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

7116

I N S E N A T E

March 30, 2016

Introduced by Sens. LANZA, GOLDEN, SAVINO -- read twice and ordered printed, and when printed to be committed 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 collective employment negotiations, notice of the issuance of debt and capital plans and projects

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

Section 1. Subparagraph 4 of paragraph e of subdivision 6 of article IV 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, is amended to read as follows:

(4) interview any officer or employee of the port authority or its subsidiaries on any matter related to the performance of such officer or employee's official duties. [To the extent that any portion of this paragraph is inconsistent with any current contractual obligations of the port authority, this paragraph shall not be applicable to those obligations until the earliest expiration of those terms under the contract] TO THE EXTENT THAT THE TERMS AND CONDITIONS OF EMPLOYMENT OF ANY EMPLOYEE ARE ESTABLISHED BY COLLECTIVE NEGOTIATIONS, ANY INTERVIEW CONDUCTED PURSUANT TO THIS PARAGRAPH MUST BE IN ACCORDANCE WITH ANY APPLICABLE PROVISIONS OF THE CURRENT, OR MOST RECENT, IF EXPIRED, COLLECTIVE NEGOTIATIONS AGREEMENT COVERING THE TERMS AND CONDITIONS OF EMPLOYMENT OF THE EMPLOYEE;

S 2. Subdivision 8 of article IV of section 1 of chapter 154 of the laws of 1921 relating to the port authority of New York and New Jersey, as added by chapter 559 of the laws of 2015, is amended to read as follows:

8. A. THE PORT AUTHORITY, AT THE REQUEST OF THE ASSEMBLY OR SENATE OF THE NEW YORK STATE LEGISLATURE OR THE GENERAL ASSEMBLY OR SENATE OF THE NEW JERSEY STATE LEGISLATURE, SHALL BE REQUIRED TO APPEAR BEFORE A COMMITTEE OF THE REQUESTING STATE LEGISLATIVE HOUSE, UPON REQUEST BY THE PRESIDING OFFICER OF THAT STATE LEGISLATIVE HOUSE, TO PRESENT TESTIMONY

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

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ON ANY TOPIC OR SUBJECT REQUESTED BY THE COMMITTEE OR TO RESPOND TO QUESTIONS BY MEMBERS OF THE COMMITTEE. THE ASSEMBLY OF THE NEW YORK STATE LEGISLATURE, THE SENATE OF THE NEW YORK STATE LEGISLATURE, THE GENERAL ASSEMBLY OF THE NEW JERSEY STATE LEGISLATURE, AND THE SENATE OF THE NEW JERSEY STATE LEGISLATURE SHALL EACH BE ENTITLED TO TWO SUCH REQUESTS PER CALENDAR YEAR.

B. UNLESS OTHERWISE AGREED TO BY THE PRESIDING OFFICER OF THE STATE LEGISLATIVE HOUSE REQUESTING THE APPEARANCE OF THE PORT AUTHORITY, THE PORT AUTHORITY SHALL, AT A MINIMUM, BE REPRESENTED BY THE CHAIR OR VICE-CHAIR OF THE BOARD, CHIEF EXECUTIVE OFFICER, THE CHIEF FINANCIAL OFFICER, AND ANY STAFF DEEMED NECESSARY BY THE CHAIR OR VICE-CHAIR OF THE BOARD, CHIEF EXECUTIVE OFFICER, OR THE CHIEF FINANCIAL OFFICER TO PRESENT TESTIMONY OR RESPOND TO QUESTIONS AT ANY APPEARANCE REQUIRED PURSUANT TO THIS SUBDIVISION. THE PRESIDING OFFICER MAY REQUEST THE APPEARANCE OF ANY OFFICER OR EMPLOYEE OF THE PORT AUTHORITY. FOR PURPOSES OF THIS SUBDIVISION, AS APPLICABLE TO NEW YORK STATE, "PRESIDING OFFICER" SHALL MEAN SPEAKER OF THE ASSEMBLY OF THE NEW YORK STATE LEGISLATURE OR TEMPORARY PRESIDENT OF THE SENATE OF THE NEW YORK STATE LEGISLATURE. FOR PURPOSES OF THIS SUBDIVISION, AS APPLICABLE TO THE STATE OF NEW JERSEY "PRESIDING OFFICER" SHALL MEAN THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE GENERAL ASSEMBLY OF THE STATE OF NEW JERSEY.

9. Barrier-free access. The port authority shall make or cause to be made all reasonable efforts to ensure that meetings are held in facilities that permit barrier-free physical access to people with disabilities. If the board determines to use video conferencing or similar technology to conduct its meeting, it shall provide an opportunity for the public to attend, listen and observe such a meeting.

S 3. Subdivision 3 of article VII-B of section 1 of chapter 154 of the laws of 1921 relating to the port authority of New York and New Jersey is amended by adding a new paragraph d to read as follows:

D. 60 DAYS PRIOR TO THE ISSUANCE OF ANY DEBT BY THE SUBSIDIARY CORPORATION, OR THE PORT AUTHORITY ON BEHALF OF THE SUBSIDIARY CORPORATION, THE PORT AUTHORITY SHALL PROVIDE NOTICE TO THE GOVERNOR OF EACH STATE, THE MAJORITY LEADER OF EACH HOUSE OF THE LEGISLATURE OF EACH STATE, THE CHAIR OF THE SENATE FINANCE COMMITTEE OF NEW YORK, THE CHAIR OF THE SENATE BUDGET AND APPROPRIATIONS COMMITTEE OF NEW JERSEY, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE OF NEW YORK, AND THE CHAIR OF THE ASSEMBLY BUDGET COMMITTEE OF NEW JERSEY. FOR PURPOSES OF THIS SECTION, AS APPLICABLE TO NEW YORK STATE "MAJORITY LEADER" SHALL MEAN SPEAKER OF THE ASSEMBLY OF THE NEW YORK STATE LEGISLATURE OR TEMPORARY PRESIDENT OF THE SENATE OF THE NEW YORK STATE LEGISLATURE. FOR PURPOSES OF THIS SECTION, AS APPLICABLE TO THE STATE OF NEW JERSEY "MAJORITY LEADER" SHALL MEAN THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE GENERAL ASSEMBLY OF THE STATE OF NEW JERSEY.

S 4. Subdivision 3 of article VII-D of section 1 of chapter 154 of the laws of 1921 relating to the port authority of New York and New Jersey, as added by chapter 559 of the laws of 2015, is amended to read as follows:

3. Capital plan. A. The port authority shall adopt a ten-year capital plan that is developed using a comprehensive planning process and risk-based prioritization that considers asset condition, operational and revenue impact, threat assessment, customer service, regional benefit, and regulatory or statutory requirements. The capital plan shall be dependent upon the availability of sufficient funding and other resources to pursue the capital projects proposed for the ten-year peri-

od. Performance progress and revisions to reflect changes in programs, policies and projects and the environment in which the port authority operates shall be reviewed regularly by a committee designated by the board of commissioners, and the capital plan shall be revised periodically as necessary and appropriate, and shall be reviewed with the board of commissioners annually. The port authority shall publish an annual report on the status of the capital program and such report shall be made publicly available on the port authority's website. Prior to adoption of a capital plan, the port authority shall make such proposed plan available for public review and comments on its public website for at least two weeks prior to approval, and all comments received are to be distributed to the board of commissioners for review prior to consideration of the capital plan.

B. THE PORT AUTHORITY SHALL ALSO PROVIDE THAT MAJOR CAPITAL PROJECTS ARE MONITORED BY INDEPENDENT ENGINEERING CONSULTANTS. THE INDEPENDENT CONSULTANTS SHALL PREPARE ANNUAL REPORTS TO BE PROVIDED TO THE BOARD AND MADE AVAILABLE TO THE PUBLIC. THE ANNUAL REPORTS PREPARED BY INDEPENDENT CONSULTANTS SHALL INCLUDE, BUT NOT BE LIMITED TO, A COMPARISON OF ACTUAL AND TARGET PERFORMANCE MEASURES INCLUDING, BUT NOT LIMITED TO, COSTS AND CONSTRUCTION SCHEDULES, AND A NARRATIVE EXPLANATION OF ANY DISCREPANCY THEREOF. FOR THE PURPOSES OF THIS SUBDIVISION, "MAJOR CAPITAL PROJECT" MEANS AN UNDERTAKING OR PROGRAM FOR THE ACQUISITION, CREATION, OR DEVELOPMENT OF ANY CROSSING, TRANSPORTATION FACILITY, OR COMMERCE FACILITY OR ANY PART THEREOF, WITH AN ESTIMATED TOTAL PROJECT COST IN EXCESS OF $500,000,000.

C. NO LESS THAN 60 DAYS PRIOR TO ANY BOARD ADOPTION OF A CAPITAL PLAN, AS DESCRIBED IN PARAGRAPH A OF THIS SUBDIVISION, OR ANY MAJOR REVISION OF THE LAST ADOPTED CAPITAL PLAN, THE PORT AUTHORITY SHALL NOTIFY THE ASSEMBLY AND SENATE OF THE STATE OF NEW YORK AND THE GENERAL ASSEMBLY AND SENATE OF THE NEW JERSEY STATE LEGISLATURE OF ITS INTENTION TO ADOPT A CAPITAL PLAN, OR ANY MAJOR REVISION OF THE LAST ADOPTED CAPITAL PLAN. IN EITHER CASE, THE NOTICE SHALL RECITE THE MAJOR ELEMENTS OF THE CAPITAL PLAN TO BE ADOPTED.

D. WITHIN 60 DAYS OF THE NOTICE PROVIDED IN PARAGRAPH C OF THIS SUBDIVISION, THE PORT AUTHORITY SHALL CONDUCT A PUBLIC HEARING ABOUT THE CAPITAL PLAN OR ANY MAJOR REVISION THEREOF IN THE STATE OF NEW YORK AND IN THE THE STATE OF NEW JERSEY.

E. THE PORT AUTHORITY SHALL CONDUCT A STATUS UPDATE PUBLIC HEARING IN THE STATE OF NEW YORK AND IN THE STATE OF NEW JERSEY AT LEAST ONCE EVERY THREE YEARS AFTER THE ADOPTION OF THE CAPITAL PLAN BY THE PORT AUTHORITY. SUCH PUBLIC HEARING SHALL BE KNOWN AS "CAPITAL STATUS UPDATE HEARING" AND AT SUCH HEARING THE PORT AUTHORITY SHALL PROVIDE IN DETAIL A WRITTEN DESCRIPTION OF THE STATUS OF ALL CAPITAL PLAN PROJECTS AND THE COSTS AND THE EXPECTED COSTS OF THOSE PROJECTS. AT SUCH PUBLIC HEARING, THE PORT AUTHORITY SHALL PROVIDE A FINANCING PLAN THAT IDENTIFIES THE SOURCE OF FUNDING FOR EACH PROJECT. THE PORT AUTHORITY SHALL PROVIDE AN ANALYSIS THAT COMPARES ACTUAL AND TARGET PERFORMANCE MEASURES, AND A DETAILED WRITTEN EXPLANATION OF ANY DISCREPANCY THEREOF AT THE PUBLIC HEARING.

S 5. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of

the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 6. This act shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect with this act, and upon the enactment into law by the state of New Jersey of legislation having an identical effect with chapter 559 of the laws of 2015 pursuant to section 6 of such chapter, but if the state of New Jersey shall have already enacted such legislation, then this act shall take effect immediately. The chairperson of the port authority shall notify the legislative bill drafting commission upon the enactment into law of such legislation by both such states in order that the commission may maintain an accurate and timely effective data base of the official text of the 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.