

[Corrected Copy]

SENATE, No. 1761

STATE OF NEW JERSEY

215th LEGISLATURE

INTRODUCED MARCH 8, 2012

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SYNOPSIS

“PANYNJ Transparency and Accountability Act.”

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 5/25/2012)

1 **AN ACT** concerning oversight of the Port Authority of New York
2 and New Jersey, amending P.L.1991, c.395, and supplementing
3 chapter 1 of Title 32 of the Revised Statutes.

4

5 **BE IT ENACTED** by the *Senate and General Assembly of the State*
6 *of New Jersey*:

7

8 1. (New section) Sections 1, 3, 6, and 7 of this act shall be
9 known and may be cited as the "PANYNJ Transparency and
10 Accountability Act."

11

12 2. Section 2 of P.L.1991, c.395 (C.32:1-6.2) is amended to read
13 as follows:

14 2. As used in this act:

15 **【a.】** "Board" means the Board of Commissioners of the Port
16 Authority of New York and New Jersey.

17 **“Committee” or “committees” means the audit committee, the**
18 **governance committee, and the finance committee required to be**
19 **established by the board of commissioners pursuant to subsections**
20 **b. through d. of section 3 of P.L. , c. (C.) (pending before the**
21 **Legislature as this bill).**

22 **【b.】** "Meeting" means any gathering, whether corporeal or by
23 means of communication equipment, which is attended by, or open
24 to, the board, held with the intent, on the part of the board members
25 present, to discuss or act as a unit upon the specific public business
26 of the authority. "Meeting" does not mean a gathering (1) attended
27 by less than an effective majority of the board, or (2) attended by or
28 open to all the members of three or more similar public bodies at a
29 convention or similar gathering.

30 **【c.】** "Public business" means matters which relate in any way,
31 directly or indirectly, to the performance of the functions of the Port
32 Authority of New York and New Jersey or the conduct of its
33 business.

34 (cf: P.L.1991, c.395, s.2)

35

36 3. (New section) a. The board of commissioners shall:

37 (1) Execute direct oversight of the authority's chief executive
38 and other senior management in the effective and ethical
39 management of the authority;

40 (2) Understand, review, and monitor the implementation of
41 fundamental financial and management controls and operational
42 decisions of the authority;

43 (3) Establish policies regarding the payment of salary and
44 overtime, reimbursements, and ***【after】** other* compensation to,

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

***Legislative Counsel correction pursuant to Senate rule 16:12, March 15, 2012.**

1 and establish rules for, the time and attendance of, all officers and
2 employees of the authority;

3 (4) Require each board member, at the time that the board
4 member takes and subscribes the oath of office, or within 60 days
5 after the effective date of P.L. , c. (C.) (pending before the
6 Legislature as this bill) if the member has already taken and
7 subscribed the oath of office, to execute a statement, in such form
8 as the attorneys general of New York and New Jersey shall jointly
9 prescribe, in which the board member declares that the member
10 understands the member's independence and fiduciary duties,
11 including the member's duty of loyalty and care to the authority and
12 commitment to the authority's mission;

13 (5) Require that a needs assessment be conducted by an
14 independent entity prior to any proposed increase in fees, tolls,
15 charges, or fares; and

16 (6) Require an efficiency study be conducted by an efficiency
17 expert on an annual basis to identify any waste or abuse involving
18 the authority.

19 b. The board of commissioners shall establish an audit
20 committee to be comprised of not less than three board members,
21 who shall constitute a majority on the committee, and who shall
22 possess the necessary skills to undertake the duties and functions of
23 the audit committee. The committee shall recommend to the board
24 the hiring of an independent firm of certified public accountants to
25 audit the authority, establish the compensation to be paid to the
26 accounting firm, and provide direct oversight of the annual
27 independent financial audit performed by the accounting firm hired
28 for such auditing purposes. Members of the audit committee shall
29 be familiar with corporate financial and accounting practices and
30 shall be financially literate about applicable financial laws, rules,
31 regulations, and standard industry practices.

32 c. The board of commissioners shall establish a governance
33 committee to be comprised of not less than three board members,
34 who shall constitute a majority on the committee, and who shall
35 possess the necessary skills to undertake the duties and functions of
36 the governance committee. It shall be the responsibility of the
37 members of the governance committee to: keep the board informed
38 of current best governance practices; review corporate governance
39 trends; update the authority's corporate governance principles;
40 advise appointing authorities on the skills and experience required
41 of potential board members; examine ethical and conflict of interest
42 issues; perform board self-evaluations; investigate term limits,
43 reappointments, and board responsibilities; develop by-laws which
44 include rules and procedures for the conduct of board business; and
45 make recommendations for new commissioners.

46 d. The board of commissioners shall establish a finance
47 committee to be comprised of not less than three board members,
48 who shall constitute a majority on the committee, and who shall

1 possess the necessary skills to undertake the duties and functions of
2 the committee. It shall be the responsibility of the members of the
3 finance committee to oversee and approve the issuance of debt that
4 the authority or subsidiary commissions issue.

5

6 4. (New section) The authority shall submit to the Governors
7 of New York and New Jersey, the Temporary President and
8 Minority Leader of the Senate and the Speaker and Minority Leader
9 of the General Assembly of the State of New York, the President
10 and Minority Leader of the Senate and the Speaker and Minority
11 Leader of the General Assembly of the State of New Jersey, the
12 New York State Comptroller, and the State Treasurer of New Jersey
13 within 90 days after the end of the authority's fiscal year, a
14 complete and detailed report or reports setting forth:

15 a. The authority's operations and accomplishments;

16 b. Financial reports certified by the Chair and Vice-chair of the
17 board and the Executive Director, Deputy Executive Director, and
18 the Chief Financial Officer of the authority, including (1) audited
19 financials in accordance with generally accepted accounting
20 principles, known as GAAP, and the accounting standards issued by
21 the Governmental Accounting Standards Board, known as GASB,
22 (2) grant and subsidy programs, (3) operating and financial risks,
23 (4) current ratings and notice of changes, and (5) long-term
24 liabilities, including leases and employee benefit plans;

25 c. The authority's mission statement;

26 d. A schedule of authority bonds and notes outstanding at the
27 end of the authority's fiscal year, together with a statement of the
28 amounts redeemed and incurred during such fiscal year as part of a
29 schedule of debt issuance that includes the date of issuance, term,
30 amount, interest rate, and means of repayment. Additionally, the
31 debt schedule shall include all refinancings, calls, refundings,
32 defeasements, and interest rate exchanges or other such agreements,
33 and for any debt issued during the reporting year, the schedule shall
34 also include a detailed list of costs of issuance for such debt;

35 e. Biographical information and titles of commissioners and
36 senior management, including compensation and benefits paid to
37 commissioners and to senior staff in any amount;

38 f. The projects undertaken by the authority during the past
39 year;

40 g. The authority's code of ethics;

41 h. An assessment of the effectiveness of the authority's internal
42 control structure and procedures;

43 i. A description of the authority and its board structure,
44 including (1) names of committees and committee members, (2)
45 lists of board meetings and attendance, (3) descriptions of major
46 authority units, and subsidiaries, and (4) number of employees;

47 j. The authority's charter and by-laws;

48 k. A listing of material changes in operations and programs;

1 1. At a minimum, a four-year financial plan, including (1) a
2 current and projected capital budget, and (2) an operating budget
3 report, including an actual versus estimated budget, with an analysis
4 and measurement of financial and operating performance;
5 m. The authority's board performance evaluations; and
6 n. A list of any pending litigation in which the authority is
7 involved as a party and any related expenses thereto.

8 The authority shall make accessible to the public, via its official
9 or shared internet web site, documentation pertaining to its mission,
10 current activities, most recent annual financial reports, current year
11 budget, and most recent independent audit.

12

13 5. Section 3 of P.L.1991, c.395 (C.32:1-6.3) is amended to read
14 as follows:

15 3. The board shall adopt and promulgate appropriate rules and
16 regulations concerning the right of the public to be present at
17 meetings of the authority. The board may incorporate in its rules
18 and regulations conditions under which it may exclude the public
19 from a meeting or a portion thereof.

20 Any rules or regulations adopted hereunder shall become a part
21 of the minutes of the Port Authority of New York and New Jersey
22 and shall be subject to the approval of the Governor of New Jersey
23 and the Governor of New York.

24 The board shall make or cause to be made all reasonable efforts
25 to ensure that meetings are held in facilities that permit barrier-free
26 physical access to the physically handicapped. If and when the
27 board uses videoconferencing or similar technology to conduct its
28 meetings, it shall provide an opportunity for the public to attend,
29 listen, and observe at any site at which a member participates.

30 (cf: P.L.1991, c.395, s.3)

31

32 6. (New section) a. (1) Not less than 30 days prior to adoption
33 by the authority of any increase in any fee, toll, charge, or fare for
34 the use of the transportation facilities of the authority, or not less
35 than 15 days prior to adoption by the authority of an amendment to
36 the proposed fee, toll, charge, or fare increase, the board shall
37 conduct at least 10 public hearings.

38 (2) Not less than one public hearing required pursuant to
39 paragraph (1) of this subsection shall be conducted in each county
40 in New York and New Jersey directly affected by the proposed fee,
41 toll, charge, or fare increase, as determined by the board in
42 consultation local and state officials.

43 b. Each public hearing shall be attended by at least two-thirds
44 of the commissioners of the authority then in office at the time of
45 the hearing and no more than one public hearing shall be held in a
46 single day.

47 c. At least one-half of the public hearings shall be scheduled to
48 begin after 6:30 p.m., Eastern Standard Time, on a weekday.

1 7. (New section) a. At each meeting of the board and at each
2 meeting of each committee, the public shall be allotted a period of
3 time, not less than 30 minutes, to speak on any topic on the agenda.
4 The public speaking period shall take place prior to any board or the
5 committee action.

6 b. The authority shall make available to the public meeting
7 agendas and public documents provided to the board at least 72
8 hours before each meeting of the board and each meeting of each
9 committee. Public notice of the time and place of a meeting shall
10 be provided to appropriate media outlets, shall be conspicuously
11 posted in one or more designated areas at least 72 hours before such
12 meeting, and shall be conspicuously posted via the authority's
13 official internet website at least five business days before the
14 meeting.

15 The authority shall make available to the public such documents
16 in the following manner: (1) the agenda and public documents
17 pertaining to a board or committee meeting shall be available for
18 public inspection at an office of the authority; and (2) the agenda
19 and public documents pertaining to a board or committee meeting
20 shall be posted on the authority's official internet website. In
21 addition, the authority shall send via electronic mail, the agenda and
22 public documents pertaining to a board or committee meeting to
23 each member of the New York Legislature and the New Jersey
24 Legislature.

25 c. Minutes shall be taken at all open meetings of the authority.
26 The minutes shall consist of a record or summary of all motions,
27 proposals, resolutions, and any other matter formally voted upon
28 and the vote thereon. Minutes shall be taken at executive sessions
29 of any action that is taken by formal vote and shall consist of a
30 record or summary of the final determination of such action, and the
31 vote thereon; provided, however, that such summary need not
32 include any matter which is not required to be made public by either
33 New York's freedom of information law or New Jersey's Open
34 Public Records Act, P.L.1963, c.73 (C.47:1A-1 et seq.). Minutes of
35 each meeting shall be available to the public within two weeks from
36 the date of such meeting.

37
38 8. The board shall conduct at least 10 public hearings not more
39 than 90 days prior to the implementation of a toll increase adopted
40 by the authority prior to the effective date of this act in the manner
41 prescribed pursuant to section 6 of this act.

42
43 9. This act shall take effect upon the enactment into law by the
44 State of New York of legislation having an identical effect with this
45 act, provided that if the State of New York should enact legislation
46 having an identical effect of any section of this act, that section of
47 this act shall take effect upon that enactment, but if the State of

1 New York has already enacted such legislation, this act or the
2 section in question shall take effect immediately.

3

4

5 STATEMENT

6

7 This bill, designated as the “PANYNJ Transparency and
8 Accountability Act,” enacts certain reforms to ensure the proper
9 functioning of the Port Authority of New York and New Jersey
10 (“Port Authority”) as an open, transparent, and accountable
11 interstate authority. The Port Authority’s operations include
12 Newark Liberty, LaGuardia, Kennedy, Stewart, and Teterboro
13 airports; the Port of New York and New Jersey; the PATH mass
14 transit system; the World Trade Center; and numerous bridges and
15 tunnels, including the George Washington Bridge and the Lincoln
16 and Holland tunnels.

17 The bill requires the Port Authority’s board of commissioners to:
18 provide direct oversight of the authority’s chief executive and
19 senior management; oversee the implementation of financial and
20 management controls and operational decisions; establish policies
21 concerning the compensation of officers and employees; require
22 each board member to execute a statement declaring an
23 understanding of the member’s independence, fiduciary duties, and
24 commitment to the Port Authority’s mission; require that a needs
25 assessment be conducted prior to any fee, toll, charge, or fare
26 increase; require an annual efficiency study to identify waste or
27 abuse; and establish audit, governance, and finance committees.

28 The bill also requires the Port Authority to provide, within 90
29 days of the end of its fiscal year, a complete and detailed report
30 setting forth: the Port Authority’s operations and accomplishments,
31 certified financial reports, mission statement, charter, and by-laws;
32 a schedule of outstanding bonds and notes, a statement of the
33 amounts redeemed and incurred during the fiscal year as part of a
34 schedule of debt issuance, and a detailed list of costs of issuance for
35 such debt; biographical information and titles of commissioners and
36 senior management, including compensation and benefits paid to
37 commissioners and to senior staff in any amount; the projects
38 undertaken during the past year; the Port Authority’s code of ethics;
39 an assessment of the effectiveness of the Port Authority’s internal
40 control structure and procedures; a description of the Port Authority
41 and its board structure; a listing of material changes in operations
42 and programs; at a minimum, a four-year financial plan;
43 performance evaluations; and a list of any pending litigation to
44 which the Port Authority is involved as a party and any related
45 expenses. The documentation pertaining to the Port Authority’s
46 mission, current activities, most recent annual financial reports and
47 independent audit, and current year budget must be accessible on its
48 website.

1 Additionally, the bill requires the board to make all reasonable
2 efforts to ensure that meetings are held in facilities that permit
3 barrier-free physical access to the physically handicapped and to
4 provide an opportunity for the public to attend, listen, and observe
5 at any site at which a member participates in a meeting held using
6 videoconferencing.

7 The bill makes the following requirements for public hearings to
8 be held prior to the adoption of any increase in any fee, toll, charge,
9 or fare: (1) the Port Authority must hold at least 10 public hearings,
10 at least one of which must be conducted in each county directly
11 affected by the proposed increase; (2) at least two-thirds of the
12 commissioners must attend each public hearing; (3) no more than
13 one public hearing may be held in a single day; and (4) at least half
14 of the hearings must begin after 6:30 pm on a weekday.

15 Finally, the bill requires that at each meeting of the board and its
16 committees, the public be allotted a period of not less than 30
17 minutes to speak on any topic on the agenda. The Port Authority is
18 required to make agendas and public documents available to the
19 public at least 72 hours before a meeting and must publicize notice
20 of the time and place of meetings. Minutes must be taken at all
21 open meetings of the authority which will be available to the public
22 within two weeks of the date of the meeting.

23 The bill will take effect when New Jersey and New York have
24 enacted substantively identical legislation.