

32:23-114

LEGISLATIVE HISTORY CHECKLIST

(Waterfront Commission Act-
amends re longshoremans register)

NJSA 32:23-114

LAWS 1982

CHAPTER 33

Bill No. A689

Sponsor(s) Jackman and others

Date Introduced Feb. 1, 1982

Committee: Assembly

Senate Labor, Industry and Professions

Amended during passage Yes ~~XXX~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly Feb. 8, 1982

Senate March 15, 1982

Date of approval May 14, 1982

Following statements are attached if available:

Sponsor statement Yes ~~XXX~~

Committee Statement: Assembly ~~Yes~~ No

Senate Yes ~~XXX~~

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

New York statute, as mentioned in committee statute:
P.L. 1982, c. 64 (approved 4-20-82)

33

5-14-82

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 689

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 1, 1982

By Assemblymen JACKMAN, T. GALLO, COWAN, VISOTCKY,
JANISZEWSKI, PATERO, DOYLE, PELLECCCHIA, HOLLEN-
BECK, DEVERIN, ZANGARI, GORMAN, OTLOWSKI, DORIA,
MATTHEWS, Assemblywoman KALIK, Assemblymen CHARLES,
LITTELL and KAVANAUGH

(Without Reference)

AN ACT to amend the "Waterfront ***[and Airport]*** Commission
Act," approved June 30, 1953 (P. L. 1953, c. 202) as amended
and supplemented.

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

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

3 2. 5-p 1. The commission shall suspend the acceptance of
4 application for inclusion in the longshoremen's register for a
5 period of 60 days after the effective date of this act. Upon the
6 termination of such 60 day period the commission shall thereafter
7 have the power to make determinations to suspend the acceptance
8 of application for inclusion in the longshoremen's register for such
9 periods of time as the commission may from time to time establish
10 and, after any such period of suspension, the commission shall have
11 the power to make determinations to accept applications, which
12 shall be processed in the order in which they are filed with the
13 commission, for such period of time as the commission may estab-
14 lish or in such number as the commission may determine, or both.
15 Such determinations to suspend or accept applications shall be
16 made by the commission on its own initiative or upon the joint
17 recommendation in writing of stevedores and other employers of

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendment adopted March 1, 1982.

18 longshoremen in the Port of New York District, acting through
19 their representative for the purposes of collective bargaining with
20 a labor organization representing such longshoremen in such dis-
21 trict and such labor organization, which joint recommendation the
22 commission shall have the power to accept or reject.

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

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

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

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

34 (d) To protect the job security of the existing work force of
35 longshoremen;

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

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

44 In observing the foregoing standards and before determining to
45 suspend or accept applications for inclusion in the longshoremen's
46 register, the commission shall consult with and consider the views
47 of, including any statistical data or other factual information con-
48 cerning the size of the longshoremen's register submitted by,
49 carriers of freight by water, stevedores, waterfront terminal own-
50 ers and operators, any labor organization representing employees
51 registered by the commission, and any other person whose interests
52 may be affected by the size of the longshoremen's register.

53 3. Any determination by the commission pursuant to this section
54 to suspend or accept applications for inclusion in the longshore-
55 men's register shall be made upon a record, shall not become effec-
56 tive until 5 days after notice thereof to the collective bargaining
57 representative of stevedores and other employers of longshoremen
58 in the Port of New York District and to the labor organization
59 representing such longshoremen and shall be subject to judicial
60 review for being arbitrary, capricious, and an abuse of discretion

61 in a proceeding jointly instituted by such representative and such
62 labor organization. Such judicial review proceeding may be insti-
63 tuted in either state in the manner provided by the law of such
64 state for review of the final decision or action of administrative
65 agencies of such state, provided, however, that such proceeding
66 shall be decided directly by the appellate division as the court of
67 first instance (to which the proceeding shall be transferred by
68 order of transfer by the Supreme Court in the State of New York
69 or in the State of New Jersey by notice of appeal from the commis-
70 sion's determination) and provided further that notwithstanding
71 any other provision of law in either state no court shall have power
72 to stay the commission's determination prior to final judicial deci-
73 sion for more than 15 days. In the event that the court enters a
74 final order setting aside the determination by the commission to
75 accept applications for inclusion in the longshoremen's register,
76 the registration of any longshoremen included in the longshore-
77 men's register as a result of such determination by the commission
78 shall be canceled.

79 This section shall apply, notwithstanding any other provision of
80 this act, provided, however, such section shall not in any way limit
81 or restrict the provision of section 5 of article IX of this act
82 empowering the commission to register longshoremen on a tempo-
83 rary basis to meet special or emergency needs or the provisions of
84 section 4 of article IX of this act relating to the immediate rein-
85 statement of persons removed from the longshoremen's register
86 pursuant to article IX of this act. Nothing in this section shall be
87 construed to modify, limit or restrict in any way any of the rights
88 protected by article 15 of this act.

89 *4. Notwithstanding any other provision of this act, the commis-*
90 *sion may include in the longshoremen's register under such terms*
91 *and conditions as the commission may prescribe:*

92 *(a) a person issued registration on a temporary basis to meet*
93 *special or emergency needs who, on the effective date of this act,*
94 *is still so registered by the commission; and*

95 *(b) a person defined as a "longshoreman" in subdivision (6) of*
96 *section 1 (5-a) of P. L. 1954, c. 14 (C. 32:23-85), who is employed*
97 *by a stevedore as defined in paragraphs (b) or (c) of subdivision*
98 *(1) of the same section (C. 32:23-85) and whose employment is*
99 *not subject to the guaranteed annual income provisions of any*
100 *collective bargaining agreement relating to longshoremen.*

1 2. This act shall take effect upon the enactment into law by the
2 State of New York of legislation having an identical effect with this
3 act, but if the State of New York shall have already enacted such
4 legislation then it shall take effect immediately.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 689

with Senate committee amendment

STATE OF NEW JERSEY

DATED: MARCH 1, 1982

This bill allows the Waterfront Commission to open the longshoremen's register to:

a. Approximately 550 persons who were brought in nearly 21½ years ago and were granted temporary permits to do "hold work" of unloading bananas, fruits, and other cargo that longshoremen no longer want to handle; and

b. Approximately 2,300 persons who were given temporary permits to do ancillary work to the loading and unloading of vessels, such as maintenance work, weighing of cargo and repair of containers.

These two categories of personnel are not subject to any bargaining agreement that provides for entitlement to the longshoremen's guaranteed annual income.

The Waterfront Commission, the New York Shippers Association and the International Longshoremen's Association support the bill.

The committee amended the bill because the title of the bill does not appear to be accurate. The short title of the act was changed to the "Waterfront and Airport Commission Act" by P. L. 1970, c. 58. To be effective that 1970 act had to be enacted by New York and consented to by Congress. Although New York enacted the measure, the Congress has never given its consent and, therefore, the old short title, "Waterfront Commission Act," appears to be the correct title.

STATEMENT

The proposed legislation would provide an exception for two classes of workers to the statute of the Waterfront Commission of New York Harbor that provides for the periodic closing and opening of the Longshoremen's Register.

The bi-State compact of the Waterfront Commission of New York Harbor provides that the commission may register dock workers on a temporary basis to meet the special or emergency needs of stevedore and steamship employers for longshore services. However, the commission has already extended the temporary status of some 557 workers several times and is now uncertain of its special and emergency authority to do so again. The bill would, therefore, make the aforesaid workers permanent registrants. The affected workers are those who, in 1979, as a result of a 1978 joint labor-management petition, were temporarily added to the commission's register to fill existing and continuing vacancies in longshore labor gangs and "banana work lists."

The second category of personnel to be made exempt from the "closed register" statute under this bill are those longshoremen—about 2300 in number—who do work incidental to the movement of waterborne freight. These are not the traditional "deep-sea" longshoremen, but those who are assigned to such tasks as the repair of containers, the weighing of cargo and general maintenance.

These two categories of personnel are not subject to any bargaining agreement that provides for entitlement to the longshoremen's guaranteed annual income.

To become effective, the bill requires concurrence by the State of New York. Bills have been introduced in both Houses of the New York Legislature with similar provisions.

The bill ensures that the exception to the "closed register" for the 1979 personnel additions apply only to those who are still on the register when the bill becomes effective.

A689(1982)