware
3 (as defined in Chapter 70 of Title 7 of the Delaware Code, as in effect
4 on January 1, 1989), shall be subject to the same limitations,
5 requirements, procedures and appeals as apply to any other person
6 under the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the
7 Delaware Code, as in effect on January 1, 1989. Nothing in this
8 compact shall be deemed to preempt, modify or supersede any
9 provision of the Delaware Coastal Zone Act, Chapter 70 of Title 7 of
10 the Delaware Code, as in effect on January 1, 1989. The
11 interpretation and application of this paragraph shall be governed by
12 the laws of the State of Delaware and be determined by the courts of
13 the State of Delaware.

14 d. The planning, development, construction and operation of any
15 project, other than a crossing, located in New Jersey, shall be subject
16 to the provisions of New Jersey law, when applicable, including, but
17 not limited to, "The Wetlands Act of 1970," P.L.1970, c.272
18 (C.13:9A-1 et seq.) and the "Coastal Area Facility Review Act,"
19 P.L.1973, c.185 (C.13:19-1 et seq.).
20 (cf: P.L.1989, c. 191; s.1)

21
22 2. (New section) a. Notwithstanding the provisions of any law,
23 rule or regulation to the contrary, all information and financial records
24 made, maintained or kept by or for the Delaware River and Bay
25 Authority, its officials, and employees are declared to be public
26 records, and shall be open to public inspection during the regular
27 business hours of the authority.

28 b. Under the supervision of an official acting for or on behalf of the
29 authority, all public records shall be open and available for copying.
30 Copies of the public records shall be made available upon the payment
31 of a reasonable fee not to exceed the cost of producing the copies.

32 c. The commissioners of the authority shall appoint a central
33 information officer to whom requests for public records may be
34 presented and who shall be primarily responsible for compliance by the
35 authority with the provisions of this section.

36 d. The central information officer shall be responsible for
37 forwarding the minutes of all meetings of the authority to New Jersey
38 legislators representing the counties of Cape May, Cumberland,
39 Gloucester and Salem and to New Jersey legislators representing any
40 other county in which an authority project, facility or development is
41 located or is planned to be located.

42 e. Whenever a person having custody or immediate control of the
43 information or financial records for which a request is received to
44 inspect, examine or obtain a copy of the information or financial
45 records, the person shall promptly comply with the request. Any
46 official or employee, other than the person having custody or

1 immediate control, who receives a request for information or financial
2 records, shall make every reasonable effort to direct the requestor to
3 the person having such custody or control.

4 f. Any person who is denied the right to access information or
5 financial records granted pursuant to this section may appeal the denial
6 to the Superior Court of New Jersey, the Superior Court of the State
7 of Delaware, or any other court of competent jurisdiction.

8 g. Any official or employee of the authority who willfully engages
9 in a continuous and repetitive pattern of violating the requirements of
10 this section shall be subject to removal from office or employment.

11

12 3. This act shall take effect immediately, but shall remain
13 inoperative until passage by the State of Delaware of legislation having
14 substantially similar effect as this act; but if such legislation already has
15 been enacted, this act shall take effect immediately.

16

17

18

STATEMENT

19

20 This bill requires the Delaware River and Bay Authority (hereinafter
21 "the authority"), within 90 days after the end of each fiscal year of the
22 authority, to submit to the Governors and Legislatures of Delaware
23 and New Jersey a complete and detailed financial report of its
24 operations and accomplishments during the completed fiscal year, its
25 receipts and disbursements or revenues and expenses during that year,
26 its assets and liabilities at the end of the fiscal year, a schedule of
27 bonds and notes outstanding at the end of the fiscal year, a list of all
28 contracts exceeding \$100,000 entered into during the fiscal year, a
29 business or strategic plan for the authority and for each of its
30 operating divisions, a capital plan containing economic development
31 goals and objectives in Delaware and in the New Jersey counties of
32 Cape May, Cumberland, Gloucester and Salem, and the authority's
33 progress toward meeting the prior year's economic development goals
34 and objectives.

35 The bill also prohibits any commissioner or other person acting on
36 behalf of the authority from using an authority credit card or charge
37 card except for authority business purposes. The bill also limits the
38 amount that may be charged on such cards to the maximum annual
39 amount established by joint agreement between the Governor of
40 Delaware and the Governor of New Jersey for the use of such cards.

41 The bill further prohibits any commissioner or other person acting
42 on the authority's behalf from incurring any expenses and purchases,
43 other than by credit card or charge card, in the performance of their
44 official duties or on behalf of the authority except for such expenses
45 and purchases that are incurred for purposes of the business of the
46 authority. The bill also limits the amount of such expenses and

1 purchases to the maximum annual amount established by joint
2 agreement between the Governors of Delaware and New Jersey.

3 The bill provides that the commissioners of the authority shall be
4 responsible for appointing a Director of Economic Development and
5 appropriate supporting staff to oversee commerce and economic
6 development activity by the authority in the New Jersey counties of
7 Cape May, Cumberland, Gloucester and Salem and for appointing a
8 separate Director of Economic Development and appropriate
9 supporting staff to oversee commerce and economic development
10 activity by the authority in Delaware. The bill requires that these
11 appointments be made in such a way that the authority's budget is not
12 increased by the appointments.

13 The bill further provides that the adoption of the annual capital plan
14 by the commissioners, including specifically the economic development
15 portion of that plan, shall not be binding or effective unless taken at a
16 meeting at which at least four commissioners from each state are
17 present, and unless at least four commissioners from each state shall
18 vote in favor thereof and such vote shall be subject to cancellation by
19 the Governor of Delaware or New Jersey, as the case may be.

20 The bill also prohibits any action by the authority to increase tolls,
21 charges or fares from taking effect unless public notice is first given
22 and public hearings are held within the New Jersey counties of Cape
23 May, Cumberland, Gloucester and Salem concerning the proposed
24 increase in tolls, charges or fares. The bill also requires the authority
25 to respond in writing to recommended spending and budget changes
26 submitted to the authority by the Delaware Legislature or by the New
27 Jersey Legislature that would make the proposed increase in tolls,
28 charges or fares unnecessary.

29 The bill also declares that all information and financial records of
30 the authority are public records that shall be open to the public for
31 inspection. The bill establishes procedures for maintaining such
32 records and responding to requests from the public for copies of
33 authority records.

34 The enactment by the State of Delaware of substantially similar
35 legislation will be required before this bill is operative.

ASSEMBLY TRANSPORTATION COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1912

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2002

The Assembly Transportation Committee reports favorably and with committee amendments Senate Bill No. 1912 (1R).

This amended bill requires the Delaware River and Bay Authority (hereinafter "the authority"), within 180 days after the end of each fiscal year of the authority, to submit to the Governors and Legislatures of Delaware and New Jersey a complete and detailed financial report of its operations and accomplishments during the completed fiscal year, its receipts and disbursements or revenues and expenses during that year, its assets and liabilities at the end of the fiscal year, a schedule of bonds and notes outstanding at the end of the fiscal year, a list of all contracts exceeding \$100,000 entered into during the fiscal year, a business or strategic plan for the authority and for each of its operating divisions, a capital plan containing economic development goals and objectives in Delaware and in the New Jersey counties of Cape May, Cumberland, Gloucester and Salem, and the authority's progress toward meeting the prior year's economic development goals and objectives.

This amended bill also prohibits any commissioner or other person acting on behalf of the authority from using an authority credit card or charge card except for authority business purposes. The bill also limits the amount that may be charged on such cards to the maximum annual amount established by joint agreement between the Governor of Delaware and the Governor of New Jersey for the use of such cards.

This amended bill further prohibits any commissioner or other person acting on the authority's behalf from incurring any expenses and purchases, other than by credit card or charge card, in the performance of their official duties or on behalf of the authority except for such expenses and purchases that are incurred for purposes of the business of the authority. The bill also limits the amount of such expenses and purchases to the maximum annual amount established by joint agreement between the Governors of Delaware and New Jersey.

This amended bill further provides that the commissioners of the authority shall be responsible for appointing a Director of Economic

Development or Deputy Executive Director and appropriate supporting staff to oversee commerce and economic development activity by the authority in the New Jersey counties of Cape May, Cumberland, Gloucester and Salem and for appointing a separate Director of Economic Development or Deputy Executive Director and appropriate supporting staff to oversee commerce and economic development activity by the authority in Delaware. The bill requires that these appointments be made in such a way that the authority's budget is not increased by the appointments.

This amended bill further provides that the adoption of the annual capital plan by the commissioners, including specifically the economic development portion of that plan, shall not be binding or effective unless taken at a meeting at which at least four commissioners from each state are present, and unless at least four commissioners from each state shall vote in favor thereof and such vote shall be subject to cancellation by the Governor of Delaware or New Jersey, as the case may be.

This amended bill also prohibits any action by the authority to increase tolls, charges or fares on the Delaware Memorial Bridge or the Cape May-Lewes Ferry from taking effect unless public notice is first given and public hearings are held within the New Jersey counties of Cape May, Cumberland, Gloucester and Salem and all counties in Delaware concerning the proposed increase in tolls, charges or fares.

This amended bill also requires the authority to provide appropriate support information and financial records related to the proposed increase to presiding officers of the Legislatures of both states at least five days in advance of the first public hearing required to be held on the proposed increase.

Finally, this amended bill requires the authority to revise its policies concerning open public records and open public meetings after undertaking a review of the current statutes in both states. The authority is to adopt policies that reflect the more stringent standard as codified in the current law on the topic in either Delaware or New Jersey.

The enactment by the State of Delaware of substantially similar legislation will be required before the bill is operative.

COMMITTEE AMENDMENTS

The Assembly Transportation Committee amended the bill to provide that the commissioners of the authority shall be responsible for appointing a Director of Economic Development or Deputy Executive Director and appropriate supporting staff to oversee commerce and economic development activity by the authority in the New Jersey counties of Cape May, Cumberland, Gloucester and Salem and for appointing a separate Director of Economic Development or Deputy Executive Director and appropriate supporting staff to oversee commerce and economic development activity by the authority in

Delaware. The committee amendments also require that these appointments be made in such a way that the authority's budget is not increased by the appointments.

This bill is identical to Assembly Bill No. 2664 as amended and reported by the committee today.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 1912

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 24, 2002

The Senate Transportation Committee reports favorably and with committee amendments Senate Bill No. 1912.

This amended bill requires the Delaware River and Bay Authority (hereinafter "the authority"), within 180 days after the end of each fiscal year of the authority, to submit to the Governors and Legislatures of Delaware and New Jersey a complete and detailed financial report of its operations and accomplishments during the completed fiscal year, its receipts and disbursements or revenues and expenses during that year, its assets and liabilities at the end of the fiscal year, a schedule of bonds and notes outstanding at the end of the fiscal year, a list of all contracts exceeding \$100,000 entered into during the fiscal year, a business or strategic plan for the authority and for each of its operating divisions, a capital plan containing economic development goals and objectives in Delaware and in the New Jersey counties of Cape May, Cumberland, Gloucester and Salem, and the authority's progress toward meeting the prior year's economic development goals and objectives.

The bill also prohibits any commissioner or other person acting on behalf of the authority from using an authority credit card or charge card except for authority business purposes. The bill also limits the amount that may be charged on such cards to the maximum annual amount established by joint agreement between the Governor of Delaware and the Governor of New Jersey for the use of such cards.

The bill further prohibits any commissioner or other person acting on the authority's behalf from incurring any expenses and purchases, other than by credit card or charge card, in the performance of their official duties or on behalf of the authority except for such expenses and purchases that are incurred for purposes of the business of the authority. The bill also limits the amount of such expenses and purchases to the maximum annual amount established by joint agreement between the Governors of Delaware and New Jersey.

The bill further provides that the adoption of the annual capital plan by the commissioners, including specifically the economic development portion of that plan, shall not be binding or effective unless taken at a meeting at which at least four commissioners from

each state are present, and unless at least four commissioners from each state shall vote in favor thereof and such vote shall be subject to cancellation by the Governor of Delaware or New Jersey, as the case may be.

The bill also prohibits any action by the authority to increase tolls, charges or fares on the Delaware Memorial Bridge or the Cape May-Lewes Ferry from taking effect unless public notice is first given and public hearings are held within the New Jersey counties of Cape May, Cumberland, Gloucester and Salem and all counties in Delaware concerning the proposed increase in tolls, charges or fares.

This bill also requires the authority to provide appropriate support information and financial records related to the proposed increase to presiding officers of the Legislatures of both states at least five days in advance of the first public hearing required to be held on the proposed increase.

Finally, the bill requires the authority to revise its policies concerning open public records and open public meetings after undertaking a review of the current statutes in both states. The authority is to adopt policies that reflect the more stringent standard as codified in the current law on the topic in either Delaware or New Jersey.

The enactment by the State of Delaware of substantially similar legislation will be required before the bill is operative.

The committee adopted amendments to the bill omitting the requirement of the appointment of Directors of Economic Development and supporting staff, limiting the notice and hearing requirements to increases in tolls, fares and charges on the Delaware Memorial Bridge and the Cape May-Lewes Ferry, and only requiring the authority to provide information and financial records within five days of the first public hearing. The amendments also delete the public records section of the bill in favor of a new section to require the authority to revise its current policy on open public meetings and open public records to reflect the more stringent relevant state law.

ASSEMBLY, No. 2664

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED SEPTEMBER 12, 2002

Sponsored by:

Assemblyman JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

Assemblyman DOUGLAS H. FISHER

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

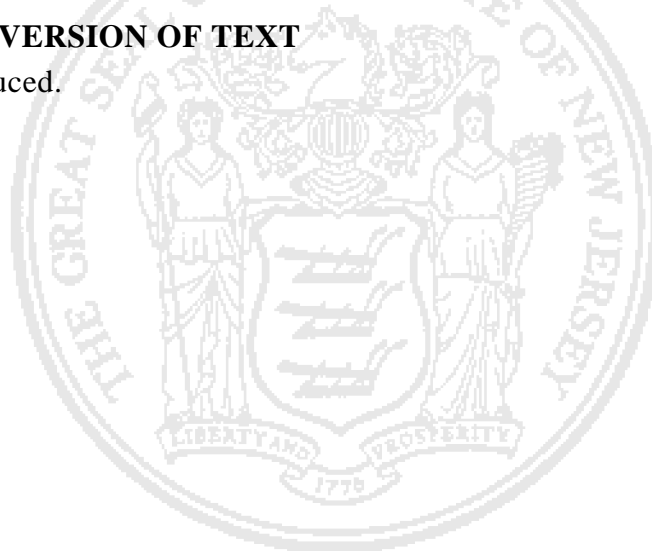
Assemblyman Gusciora

SYNOPSIS

Requires the Delaware River and Bay Authority to hold hearings prior to increasing tolls, charges or fares, requires submission of yearly reports, declares authority records to be public and requires a limit on authority expenses.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/13/2002)

1 AN ACT concerning the Delaware River and Bay Authority and
2 amending and supplementing P.L.1961, c.66.

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

6
7 1. Article II of the "Delaware-New Jersey Compact," P.L.1961,
8 c.66 (C.32:11E-1), is amended to read as follows:

9
10 ARTICLE II
11 DEFINITIONS

12
13 "Charge card" means any card, plate, coupon book or other device
14 existing for the purpose of obtaining money, property, labor, services
15 or anything else of value on credit which is not subject to a finance
16 charge.

17 "Credit card" means any card, plate, coupon book or other device
18 existing for the purpose of obtaining money, property, labor, services
19 or anything else of value on credit which may be subject to a finance
20 charge.

21 "Financial records" mean all receipts and records of disbursements,
22 revenues and expenses, operating and capital outlay expenses, assets
23 and liabilities, including the fiscal status of authority facilities, projects
24 and developments, including the status of reserve, depreciation, special
25 or other funds and the receipts and payments of these funds, and
26 schedules of authority bonds and notes.

27 "Information" means all authority books, papers, maps,
28 photographs, cards or other documentary materials, regardless of
29 physical form or characteristics.

30 "Crossing" means any structure or facility adapted for public use in
31 crossing the Delaware River or Bay between the states, whether by
32 bridge, tunnel, ferry or other device, and by any vehicle or means of
33 transportation of persons or property, as well as all approaches thereto
34 and connecting and service routes and all appurtenances and
35 equipment relating thereto.

36 "Transportation facility" and "terminal facility" mean any structure
37 or facility other than a crossing as herein defined, adapted for public
38 use within each of the states party hereto in connection with the
39 transportation of persons or property, including railroads, motor
40 vehicles, watercraft, airports and aircraft, docks, wharves, piers, slips,
41 basins, storage places, sheds, warehouses, and every means or vehicle
42 of transportation now or hereafter in use for the transportation of
43 persons and property or the storage, handling or loading of property,

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

Matter underlined thus is new matter.

1 as well as all appurtenances and equipment related thereto.

2 "Commerce facility or development" means any structure or facility
3 adapted for public use or any development for a public purpose within
4 each of the states party hereto in connection with recreational and
5 commercial fishery development, recreational marina development,
6 aquaculture (marine farming), shoreline preservation and development
7 (including wetlands and open-lands acquisition, active recreational and
8 park development, beach restoration and development, dredge spoil
9 disposal, and port-oriented development), foreign trade zone site
10 development, manufacturing and industrial facilities, and any other
11 facility or activity designed, directly or indirectly, to promote business
12 or commerce which, in the judgment of the authority, is required for
13 the sound economic development of the area.

14 "Appurtenances" and "equipment" mean all works, buildings,
15 structures, devices, appliances and supplies, as well as every kind of
16 mechanism, arrangement, object or substance related to and necessary
17 or convenient for the proper construction, equipment, maintenance,
18 improvement and operation of any crossing, transportation facility or
19 terminal facility, or commerce facility or development.

20 "Project" means any undertaking or program for the acquisition or
21 creation of any crossing, transportation facility or terminal facility, or
22 commerce facility or development, or any part thereof, as well as for
23 the operation, maintenance and improvement thereof.

24 "Major project" means any project, other than a crossing, having or
25 likely to have significant environmental impacts on the Delaware River
26 and Bay, its shorelines or estuaries, or any other area in the State of
27 Delaware or the New Jersey counties of Cape May, Cumberland,
28 Gloucester and Salem, as determined in accordance with state law by
29 the environmental agency of the state in which the major project is to
30 be located.

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

32 "Governor" means any person authorized by the Constitution and
33 law of each state to exercise the functions, powers and duties of that
34 office.

35 "Authority" means the authority created by this compact or any
36 agency successor thereto.

37 The singular whenever used in this compact shall include the plural,
38 and the plural shall include the singular.

39 (cf: P.L.1989, c.192, s.1; Article II)

40

41 2. Article IV of the "Delaware-New Jersey Compact," P.L.1961,
42 c.66 (C. 32:11E-1), is amended to read as follows:

43

44

ARTICLE IV

45

ESTABLISHMENT OF AGENCY; PURPOSES

1 The two states agree that there shall be created and they do hereby
2 create a body politic, to be known as "The Delaware River and Bay
3 Authority" (for brevity hereinafter referred to as the "authority"),
4 which shall constitute an agency of government of the State of
5 Delaware and the State of New Jersey for the following general public
6 purposes, and which shall be deemed to be exercising essential
7 government functions in effectuating such purposes, to wit:

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

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

24 (c) The planning, financing, development, construction, purchase,
25 lease, maintenance, improvement and operation of any commerce
26 facility or development within the State of Delaware or the New Jersey
27 counties of Cape May, Cumberland, Gloucester and Salem, which in
28 the judgment of the authority is required for the sound economic
29 development of the area; and

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

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

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

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

1 such public hearings.

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

15 (cf: P.L.1989, c.192, s.1; Article IV)

16

17 3. Article V of the "Delaware-New Jersey Compact," P.L.1961,
18 c.66 (C. 32:11E-1), is amended to read as follows:

19

20

ARTICLE V

21

COMMISSIONERS

22

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

38

39 Commissioners shall be entitled to reimbursement for necessary
40 expenses to be paid only from revenues of the authority and may not
41 receive any other compensation for services to the authority except
42 such as may from time to time be authorized from such revenues by
43 concurrent legislation.

43

44 b. The authority shall not permit any commissioner or other person
45 acting on its behalf to use a credit card or charge card established in
46 the name of, or the account of which is paid for by, the authority for
the purpose of obtaining money, property, labor, services or anything

1 else of value, except that such credit card or charge card may be used
2 for the purposes of the business of authority provided that the
3 expenses and purchases by credit card or charge card do not exceed
4 the maximum annual amount established by joint agreement between
5 the Governor of the State of Delaware and the Governor of the State
6 of New Jersey for the use of such cards.

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

16 (cf: P.L.1989, c.192, s.1; Article V)

17
18 4. Article VI of the "Delaware-New Jersey Compact," P.L.1961,
19 c.66 (C. 32:11E-1), is amended to read as follows:

20
21 ARTICLE VI
22 BOARD ACTION

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

39 (cf: P.L.1989, c.192, s.1; Article VI)

40
41 5. Article X of the "Delaware-New Jersey Compact," P.L.1961,
42 c.66 (C. 32:11E-1), is amended to read as follows:

43
44 ARTICLE X
45 REVENUES AND APPLICATION

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

22 b. No action taken by the authority to increase tolls, charges or
23 fares shall have force or effect without first giving public notice and
24 holding public hearings within the New Jersey counties of Cape May,
25 Cumberland, Gloucester and Salem concerning the proposed increase
26 in tolls, charges or fares. The authority shall be required to provide
27 appropriate supporting information and financial records related to the
28 proposed increase in tolls, charges or fares to the presiding officers of
29 the Legislature of the State of Delaware and the Legislature of the
30 State of New Jersey in response to requests for the supporting
31 information and financial records from the Legislature of the State of
32 Delaware or the Legislature of the State of New Jersey, as the case
33 may be. The authority shall also be required to consider and respond
34 in writing to recommended spending and budget changes submitted to
35 the authority by the Legislature of the State of Delaware or by the
36 Legislature of the State of New Jersey for the purpose of advising the
37 authority of changes in the authority's spending or budget that would
38 make the proposed increase in tolls, charges or fares unnecessary.

39 (cf: P.L.1989, c.192, s.1; Article X)

40

41 6. Article XX of the "Delaware-New Jersey Compact," P.L.1961,
42 c.66 (C. 32:11E-1), is amended to read as follows:

43

44

45

ARTICLE XX
REPORTS AND AUDITS

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

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

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

13 b. The authority shall, within 90 days after the end of each fiscal
14 year of the authority, submit to the Governor and Legislature of the
15 State of Delaware and the Governor and Legislature of the State of
16 New Jersey a complete and detailed report of the following:

17 (1) its operations and accomplishments during the completed fiscal
18 year;

19 (2) its receipts and disbursements or revenues and expenses during
20 that year in accordance with the categories and classifications
21 established by the authority for its own operating and capital outlay
22 purposes;

23 (3) its assets and liabilities at the end of the fiscal year, including
24 the status of reserve, depreciation, special or other funds including
25 debits and credits of these funds;

26 (4) a schedule of bonds and notes outstanding at the end of the
27 fiscal year;

28 (5) a list of all contracts exceeding \$100,000 entered into during
29 the fiscal year;

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

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

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

38 (cf: P.L.1989, c.192, s.1; Article XX)

39
40 7. (New section) a. Notwithstanding the provisions of any law,
41 rule or regulation to the contrary, all information and financial records
42 made, maintained or kept by or for the Delaware River and Bay
43 Authority, its officials, and employees are declared to be public
44 records, and shall be open to public inspection during the regular
45 business hours of the authority.

46 b. Under the supervision of an official acting for or on behalf of the

1 authority, all public records shall be open and available for copying.
2 Copies of the public records shall be made available upon the payment
3 of a reasonable fee not to exceed the cost of producing the copies.

4 c. The commissioners of the authority shall appoint a central
5 information officer to whom requests for public records may be
6 presented and who shall be primarily responsible for compliance by the
7 authority with the provisions of this section.

8 d. The central information officer shall be responsible for
9 forwarding the minutes of all meetings of the authority to New Jersey
10 legislators representing the counties of Cape May, Cumberland,
11 Gloucester and Salem and to New Jersey legislators representing any
12 other county in which an authority project, facility or development is
13 located or is planned to be located.

14 e. Whenever a person having custody or immediate control of the
15 information or financial records for which a request is received to
16 inspect, examine or obtain a copy of the information or financial
17 records, the person shall promptly comply with the request. Any
18 official or employee, other than the person having custody or
19 immediate control, who receives a request for information or financial
20 records, shall make every reasonable effort to direct the requestor to
21 the person having such custody or control.

22 f. Any person who is denied the right to access information or
23 financial records granted pursuant to this section may appeal the denial
24 to the Superior Court of New Jersey, the Superior Court of the State
25 of Delaware, or any other court of competent jurisdiction.

26 g. Any official or employee of the authority who willfully engages
27 in a continuous and repetitive pattern of violating the requirements of
28 this section shall be subject to removal from office or employment.

29
30 8. This act shall take effect immediately, but shall remain
31 inoperative until passage by the State of Delaware of legislation having
32 substantially similar effect as this act; but if such legislation already has
33 been enacted, this act shall take effect immediately.

34
35

36 STATEMENT

37

38 This bill requires the Delaware River and Bay Authority (hereinafter
39 "the authority"), within 90 days after the end of each fiscal year of the
40 authority, to submit to the Governors and Legislatures of Delaware
41 and New Jersey a complete and detailed financial report of its
42 operations and accomplishments during the completed fiscal year, its
43 receipts and disbursements or revenues and expenses during that year,
44 its assets and liabilities at the end of the fiscal year, a schedule of
45 bonds and notes outstanding at the end of the fiscal year, a list of all
46 contracts exceeding \$100,000 entered into during the fiscal year, a

1 business or strategic plan for the authority and for each of its
2 operating divisions, a capital plan containing economic development
3 goals and objectives in Delaware and in the New Jersey counties of
4 Cape May, Cumberland, Gloucester and Salem, and the authority's
5 progress toward meeting the prior year's economic development goals
6 and objectives.

7 The bill also prohibits any commissioner or other person acting on
8 behalf of the authority from using an authority credit card or charge
9 card except for authority business purposes. The bill also limits the
10 amount that may be charged on such cards to the maximum annual
11 amount established by joint agreement between the Governor of
12 Delaware and the Governor of New Jersey for the use of such cards.
13 The bill further prohibits any commissioner or other person acting on
14 the authority's behalf from incurring any expenses and purchases, other
15 than by credit card or charge card, in the performance of their official
16 duties or on behalf of the authority except for such expenses and
17 purchases that are incurred for purposes of the business of the
18 authority. The bill also limits the amount of such expenses and
19 purchases to the maximum annual amount established by joint
20 agreement between the Governors of Delaware and New Jersey.

21 The bill provides that the commissioners of the authority shall be
22 responsible for appointing a Director of Economic Development and
23 appropriate supporting staff to oversee commerce and economic
24 development activity by the authority in the New Jersey counties of
25 Cape May, Cumberland, Gloucester and Salem and for appointing a
26 separate Director of Economic Development and appropriate
27 supporting staff to oversee commerce and economic development
28 activity by the authority in Delaware. The bill requires that these
29 appointments be made in such a way that the authority's budget is not
30 increased by the appointments.

31 The bill further provides that the adoption of the annual capital plan
32 by the commissioners, including specifically the economic development
33 portion of that plan, shall not be binding or effective unless taken at a
34 meeting at which at least four commissioners from each state are
35 present, and unless at least four commissioners from each state shall
36 vote in favor thereof and such vote shall be subject to cancellation by
37 the Governor of Delaware or New Jersey, as the case may be.

38 The bill also prohibits any action by the authority to increase tolls,
39 charges or fares from taking effect unless public notice is first given
40 and public hearings are held within the New Jersey counties of Cape
41 May, Cumberland, Gloucester and Salem concerning the proposed
42 increase in tolls, charges or fares. The bill also requires the authority
43 to respond in writing to recommended spending and budget changes
44 submitted to the authority by the Delaware Legislature or by the New
45 Jersey Legislature that would make the proposed increase in tolls,
46 charges or fares unnecessary.

1 The bill also declares that all information and financial records of
2 the authority are public records that shall be open to the public for
3 inspection. The bill establishes procedures for maintaining such
4 records and responding to requests from the public for copies of
5 authority records.

6 The enactment by the State of Delaware of substantially similar
7 legislation will be required before this bill is operative.

ASSEMBLY TRANSPORTATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2664

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2002

The Assembly Transportation Committee reports favorably and with committee amendments Assembly Bill No. 2664.

This bill, as amended by the Assembly Transportation Committee, requires the Delaware River and Bay Authority (hereinafter "the authority"), within 180 days after the end of each fiscal year of the authority, to submit to the Governors and Legislatures of Delaware and New Jersey a complete and detailed financial report of its operations and accomplishments during the completed fiscal year, its receipts and disbursements or revenues and expenses during that year, its assets and liabilities at the end of the fiscal year, a schedule of bonds and notes outstanding at the end of the fiscal year, a list of all contracts exceeding \$100,000 entered into during the fiscal year, a business or strategic plan for the authority and for each of its operating divisions, a capital plan containing economic development goals and objectives in Delaware and in the New Jersey counties of Cape May, Cumberland, Gloucester and Salem, and the authority's progress toward meeting the prior year's economic development goals and objectives.

This amended bill also prohibits any commissioner or other person acting on behalf of the authority from using an authority credit card or charge card except for authority business purposes. The bill also limits the amount that may be charged on such cards to the maximum annual amount established by joint agreement between the Governor of Delaware and the Governor of New Jersey for the use of such cards.

This amended bill further prohibits any commissioner or other person acting on the authority's behalf from incurring any expenses and purchases, other than by credit card or charge card, in the performance of their official duties or on behalf of the authority except for such expenses and purchases that are incurred for purposes of the business of the authority. The bill also limits the amount of such expenses and purchases to the maximum annual amount established by joint agreement between the Governors of Delaware and New Jersey.

This amended bill further provides that the commissioners of the authority shall be responsible for appointing a Director of Economic Development or Deputy Executive Director and appropriate

supporting staff to oversee commerce and economic development activity by the authority in the New Jersey counties of Cape May, Cumberland, Gloucester and Salem and for appointing a separate Director of Economic Development or Deputy Executive Director and appropriate supporting staff to oversee commerce and economic development activity by the authority in Delaware. The bill requires that these appointments be made in such a way that the authority's budget is not increased by the appointments.

This amended bill further provides that the adoption of the annual capital plan by the commissioners, including specifically the economic development portion of that plan, shall not be binding or effective unless taken at a meeting at which at least four commissioners from each state are present, and unless at least four commissioners from each state shall vote in favor thereof and such vote shall be subject to cancellation by the Governor of Delaware or New Jersey, as the case may be.

This amended bill also prohibits any action by the authority to increase tolls, charges or fares on the Delaware Memorial Bridge or the Cape May-Lewes Ferry from taking effect unless public notice is first given and public hearings are held within the New Jersey counties of Cape May, Cumberland, Gloucester and Salem and all counties in Delaware concerning the proposed increase in tolls, charges or fares.

This amended bill also requires the authority to provide appropriate support information and financial records related to the proposed increase to presiding officers of the Legislatures of both states at least five days in advance of the first public hearing required to be held on the proposed increase.

Finally, this amended bill requires the authority to revise its policies concerning open public records and open public meetings after undertaking a review of the current statutes in both states. The authority is to adopt policies that reflect the more stringent standard as codified in the current law on the topic in either Delaware or New Jersey.

The enactment by the State of Delaware of substantially similar legislation will be required before the bill is operative.

COMMITTEE AMENDMENTS

The Assembly Transportation Committee adopted amendments to the bill adding as an alternative to the requirement of the appointment of Directors of Economic Development and supporting staff the appointment of Deputy Executive Directors and supporting staff. The committee amendments also limit the notice and hearing requirements to increases in tolls, fares and charges on the Delaware Memorial Bridge and the Cape May-Lewes Ferry, and only require the authority to provide information and financial records within five days of the first public hearing. The amendments also delete the public records section of the bill in favor of a new section to require the authority to revise its current policy on open public meetings and open public

records to reflect the more stringent relevant state law. The amendments also delete the first seven sections of the bill and reenact them in proper form.

This bill is identical to Senate Bill No. 1912(1R) as amended and reported by the committee today.