

8706

I N A S S E M B L Y

February 4, 2014

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

AN ACT to amend the waterfront and airport commission act, in relation to requiring the submission of meeting minutes for gubernatorial review and approval; in relation to providing gubernatorial veto power; and in relation to expanding gubernatorial oversight powers

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

1 Section 1. Subdivision 3 of article III of section 1 of part I of
2 chapter 882 of the laws of 1953, constituting the waterfront and airport
3 commission act, as amended by chapter 951 of the laws of 1970, is
4 amended to read as follows:

5 3. A. Three members of the commission shall constitute a quorum; but
6 the commission shall act only by a majority vote of all its members
7 TAKEN AT A MEETING OF THE COMMISSION. Any member may, by written instru-
8 ment filed in the office of the commission, designate any officer or
9 employee of the commission to act in his place as a member whenever he
10 shall be unable to attend a meeting of the commission. A vacancy in the
11 office of a member shall not impair such designation until the vacancy
12 shall have been filled. The commission shall elect one of its members
13 to serve as chairman for a term of one year; provided, however, that
14 the term of the first chairman shall expire on June thirtieth, nineteen
15 hundred seventy-one. The chairman shall represent a state other than
16 the state represented by the immediately preceding chairman.

17 B. THE COMMISSION SHALL MAINTAIN MINUTES OF ALL COMMISSION MEETINGS.
18 THE MINUTES OF EVERY MEETING OF THE COMMISSION SHALL, AS SOON AS POSSI-
19 BLE AFTER THE MEETING, BE DELIVERED, BY AND UNDER THE CERTIFICATION OF
20 THE SECRETARY OF THE COMMISSION, TO THE GOVERNOR OF THE STATE OF NEW
21 JERSEY AND THE GOVERNOR OF THE STATE OF NEW YORK.

22 C. NO ACTION TAKEN BY A COMMISSIONER AT THE MEETING SHALL HAVE FORCE
23 OR EFFECT FOR A PERIOD OF 10 DAYS, EXCEPT SATURDAYS, SUNDAYS AND NEW
24 JERSEY AND NEW YORK STATE PUBLIC HOLIDAYS, AFTER THE MINUTES HAVE BEEN
25 DELIVERED PURSUANT TO THIS SECTION, UNLESS THE GOVERNOR OF THE STATE OF
26 NEW JERSEY AND THE GOVERNOR OF THE STATE OF NEW YORK APPROVE THE

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

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1 MINUTES, OR PART THEREOF PERTAINING TO THAT ACTION, IN WRITING, BY
2 RECITING THE ACTION APPROVED, WITHIN THIS 10-DAY PERIOD.

3 D. THE GOVERNOR OF THE STATE OF NEW JERSEY AND THE GOVERNOR OF THE
4 STATE OF NEW YORK SHALL RETURN THE MINUTES TO THE COMMISSION, WITHIN THE
5 10-DAY PERIOD DESCRIBED IN PARAGRAPH C OF THIS SUBDIVISION, EITHER WITH
6 OR WITHOUT A VETO OF ANY ACTION RECITED IN THE MINUTES TAKEN. IF THE
7 GOVERNOR OF THE STATE OF NEW JERSEY AND THE GOVERNOR OF THE STATE OF NEW
8 YORK DO NOT RETURN THE MINUTES WITHIN THIS 10-DAY PERIOD, THEY SHALL BE
9 DEEMED TO HAVE APPROVED THE ACTION TAKEN BY THE COMMISSIONERS, AND SUCH
10 ACTION SHALL HAVE THE FORCE AND EFFECT AS RECITED IN THE MINUTES,
11 ACCORDING TO THE WORDING THEREOF.

12 E. IF THE GOVERNOR OF THE STATE OF NEW JERSEY OR THE GOVERNOR OF THE
13 STATE OF NEW YORK, WITHIN THE 10-DAY PERIOD DESCRIBED IN PARAGRAPH C OF
14 THIS SUBDIVISION, RETURNS THE MINUTES TO THE COMMISSION WITH A VETO
15 AGAINST AN ACTION TAKEN AT A MEETING, THAT ACTION SHALL BE NULL AND VOID
16 AND OF NO EFFECT.

17 S 2. Subdivisions 5, 7 and 11 of article IV of section 1 of part I of
18 chapter 882 of the laws of 1953, constituting the waterfront and airport
19 commission act, are amended to read as follows:

20 5. To appoint such officers, agents and employees as it may deem
21 necessary, prescribe their powers, duties and qualifications and fix
22 their compensation and, SUBJECT TO THE APPROVAL OF THE GOVERNORS IN BOTH
23 STATES, retain and employ counsel and private consultants on a contract
24 basis or otherwise;

25 7. To make and enforce such rules and regulations as the commission
26 may deem necessary to effectuate the purposes of this compact or to
27 prevent the circumvention or evasion thereof, to be effective upon
28 APPROVAL BY THE GOVERNORS OF BOTH STATES AND publication in the manner
29 which the commission shall prescribe and upon filing in the office of
30 the secretary of state of each state. A certified copy of any such
31 rules and regulations, attested as true and correct by the commission,
32 shall be presumptive evidence of the regular making, adoption, approval
33 and publication thereof;

34 11. [To] UNDER THE OVERSIGHT OF THE GOVERNORS OF BOTH STATES, TO make
35 investigations, collect and compile information concerning waterfront
36 practices generally within the port of New York district and upon all
37 matters relating to the accomplishment of the objectives of this
38 compact;

39 S 3. Subdivision 2 of article VI of section 1 of part I of chapter 882
40 of the laws of 1953, constituting the waterfront and airport commission
41 act, is amended to read as follows:

42 2. Any person intending to act as a stevedore within the port of New
43 York district shall file in the office of the commission a written
44 application for a license to engage in such occupation, duly signed and
45 verified as follows:

46 (a) If the applicant is a natural person, the application shall be
47 signed and verified by such person and if the applicant is a partner-
48 ship, the application shall be signed and verified by each natural
49 person composing or intending to compose such partnership. The applica-
50 tion shall state the full name, age, residence, business address [(if
51 any)], IF ANY, present and previous occupations of each natural person
52 so signing the same, and any other facts and evidence as may be required
53 by the commission to ascertain the character, integrity and identity of
54 each natural person so signing such application.

55 (b) If the applicant is a corporation, the application shall be signed
56 and verified by the president, secretary and treasurer thereof, and

1 shall specify the name of the corporation, the date and place of its
2 incorporation, the location of its principal place of business, the
3 names and addresses of, and the amount of the stock held by stockholders
4 owning 5 per cent or more of any of the stock thereof, and of all offi-
5 cers (including all members of the board of directors). The require-
6 ments of [subdivision] PARAGRAPH (a) of this [section] SUBDIVISION as to
7 a natural person who is a member of a partnership, and such requirements
8 as may be specified in rules and regulations promulgated by the commis-
9 sion, UPON APPROVAL OF THE GOVERNORS OF BOTH STATES, shall apply to each
10 such officer or stockholder and their successors in office or interest
11 as the case may be.

12 In the event of the death, resignation or removal of any officer, and
13 in the event of any change in the list of stockholders who shall own
14 five per cent or more of the stock of the corporation, the secretary of
15 such corporation shall forthwith give notice of that fact in writing to
16 the commission, certified by said secretary.

17 S 4. Subdivision 3 of article XII of section 1 of part I of chapter
18 882 of the laws of 1953, constituting the waterfront and airport commis-
19 sion act, is amended to read as follows:

20 3. Every employer of longshoremen or port watchmen within the port of
21 New York district shall furnish such information as may be required by
22 the rules and regulations prescribed by the commission, SUBJECT TO THE
23 APPROVAL OF THE GOVERNORS OF BOTH STATES, with regard to the name of
24 each person hired as a longshoreman or port watchman, the time and place
25 of hiring, the time, place and hours of work, and the compensation
26 therefor.

27 S 5. Subdivision 5 of article XIII of section 1 of part I of chapter
28 882 of the laws of 1953, constituting the waterfront and airport commis-
29 sion act, is amended to read as follows:

30 5. The commission may provide by regulation APPROVED BY THE GOVERNORS
31 OF BOTH STATES for the collection and auditing of assessments. Such
32 assessments hereunder shall be payable pursuant to such provisions for
33 administration, collection and enforcement as the states may provide by
34 concurrent legislation. In addition to any other sanction provided by
35 law, the commission may revoke or suspend any license held by any person
36 under this compact, or his privilege of employing persons registered or
37 licensed hereunder, for non-payment of any assessment when due.

38 S 6. Paragraph 7 of subdivision A of section 2 of part II of chapter
39 882 of the laws of 1953, constituting the waterfront and airport commis-
40 sion act, is amended to read as follows:

41 7. In addition to any other powers authorized hereunder, the commis-
42 sion shall have power to make reasonable rules and regulations, SUBJECT
43 TO THE APPROVAL OF THE GOVERNORS OF BOTH STATES, to effectuate the
44 purposes of this section.

45 S 7. Paragraph 11 of subdivision A of section 2 of part II of chapter
46 882 of the laws of 1953, constituting the waterfront and airport commis-
47 sion act, is REPEALED.

48 S 8. Subdivisions 2 and 3 of article III of section 10 of part IV of
49 chapter 882 of the laws of 1953, constituting the waterfront and airport
50 commission act, as added by chapter 951 of the laws of 1970, is amended
51 to read as follows:

52 2. To establish such divisions and departments within the commission
53 as the commission may deem necessary and to appoint such officers,
54 agents and employees as it may deem necessary, prescribe their powers,
55 duties and qualifications and fix their compensation and, SUBJECT TO THE

1 APPROVAL OF THE GOVERNORS OF BOTH STATES, retain and employ counsel and
2 private consultants on a contract basis or otherwise;

3 3. To make and enforce such rules and regulations, SUBJECT TO THE
4 APPROVAL OF THE GOVERNORS OF BOTH STATES, as the commission may deem
5 necessary to effectuate the purposes of this compact or to prevent the
6 circumvention or evasion thereof including, but not limited to, rules
7 and regulations [(which), WHICH shall be applicable to any person
8 licensed by the commission, his employer, or any other person within an
9 [airport)] AIRPORT, to provide for the maximum protection of air
10 freight, such as checking and custodial accounting, guarding, storing,
11 fencing, gatehouses, access to air freight, air freight loss reports,
12 and any other requirements which the commission in its discretion may
13 deem to be necessary and appropriate to provide such maximum protection.
14 The rules and regulations of the commission shall be effective upon
15 publication in the manner which the commission shall prescribe and upon
16 filing in the office of the secretary of state of each state. A certi-
17 fied copy of any such rules and regulations, attested as true and
18 correct by the commission, shall be presumptive evidence of the regular
19 making, adoption, approval and publication thereof;

20 S 9. Paragraph (b) of subdivision 2 of article V of section 10 of part
21 IV of chapter 882 of the laws of 1953, constituting the waterfront and
22 airport commission act, as added by chapter 951 of the laws of 1970, is
23 amended to read as follows:

24 (b) If the applicant is a corporation, the application shall be signed
25 and verified by the president, secretary and treasurer thereof, and
26 shall specify the name of the corporation, the date and place of its
27 incorporation, the location of its principal place of business, the
28 names and addresses of, and the amount of the stock held by stockholders
29 owning ten per cent or more of any of the stock thereof, and of all the
30 officers (including all members of the board of directors). The
31 requirements of subdivision (a) of this section as to a natural person
32 who is a member of a partnership, and such requirements as may be speci-
33 fied in rules and regulations promulgated by the commission, SUBJECT TO
34 THE APPROVAL OF THE GOVERNORS OF BOTH STATES, shall apply to each such
35 officer or stockholder and their successors in office or interest as the
36 case may be.

37 S 10. Subdivision 15 of article VIII of section 10 of part IV of chap-
38 ter 882 of the laws of 1953, constituting the waterfront and airport
39 commission act, as added by chapter 951 of the laws of 1970, is amended
40 to read as follows:

41 15. In addition to any other powers authorized hereunder, the commis-
42 sion shall have power to make reasonable rules and regulations, SUBJECT
43 TO THE APPROVAL OF THE GOVERNORS OF BOTH STATES, to effectuate the
44 purposes of this article.

45 S 11. Subdivision 19 of article VIII of section 10 of part IV of chap-
46 ter 882 of the laws of 1953, constituting the waterfront and airport
47 commission act, as added by chapter 951 of the laws of 1970, is amended
48 to read as follows:

49 19. The accounts, books and records of the commission, including its
50 receipts, disbursements, contracts, leases, investments and any other
51 matters relating to its financial standing shall be examined and audited
52 annually by independent auditors to be retained for such purpose by the
53 commission. NO INDEPENDENT AUDITOR SHALL BE RETAINED WITHOUT THE
54 APPROVAL OF THE GOVERNORS OF BOTH STATES.

1 S 12. The governor is authorized to enter into a supplemental compact
2 or agreement, on behalf of the state of New York, with the state of New
3 Jersey, amending the waterfront and airport commission act.

4 S 13. This act shall take effect upon the enactment into law by the
5 state of New Jersey of legislation having a substantially similar effect
6 with this act, but if the state of New Jersey shall have already enacted
7 such legislation, then it shall take effect immediately and shall have
8 been in full force and effect on October 1, 2010; provided, this shall
9 not be construed to interfere with, or impair any vested right or obli-
10 gation under any contract prior to enactment; provided further that the
11 waterfront and airport commission shall notify the legislative bill
12 drafting commission upon the occurrence of the enactment of the legis-
13 lation provided for in sections one through twelve of this act in order
14 that the commission may maintain an accurate and timely effective data
15 base of the official text of laws of the state of New York in further-
16 ance of effecting the provisions of section 44 of the legislative law
17 and section 70-b of the public officers law.