S T A T E O F N E W Y O R K

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:

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

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

B. THE COMMISSION SHALL MAINTAIN MINUTES OF ALL COMMISSION MEETINGS. THE MINUTES OF EVERY MEETING OF THE COMMISSION SHALL, AS SOON AS POSSIBLE AFTER THE MEETING, BE DELIVERED, BY AND UNDER THE CERTIFICATION OF THE SECRETARY OF THE COMMISSION, TO THE GOVERNOR OF THE STATE OF NEW JERSEY AND THE GOVERNOR OF THE STATE OF NEW YORK.

C. NO ACTION TAKEN BY A COMMISSIONER AT THE MEETING SHALL HAVE FORCE 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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JERSEY AND NEW YORK STATE PUBLIC HOLIDAYS, AFTER THE MINUTES HAVE BEEN DELIVERED PURSUANT TO THIS SECTION, UNLESS THE GOVERNOR OF THE STATE OF NEW JERSEY AND THE GOVERNOR OF THE STATE OF NEW YORK APPROVE THE MINUTES, OR PART THEREOF PERTAINING TO THAT ACTION, IN WRITING, BY RECITING THE ACTION APPROVED, WITHIN THIS 10-DAY PERIOD.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S 7. Paragraph 11 of subdivision A of section 2 of part II of chapter 882 of the laws of 1953, constituting the waterfront and airport commission act, is REPEALED.

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

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

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

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

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

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

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

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

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

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

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

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