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

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

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

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

2. As used in this act:

[a.] “Board” means the Board of Commissioners of the Port Authority of New York and New Jersey.

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

[b.] “Meeting” means any gathering, whether corporeal or by means of communication equipment, which is attended by, or open to, the board, held with the intent, on the part of the board members present, to discuss or act as a unit upon the specific public business of the authority. "Meeting" does not mean a gathering (1) attended by less than an effective majority of the board, or (2) attended by or open to all the members of three or more similar public bodies at a convention or similar gathering.

[c.] “Public business” means matters which relate in any way, directly or indirectly, to the performance of the functions of the Port Authority of New York and New Jersey or the conduct of its business.

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

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

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

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

(3) Establish policies regarding the payment of salary and 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.*
and establish rules for, the time and attendance of, all officers and
employees of the authority;

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

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

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

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

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

d. The board of commissioners shall establish a finance
committee to be comprised of not less than three board members,
who shall constitute a majority on the committee, and who shall
possess the necessary skills to undertake the duties and functions of
the committee. It shall be the responsibility of the members of the
finance committee to oversee and approve the issuance of debt that
the authority or subsidiary commissions issue.

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

a. The authority’s operations and accomplishments;
b. Financial reports certified by the Chair and Vice-chair of the
board and the Executive Director, Deputy Executive Director, and
the Chief Financial Officer of the authority, including (1) audited
financials in accordance with generally accepted accounting
principles, known as GAAP, and the accounting standards issued by
the Governmental Accounting Standards Board, known as GASB,
(2) grant and subsidy programs, (3) operating and financial risks,
(4) current ratings and notice of changes, and (5) long-term
liabilities, including leases and employee benefit plans;
c. The authority’s mission statement;
d. A schedule of authority bonds and notes outstanding at the
end of the authority’s fiscal year, together with a statement of the
amounts redeemed and incurred during such fiscal year as part of a
schedule of debt issuance that includes the date of issuance, term,
amount, interest rate, and means of repayment. Additionally, the
debt schedule shall include all refinancings, calls, refundings,
de feasements, and interest rate exchanges or other such agreements,
and for any debt issued during the reporting year, the schedule shall
also include a detailed list of costs of issuance for such debt;
e. Biographical information and titles of commissioners and
senior management, including compensation and benefits paid to
commissioners and to senior staff in any amount;
f. The projects undertaken by the authority during the past
year;
g. The authority’s code of ethics;
h. An assessment of the effectiveness of the authority’s internal
control structure and procedures;
i. A description of the authority and its board structure,
including (1) names of committees and committee members, (2)
lists of board meetings and attendance, (3) descriptions of major
authority units, and subsidiaries, and (4) number of employees;
j. The authority’s charter and by-laws;
k. A listing of material changes in operations and programs;
1. At a minimum, a four-year financial plan, including (1) a current and projected capital budget, and (2) an operating budget report, including an actual versus estimated budget, with an analysis and measurement of financial and operating performance;
   m. The authority’s board performance evaluations; and
   n. A list of any pending litigation in which the authority is involved as a party and any related expenses thereto.
   The authority shall make accessible to the public, via its official or shared internet web site, documentation pertaining to its mission, current activities, most recent annual financial reports, current year budget, and most recent independent audit.

5. Section 3 of P.L.1991, c.395 (C.32:1-6.3) is amended to read as follows:
   3. The board shall adopt and promulgate appropriate rules and regulations concerning the right of the public to be present at meetings of the authority. The board may incorporate in its rules and regulations conditions under which it may exclude the public from a meeting or a portion thereof.

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

   The board 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 the physically handicapped. If and when the board uses videoconferencing or similar technology to conduct its meetings, it shall provide an opportunity for the public to attend, listen, and observe at any site at which a member participates.

6. (New section) a. (1) Not less than 30 days prior to adoption by the authority of any increase in any fee, toll, charge, or fare for the use of the transportation facilities of the authority, or not less than 15 days prior to adoption by the authority of an amendment to the proposed fee, toll, charge, or fare increase, the board shall conduct at least 10 public hearings.
   (2) Not less than one public hearing required pursuant to paragraph (1) of this subsection shall be conducted in each county in New York and New Jersey directly affected by the proposed fee, toll, charge, or fare increase, as determined by the board in consultation local and state officials.

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

   c. At least one-half of the public hearings shall be scheduled to begin after 6:30 p.m., Eastern Standard Time, on a weekday.
7. (New section) a. At each meeting of the board and at each meeting of each committee, the public shall be allotted a period of time, not less than 30 minutes, to speak on any topic on the agenda. The public speaking period shall take place prior to any board or the committee action.

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

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

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

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

9. This act shall take effect upon the enactment into law by the State of New York of legislation having an identical effect with this act, provided that if the State of New York should enact legislation having an identical effect of any section of this act, that section of this act shall take effect upon that enactment, but if the State of
New York has already enacted such legislation, this act or the section in question shall take effect immediately.

STATEMENT

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

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

The bill also requires the Port Authority to provide, within 90 days of the end of its fiscal year, a complete and detailed report setting forth: the Port Authority’s operations and accomplishments, certified financial reports, mission statement, charter, and by-laws; a schedule of outstanding bonds and notes, a statement of the amounts redeemed and incurred during the fiscal year as part of a schedule of debt issuance, and a detailed list of costs of issuance for such debt; biographical information and titles of commissioners and senior management, including compensation and benefits paid to commissioners and to senior staff in any amount; the projects undertaken during the past year; the Port Authority’s code of ethics; an assessment of the effectiveness of the Port Authority’s internal control structure and procedures; a description of the Port Authority and its board structure; a listing of material changes in operations and programs; at a minimum, a four-year financial plan; performance evaluations; and a list of any pending litigation to which the Port Authority is involved as a party and any related expenses. The documentation pertaining to the Port Authority’s mission, current activities, most recent annual financial reports and independent audit, and current year budget must be accessible on its website.
Additionally, the bill requires the board to make all reasonable efforts to ensure that meetings are held in facilities that permit barrier-free physical access to the physically handicapped and to provide an opportunity for the public to attend, listen, and observe at any site at which a member participates in a meeting held using videoconferencing.

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

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

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