

STATE OF NEW YORK

9838

IN ASSEMBLY

February 20, 2020

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend chapter 154 of the laws of 1921 relating to the port authority of New York and New Jersey, in relation to port authority organization, appearance and notice

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 1 and 2 of article 4 of section 1 of chapter 154 of the laws of 1921 relating to the port authority of New York and New Jersey, as amended by chapter 559 of the laws of 2015, are amended to read as follows:

1. Commissioners. a. The port authority shall consist of twelve voting commissioners and four non-voting commissioners as described in paragraph b of this subdivision. Of the twelve voting commissioners^[7]there shall be six resident voters from the state of New York, at least four of whom shall be resident voters of the city of New York, and six resident voters from the state of New Jersey, at least four of whom shall be resident voters within the New Jersey portion of the district, the New York members to be chosen by the state of New York and the New Jersey members by the state of New Jersey in the manner and for the terms fixed and determined from time to time by the legislature of each state respectively, except as herein provided. The New York members shall be appointed by the governor of New York with the advice and consent of the New York state senate. The New Jersey members shall be appointed by the governor of New Jersey with the advice and consent of the New Jersey state senate. Each commissioner may be removed or suspended from office as provided by the law of the state from which he shall be appointed. Any commissioner appointed to a term commencing on or after January 1, 2021 shall have experience in one or more of the following areas: transportation, public administration, business management, finance, accounting, law, engineering, land use, urban and regional planning, management of large capital projects, labor relations, or experience in some other area of activity central to the mission of the port authority. One of the six voting commissioners

EXPLANATION--Matter in italics (underscored) is new; matter in brackets ^[7] is old law to be omitted.

LBD15443-03-0

1 chosen by the state of New York shall be appointed on the written recom-
2 mendation of the mayor of the city of New York. The voting commissioners
3 shall be appointed for a term of six years and shall serve no more than
4 two terms. The terms of the voting commissioners shall be staggered so
5 that three of the six voting commissioners appointed by the state of New
6 York will have their terms expire in alternating three year shifts and
7 three of the six voting commissioners appointed by the state of New
8 Jersey will have their terms expire in alternating three years shifts.

9 b. There shall be four non-voting commissioners of the port authority,
10 as established in paragraph a of this subdivision. The first non-voting
11 commissioner shall be a regular mass transit user of the state of New
12 York based facilities of the authority and be recommended to the gover-
13 nor of the state of New York by a rider advocacy group. The second non-
14 voting commissioner shall be a regular user of the state of New Jersey
15 based facilities of the authority and shall be recommended to the gover-
16 nor of the state of New Jersey by a rider advocacy group. The third
17 non-voting commissioner shall be recommended to the governor of the
18 state of New York by the labor organization representing the majority of
19 authority employees working in the state of New York. The fourth non-
20 voting commissioner shall be recommended to the governor of the state of
21 New Jersey by the labor organization representing the majority of
22 authority employees working in the state of New Jersey. The four non-
23 voting commissioners of the port authority shall be appointed for a term
24 of six years and shall serve no more than two terms.

25 2. Officers. a. The officers of the port authority shall be [~~a chair-~~
26 ~~person, a vice chairperson~~] two co-chairpersons, a chief executive offi-
27 cer, a general counsel, a chief financial officer, a chief ethics and
28 compliance officer, an inspector general, a treasurer, a comptroller,
29 and a secretary. Beginning upon the next hiring of a chief executive
30 officer [~~but no later than a year from the effective date of the chapter~~
31 ~~of the laws of 2015 that amended this article~~], the positions of [~~chair-~~
32 ~~person and vice chairperson~~] co-chairpersons shall [~~be rotated for a~~
33 ~~term of two years among commissioners appointed by New York and New~~
34 ~~Jersey, with a chairperson elected first from among those commissioners~~
35 ~~appointed by the governor of New York and a vice chairperson elected~~
36 ~~first from among those commissioners appointed by the governor of New~~
37 ~~Jersey, after which the next chairperson shall be elected from among~~
38 ~~those appointed by the governor of New Jersey and the next vice chair-~~
39 ~~person shall be elected from among those appointed by the governor of~~
40 ~~New York and thereafter the positions of chairperson and vice chair-~~
41 ~~person shall rotate every two years in the same order as established~~
42 ~~herein provided that the failure of the board of commissioners to elect~~
43 ~~a new chairperson and vice chairperson shall not prevent the rotation of~~
44 ~~the positions of chairperson and vice chairperson to the next succeeding~~
45 ~~state~~] commence with one co-chairperson to be elected by the board of
46 commissioners from among such commissioners upon the recommendation of
47 the governor of the state of New York and one co-chairperson to be
48 elected by the board of commissioners from among such commissioners upon
49 the recommendation of the governor of the state of New Jersey.

50 b. No commissioner, including [~~the chairperson~~] either co-chairperson,
51 shall serve as the port authority's chief executive officer, general
52 counsel, chief financial officer, chief ethics and compliance officer,
53 inspector general, or comptroller, or hold any other equivalent position
54 while serving as a commissioner.

55 § 2. Subdivision 3 of article 7-B of section 1 of chapter 154 of the
56 laws of 1921 relating to the port authority of New York and New Jersey,

1 as amended by chapter 559 of the laws of 2015, is amended to read as
2 follows:

3 3. Appearance. a. The port authority, at the request of the Assembly
4 or Senate of the New York state legislature or the General Assembly or
5 Senate of the New Jersey state legislature, shall be required to appear
6 before a committee of the requesting state legislative house, upon
7 request by the presiding officer of that state legislative house, to
8 present testimony on any topic or subject requested by the committee or
9 to respond to questions by members of the committee. The Assembly of
10 the New York state legislature, the Senate of the New York state legis-
11 lature, the General Assembly of the New Jersey state legislature, and
12 the Senate of the New Jersey state legislature shall each be entitled to
13 two such requests per calendar year.

14 b. Unless otherwise agreed to by the presiding officer of the state
15 legislative house requesting the appearance of the port authority, the
16 port authority shall, at a minimum, be represented by a co-chairperson
17 of the board, chief executive officer, the chief financial officer, and
18 any staff deemed necessary by such co-chairperson of the board, chief
19 executive officer, or the chief financial officer to present testimony
20 or respond to questions at any appearance required pursuant to this
21 section. The presiding officer may request the appearance of any offi-
22 cer or employee of the port authority. For purposes of this section, as
23 applicable to New York state "presiding officer" shall mean the speaker
24 of the Assembly of the New York state legislature or temporary president
25 of the Senate of the New York state legislature. For purposes of this
26 section, as applicable to the state of New Jersey "presiding officer"
27 shall mean the president of the senate or the speaker of the general
28 assembly of the state of New Jersey.

29 4. Subsidiaries of the port authority. a. The port authority shall
30 provide notice to the governor of each state, the majority leader of
31 each house of the legislature of each state, the chair of the finance
32 committee of New York, the chair of the senate budget and appropriations
33 committee of New Jersey, the chair of assembly ways and means committee
34 of New York, and the chair of the budget committee of New Jersey that it
35 will be creating a subsidiary no less than 60 days prior to the forma-
36 tion of the subsidiary.

37 b. The creation of a subsidiary corporation shall be approved by the
38 board of commissioners.

39 ~~c. [On or before the first day of January, two thousand sixteen, and]~~
40 Within 60 days of the effective date of the chapter of the laws of 2020
41 that amended this subdivision, and on or before the first day of January
42 each year annually thereafter, any subsidiary corporation, in cooper-
43 ation with the port authority, shall provide to the governor and legis-
44 lature of each state a report on the subsidiary corporation. Such report
45 shall include for each subsidiary:

46 (1) The complete legal name, address and contact information of the
47 subsidiary;

48 (2) The structure of the organization of the subsidiary, including the
49 names and titles of each of its members, directors and officers, as well
50 as a chart of its organizational structure;

51 (3) The complete by-laws and legal organization papers of the subsid-
52 iary;

53 (4) A complete report of the purpose, operations, mission and projects
54 of the subsidiary; and

55 (5) Any other information the subsidiary corporation deems important
56 to include in such report.

1 d. 60 days prior to the issuance of any debt by the subsidiary corpo-
2 ration, or the port authority on behalf of the subsidiary corporation,
3 the port authority shall provide notice to the governor of each state,
4 the majority leader of each house of the legislature of each state, the
5 chair of the senate finance committee of New York, the chair of the
6 senate budget and appropriations committee of New Jersey, the chair of
7 the assembly ways and means committee of New York, and the chair of the
8 assembly budget committee of New Jersey. For purposes of this section,
9 as applicable to New York state "majority leader" shall mean the speaker
10 of the assembly of the New York state legislature or temporary president
11 of the senate of the New York state legislature. For purposes of this
12 section, as applicable to the state of New Jersey "majority leader"
13 shall mean the president of the senate or the speaker of the general
14 assembly of the state of New Jersey.

15 § 3. Paragraph b of subdivision 1 of article 7-C of section 1 of chap-
16 ter 154 of the laws of 1921 relating to the port authority of New York
17 and New Jersey, as added by chapter 559 of the laws of 2015, is amended
18 to read as follows:

19 b. a financial section including: (1) an independent auditor's report;
20 (2) management's discussion and analysis; (3) financial statements; (4)
21 its financial reports certified by the [~~chair and vice chair~~] co-chairs
22 of the board, chief executive officer, and chief financial officer of
23 the port authority, including (a) audited financials in accordance with
24 generally accepted accounting principles, known as GAAP, and the
25 accounting standards issued by the governmental accounting standards
26 board, known as GASB, (b) grant and subsidy programs, (c) current
27 ratings, if any, of its bonds issued by recognized bond rating agencies
28 and notice of changes in such ratings, and (d) long-term liabilities,
29 including leases and employee benefit plans; (5) a schedule of its bonds
30 and notes outstanding at the end of its fiscal year, together with a
31 statement of the amounts redeemed and incurred during such fiscal year
32 as part of a schedule of debt issuance that includes the date of issu-
33 ance, term, amount, interest rate and means of repayment including all
34 refinancings, calls, refundings, defeasements and interest rate exchange
35 or other such agreements; and (6) at a minimum a four-year financial
36 plan, including (a) a current and projected capital budget, and (b) an
37 operating budget report, including an actual versus estimated budget,
38 with an analysis and measurement of financial and operating performance.

39 § 4. Subdivisions 3 and 4 of article 7-D of section 1 of chapter 154
40 of the laws of 1921 relating to the port authority of New York and New
41 Jersey, as added by chapter 559 of the laws of 2015, are amended and a
42 new subdivision 5 is added to read as follows:

43 3. Capital plan. a. The port authority shall adopt a ten-year capital
44 plan that is developed using a comprehensive planning process and risk-
45 based prioritization that considers asset condition, operational and
46 revenue impact, threat assessment, customer service, regional benefit,
47 and regulatory or statutory requirements. The capital plan shall be
48 dependent upon the availability of sufficient funding and other
49 resources to pursue the capital projects proposed for the ten-year peri-
50 od. Performance progress and revisions to reflect changes in programs,
51 policies and projects and the environment in which the port authority
52 operates shall be reviewed regularly by a committee designated by the
53 board of commissioners, and the capital plan shall be revised period-
54 ically as necessary and appropriate, and shall be reviewed with the
55 board of commissioners annually. The port authority shall publish an
56 annual report on the status of the capital program and such report shall

1 be made publicly available on the port authority's website. Prior to
2 adoption of a capital plan, the port authority shall make such proposed
3 plan available for public review and comments on its public website for
4 at least [~~two~~] four weeks prior to approval, and all comments received
5 are to be distributed to the board of commissioners for review prior to
6 consideration of the capital plan.

7 b. The port authority shall also provide that major capital projects
8 are monitored by independent engineering consultants. The independent
9 consultants shall prepare annual reports to be provided to the board and
10 made available to the public. The annual reports prepared by independent
11 consultants shall include, but not be limited to, a comparison of actual
12 and target performance measures including, but not limited to, costs and
13 construction schedules, and a narrative explanation of any discrepancy
14 thereof. For the purposes of this section, "major capital project" means
15 an undertaking or program for the acquisition, creation, or development
16 of any crossing, transportation facility, or commerce facility or any
17 part thereof, with an estimated total project cost in excess of
18 \$500,000,000.

19 c. No less than 60 days prior to any board adoption of a capital plan
20 as described in paragraph a of this subdivision, or any major revision
21 of the last adopted capital plan, the port authority shall: (1) notify
22 the assembly and senate of the New York state legislature and the gener-
23 al assembly and senate of the New Jersey state legislature of its inten-
24 tion to adopt a capital plan, or any major revision of the last adopted
25 capital plan; (2) submit to the assembly and senate of the New York
26 state legislature and the general assembly and senate of the New Jersey
27 state legislature the proposed capital plan, or any proposal constitut-
28 ing a major revision of the last adopted capital plan, for review by
29 each state legislature; and (3) make the proposed capital plan, includ-
30 ing any proposal constituting a major revision of the last adopted capi-
31 tal plan, publicly available on the port authority website.

32 d. Within 60 days of the notice provided in paragraph c of this subdi-
33 vision, the port authority shall conduct a public hearing about the
34 capital plan or any major revision thereof in New York state and in the
35 state of New Jersey.

36 e. The port authority shall conduct a status update public hearing in
37 New York state and in the state of New Jersey at least once every three
38 years after the adoption of the capital plan by the port authority. Such
39 public hearing shall be known as "capital status update hearing" and at
40 such hearing the port authority shall provide in detail a written
41 description of the status of all capital plan projects and the costs and
42 the expected costs of those projects. At such public hearing, the port
43 authority shall provide a financing plan that identifies the source of
44 funding for each project. The port authority shall provide an analysis
45 that compares actual and target performance measures, and a detailed
46 written explanation of any discrepancy thereof at the public hearing.

47 4. Operating budget. The port authority shall prepare a detailed annu-
48 al operating budget beginning with the fiscal year commencing after the
49 effective date of the chapter of the laws of [~~2015~~] 2020 which [~~added~~]
50 amended this article. A preliminary annual operating budget shall be
51 made publicly available on the port authority's website in July of every
52 fiscal year and a final annual operating budget shall be made publicly
53 available in February of each fiscal year.

54 5. Port Authority Transportation Advisory Committee. a. There is here-
55 by established a port authority transportation advisory committee. The
56 purpose of the committee shall be to facilitate coordination between and

1 among the transportation agencies and officials in each state that
2 provide service or conduct business within the port district. The
3 committee shall consist of 13 members, to be appointed as follows:

4 (1) one individual appointed jointly by the co-chairs of the Port
5 Authority;

6 (2) the executive director of the New Jersey transit corporation, ex
7 officio, or the executive director's designee;

8 (3) the chair of the metropolitan transportation authority, ex offi-
9 cio, or the chair's designee;

10 (4) the commissioner of the New York city department of transpora-
11 tion, ex officio, or the commissioner's designee;

12 (5) the chairperson of the National Railroad Passenger Corporation
13 Board of Directors, ex officio, or the chairperson's designee;

14 (6) the commissioner of the New Jersey department of transportation,
15 ex officio, or the commissioner's designee;

16 (7) the commissioner of the New York state department of transpora-
17 tion, ex officio, or the commissioner's designee;

18 (8) one individual from the New Jersey executive branch, appointed by
19 the governor of New Jersey;

20 (9) one individual from the New York state executive branch, appointed
21 by the governor of New York;

22 (10) one individual appointed by the president of the New Jersey state
23 senate;

24 (11) one individual appointed by the speaker of the New Jersey state
25 general assembly;

26 (12) one individual appointed by the temporary president of the New
27 York state senate; and

28 (13) one individual appointed by the speaker of the New York state
29 assembly.

30 b. The individual appointed jointly by the co-chairs of the port
31 authority shall serve for a term of three years. The legislative
32 appointments shall serve for a term of two years each. The individuals
33 appointed from the executive branch of New Jersey and from the executive
34 branch of New York shall serve at the pleasure of each respective gover-
35 nor.

36 c. Vacancies in the membership of the committee shall be filled in the
37 same manner as the original appointments are made and a member may be
38 eligible for reappointment. Vacancies occurring other than by expiration
39 of a term shall be filled for the unexpired term.

40 d. The members of the committee shall serve without compensation but
41 shall be reimbursed for reasonable expenses necessarily incurred in the
42 performance of their duties within the limits of funds appropriated or
43 otherwise made available to the committee for its purposes.

44 e. The individual appointed jointly by the co-chairs of the port
45 authority shall serve as the chair of the committee. The committee may
46 appoint a secretary who need not be a member of the committee. The
47 committee shall meet quarterly, at a minimum, to discuss the region's
48 transportation needs and to facilitate coordination between and among
49 the transportation agencies and officials in each state and the port
50 district in furtherance of the region's transportation needs.

51 f. The committee and each meeting of the committee shall serve as a
52 vehicle for each committee member to share information about that
53 member's agency and the agency's upcoming plans and objectives. Prior to
54 the commencement by an agency represented on the committee of any major
55 capital project with an estimated cost in excess of \$50 million, the

1 individual representing that agency shall notify all members of the
2 committee.

3 § 5. Severability clause. If any clause, sentence, paragraph, subdivi-
4 sion, section or part of this act shall be adjudged by any court of
5 competent jurisdiction to be invalid, such judgment shall not affect,
6 impair, or invalidate the remainder thereof, but shall be confined in
7 its operation to the clause, sentence, paragraph, subdivision, section
8 or part thereof directly involved in the controversy in which such judg-
9 ment shall have been rendered. It is hereby declared to be the intent of
10 the legislature that this act would have been enacted even if such
11 invalid provisions had not been included herein.

12 § 6. This act shall take effect upon the enactment into law by the
13 state of New Jersey of legislation having an identical effect with this
14 act, but if the state of New Jersey shall have already enacted such
15 legislation this act shall take effect immediately. The co-chairperson
16 of the port authority as recommended by the governor of the state of New
17 York shall notify the legislative bill drafting commission upon the
18 occurrence of the enactment of the legislation provided for in sections
19 one, two, three and four of this act in order that the commission may
20 maintain an accurate and timely effective data base of the official text
21 of the laws of the state of New York in furtherance of effectuating the
22 provisions of section 44 of the legislative law and section 70-b of the
23 public officers law.