

5395

2013-2014 Regular Sessions

I N S E N A T E

May 16, 2013

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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

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

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1 JERSEY AND NEW YORK STATE PUBLIC HOLIDAYS, AFTER THE MINUTES HAVE BEEN  
2 DELIVERED PURSUANT TO THIS SECTION, UNLESS THE GOVERNOR OF THE STATE OF  
3 NEW JERSEY AND THE GOVERNOR OF THE STATE OF NEW YORK APPROVE THE  
4 MINUTES, OR PART THEREOF PERTAINING TO THAT ACTION, IN WRITING, BY  
5 RECITING THE ACTION APPROVED, WITHIN THIS 10-DAY PERIOD.

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

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

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

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

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

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

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

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

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

1 by the commission to ascertain the character, integrity and identity of  
2 each natural person so signing such application.

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

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

21 S 4. Subdivision 3 of article XII of section 1 of part I of chapter  
22 882 of the laws of 1953, constituting the waterfront and airport commis-  
23 sion act, is amended to read as follows:

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

31 S 5. Subdivision 5 of article XIII of section 1 of part I of chapter  
32 882 of the laws of 1953, constituting the waterfront and airport commis-  
33 sion act, is amended to read as follows:

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

42 S 6. Paragraph 7 of subdivision A of section 2 of part II of chapter  
43 882 of the laws of 1953, constituting the waterfront and airport commis-  
44 sion act, is amended to read as follows:

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

49 S 7. Paragraph 11 of subdivision A of section 2 of part II of chapter  
50 882 of the laws of 1953, constituting the waterfront and airport commis-  
51 sion act, is REPEALED.

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

1 2. To establish such divisions and departments within the commission  
2 as the commission may deem necessary and to appoint such officers,  
3 agents and employees as it may deem necessary, prescribe their powers,  
4 duties and qualifications and fix their compensation and, SUBJECT TO THE  
5 APPROVAL OF THE GOVERNORS OF BOTH STATES, retain and employ counsel and  
6 private consultants on a contract basis or otherwise;

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

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

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

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

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

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

53 19. The accounts, books and records of the commission, including its  
54 receipts, disbursements, contracts, leases, investments and any other  
55 matters relating to its financial standing shall be examined and audited  
56 annually by independent auditors to be retained for such purpose by the

1 commission. NO INDEPENDENT AUDITOR SHALL BE RETAINED WITHOUT THE  
2 APPROVAL OF THE GOVERNORS OF BOTH STATES.

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

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