

## CHAPTER 210

**AN ACT** concerning the Delaware River Port Authority, amending P.L.1941, c.100 and amending P.L.1931, c.391, authorizing the Governor, on behalf of the State of New Jersey, to enter into a supplemental compact or agreement with the Commonwealth of Pennsylvania amending the compact or agreement between the State of New Jersey and the Commonwealth of Pennsylvania entitled "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as amended and supplemented, and authorizing the Governor to apply, on behalf of the State of New Jersey, to the Congress of the United States for its consent to such supplemental compact or agreement.

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

C.32:3-5.1 Governor authorized to enter into supplemental compact agreement.

1. The Governor is authorized to enter into a supplemental compact or agreement, on behalf of the State of New Jersey, with the Commonwealth of Pennsylvania amending Article IV of the compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey entitled "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as set forth in this act.

Powers of commission.

2. Article IV of the "Agreement Between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as amended and supplemented (R.S.32:3-5) is amended to read as follows:

R.S.32:3-5. For the effectuation of its authorized purposes the commission is hereby granted the following powers:

- (a) To have perpetual succession.
- (b) To sue and be sued.
- (c) To adopt and use an official seal.
- (d) To elect a chairman, vice-chairman, secretary and treasurer, and to adopt suitable bylaws for the management of its affairs. The secretary and treasurer need not be members of the commission.
- (e) To appoint, hire, or employ counsel and such other officers and such agents and employees as it may require for the performance of its duties, by contract or otherwise, and fix and determine their qualifications, duties and compensation, provided that the employees of the Delaware River Port Authority shall be subject to the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) and shall have all of the rights provided to employees by that act, including but not limited to, the right to form, join or assist an employee organization, and the right to have that employee organization engage in collective bargaining on behalf of the employees.
- (f) To enter into contracts.
- (g) To acquire, own, hire, use, operate and dispose of personal property.
- (h) To acquire, own, use, lease, operate, mortgage and dispose of real property and interests in real property, and to make improvements thereon.
- (i) To grant by franchise, lease or otherwise, the use of any property or facility owned or controlled by the commission and to make charges therefor.

(j) To borrow money upon its bonds or other obligations, either with or without security, and to make, enter into and perform any and all such covenants and agreements with the holders of such bonds or other obligations as the commission may determine to be necessary or desirable for the security and payment thereof, including without limitation of the foregoing, covenants and agreements as to the management and operation of any property or facility owned or controlled by it, the tolls, rents, rates or other charges to be established, levied, made and collected for any use of any such property or facility, or the application, use and disposition of the proceeds of any bonds or other obligations of the commission or the proceeds of any such tolls, rents, rates or other charges or any other revenues or moneys of the commission.

(k) To exercise the right of eminent domain within the Port District.

(l) To determine the exact location, system and character of and all other matters in connection with any and all improvements or facilities which it may be authorized to own, construct, establish, effectuate, operate or control.

(m) In addition to the foregoing, to exercise the powers, duties, authority and jurisdiction heretofore conferred and imposed upon the aforesaid Delaware River Joint Commission by the Commonwealth of Pennsylvania or the State of New Jersey, or both of the said two States.

(n) To exercise all other powers not inconsistent with the constitutions of the two States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

(o) To acquire, purchase, construct, lease, operate, maintain and undertake any project, including any terminal, terminal facility, transportation facility, or any other facility of commerce and to make charges for the use thereof.

(p) To make expenditures anywhere in the United States and foreign countries, to pay commissions, and hire or contract with experts or consultants, and otherwise to do indirectly anything which the commission may do directly.

(q) To establish one or more operating divisions as deemed necessary to exercise the power and effectuate the purposes of this agreement.

The commission shall also have such additional powers as may hereafter be delegated to or imposed upon it from time to time by the action of either State concurred in by legislation of the other.

It is the policy and intent of the Legislature of the Commonwealth of Pennsylvania and the State of New Jersey that the powers granted by this article shall be so exercised that the American system of free competitive private enterprise is given full consideration and is maintained and furthered. In making its reports and recommendations to the Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey on the need for any facility or project which the commission believes should be undertaken for the promotion and development of the Port District, the commission shall include therein its findings which fully set forth that the facility or facilities operated by private enterprise within the Port District and which it is intended shall be supplanted or added to are not adequate.

C.32:3-5.2 Application to Congress for consent and approval.

3. The Governor is authorized to apply, on behalf of the State of New Jersey, to the Congress of the United States for its consent and approval to such supplemental compact or agreement, but in the absence of such consent and approval, the commission referred to in such supplemental compact or agreement shall have all of the powers which the Commonwealth of Pennsylvania and the State of New Jersey may confer upon it without the consent and approval of Congress.

4. Section 3 of P.L.1941, c.100 (C.34:13A-3) is amended to read as follows:

C.34:13A-3 Definitions.

3. When used in this act:

(a) The term "board" shall mean New Jersey State Board of Mediation.

(b) The term "commission" shall mean New Jersey Public Employment Relations Commission.

(c) The term "employer" includes an employer and any person acting, directly or indirectly, on behalf of or in the interest of an employer with the employer's knowledge or ratification, but a labor organization, or any officer or agent thereof, shall be considered an employer only with respect to individuals employed by such organization. This term shall include "public employers" and shall mean the State of New Jersey, or the several counties and municipalities thereof, or any other political subdivision of the State, or a school district, or any special district, or any authority, commission, or board, or any branch or agency of the public service. The term shall also include the Delaware River Port Authority, established pursuant to R.S.32:3-1 et seq.

(d) The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer unless this act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of or in connection with any current labor dispute or because of any unfair labor practice and who has not obtained any other regular and substantially equivalent employment. This term, however, shall not include any individual taking the place of any employee whose work has ceased as aforesaid, nor shall it include any individual employed by his parent or spouse, or in the domestic service of any person in the home of the employer, or employed by any company owning or operating a railroad or railway express subject to the provisions of the Railway Labor Act. This term shall include any public employee, i.e., any person holding a position, by appointment or contract, or employment in the service of a public employer, including the Delaware River Port Authority, except elected officials, members of boards and commissions, managerial executives and confidential employees.

(e) The term "representative" is not limited to individuals but shall include labor organizations, and individual representatives need not themselves be employed by, and the labor organization serving as a representative need not be limited in membership to the employees of, the employer whose employees are represented. This term shall include any organization, agency or person authorized or designated by a public employer, public employee, group of public employees, or public employee association to act on its behalf and represent it or them.

(f) "Managerial executives" of a public employer means persons who formulate management policies and practices, and persons who are charged with the responsibility of directing the effectuation of such management policies and practices, except that in any school district this term shall include only the superintendent or other chief administrator, and the assistant superintendent of the district.

(g) "Confidential employees" of a public employer means employees whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make their membership in any appropriate negotiating unit incompatible with their official duties.

5. This section and sections 1 through 3 of this act shall take effect immediately; but the Governor shall not enter into the supplemental compact or agreement hereinabove set forth on behalf of the State of New Jersey until passage by the Commonwealth of Pennsylvania of a substantially similar act embodying the supplemental compact or agreement between the two States. Section 4 shall take effect upon passage of that substantially similar act, and the consent and approval of Congress to that supplemental compact or agreement, if that consent and approval is required to confer the powers granted in this act upon the Delaware River Port Authority.

Approved January 16, 2010.