

32:23-114

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2007 **CHAPTER:** 167

NJSA: 32:23-114 (Requires New York Harbor Waterfront Commission to accept applications to add new employees to longshoremen's register)

BILL NO: A3123 (Substituted for S2018)

SPONSOR(S): Caraballo and others

DATE INTRODUCED: May 18, 2006

COMMITTEE: **ASSEMBLY:** Labor
SENATE: Transportation

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** December 11, 2006
SENATE: June 21, 2007

DATE OF APPROVAL: September 10, 2007

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

A3123

[SPONSOR'S STATEMENT:](#) (Begins on page 6 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: [Yes](#)

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S2018

[SPONSOR'S STATEMENT:](#) (Begins on page 6 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

IS 5/9/08

P.L. 2007, CHAPTER 167, *approved September 10, 2007*
Assembly, No. 3123

1 AN ACT concerning applications for inclusion in the
2 longshoremen's register and amending P.L.1966, c.18.

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

6
7 1. Section 2(5-p) of P.L.1966, c.18 (C.32:23-114) is amended to
8 read as follows:

9 2. 5-p 1. The commission shall **[suspend the acceptance of]**
10 accept applications for inclusion in the longshoremen's register **[for**
11 a period of 60 days after the effective date of this act. Upon the
12 termination of such 60-day period the commission shall thereafter
13 have the power to make determinations to suspend the acceptance
14 of applications for inclusion in the longshoremen's register for such
15 periods of time as the commission may from time to time establish
16 and, after any such period of suspension, the commission shall have
17 the power to make determinations to accept applications for such
18 period of time as the commission may establish or in such number
19 as the commission may determine, or both. Such determinations to
20 suspend or accept applications shall be made by the commission:
21 (a) on its own initiative or (b) **]**: (a) upon the joint recommendation
22 in writing of stevedores and other employers of longshoremen in the
23 Port of New York District, acting through their representative for
24 the purposes of collective bargaining with a labor organization
25 representing such longshoremen in such district, and such labor
26 organization; or **[(c)] (b)** upon the petition in writing of a stevedore
27 or other employer of longshoremen in the Port of New York District
28 which does not have a representative for the purposes of collective
29 bargaining with a labor organization representing such
30 longshoremen. **[The commission shall have the power to accept or**
31 reject such joint recommendation or petition.

32 A joint recommendation or petition filed for the acceptance of
33 applications with the commission for inclusion in the
34 longshoremen's register shall include:

- 35 (a) The number of employees requested;
36 (b) The category or categories of employees requested;
37 (c) A detailed statement setting forth the reasons for the joint
38 recommendation or petition;
39 (d) In cases where a joint recommendation is made under this
40 section, the collective bargaining representative of stevedores and
41 other employers of longshoremen in the Port of New York District
42 and the labor organization representing such longshoremen shall

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 provide the allocation of the number of persons to be sponsored by
2 each employer of longshoremen in the Port of New York District;
3 and

4 (e) Any other information requested by the commission.

5 Upon the granting of any joint recommendation or petition under
6 this section for the acceptance of applications for inclusion in the
7 longshoremen's register, the commission shall accept applications
8 upon written sponsorship from the prospective employer of
9 longshoremen. The sponsoring employer shall furnish the
10 commission with the name, address and such other identifying or
11 category information as the commission may prescribe for any
12 person so sponsored. The sponsoring employer shall certify that the
13 selection of the persons so sponsored was made on a fair and non-
14 discriminatory basis in accordance with the requirements of the
15 laws of the United States and the states of New York and New
16 Jersey dealing with equal employment opportunities.

17 Notwithstanding any of the foregoing, where the commission
18 determines to accept applications for inclusion in the
19 longshoremen's register on its own initiative, that acceptance shall
20 be accomplished in the manner deemed appropriate by the
21 commission.

22 2. In administering the provisions of this section, the
23 commission shall observe the following standards:

24 (a) To encourage as far as practicable the regularization of the
25 employment of longshoremen;

26 (b) To bring the number of eligible longshoremen into balance
27 with the demand for longshoremen's services within the Port of
28 New York District without reducing the number of eligible
29 longshoremen below that necessary to meet the requirements of
30 longshoremen in the Port of New York District;

31 (c) To encourage the mobility and full utilization of the existing
32 work force of longshoremen;

33 (d) To protect the job security of the existing work force of
34 longshoremen by considering the wages and employment benefits
35 of prospective registrants;

36 (e) To eliminate oppressive and evil hiring practices injurious to
37 waterfront labor and waterborne commerce in the Port of New York
38 District, including, but not limited to, those oppressive and evil
39 hiring practices that may result from either a surplus or shortage of
40 waterfront labor;

41 (f) To consider the effect of technological change and
42 automation and such other economic data and facts as are relevant
43 to a proper determination; and

44 (g) To protect the public interest of the Port of New York
45 District.

46 In observing the foregoing standards and before determining to
47 suspend or accept applications for inclusion in the longshoremen's
48 register, the commission shall consult with and consider the views

1 of, including any statistical data or other factual information
2 concerning the size of the longshoremen's register submitted by,
3 carriers of freight by water, stevedores, waterfront terminal owners
4 and operators, any labor organization representing employees
5 registered by the commission, and any other person whose interests
6 may be affected by the size of the longshoremen's register.

7 Any joint recommendation or petition granted hereunder shall be
8 subject to such terms and conditions as the commission may
9 prescribe.

10 3. Any determination by the commission pursuant to this section
11 to suspend or accept applications for inclusion in the
12 longshoremen's register shall be made upon a record, shall not
13 become effective until five days after notice thereof to the
14 collective bargaining representative of stevedores and other
15 employers of longshoremen in the Port of New York District and to
16 the labor organization representing such longshoremen and the
17 petitioning stevedore or other employer of longshoremen in the Port
18 of New York District and shall be subject to judicial review for
19 being arbitrary, capricious, and an abuse of discretion in a
20 proceeding jointly instituted by such representative and such labor
21 organization or by the petitioning stevedore or other employer of
22 longshoremen in the Port of New York District. Such judicial
23 review proceeding may be instituted in either state in the manner
24 provided by the law of such state for review of the final decision or
25 action of administrative agencies of such state, provided, however,
26 that such proceeding shall be decided directly by the appellate
27 division as the court of first instance (to which the proceeding shall
28 be transferred by order of transfer by the Supreme Court in the State
29 of New York or in the State of New Jersey by notice of appeal from
30 the commission's determination), and provided further that
31 notwithstanding any other provision of law in either state no court
32 shall have power to stay the commission's determination prior to
33 final judicial decision for more than 15 days. In the event that the
34 court enters a final order setting aside the determination by the
35 commission to accept applications for inclusion in the
36 longshoremen's register, the registration of any longshoremen
37 included in the longshoremen's register as a result of such
38 determination by the commission shall be canceled.

39 This section shall apply, notwithstanding any other provision of
40 this act, provided, however, such section shall not in any way limit
41 or restrict the provision of section 5 of article IX of this act
42 empowering the commission to register longshoremen on a
43 temporary basis to meet special or emergency needs or the
44 provisions of section 4 of article IX of this act relating to the
45 immediate reinstatement of persons removed from the
46 longshoremen's register pursuant to article IX of this act. Nothing
47 in this section shall be construed to modify, limit or restrict in any
48 way any of the rights protected by article 15 of this act.

1 4. Notwithstanding any other provision of this act, the
2 commission may include in the longshoremen's register under such
3 terms and conditions as the commission may prescribe:

4 (a) A person issued registration on a temporary basis to meet
5 special or emergency needs, who, on the effective date of this act, is
6 still so registered by the commission;

7 (b) A person defined as a "longshoreman" in subdivision (6) of
8 section 1(5-a) of P.L.1954, c.14 (C.32:23-85), who is employed by
9 a stevedore as defined in paragraph (b) or (c) of subdivision (1) of
10 the same section (C.32:23-85) and whose employment is not subject
11 to the guaranteed annual income provisions of any collective
12 bargaining agreement relating to longshoremen;

13 (c) No more than 20 persons issued and holding registration
14 pursuant to paragraph (b) of this subdivision who are limited to
15 acting as scalmen and who are no longer employed as scalmen on
16 the effective date of this 1987 amendatory act;

17 (d) A person issued registration on a temporary basis as a
18 checker to meet special or emergency needs who applied for such
19 registration prior to January 15, 1986 and who is still so registered
20 by the commission;

21 (e) A person issued registration on a temporary basis as a
22 checker to meet special or emergency needs in accordance with a
23 waterfront commission resolution of September 4, 1996 and who is
24 still so registered by the commission;

25 (f) A person issued registration on a temporary basis as a
26 container equipment operator to meet special or emergency needs in
27 accordance with a waterfront commission resolution of September
28 4, 1996 and who is still so registered by the commission; and

29 (g) A person issued registration on a temporary basis as a
30 longshoreman to meet special or emergency needs in accordance
31 with a waterfront commission resolution of September 4, 1996 and
32 who is still so registered by the commission.

33 5. The commission may include in the longshoremen's register,
34 under such terms and conditions as the commission may prescribe,
35 persons issued registration on a temporary basis as a longshoreman
36 or a checker to meet special or emergency needs and who are still
37 so registered by the commission upon the effective date of
38 P.L.1999, c.206.】

39 (cf: P.L.1999, c.206, s.1).

40
41 2. If any part or provision of this act or the application thereof to
42 any person or circumstances be adjudged invalid by any court of
43 competent jurisdiction, such judgment shall be confined in its
44 operation to the part, provision or application directly involved in
45 the controversy in which such judgment shall have been rendered
46 and shall not affect or impair the validity of the remainder of this
47 act or the application thereof to other persons or circumstances and
48 the two states hereby declare that they would have entered into this

1 act or the remainder thereof had the invalidity of such provisions or
2 application thereof been apparent.

3
4 3. This act constitutes an agreement between the states of New
5 Jersey and New York, supplementary to the waterfront commission
6 compact and amendatory thereof, and shall be liberally construed to
7 effectuate the purposes of that compact and the powers vested in the
8 waterfront commission hereby shall be construed to be in aid of and
9 supplemental to and not in limitation of or in derogation of any of
10 the powers heretofore conferred upon or delegated to the waterfront
11 commission.

12
13 4. This act shall take effect immediately but shall remain
14 inoperative until the enactment into law by the State of New York
15 of legislation of substantially similar substance and effect; but if
16 such legislation already has been enacted, this act shall take effect
17 immediately.

18

19

20 STATEMENT

21

22 This bill requires the Waterfront Commission of New York
23 Harbor to accept any application for the inclusion of new employees
24 in the longshoremen's register of the Port of New York District
25 upon either: (1) a written joint recommendation by the employers
26 and labor organizations of the longshoremen; or (2) a written
27 petition by an employer of longshoremen which does not have
28 collective bargaining with a labor organization representing the
29 longshoremen.

30 The bill, by making the acceptance of such recommendations or
31 petitions mandatory, eliminates the commission's current power to
32 reject the recommendations or petitions. Under current law, the
33 commission is required to observe the following standards when
34 deciding whether to accept or reject a recommendation or petition:

35 1. To encourage the regularization of the employment of
36 longshoremen;

37 2. To bring the number of eligible longshoremen into balance
38 with the demand for longshoremen's services within the port
39 without reducing the number of longshoremen below that necessary
40 to meet the requirements of the port;

41 3. To encourage the mobility and full utilization of the existing
42 work force of longshoremen;

43 4. To protect the job security of the existing work force of
44 longshoremen by considering the wages and employment benefits
45 of prospective registrants;

46 5. To eliminate oppressive and evil hiring practices injurious to
47 waterfront labor and waterborne commerce in the port, including

1 oppressive and evil hiring practices that may result from either a
2 surplus or shortage of labor;

3 6. To consider the effect of technological change and
4 automation and such other economic data and facts as are relevant
5 to a proper determination; and

6 7. To protect the public interest of the port.

7 The bill, by eliminating the commission's power to reject a
8 recommendation or petition to add new employees to the
9 longshoremen's register, also removes from the law the requirement
10 to observe those standards.

11

12

13

14

15 _____
16 Requires New York Harbor Waterfront Commission to accept
applications to add new employees to longshoremen's register.

ASSEMBLY, No. 3123

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED MAY 18, 2006

Sponsored by:

Assemblyman WILFREDO CARABALLO

District 29 (Essex and Union)

Assemblyman MICHAEL J. PANTER

District 12 (Mercer and Monmouth)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman WILLIAM D. PAYNE

District 29 (Essex and Union)

Co-Sponsored by:

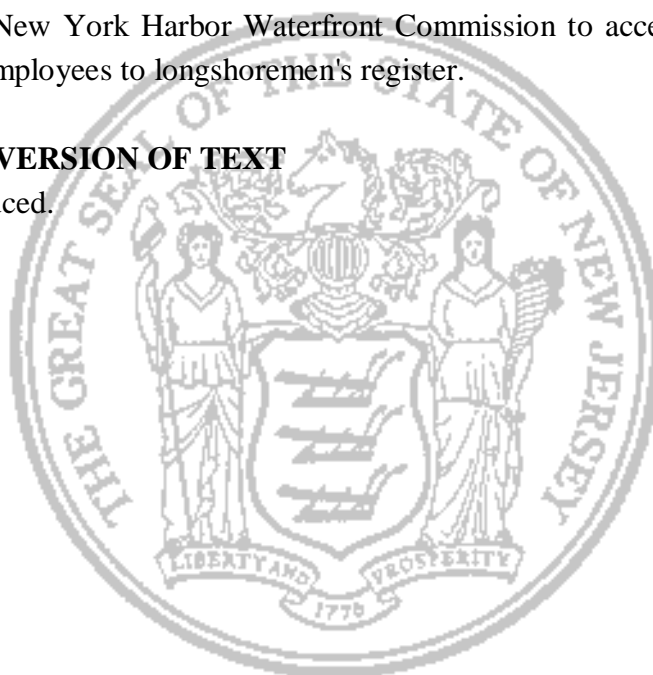
Assemblymen Conaway, Connors, Senators Turner, Kyrillos and Karcher

SYNOPSIS

Requires New York Harbor Waterfront Commission to accept applications to add new employees to longshoremen's register.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2007)

1 AN ACT concerning applications for inclusion in the
2 longshoremen's register and amending P.L.1966, c.18.

3

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

6

7 1. Section 2(5-p) of P.L.1966, c.18 (C.32:23-114) is amended to
8 read as follows:

9 2. 5-p 1. The commission shall **[suspend the acceptance of]**
10 accept applications for inclusion in the longshoremen's register **[for**
11 a period of 60 days after the effective date of this act. Upon the
12 termination of such 60-day period the commission shall thereafter
13 have the power to make determinations to suspend the acceptance
14 of applications for inclusion in the longshoremen's register for such
15 periods of time as the commission may from time to time establish
16 and, after any such period of suspension, the commission shall have
17 the power to make determinations to accept applications for such
18 period of time as the commission may establish or in such number
19 as the commission may determine, or both. Such determinations to
20 suspend or accept applications shall be made by the commission:
21 (a) on its own initiative or (b) **]; (a)** upon the joint recommendation
22 in writing of stevedores and other employers of longshoremen in the
23 Port of New York District, acting through their representative for
24 the purposes of collective bargaining with a labor organization
25 representing such longshoremen in such district, and such labor
26 organization; or **[(c)] (b)** upon the petition in writing of a stevedore
27 or other employer of longshoremen in the Port of New York District
28 which does not have a representative for the purposes of collective
29 bargaining with a labor organization representing such
30 longshoremen. **[The** commission shall have the power to accept or
31 reject such joint recommendation or petition.

32 A joint recommendation or petition filed for the acceptance of
33 applications with the commission for inclusion in the
34 longshoremen's register shall include:

- 35 (a) The number of employees requested;
36 (b) The category or categories of employees requested;
37 (c) A detailed statement setting forth the reasons for the joint
38 recommendation or petition;
39 (d) In cases where a joint recommendation is made under this
40 section, the collective bargaining representative of stevedores and
41 other employers of longshoremen in the Port of New York District
42 and the labor organization representing such longshoremen shall
43 provide the allocation of the number of persons to be sponsored by
44 each employer of longshoremen in the Port of New York District;
45 and

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 (e) Any other information requested by the commission.

2 Upon the granting of any joint recommendation or petition under
3 this section for the acceptance of applications for inclusion in the
4 longshoremen's register, the commission shall accept applications
5 upon written sponsorship from the prospective employer of
6 longshoremen. The sponsoring employer shall furnish the
7 commission with the name, address and such other identifying or
8 category information as the commission may prescribe for any
9 person so sponsored. The sponsoring employer shall certify that the
10 selection of the persons so sponsored was made on a fair and non-
11 discriminatory basis in accordance with the requirements of the
12 laws of the United States and the states of New York and New
13 Jersey dealing with equal employment opportunities.

14 Notwithstanding any of the foregoing, where the commission
15 determines to accept applications for inclusion in the
16 longshoremen's register on its own initiative, that acceptance shall
17 be accomplished in the manner deemed appropriate by the
18 commission.

19 2. In administering the provisions of this section, the
20 commission shall observe the following standards:

21 (a) To encourage as far as practicable the regularization of the
22 employment of longshoremen;

23 (b) To bring the number of eligible longshoremen into balance
24 with the demand for longshoremen's services within the Port of
25 New York District without reducing the number of eligible
26 longshoremen below that necessary to meet the requirements of
27 longshoremen in the Port of New York District;

28 (c) To encourage the mobility and full utilization of the existing
29 work force of longshoremen;

30 (d) To protect the job security of the existing work force of
31 longshoremen by considering the wages and employment benefits
32 of prospective registrants;

33 (e) To eliminate oppressive and evil hiring practices injurious to
34 waterfront labor and waterborne commerce in the Port of New York
35 District, including, but not limited to, those oppressive and evil
36 hiring practices that may result from either a surplus or shortage of
37 waterfront labor;

38 (f) To consider the effect of technological change and
39 automation and such other economic data and facts as are relevant
40 to a proper determination; and

41 (g) To protect the public interest of the Port of New York
42 District.

43 In observing the foregoing standards and before determining to
44 suspend or accept applications for inclusion in the longshoremen's
45 register, the commission shall consult with and consider the views
46 of, including any statistical data or other factual information
47 concerning the size of the longshoremen's register submitted by,
48 carriers of freight by water, stevedores, waterfront terminal owners

1 and operators, any labor organization representing employees
2 registered by the commission, and any other person whose interests
3 may be affected by the size of the longshoremen's register.

4 Any joint recommendation or petition granted hereunder shall be
5 subject to such terms and conditions as the commission may
6 prescribe.

7 3. Any determination by the commission pursuant to this section
8 to suspend or accept applications for inclusion in the
9 longshoremen's register shall be made upon a record, shall not
10 become effective until five days after notice thereof to the
11 collective bargaining representative of stevedores and other
12 employers of longshoremen in the Port of New York District and to
13 the labor organization representing such longshoremen and the
14 petitioning stevedore or other employer of longshoremen in the Port
15 of New York District and shall be subject to judicial review for
16 being arbitrary, capricious, and an abuse of discretion in a
17 proceeding jointly instituted by such representative and such labor
18 organization or by the petitioning stevedore or other employer of
19 longshoremen in the Port of New York District. Such judicial
20 review proceeding may be instituted in either state in the manner
21 provided by the law of such state for review of the final decision or
22 action of administrative agencies of such state, provided, however,
23 that such proceeding shall be decided directly by the appellate
24 division as the court of first instance (to which the proceeding shall
25 be transferred by order of transfer by the Supreme Court in the State
26 of New York or in the State of New Jersey by notice of appeal from
27 the commission's determination), and provided further that
28 notwithstanding any other provision of law in either state no court
29 shall have power to stay the commission's determination prior to
30 final judicial decision for more than 15 days. In the event that the
31 court enters a final order setting aside the determination by the
32 commission to accept applications for inclusion in the
33 longshoremen's register, the registration of any longshoremen
34 included in the longshoremen's register as a result of such
35 determination by the commission shall be canceled.

36 This section shall apply, notwithstanding any other provision of
37 this act, provided, however, such section shall not in any way limit
38 or restrict the provision of section 5 of article IX of this act
39 empowering the commission to register longshoremen on a
40 temporary basis to meet special or emergency needs or the
41 provisions of section 4 of article IX of this act relating to the
42 immediate reinstatement of persons removed from the
43 longshoremen's register pursuant to article IX of this act. Nothing
44 in this section shall be construed to modify, limit or restrict in any
45 way any of the rights protected by article 15 of this act.

46 4. Notwithstanding any other provision of this act, the
47 commission may include in the longshoremen's register under such
48 terms and conditions as the commission may prescribe:

- 1 (a) A person issued registration on a temporary basis to meet
2 special or emergency needs, who, on the effective date of this act, is
3 still so registered by the commission;
- 4 (b) A person defined as a "longshoreman" in subdivision (6) of
5 section 1(5-a) of P.L.1954, c.14 (C.32:23-85), who is employed by
6 a stevedore as defined in paragraph (b) or (c) of subdivision (1) of
7 the same section (C.32:23-85) and whose employment is not subject
8 to the guaranteed annual income provisions of any collective
9 bargaining agreement relating to longshoremen;
- 10 (c) No more than 20 persons issued and holding registration
11 pursuant to paragraph (b) of this subdivision who are limited to
12 acting as scalemen and who are no longer employed as scalemen on
13 the effective date of this 1987 amendatory act;
- 14 (d) A person issued registration on a temporary basis as a
15 checker to meet special or emergency needs who applied for such
16 registration prior to January 15, 1986 and who is still so registered
17 by the commission;
- 18 (e) A person issued registration on a temporary basis as a
19 checker to meet special or emergency needs in accordance with a
20 waterfront commission resolution of September 4, 1996 and who is
21 still so registered by the commission;
- 22 (f) A person issued registration on a temporary basis as a
23 container equipment operator to meet special or emergency needs in
24 accordance with a waterfront commission resolution of September
25 4, 1996 and who is still so registered by the commission; and
- 26 (g) A person issued registration on a temporary basis as a
27 longshoreman to meet special or emergency needs in accordance
28 with a waterfront commission resolution of September 4, 1996 and
29 who is still so registered by the commission.
- 30 5. The commission may include in the longshoremen's register,
31 under such terms and conditions as the commission may prescribe,
32 persons issued registration on a temporary basis as a longshoreman
33 or a checker to meet special or emergency needs and who are still
34 so registered by the commission upon the effective date of
35 P.L.1999, c.206.]
36 (cf: P.L.1999, c.206, s.1).
37
- 38 2. If any part or provision of this act or the application thereof to
39 any person or circumstances be adjudged invalid by any court of
40 competent jurisdiction, such judgment shall be confined in its
41 operation to the part, provision or application directly involved in
42 the controversy in which such judgment shall have been rendered
43 and shall not affect or impair the validity of the remainder of this
44 act or the application thereof to other persons or circumstances and
45 the two states hereby declare that they would have entered into this
46 act or the remainder thereof had the invalidity of such provisions or
47 application thereof been apparent.

1 3. This act constitutes an agreement between the states of New
2 Jersey and New York, supplementary to the waterfront commission
3 compact and amendatory thereof, and shall be liberally construed to
4 effectuate the purposes of that compact and the powers vested in the
5 waterfront commission hereby shall be construed to be in aid of and
6 supplemental to and not in limitation of or in derogation of any of
7 the powers heretofore conferred upon or delegated to the waterfront
8 commission.

9
10 4. This act shall take effect immediately but shall remain
11 inoperative until the enactment into law by the State of New York
12 of legislation of substantially similar substance and effect; but if
13 such legislation already has been enacted, this act shall take effect
14 immediately.

15

16

17

STATEMENT

18

19 This bill requires the Waterfront Commission of New York
20 Harbor to accept any application for the inclusion of new employees
21 in the longshoremen's register of the Port of New York District
22 upon either: (1) a written joint recommendation by the employers
23 and labor organizations of the longshoremen; or (2) a written
24 petition by an employer of longshoremen which does not have
25 collective bargaining with a labor organization representing the
26 longshoremen.

27 The bill, by making the acceptance of such recommendations or
28 petitions mandatory, eliminates the commission's current power to
29 reject the recommendations or petitions. Under current law, the
30 commission is required to observe the following standards when
31 deciding whether to accept or reject a recommendation or petition:

32 1. To encourage the regularization of the employment of
33 longshoremen;

34 2. To bring the number of eligible longshoremen into balance
35 with the demand for longshoremen's services within the port
36 without reducing the number of longshoremen below that necessary
37 to meet the requirements of the port;

38 3. To encourage the mobility and full utilization of the existing
39 work force of longshoremen;

40 4. To protect the job security of the existing work force of
41 longshoremen by considering the wages and employment benefits
42 of prospective registrants;

43 5. To eliminate oppressive and evil hiring practices injurious to
44 waterfront labor and waterborne commerce in the port, including
45 oppressive and evil hiring practices that may result from either a
46 surplus or shortage of labor;

A3123 CARABALLO, PANTER

7

1 6. To consider the effect of technological change and
2 automation and such other economic data and facts as are relevant
3 to a proper determination; and

4 7. To protect the public interest of the port.

5 The bill, by eliminating the commission's power to reject a
6 recommendation or petition to add new employees to the
7 longshoremen's register, also removes from the law the requirement
8 to observe those standards.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3123

STATE OF NEW JERSEY

DATED: OCTOBER 23, 2006

The Assembly Labor Committee reports favorably Assembly bill No. 3123.

This bill requires the Waterfront Commission of New York Harbor to accept any application for the inclusion of new employees in the longshoremen's register of the Port of New York District upon either: (1) a written joint recommendation by the employers and labor organizations of the longshoremen; or (2) a written petition by an employer of longshoremen which does not have collective bargaining with a labor organization representing the longshoremen.

The bill, by making the acceptance of such recommendations or petitions mandatory, eliminates the commission's current power to reject the recommendations or petitions. Under current law, the commission is required to observe the following standards when deciding whether to accept or reject a recommendation or petition:

1. To encourage the regularization of the employment of longshoremen;
2. To bring the number of eligible longshoremen into balance with the demand for longshoremen's services within the port without reducing the number of longshoremen below that necessary to meet the requirements of the port;
3. To encourage the mobility and full utilization of the existing work force of longshoremen;
4. To protect the job security of the existing work force of longshoremen by considering the wages and employment benefits of prospective registrants;
5. To eliminate oppressive and evil hiring practices injurious to waterfront labor and waterborne commerce in the port, including oppressive and evil hiring practices that may result from either a surplus or shortage of labor;
6. To consider the effect of technological change and automation and such other economic data and facts as are relevant to a proper determination; and
7. To protect the public interest of the port.

The bill, by eliminating the commission's power to reject a recommendation or petition to add new employees to the longshoremen's register, also removes from the law the requirement to observe those standards.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3123

STATE OF NEW JERSEY

DATED: MAY 14, 2007

The Senate Transportation Committee reports favorably Assembly Bill No. 3123.

This bill requires the Waterfront Commission of New York Harbor to accept any application for the inclusion of new employees in the longshoremen's register of the Port of New York District upon either: (1) a written joint recommendation by the employers and labor organizations of the longshoremen; or (2) a written petition by an employer of longshoremen which does not have collective bargaining with a labor organization representing the longshoremen.

The bill, by making the acceptance of such recommendations or petitions mandatory, eliminates the commission's current power to reject the recommendations or petitions. Under current law, the commission is required to observe the following standards when deciding whether to accept or reject a recommendation or petition:

1. To encourage the regularization of the employment of longshoremen;
2. To bring the number of eligible longshoremen into balance with the demand for longshoremen's services within the port without reducing the number of longshoremen below that necessary to meet the requirements of the port;
3. To encourage the mobility and full utilization of the existing work force of longshoremen;
4. To protect the job security of the existing work force of longshoremen by considering the wages and employment benefits of prospective registrants;
5. To eliminate oppressive and evil hiring practices injurious to waterfront labor and waterborne commerce in the port, including oppressive and evil hiring practices that may result from either a surplus or shortage of labor;
6. To consider the effect of technological change and automation and such other economic data and facts as are relevant to a proper determination; and
7. To protect the public interest of the port.

The bill, by eliminating the commission's power to reject a recommendation or petition to add new employees to the longshoremen's register, also removes from the law the requirement to observe those standards.

The bill is to take effect upon enactment of complementary legislation by the State of New York.

This bill is the same as S-2018, released by the committee on the same day.

SENATE, No. 2018

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED JUNE 12, 2006

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Middlesex and Monmouth)

Co-Sponsored by:

Senator Karcher

SYNOPSIS

Requires New York Harbor Waterfront Commission to accept applications to add new employees to longshoremen's register.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/11/2007)

S2018 TURNER, KYRILLOS

2

1 AN ACT concerning applications for inclusion in the
2 longshoremen's register and amending P.L.1966, c.18.

3

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

6

7 1. Section 2(5-p) of P.L.1966, c.18 (C.32:23-114) is amended to
8 read as follows:

9 2. 5-p 1. The commission shall **[suspend the acceptance of]**
10 accept applications for inclusion in the longshoremen's register **[for**
11 a period of 60 days after the effective date of this act. Upon the
12 termination of such 60-day period the commission shall thereafter
13 have the power to make determinations to suspend the acceptance
14 of applications for inclusion in the longshoremen's register for such
15 periods of time as the commission may from time to time establish
16 and, after any such period of suspension, the commission shall have
17 the power to make determinations to accept applications for such
18 period of time as the commission may establish or in such number
19 as the commission may determine, or both. Such determinations to
20 suspend or accept applications shall be made by the commission:
21 (a) on its own initiative or (b) **]; (a)** upon the joint recommendation
22 in writing of stevedores and other employers of longshoremen in the
23 Port of New York District, acting through their representative for
24 the purposes of collective bargaining with a labor organization
25 representing such longshoremen in such district, and such labor
26 organization; or **[(c)] (b)** upon the petition in writing of a stevedore
27 or other employer of longshoremen in the Port of New York District
28 which does not have a representative for the purposes of collective
29 bargaining with a labor organization representing such
30 longshoremen. **[The** commission shall have the power to accept or
31 reject such joint recommendation or petition.

32 A joint recommendation or petition filed for the acceptance of
33 applications with the commission for inclusion in the
34 longshoremen's register shall include:

35 (a) The number of employees requested;

36 (b) The category or categories of employees requested;

37 (c) A detailed statement setting forth the reasons for the joint
38 recommendation or petition;

39 (d) In cases where a joint recommendation is made under this
40 section, the collective bargaining representative of stevedores and
41 other employers of longshoremen in the Port of New York District
42 and the labor organization representing such longshoremen shall
43 provide the allocation of the number of persons to be sponsored by
44 each employer of longshoremen in the Port of New York District;
45 and

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 (e) Any other information requested by the commission.

2 Upon the granting of any joint recommendation or petition under
3 this section for the acceptance of applications for inclusion in the
4 longshoremen's register, the commission shall accept applications
5 upon written sponsorship from the prospective employer of
6 longshoremen. The sponsoring employer shall furnish the
7 commission with the name, address and such other identifying or
8 category information as the commission may prescribe for any
9 person so sponsored. The sponsoring employer shall certify that the
10 selection of the persons so sponsored was made on a fair and non-
11 discriminatory basis in accordance with the requirements of the
12 laws of the United States and the states of New York and New
13 Jersey dealing with equal employment opportunities.

14 Notwithstanding any of the foregoing, where the commission
15 determines to accept applications for inclusion in the
16 longshoremen's register on its own initiative, that acceptance shall
17 be accomplished in the manner deemed appropriate by the
18 commission.

19 2. In administering the provisions of this section, the
20 commission shall observe the following standards:

21 (a) To encourage as far as practicable the regularization of the
22 employment of longshoremen;

23 (b) To bring the number of eligible longshoremen into balance
24 with the demand for longshoremen's services within the Port of
25 New York District without reducing the number of eligible
26 longshoremen below that necessary to meet the requirements of
27 longshoremen in the Port of New York District;

28 (c) To encourage the mobility and full utilization of the existing
29 work force of longshoremen;

30 (d) To protect the job security of the existing work force of
31 longshoremen by considering the wages and employment benefits
32 of prospective registrants;

33 (e) To eliminate oppressive and evil hiring practices injurious to
34 waterfront labor and waterborne commerce in the Port of New York
35 District, including, but not limited to, those oppressive and evil
36 hiring practices that may result from either a surplus or shortage of
37 waterfront labor;

38 (f) To consider the effect of technological change and
39 automation and such other economic data and facts as are relevant
40 to a proper determination; and

41 (g) To protect the public interest of the Port of New York
42 District.

43 In observing the foregoing standards and before determining to
44 suspend or accept applications for inclusion in the longshoremen's
45 register, the commission shall consult with and consider the views
46 of, including any statistical data or other factual information
47 concerning the size of the longshoremen's register submitted by,
48 carriers of freight by water, stevedores, waterfront terminal owners

1 and operators, any labor organization representing employees
2 registered by the commission, and any other person whose interests
3 may be affected by the size of the longshoremen's register.

4 Any joint recommendation or petition granted hereunder shall be
5 subject to such terms and conditions as the commission may
6 prescribe.

7 3. Any determination by the commission pursuant to this section
8 to suspend or accept applications for inclusion in the
9 longshoremen's register shall be made upon a record, shall not
10 become effective until five days after notice thereof to the
11 collective bargaining representative of stevedores and other
12 employers of longshoremen in the Port of New York District and to
13 the labor organization representing such longshoremen and the
14 petitioning stevedore or other employer of longshoremen in the Port
15 of New York District and shall be subject to judicial review for
16 being arbitrary, capricious, and an abuse of discretion in a
17 proceeding jointly instituted by such representative and such labor
18 organization or by the petitioning stevedore or other employer of
19 longshoremen in the Port of New York District. Such judicial
20 review proceeding may be instituted in either state in the manner
21 provided by the law of such state for review of the final decision or
22 action of administrative agencies of such state, provided, however,
23 that such proceeding shall be decided directly by the appellate
24 division as the court of first instance (to which the proceeding shall
25 be transferred by order of transfer by the Supreme Court in the State
26 of New York or in the State of New Jersey by notice of appeal from
27 the commission's determination), and provided further that
28 notwithstanding any other provision of law in either state no court
29 shall have power to stay the commission's determination prior to
30 final judicial decision for more than 15 days. In the event that the
31 court enters a final order setting aside the determination by the
32 commission to accept applications for inclusion in the
33 longshoremen's register, the registration of any longshoremen
34 included in the longshoremen's register as a result of such
35 determination by the commission shall be canceled.

36 This section shall apply, notwithstanding any other provision of
37 this act, provided, however, such section shall not in any way limit
38 or restrict the provision of section 5 of article IX of this act
39 empowering the commission to register longshoremen on a
40 temporary basis to meet special or emergency needs or the
41 provisions of section 4 of article IX of this act relating to the
42 immediate reinstatement of persons removed from the
43 longshoremen's register pursuant to article IX of this act. Nothing
44 in this section shall be construed to modify, limit or restrict in any
45 way any of the rights protected by article 15 of this act.

46 4. Notwithstanding any other provision of this act, the
47 commission may include in the longshoremen's register under such
48 terms and conditions as the commission may prescribe:

- 1 (a) A person issued registration on a temporary basis to meet
2 special or emergency needs, who, on the effective date of this act, is
3 still so registered by the commission;
- 4 (b) A person defined as a "longshoreman" in subdivision (6) of
5 section 1(5-a) of P.L.1954, c.14 (C.32:23-85), who is employed by
6 a stevedore as defined in paragraph (b) or (c) of subdivision (1) of
7 the same section (C.32:23-85) and whose employment is not subject
8 to the guaranteed annual income provisions of any collective
9 bargaining agreement relating to longshoremen;
- 10 (c) No more than 20 persons issued and holding registration
11 pursuant to paragraph (b) of this subdivision who are limited to
12 acting as scalmen and who are no longer employed as scalmen on
13 the effective date of this 1987 amendatory act;
- 14 (d) A person issued registration on a temporary basis as a
15 checker to meet special or emergency needs who applied for such
16 registration prior to January 15, 1986 and who is still so registered
17 by the commission;
- 18 (e) A person issued registration on a temporary basis as a
19 checker to meet special or emergency needs in accordance with a
20 waterfront commission resolution of September 4, 1996 and who is
21 still so registered by the commission;
- 22 (f) A person issued registration on a temporary basis as a
23 container equipment operator to meet special or emergency needs in
24 accordance with a waterfront commission resolution of September
25 4, 1996 and who is still so registered by the commission; and
- 26 (g) A person issued registration on a temporary basis as a
27 longshoreman to meet special or emergency needs in accordance
28 with a waterfront commission resolution of September 4, 1996 and
29 who is still so registered by the commission.
- 30 5. The commission may include in the longshoremen's register,
31 under such terms and conditions as the commission may prescribe,
32 persons issued registration on a temporary basis as a longshoreman
33 or a checker to meet special or emergency needs and who are still
34 so registered by the commission upon the effective date of
35 P.L.1999, c.206.]
36 (cf: P.L.1999, c.206, s.1).
37
- 38 2. If any part or provision of this act or the application thereof to
39 any person or circumstances be adjudged invalid by any court of
40 competent jurisdiction, such judgment shall be confined in its
41 operation to the part, provision or application directly involved in
42 the controversy in which such judgment shall have been rendered
43 and shall not affect or impair the validity of the remainder of this
44 act or the application thereof to other persons or circumstances and
45 the two states hereby declare that they would have entered into this
46 act or the remainder thereof had the invalidity of such provisions or
47 application thereof been apparent.

1 3. This act constitutes an agreement between the states of New
2 Jersey and New York, supplementary to the waterfront commission
3 compact and amendatory thereof, and shall be liberally construed to
4 effectuate the purposes of that compact and the powers vested in the
5 waterfront commission hereby shall be construed to be in aid of and
6 supplemental to and not in limitation of or in derogation of any of
7 the powers heretofore conferred upon or delegated to the waterfront
8 commission.

9
10 4. This act shall take effect immediately but shall remain
11 inoperative until the enactment into law by the State of New York
12 of legislation of substantially similar substance and effect; but if
13 such legislation already has been enacted, this act shall take effect
14 immediately.

15

16

17

STATEMENT

18

19 This bill requires the Waterfront Commission of New York
20 Harbor to accept any application for the inclusion of new employees
21 in the longshoremen's register of the Port of New York District
22 upon either: (1) a written joint recommendation by the employers
23 and labor organizations of the longshoremen; or (2) a written
24 petition by an employer of longshoremen which does not have
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27 The bill, by making the acceptance of such recommendations or
28 petitions mandatory, eliminates the commission's current power to
29 reject the recommendations or petitions. Under current law, the
30 commission is required to observe the following standards when
31 deciding whether to accept or reject a recommendation or petition:

32 1. To encourage the regularization of the employment of
33 longshoremen;

34 2. To bring the number of eligible longshoremen into balance
35 with the demand for longshoremen's services within the port
36 without reducing the number of longshoremen below that necessary
37 to meet the requirements of the port;

38 3. To encourage the mobility and full utilization of the existing
39 work force of longshoremen;

40 4. To protect the job security of the existing work force of
41 longshoremen by considering the wages and employment benefits
42 of prospective registrants;

43 5. To eliminate oppressive and evil hiring practices injurious to
44 waterfront labor and waterborne commerce in the port, including
45 oppressive and evil hiring practices that may result from either a
46 surplus or shortage of labor;

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1 6. To consider the effect of technological change and
2 automation and such other economic data and facts as are relevant
3 to a proper determination; and

4 7. To protect the public interest of the port.

5 The bill, by eliminating the commission's power to reject a
6 recommendation or petition to add new employees to the
7 longshoremen's register, also removes from the law the requirement
8 to observe those standards.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 2018

STATE OF NEW JERSEY

DATED: MAY 14, 2007

The Senate Transportation Committee reports favorably Senate Bill No. 2018.

This bill requires the Waterfront Commission of New York Harbor to accept any application for the inclusion of new employees in the longshoremen's register of the Port of New York District upon either: (1) a written joint recommendation by the employers and labor organizations of the longshoremen; or (2) a written petition by an employer of longshoremen which does not have collective bargaining with a labor organization representing the longshoremen.

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The bill, by eliminating the commission's power to reject a recommendation or petition to add new employees to the longshoremen's register, also removes from the law the requirement to observe those standards.

The bill is to take effect upon enactment of complementary legislation by the State of New York.

This bill is the same as A-3123, released by the committee on the same day.