§ 534-l. Suspension or acceptance of applications for inclusion in the longshore workers' register; exceptions. 1. The commission shall have the power to make determinations to suspend the acceptance of applications for inclusion in the longshore workers' register for such periods of time as the commission may from time to time establish and, after any such period of suspension, the commission shall have the power to make determinations to accept applications for such period of time as the commission may establish or in such number as the commission may determine, or both. Such determinations to suspend or accept applications shall be made by the commission: (a) on its own initiative when it determines that continued acceptance of applications for inclusion in the longshore workers' register will violate the standards set forth in subdivision two of this section; or (b) upon the joint recommendation in writing of stevedores and other employers of longshore workers in the port of New York district in this state, acting through their representative for the purpose of collective bargaining with a labor organization representing such longshore workers in such district and such labor organization; or (c) upon the petition in writing of a stevedore or another employer of longshore workers in the port of New York district in this state which does not have a representative for the purpose of collective bargaining with a labor organization representing such longshore workers. The commission shall have the power to accept or reject such joint recommendation or petition. All joint recommendations or petitions filed for the acceptance of applications with the commission for inclusion in the longshore workers' register shall include:

(i) the number of employees requested;

(ii) the category or categories of employees requested;

(iii) a detailed statement setting forth the reasons for such joint recommendation or petition;

(iv) in cases where a joint recommendation is made under this section, the collective bargaining representative of stevedores and other employers of longshore workers in the port of New York district in this state and the labor organization representing such longshore workers shall provide the allocation of the number of persons to be sponsored by each employer of longshore workers in the port of New York district in this state; and

(v) any other information requested by the commission.

2. In administering the provisions of this section, the commission shall observe the following standards:

(a) To encourage as far as practicable the regularization of the employment of longshore workers;

(b) To bring the number of eligible longshore workers into balance with the demand for longshore workers' services within the port of New York district in this state without reducing the number of eligible longshore workers below that necessary to meet the requirements of longshore workers in the port of New York district in this state;

(c) To encourage the mobility and full utilization of the existing work force of longshore workers;

(d) To protect the job security of the existing work force of longshore workers by considering the wages and employment benefits of prospective registrants;

(e) To eliminate oppressive, unlawful, discriminatory, and corrupt hiring practices injurious to waterfront labor and waterborne commerce in the port of New York district in this state, including, but not limited to, those oppressive, unlawful, discriminatory, and corrupt hiring practices that may result from either a surplus or shortage of waterfront labor;

(f) To consider the effect of technological change and automation and such other economic data and facts as are relevant to a proper determination; and

(g) To protect the public interest of this state.

3. (a) In observing the foregoing standards and before determining to suspend or accept applications for inclusion in the longshore workers' register, the commission shall consult with and consider the views of, including any statistical data or other factual information concerning the size of the longshore workers' register submitted by, carriers of freight by water, stevedores, waterfront terminal owners and operators, any labor organization representing employees registered by the commission, and any other person whose interests may be affected by the size of the longshore workers' register. The commission shall publish on its website the justification for any determination to suspend

applications for inclusion in the longshore workers' register, and shall notify the governor and the legislature of such suspension, within ten days of such action.

(b) Any recommendation or petition granted hereunder shall be subject to such terms and conditions as the commission may prescribe consistent with the provisions of this act or any regulations promulgated thereof.

4. Any determination by the commission pursuant to this section to suspend or accept applications for inclusion in the longshore workers' register shall be made upon a record, shall not become effective until five days after notice thereof to the collective bargaining representative of stevedores and other employers of longshore workers in the port of New York district in this state and to the labor organization representing such longshore workers and/or the petitioning stevedore or other employer of longshore workers in the port of New York district in this state and shall be subject to judicial review for being arbitrary, capricious, and an abuse of discretion in a proceeding jointly instituted by such representative and such labor organization and/or by the petitioning stevedore or other employer of longshore workers in the port of New York district in this state. Such judicial review proceeding may be instituted in the manner provided by the law of this state for review of the final decision or action of administrative agencies of this state, provided, however, that such proceeding shall be decided directly by the appellate division as the court of first instance (to which the proceeding shall be transferred by order of transfer by the supreme court in the state of New York by notice of appeal from the commission's determination) and provided further that notwithstanding any other provision of law in this state no court shall have power to stay the commission's determination prior to final judicial decision for more than fifteen days. In the event that the court enters a final order setting aside the determination by the commission to accept applications for inclusion in the longshore workers' register, the registration of any longshore workers included in the longshore workers' register as a result of such determination by the commission shall be cancelled.

5. This section shall apply, notwithstanding any other provision of

this act, provided however, such section shall not in any way limit or restrict the provisions of this subdivision empowering the commission to register longshore workers on a temporary basis to meet special or emergency needs or the provisions of subdivision four of section five hundred thirty-four-k of this article relating to the immediate reinstatement of persons removed from the longshore workers' register pursuant to this section.

6. Upon the granting of any joint recommendation or petition under this section for the acceptance of applications for inclusion in the longshore workers' register, the commission shall accept applications upon written sponsorship from the prospective employer of longshore workers. The sponsoring employer shall furnish the commission with the name, address and such other identifying or category information as the commission may prescribe for any person so sponsored. The sponsoring employer shall certify that the selection of the persons so sponsored was made in a fair and non-discriminatory basis in accordance with the requirements of the laws of the United States and the state of New York dealing with equal employment opportunities. Notwithstanding any of the foregoing, where the commission determines to accept applications for inclusion in the longshore workers' register on its own initiative, such acceptance shall be accomplished in such manner deemed appropriate by the commission.

7. Notwithstanding any other provision of this article, the commission may include in the longshore workers' register under such terms and conditions as the commission may prescribe:

(a) a person issued registration on a temporary basis to meet special or emergency needs who is still so registered by the commission; and

(b) a person defined as a longshore worker in subparagraph four of paragraph (a), or paragraph (b) of subdivision twelve of section five hundred thirty-four-b of this article who is employed by a stevedore defined in paragraph (c) or (d) of subdivision twenty-two of section five hundred thirty-four-b of this article and whose employment is not subject to the guaranteed annual income provisions of any collective bargaining agreement relating to longshore workers.

8. The commission may include in the longshore workers' register, under such terms and conditions as the commission may prescribe, persons issued registration on a temporary basis as a longshore worker or a checker to meet special or emergency needs and who are still so registered by the commission upon the enactment of this act.

9. Nothing in this section shall be construed to modify, limit or restrict in any way any of the rights protected by section five hundred thirty-four-q of this article.