

CHAPTER 429

AN ACT concerning maritime transportation, establishing the Office of Maritime Resources within the Department of Transportation, amending P.L.1997, c.97, and supplementing Title 27 of the Revised Statutes.

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

C.27:1A-75 Short title.

1. Sections 1 through 11 of this act shall be known and may be cited as the "New Jersey Marine Transportation System Act."

C.27:1A-76 Findings, declarations relative to maritime transportation.

2. The Legislature finds and declares that:

a. There should be a single State agency for New Jersey's maritime industry charged with advancing Statewide maritime development initiatives and technologies, planning for maritime systems, enhancing New Jersey's marine environment, fostering maritime education, and providing overall support functions to the maritime industry in close coordination with the Department of Environmental Protection, the New Jersey Commerce and Economic Growth Commission, and other State agencies.

b. New Jersey's maritime industry is a \$50 billion industry supporting more than 300,000 New Jersey citizens. The industry is located along 127 miles of New Jersey shoreline, on 116 State navigation channels, 240 miles of navigable waterways in New York Harbor, and along 106 miles of the Delaware River and Bay. Throughout the State, warehousing, manufacturing and cargo handling facilities service the commerce taking place along these water highways, and the intermodal connections which service them support local, national and international port commerce. The industry includes boat-building companies, members of the marine trades' associations, marinas, the commercial and recreational fishing industry, science, technology, and educational and related services. It also includes those industries that support waterborne military operations and national security initiatives.

c. The infrastructure required to support New Jersey's commercial and recreational maritime industry is collectively designated as New Jersey's Marine Transportation System. It is a comprehensive system which includes navigable channels, waterborne commerce, dredging and dredged material management technologies, berth, terminal and related structures, intermodal transportation facilities and corridors, shipping, receiving and cargo-movement tracking systems, global positioning systems, vessel traffic and port information systems, physical oceanographic real-time systems, and geographical information systems. Navigation aides, boat building technologies, ocean habitat tracking systems and other new technologies interact to create a seamless system linking all aspects of the maritime industry into a single transportation matrix. The Marine Transportation System provides economic value, State and national security support, environmental protection and recreational opportunity for the State, the region and the nation.

d. Water transportation systems are a desirable, necessary and environmentally beneficial means of moving people and goods and such systems will promote the development and redevelopment of the State's urban centers. It is further declared that in a densely settled state such as New Jersey, it should be a priority of the Department of Transportation to promote the development of water transportation systems and to provide, as necessary for the public safety and welfare, for the coordination and facilitation of water transportation systems.

C.27:1A-77 Definitions relative to maritime transportation.

3. As used in this act:

"Commissioner" means the Commissioner of Transportation.

"Department" means the Department of Transportation.

"Dredging and dredging related projects" means the removal of sand, silt, mud, clay, rock, or other material from the bottom of a waterway in order to maintain or deepen navigation channels and berths, related infrastructure development of such a project, the management of the dredged material through decontamination, acceptable placement or beneficial use, and the potential funding of such projects as necessary to support New Jersey's maritime industry.

"Marine transportation system" means navigable channels, berths, terminals and related intermodal transportation infrastructure, facilities and equipment, sediment and dredged materials

management programs, shipping, receiving, cargo-movement and tracking, aides to navigation, intelligent and vessel transportation systems, and such related activities which promote the efficient operation, environmental integrity, and economic development of New Jersey's maritime industry.

"Maritime industry" means ports and terminals, ship services and boat building, education, science and technology, marine trades and support services, ferries, movement of cargo and waterborne commerce, commercial and recreational fishing, navigation and government support services, including waterborne military operations and national security initiatives, and the direct and indirect industries supporting the entire marine transportation system.

"Office" means the Office of Maritime Resources in the Department of Transportation.

C.27:1A-78 Office of Maritime Resources.

4. There is hereby established in the Department of Transportation the Office of Maritime Resources. The office shall serve as the lead on all maritime industry matters including, but not limited to, dredging, dredging technologies and dredging related issues, State and federal marine transportation systems, and port development. The office shall be the primary advisor to the Governor and the commissioner on all matters relating to the mission of the office. The office shall also serve as the point of contact for the maritime industry and shall coordinate maritime planning and policy issues with federal, State and local governments and regional and bi-state agencies, as appropriate.

C.27:1A-79 "New Jersey Marine Transportation System Development" section of transportation plan.

5. In support of the State's long range transportation plan, the office shall be responsible, in collaboration with the Division of Transportation Systems Planning in the department, for the preparation of a "New Jersey Marine Transportation System Development" section of the State's long range transportation plan which shall assess conditions, define future needs and propose recommendations that improve New Jersey's Marine Transportation System, in accordance with the findings and declarations contained in section 2 of this act. The section shall outline strategic initiatives on regional port planning, marine transportation system infrastructure, technology, and economic development related to the maritime infrastructure and capital investment strategies.

C.27:1A-80 Additional powers of commissioner.

6. In addition to any powers granted to the commissioner under this act or any other provision of law, the commissioner shall:

- a. Provide interagency support, programmatic planning and policy recommendations, promote coordination and cooperation with and among State, multi-state, bi-state, federal and non-governmental agencies in matters affecting the New Jersey Marine Transportation System;
- b. Engage in public education on maritime issues;
- c. Serve as the primary advisory body and lead agency for support of New Jersey's \$50 billion maritime industry;
- d. Participate in maritime-related technology research and development;
- e. Investigate innovative dredged material management technologies and techniques to ensure continued growth of New Jersey's Marine Transportation System;
- f. Act as the local sponsor for agreements with State and federal agencies in support of dredging and dredging related projects;
- g. Research, facilitate, and act as lead advisory body for grant funding opportunities which enhance and further the mission of the office;
- h. Develop and maintain an interactive educational website on the department's Internet website;
- i. Act as advisor for State and federal entities and non-governmental entities involved in advancing the mission of the New Jersey Marine Transportation System;
- j. Engage in waterborne, dredging, and related infrastructure development projects which enhance the economic, environmental, and efficient nature of maritime and marine trades services;

k. Operate, lease, or license a dredging processing facility, or contract for the design, construction, use, management or operation of any State dredging processing facility; and

l. Undertake any additional actions as appropriate to advance the State's maritime roles and responsibilities.

C.27:1A-81 Duties of commissioner.

7. The commissioner shall investigate and develop alternative funding resources, establish and budget annual State funding in furtherance of maritime initiatives, improve government coordination with the recreational and commercial fishing and boating industries, create regional dredged material disposal facilities, continue development of beneficial use options for dredged material, develop dredging and dredged material technologies, continue development of waterborne transportation targeting congestion relief from highways and reduced air pollution, and implement public education programs as desirable.

C.27:1A-82 Dredged material processing; "Maritime Industry Fund."

8. a. The commissioner, in consultation with the Department of Environmental Protection and the Department of the Treasury, may operate, lease, license or contract the design, construction, use, management or operation of any State dredged material processing facility in such manner as to produce revenue in support of the maritime industry.

b. There is established in the General Fund a separate, non-lapsing, dedicated account to be known as the "Maritime Industry Fund," hereinafter referred to as "the fund." Notwithstanding any provisions of law to the contrary and except as otherwise provided in this act, the Maritime Industry Fund shall be utilized to provide for projects that support New Jersey's maritime industry.

c. Each fiscal year, the State Treasurer shall credit all revenues from any State dredged material processing facility to the fund.

d. Each fiscal year, the State Treasurer shall credit all earnings received from the investment or deposit of revenue in the fund, to the fund.

e. All revenues and earnings deposited in the fund shall be appropriated in the same fiscal year to the department exclusively in furtherance of the purposes set forth in this act.

C.27:1A-83 Purchases, contracts, agreements regulated.

9. Purchases, contracts, or agreements over \$25,000 for dredging and dredging related projects shall be governed as provided in subsections a. and b. below.

a. All purchases, contracts, or agreements, where the cost or contract price exceeds the sum of \$25,000, or, after January 1, 2003, the amount determined pursuant to subsection b. of this section, shall, except as otherwise provided by section 10 of this act, be made, negotiated, or awarded only after public advertisement for bids therefor and shall be awarded to that responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to the office in its judgment, upon consideration of price and other factors. Any bid may be rejected when the office determines that it is in the public interest to do so.

Any purchase, contract, or agreement, where the cost or contract price is less than or equal to \$25,000, or the amount determined pursuant to subsection b. of this section, shall be made, negotiated, or awarded by the office without advertising and in any manner which the office, in its judgment, deems necessary to serve its unique interests and purposes and which promotes, whenever practicable, full and free competition by the acceptance of quotations or proposals or by the use of other suitable methods.

b. The department shall no later than March 1 of each odd-numbered year adjust the threshold amount set forth in subsection a. of this section, or subsequent to 2003 the threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of each odd-numbered year.

C.27:1A-84 Purchases, contracts, agreements may be made without public advertisement,

certain circumstances.

10. Purchases, contracts or agreements over \$25,000 for dredging and dredging related projects may be made, negotiated, or awarded by the office without public advertisement as provided for in subsections a., b. and c. of this section.

a. Any purchase, contract, or agreement, where the cost or contract price exceeds the amount set forth in subsection a. of section 16 of P.L.1998, c.44 (C.52:27C-76), or, after January 1, 2003, the amount calculated by the Governor pursuant to subsection b. of section 16 of P.L.1998, c.44 (C.52:27C-76) may be made, negotiated, or awarded by the office without advertisement for bids under the following circumstances:

(1) When the subject matter consists of:

The purchase, rental, or lease of such office space, office machinery, specialized equipment, buildings or real property as may be necessary for the use, or incidental to the performance of the office's duties and the exercise of its powers under this act; or

(2) When any one or more of the following circumstances exist:

(a) Standardization of equipment and interchangeability of parts is in the public interest;

(b) Only one source of supply or service is available;

(c) The exigency of the office's duties and responsibilities will not admit of advertisement;

(d) More favorable terms can be obtained from a primary source of supply of an item or service;

(e) Bid prices, after advertising, are not reasonable or have not been independently arrived at in open competition, but no negotiated purchase, contract, or agreement may be entered into under this subsection after the rejection of all bids received unless: (i) notification of the intention to negotiate and reasonable opportunity to negotiate is given to each responsible bidder; (ii) the negotiated price is lower than the lowest rejected bid price of a responsible bidder; and (iii) the negotiated price is the lowest negotiated price offered by any responsible bidder;

(f) The purchase is to be made from, or the contract is to be made with, any federal or State government agency or other entity, or any political subdivision thereof; or

(g) Purchases are made through or by the Director of the Division of Purchase and Property, in the Department of the Treasury, pursuant to section 1 of P.L.1959, c.40 (C.52:27B-56.1).

b. In any such instances as identified in subsection a. of this section, the office may make, negotiate, or award the purchase, contract or agreement in any manner which the office deems necessary to serve its unique interests and purposes and which promotes, whenever practicable, full and free competition by the acceptance of quotations or proposals or by the use of other suitable methods.

c. In any case in which the office shall make, negotiate, or award a purchase, contract, or agreement without public advertisement pursuant to subsection a. of this section, the office shall specify the subject matter or circumstances set forth in subsection a. which permit the office to take such action.

C.27:1A-85 Rules, regulations.

11. The commissioner is hereby authorized to make and issue such rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as the commissioner may deem necessary or appropriate to effectuate the purposes of this act.

12. Section 3 of P.L.1997, c.97 (C.12:6B-3) is amended to read as follows:

C.12:6B-3 Dredging Project Facilitation Task Force.

3. a. There is established in the Executive Branch of the State Government a Dredging Project Facilitation Task Force. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the task force is allocated within the Department of Transportation, but, notwithstanding that allocation, the task force shall be independent of any supervision or control by the department or by the commissioner or any officer or employee thereof. The task force shall constitute an instrumentality of the State exercising public and essential governmental functions, and the exercise by the task force of the

powers conferred by this or any other act shall be deemed and held to be an essential governmental function of the State.

b. (1) The task force shall consist of 12 members, and shall include the following three ex-officio members: the Commissioner of the Department of Environmental Protection, or his designee; the Commissioner of the Department of Transportation, or his designee; and the State Treasurer, or his designee. The task force shall also include three public members appointed by the Governor; three public members appointed by the President of the Senate, one of whom the President of the Senate shall designate as chair of the task force; and three public members appointed by the Speaker of the General Assembly.

(2) The public members shall serve for terms of two years, except that of the public members first appointed by each appointing authority, one shall serve a term of three years, one shall serve a term of two years, and one shall serve a term of one year. Not more than two public members appointed by the same appointing authority shall be members of the same political party.

(3) The appointment of the members shall be made within 45 days of the effective date of this act. The appointee of the President of the Senate designated as chair of the task force shall serve a term of two years and shall convene an organizational meeting of the task force as soon as is practicable following the appointment of at least six public members to the task force.

(4) Each member of the task force shall serve for the term of the appointment and until a successor shall have been appointed and qualified. Task force members shall serve without compensation. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term only. A public member may be reappointed to the task force upon term expiration.

(5) Any member of the task force may be removed by the appointing authority, for cause, after a public hearing.

(6) A majority of the full membership of the task force shall constitute a quorum for the transaction of task force business. Action may be taken and motions and resolutions adopted by the task force at any meeting thereof by the affirmative vote of a majority of the full membership of the task force.

(7) The public members shall, to the maximum extent practicable, represent one or more of the following areas of expertise and specialization: the maritime industry, the business community, the trucking industry, organized labor, marine terminal operations, the tourism and recreation industry, environmental technology, and commercial fishing.

13. Section 4 of P.L.1997, c.97 (C.12:6B-4) is amended to read as follows:

C.12:6B-4 Priority list for dredging projects; appropriations.

4. a. It shall be the duty of the Office of Maritime Resources in the Department of Transportation to establish, from time to time, a project priority list for dredging, dredged material disposal projects and decontamination projects based primarily on the maintenance of the viability of the Port of New Jersey and New York as a deep water port accessible to international commerce, on the maintenance of the viability of navigation channels not located in the port region to promote commerce, recreation and tourism, and on the prospects for the creation and retention of jobs in New Jersey. In developing a project priority list, the office shall consult with the task force and the Department of Environmental Protection, and shall review and consider the plan developed pursuant to subsection a. of section 5 of P.L.1997, c.97 (C.12:6B-5). The office, in consultation with the task force and the Department of Environmental Protection, shall identify in the project priority lists developed pursuant to this subsection, not less than a total of \$5 million for decontamination projects. Upon the development of a project priority list, the office shall submit the list to the task force for its approval. The task force is authorized to approve, disapprove, or approve in part, a project priority list.

b. Upon approval of a project priority list for projects authorized to receive funding pursuant to sections 5 and 7 of P.L.1996, c.70, or upon the failure of the task force to approve or disapprove a project priority list within 60 days of receipt of the list from the office, the task force shall submit the list to the President of the Senate and the Speaker of the General

Assembly, who shall cause the project priority list to be introduced in each House in the form of legislative appropriations bills.

c. The Legislature shall consider, and may amend or supplement, the appropriations bills containing the project priority list. Any bill introduced pursuant to subsection b. of this section and approved by the Legislature shall appropriate monies from the "1996 Dredging and Containment Facility Fund," established pursuant to section 18 of P.L.1996, c.70, only for the projects authorized pursuant to sections 5 and 7 of P.L.1996, c.70, and shall identify the specific projects, including the individual amounts therefor, for which monies are appropriated.

d. No monies appropriated pursuant to subsection c. of this section shall be expended for any project unless the expenditure is authorized pursuant to the project priority list contained in the legislation approved in accordance with the provisions of subsection c. of this section.

e. Nothing in this section shall preclude the Legislature from developing a project priority list and making appropriations therefor.

14. Section 5 of P.L.1997, c.97 (C.12:6B-5) is amended to read as follows:

C.12:6B-5 Dredging, dredged material, management and disposal plan.

5. a. The Office of Maritime Resources in the Department of Transportation shall, in consultation with the Department of Environmental Protection and the task force established pursuant to section 3 of P.L.1997, c.97 (C.12:6B-3), develop, implement and maintain a comprehensive dredging and dredged material management and disposal plan, including dredged material decontamination, for the navigable waters of the State.

b. The Department of Environmental Protection and the Department of Transportation shall be authorized, in accordance with the rules, regulations and procedures of the General Services Administration, to enter into agreements with public or private entities to establish ownership, lease provisions and other related real and personal property interests. The departments may also, in accordance with the rules, regulations and procedures of the General Services Administration, enter into agreements with regard to:

(1) the development, operation and management of dredging projects including, but not necessarily limited to, any cost sharing, right of way or easement provisions involved;

(2) the development, operation, management, closure and monitoring of dredged material disposal, treatment and processing facilities; and

(3) the development, evaluation, certification and implementation of demonstration dredged material decontamination and treatment technologies that are cost-effective, environmentally sound and that create a usable end product.

c. The departments shall be authorized to acquire by purchase, lease, grant or otherwise, any land, real or personal property which, in the determination of the departments, is reasonably necessary to effectuate the purposes of this act.

d. The departments shall be authorized to solicit proposals and to enter into all contracts and agreements necessary to plan, design, construct, equip, operate, finance, improve or maintain demonstration projects for dredging, dredged material disposal and dredged material decontamination projects.

e. The departments shall be authorized to charge and collect fees or charges for dredging and for the use of a dredged material disposal facility at such rates necessary to compensate for the costs to dredge, and to plan, design, construct, equip, operate, improve, maintain, close or replace the dredged material disposal facility and to ensure continued availability of dredging and dredged material disposal.

15. Section 10 of P.L.1997, c.97 (C.12:6B-6) is amended to read as follows:

C.12:6B-6 Criteria for final request for proposals.

10. The Department of Transportation and the Department of Environmental Protection shall establish, in consultation with the Dredging Project Facilitation Task Force, the criteria for the content of final requests for proposals for any studies, assessments, demonstration projects and dredging, and all phases in the development and construction of a dredged material disposal

facility. The State may include in a request for proposals developed pursuant to this act, on a case-by-case basis, a provision for the indemnification of the State by the contract holder. The Department of Transportation or the Department of Environmental Protection, as appropriate, in consultation with the task force, shall solicit requests for proposals and negotiate contracts.

16. Section 11 of P.L.1997, c.97 (C.12:6B-7) is amended to read as follows:

C.12:6B-7 Rules, regulations.

11. a. The Department of Environmental Protection shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules or regulations necessary to effectuate the purposes of this act.

b. The Department of Transportation shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules or regulations necessary to effectuate the purposes of this act.

17. This act shall take effect immediately.

Approved January 8, 2002.