

5878--B

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I N   S E N A T E

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Introduced by Sens. LANZA, FUSCHILLO, FLANAGAN, GOLDEN, MARTINS, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend chapter 154 of the laws of 1921, providing for the establishment of the Port of New York Authority, in relation to enacting the "Port Authority of New York and New Jersey Transparency and Accountability Act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "Port Authority of New York and New Jersey Transparency and Account-  
3     ability Act".  
4     S 2. Subdivisions 2 and 3 of article XV-A of section 1 of chapter 154  
5     of the laws of 1921, providing for the establishment of the Port of New  
6     York Authority, as added by chapter 275 of the laws of 1992, are amended  
7     to read as follows:  
8     2. As used in this act:  
9     [a.] "Board" means the board of commissioners of the Port Authority of  
10    New York and New Jersey.  
11    [b.] "COMMITTEE" OR "COMMITTEES" MEANS THE AUDIT COMMITTEE, THE GOVER-  
12    NANCE COMMITTEE, AND THE FINANCE COMMITTEE REQUIRED TO BE ESTABLISHED BY  
13    THE BOARD IN ACCORDANCE WITH SUBDIVISIONS 2, 3 AND 4 OF ARTICLE XV-B OF  
14    THIS SECTION.  
15    "Meeting" means any gathering, whether corporeal or by means of commu-  
16    nication equipment, which is attended by, or open to, the board, held

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 with the intent, on the part of the board members present, to discuss or  
2 act as a unit upon the specific public business of the authority. "Meet-  
3 ing" does not mean a gathering (1) attended by less than an effective  
4 majority of the board, or (2) attended by or open to all the members of  
5 three or more similar public bodies at a convention or similar gather-  
6 ing.

7 [c.] "Public business" mean matters which relate in any way, directly  
8 or indirectly, to the performance of the functions of the port authority  
9 of New York and New Jersey or the conduct of its business.

10 3. The board shall adopt and promulgate appropriate rules and regu-  
11 lations concerning the right of the public to be present at meetings of  
12 the authority. The board may incorporate in its rules and regulations  
13 conditions under which it may exclude the public from a meeting or a  
14 portion thereof.

15 Any rules or regulations adopted hereunder shall become a part of the  
16 minutes of the port authority of New York and New Jersey and shall be  
17 subject to the approval of the governor of New Jersey and the governor  
18 of New York.

19 THE BOARD SHALL MAKE OR CAUSE TO BE MADE ALL REASONABLE EFFORTS TO  
20 ENSURE THAT MEETINGS ARE HELD IN FACILITIES THAT PERMIT BARRIER-FREE  
21 PHYSICAL ACCESS TO THE PHYSICALLY HANDICAPPED. IF AND WHEN THE BOARD  
22 USES VIDEO CONFERENCING OR SIMILAR TECHNOLOGY TO CONDUCT ITS MEETING, IT  
23 SHALL PROVIDE AN OPPORTUNITY FOR THE PUBLIC TO ATTEND, LISTEN, AND  
24 OBSERVE AT ANY SITE AT WHICH A MEMBER PARTICIPATES.

25 S 3. Section 1 of chapter 154 of the laws of 1921, providing for the  
26 establishment of the Port of New York Authority, is amended by adding  
27 five new articles XV-B, XV-C, XV-D, XV-E and XV-F to read as follows:

28 ARTICLE XV-B

29 1. THE BOARD SHALL:

30 A. EXECUTE DIRECT OVERSIGHT OF THE AUTHORITY'S CHIEF EXECUTIVE AND  
31 OTHER SENIOR MANAGEMENT IN THE EFFECTIVE AND ETHICAL MANAGEMENT OF THE  
32 AUTHORITY;

33 B. UNDERSTAND, REVIEW, AND MONITOR THE IMPLEMENTATION OF FUNDAMENTAL  
34 FINANCIAL AND MANAGEMENT CONTROLS AND OPERATIONAL DECISIONS OF THE  
35 AUTHORITY;

36 C. ESTABLISH POLICIES REGARDING THE PAYMENT OF SALARY AND OVERTIME,  
37 REIMBURSEMENTS, AND OTHER COMPENSATION TO, AND ESTABLISH RULES FOR THE  
38 TIME AND ATTENDANCE OF, ALL OFFICERS AND EMPLOYEES OF THE AUTHORITY;

39 D. REQUIRE EACH BOARD MEMBER, AT THE TIME THAT THE BOARD MEMBER TAKES  
40 AND SUBSCRIBES THE OATH OF OFFICE, OR WITHIN 60 DAYS AFTER THE EFFECTIVE  
41 DATE OF THIS ARTICLE IF THE MEMBER HAS ALREADY TAKEN AND SUBSCRIBED THE  
42 OATH OF OFFICE, TO EXECUTE A STATEMENT, IN SUCH FORM AS THE ATTORNEYS  
43 GENERAL OF NEW YORK AND NEW JERSEY SHALL JOINTLY PRESCRIBE, IN WHICH THE  
44 BOARD MEMBER DECLARES THAT THE MEMBER UNDERSTANDS THE MEMBER'S INDEPEND-  
45 ENCE AND FIDUCIARY DUTIES, INCLUDING THE MEMBER'S DUTY OF LOYALTY AND  
46 CARE TO THE AUTHORITY AND COMMITMENT TO THE AUTHORITY'S MISSION;

47 E. REQUIRE THAT A NEEDS ASSESSMENT BE CONDUCTED BY AN INDEPENDENT  
48 ENTITY PRIOR TO ANY PROPOSED INCREASE IN FEES, TOLLS, CHARGES, OR FARES;  
49 AND

50 F. REQUIRE AN EFFICIENCY STUDY BE CONDUCTED BY AN EFFICIENCY EXPERT ON  
51 AN ANNUAL BASIS TO IDENTIFY ANY WASTE OR ABUSE INVOLVING THE AUTHORITY.

52 2. THE BOARD SHALL ESTABLISH AN AUDIT COMMITTEE TO BE COMPRISED OF NOT  
53 LESS THAN THREE BOARD MEMBERS, WHO SHALL CONSTITUTE A MAJORITY ON THE  
54 COMMITTEE, AND WHO SHALL POSSESS THE NECESSARY SKILLS TO UNDERTAKE THE  
55 DUTIES AND FUNCTIONS OF THE AUDIT COMMITTEE. THE COMMITTEE SHALL RECOM-  
56 MEND TO THE BOARD THE HIRING OF AN INDEPENDENT FIRM OF CERTIFIED PUBLIC

ACCOUNTANTS TO AUDIT THE AUTHORITY, ESTABLISH THE COMPENSATION TO BE PAID TO THE ACCOUNTING FIRM, AND PROVIDE DIRECT OVERSIGHT OF THE ANNUAL INDEPENDENT FINANCIAL AUDIT PERFORMED BY THE ACCOUNTING FIRM HIRED FOR SUCH AUDITING PURPOSES. MEMBERS OF THE AUDIT COMMITTEE SHALL BE FAMILIAR WITH CORPORATE FINANCIAL AND ACCOUNTING PRACTICES AND SHALL BE OR BECOME FINANCIALLY LITERATE ABOUT APPLICABLE FINANCIAL LAWS, RULES, REGULATIONS, AND STANDARD INDUSTRY PRACTICES.

3. THE BOARD SHALL ESTABLISH A GOVERNANCE COMMITTEE TO BE COMPRISED OF NOT LESS THAN THREE BOARD MEMBERS, WHO SHALL CONSTITUTE A MAJORITY ON THE COMMITTEE, AND WHO SHALL POSSESS THE NECESSARY SKILLS TO UNDERTAKE THE DUTIES AND FUNCTIONS OF THE GOVERNANCE COMMITTEE. IT SHALL BE THE RESPONSIBILITY OF THE MEMBERS OF THE GOVERNANCE COMMITTEE TO KEEP THE BOARD INFORMED OF CURRENT BEST GOVERNANCE PRACTICES; TO REVIEW CORPORATE GOVERNANCE TRENDS; TO UPDATE THE AUTHORITY'S CORPORATE GOVERNANCE PRINCIPLES; TO ADVISE APPOINTING AUTHORITIES ON THE SKILLS AND EXPERIENCE REQUIRED OF POTENTIAL BOARD MEMBERS; TO EXAMINE ETHICAL AND CONFLICT OF INTEREST ISSUES; TO PERFORM BOARD SELF-EVALUATIONS; TO INVESTIGATE TERM LIMITS, REAPPOINTMENTS AND BOARD RESPONSIBILITIES; TO DEVELOP BY-LAWS WHICH INCLUDE RULES AND PROCEDURES FOR CONDUCT OF BOARD BUSINESS; AND TO MAKE RECOMMENDATIONS FOR NEW COMMISSIONERS.

4. THE BOARD SHALL ESTABLISH A FINANCE COMMITTEE TO BE COMPRISED OF NOT LESS THAN THREE BOARD MEMBERS, WHO SHALL CONSTITUTE A MAJORITY ON THE COMMITTEE, AND WHO SHALL POSSESS THE NECESSARY SKILLS TO UNDERTAKE THE DUTIES AND FUNCTIONS OF THE COMMITTEE. IT SHALL BE THE RESPONSIBILITY OF THE MEMBERS OF THE FINANCE COMMITTEE TO OVERSEE AND APPROVE THE ISSUANCE OF DEBT THAT THE AUTHORITY OR SUBSIDIARY COMMISSIONS ISSUE.

#### ARTICLE XV-C

THE AUTHORITY SHALL SUBMIT TO THE GOVERNORS OF NEW YORK AND NEW JERSEY, THE TEMPORARY PRESIDENT AND MINORITY LEADER OF THE SENATE AND THE SPEAKER AND MINORITY LEADER OF THE ASSEMBLY OF THE STATE OF NEW YORK, THE PRESIDENT AND MINORITY LEADER OF THE SENATE AND THE SPEAKER AND MINORITY LEADER OF THE GENERAL ASSEMBLY OF THE STATE OF NEW JERSEY, THE NEW YORK STATE COMPTROLLER, AND THE STATE TREASURER OF NEW JERSEY WITHIN 90 DAYS AFTER THE END OF THE AUTHORITY'S FISCAL YEAR, A COMPLETE AND DETAILED REPORT OR REPORTS SETTING FORTH:

1. THE AUTHORITY'S OPERATIONS AND ACCOMPLISHMENTS;

2. FINANCIAL REPORTS CERTIFIED BY THE CHAIR AND VICE-CHAIR OF THE BOARD, AND THE EXECUTIVE DIRECTOR, DEPUTY EXECUTIVE DIRECTOR AND CHIEF FINANCIAL OFFICER OF THE AUTHORITY, INCLUDING (A) AUDITED FINANCIALS IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP) AND THE ACCOUNTING STANDARDS ISSUED BY THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD (GASB), (B) GRANT AND SUBSIDY PROGRAMS, (C) OPERATING AND FINANCIAL RISKS, (D) CURRENT RATINGS AND NOTICE OF CHANGES, AND (E) LONG-TERM LIABILITIES, INCLUDING LEASES AND EMPLOYEE BENEFIT PLANS;

3. THE AUTHORITY'S MISSION STATEMENT;

4. A SCHEDULE OF THE AUTHORITY'S BONDS AND NOTES OUTSTANDING AT THE END OF THE AUTHORITY'S FISCAL YEAR, TOGETHER WITH A STATEMENT OF THE AMOUNTS REDEEMED AND INCURRED DURING SUCH FISCAL YEAR AS PART OF A SCHEDULE OF DEBT ISSUANCE THAT INCLUDES THE DATE OF ISSUANCE, TERM, AMOUNT, INTEREST RATE AND MEANS OF REPAYMENT. ADDITIONALLY, THE DEBT SCHEDULE SHALL ALSO INCLUDE ALL REFINANCINGS, CALLS, REFUNDINGS, DEFEASEMENTS AND INTEREST RATE EXCHANGES OR OTHER SUCH AGREEMENTS, AND FOR ANY DEBT ISSUED DURING THE REPORTING YEAR, THE SCHEDULE SHALL ALSO INCLUDE A DETAILED LIST OF COSTS OF ISSUANCE FOR SUCH DEBT;

1 5. BIOGRAPHICAL INFORMATION AND TITLE OF COMMISSIONERS AND SENIOR  
2 MANAGEMENT, INCLUDING COMPENSATION AND BENEFITS PAID TO COMMISSIONERS  
3 AND TO SENIOR STAFF IN ANY AMOUNT;

4 6. THE PROJECTS UNDERTAKEN BY THE AUTHORITY DURING THE PAST YEAR;

5 7. THE AUTHORITY'S CODE OF ETHICS;

6 8. AN ASSESSMENT OF THE EFFECTIVENESS OF THE AUTHORITY'S INTERNAL  
7 CONTROL STRUCTURE AND PROCEDURES;

8 9. A DESCRIPTION OF THE AUTHORITY AND ITS BOARD STRUCTURE, INCLUDING  
9 (A) NAMES OF COMMITTEES AND COMMITTEE MEMBERS, (B) LISTS OF BOARD MEET-  
10 INGS AND ATTENDANCE, (C) DESCRIPTIONS OF MAJOR AUTHORITY UNITS, AND  
11 SUBSIDIARIES, AND (D) NUMBER OF EMPLOYEES;

12 10. THE AUTHORITY'S CHARTER AND BY-LAWS;

13 11. A LISTING OF MATERIAL CHANGES IN OPERATIONS AND PROGRAMS;

14 12. AT A MINIMUM A FOUR-YEAR FINANCIAL PLAN, INCLUDING (A) A CURRENT  
15 AND PROJECTED CAPITAL BUDGET, AND (B) AN OPERATING BUDGET REPORT,  
16 INCLUDING AN ACTUAL VERSUS ESTIMATED BUDGET, WITH AN ANALYSIS AND MEAS-  
17 UREMENT OF FINANCIAL AND OPERATING PERFORMANCE;

18 13. THE AUTHORITY'S BOARD PERFORMANCE EVALUATIONS; AND

19 14. A DESCRIPTION OF ANY PENDING LITIGATION IN WHICH THE AUTHORITY IS  
20 INVOLVED AS A PARTY AND RELATED EXPENSES THERETO.

21 THE AUTHORITY SHALL MAKE ACCESSIBLE TO THE PUBLIC, VIA ITS OFFICIAL OR  
22 SHARED INTERNET WEB SITE, DOCUMENTATION PERTAINING TO ITS MISSION,  
23 CURRENT ACTIVITIES, MOST RECENT ANNUAL FINANCIAL REPORTS, CURRENT YEAR  
24 BUDGET AND ITS MOST RECENT INDEPENDENT AUDIT REPORT.

25 ARTICLE XV-D

26 1. A. NOT LESS THAN 30 DAYS PRIOR TO ADOPTION BY THE AUTHORITY OF ANY  
27 INCREASE IN ANY FEE, TOLL, CHARGE, OR FARE FOR THE USE OF THE TRANSPOR-  
28 TATION FACILITIES OF THE AUTHORITY, OR NOT LESS THAN 15 DAYS PRIOR TO  
29 ADOPTION BY THE AUTHORITY OF AN AMENDMENT TO THE PROPOSED FEE, TOLL,  
30 CHARGE, OR FARE INCREASE, THE BOARD SHALL CONDUCT AT LEAST 10 PUBLIC  
31 HEARINGS.

32 B. NOT LESS THAN ONE PUBLIC HEARING REQUIRED PURSUANT TO PARAGRAPH A  
33 OF THIS SUBDIVISION SHALL BE CONDUCTED IN EACH COUNTY IN NEW YORK AND  
34 NEW JERSEY DIRECTLY AFFECTED BY THE PROPOSED FEE, TOLL, CHARGE, OR FARE  
35 INCREASE, AS DETERMINED BY THE BOARD IN CONSULTATION WITH LOCAL AND  
36 STATE OFFICIALS.

37 2. EACH PUBLIC HEARING SHALL BE ATTENDED BY ALL OF THE COMMISSIONERS  
38 OF THE AUTHORITY THEN IN OFFICE AT THE TIME OF THE HEARING AND NO MORE  
39 THAN ONE PUBLIC HEARING SHALL BE HELD IN A SINGLE DAY.

40 3. AT LEAST ONE-HALF OF THE PUBLIC HEARINGS SHALL BE SCHEDULED TO  
41 BEGIN AFTER 6LABOR P.M., EASTERN STANDARD TIME, ON A WEEKDAY.

42 ARTICLE XV-E

43 1. AT EACH MEETING OF THE BOARD AND AT EACH MEETING OF EACH COMMITTEE,  
44 THE PUBLIC SHALL BE ALLOTTED A PERIOD OF TIME, NOT LESS THAN 30 MINUTES,  
45 TO SPEAK ON ANY TOPIC ON THE AGENDA. THE PUBLIC SPEAKING PERIOD SHALL  
46 TAKE PLACE PRIOR TO ANY BOARD OR COMMITTEE ACTION.

47 2. THE AUTHORITY SHALL MAKE AVAILABLE TO THE PUBLIC MEETING AGENDAS  
48 AND PUBLIC DOCUMENTS PROVIDED TO THE BOARD AT LEAST 5 BUSINESS DAYS  
49 BEFORE EACH MEETING OF THE BOARD AND EACH MEETING OF EACH COMMITTEE.  
50 PUBLIC NOTICE OF THE TIME AND PLACE OF A MEETING SHALL BE PROVIDED TO  
51 APPROPRIATE MEDIA OUTLETS, SHALL BE CONSPICUOUSLY POSTED IN ONE OR MORE  
52 DESIGNATED AREAS AT LEAST 72 HOURS BEFORE SUCH MEETING, AND SHALL BE  
53 CONSPICUOUSLY POSTED VIA THE AUTHORITY'S OFFICIAL INTERNET WEBSITE AT  
54 LEAST 5 BUSINESS DAYS BEFORE THE MEETING.

55 THE AUTHORITY SHALL MAKE AVAILABLE TO THE PUBLIC SUCH DOCUMENTS IN THE  
56 FOLLOWING MANNER: (A) THE AGENDA AND PUBLIC DOCUMENTS PERTAINING TO A

1 BOARD OR COMMITTEE MEETING SHALL BE AVAILABLE FOR PUBLIC INSPECTION AT  
2 AN OFFICE OF THE AUTHORITY; AND (B) THE AGENDA AND PUBLIC DOCUMENTS  
3 PERTAINING TO A BOARD OR COMMITTEE MEETING SHALL BE POSTED ON THE  
4 AUTHORITY'S OFFICIAL INTERNET WEBSITE. IN ADDITION, THE AUTHORITY SHALL  
5 SEND VIA ELECTRONIC MAIL, THE AGENDA AND PUBLIC DOCUMENTS PERTAINING TO  
6 A BOARD OR COMMITTEE MEETING TO EACH MEMBER OF THE NEW YORK LEGISLATURE  
7 AND THE NEW JERSEY LEGISLATURE.

8 3. MINUTES SHALL BE TAKEN AT ALL OPEN MEETINGS OF THE AUTHORITY. THE  
9 MINUTES SHALL CONSIST OF A RECORD OR SUMMARY OF ALL MOTIONS, PROPOSALS,  
10 RESOLUTIONS, AND ANY OTHER MATTER FORMALLY VOTED UPON AND THE VOTE THERE-  
11 EON. MINUTES SHALL BE TAKEN AT EXECUTIVE SESSIONS OF ANY ACTION THAT IS  
12 TAKEN BY FORMAL VOTE AND SHALL CONSIST OF A RECORD OR SUMMARY OF THE  
13 FINAL DETERMINATION OF SUCH ACTION, AND THE VOTE THEREON; PROVIDED,  
14 HOWEVER, THAT SUCH SUMMARY NEED NOT INCLUDE ANY MATTER WHICH IS NOT  
15 REQUIRED TO BE MADE PUBLIC BY EITHER NEW YORK'S FREEDOM OF INFORMATION  
16 LAW OR NEW JERSEY'S OPEN PUBLIC RECORDS ACT, P.L. 1963, C. 73 (C.47:1A-1  
17 ET SEQ.). MINUTES OF EACH MEETING SHALL BE AVAILABLE TO THE PUBLIC WITH-  
18 IN 2 WEEKS FROM THE DATE OF SUCH MEETING.

19 ARTICLE XV-F

20 THE BOARD SHALL CONDUCT AT LEAST 10 PUBLIC HEARINGS NOT MORE THAN 90  
21 DAYS PRIOR TO THE IMPLEMENTATION OF A TOLL INCREASE ADOPTED BY THE  
22 AUTHORITY PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE IN THE MANNER  
23 PRESCRIBED PURSUANT TO ARTICLE XV-D OF THIS SECTION.

24 S 4. This act shall take effect upon the enactment into law by the  
25 state of New Jersey of legislation having an identical effect with this  
26 act, but if the state of New Jersey shall have already enacted such  
27 legislation, this act shall take effect immediately; provided that the  
28 board of commissioners of the port authority of New York and New Jersey  
29 shall notify the legislative bill drafting commission upon the occur-  
30 rence of the enactment of the legislation provided for in sections two  
31 and three of this act in order that the commission may maintain an accu-  
32 rate and timely effective data base of the official text of the laws of  
33 the state of New York in furtherance of effectuating the provisions of  
34 section 44 of the legislative law and section 70-b of the public offi-  
35 cers law.