

§§1,2 -
C.32:23-229 to
32:23-230
§§3-31 -
C.53:2-8 to
53:2-36
§33 - Repealer
§34 - Note

P.L. 2017, CHAPTER 324, *approved January 16, 2018*
Senate, No. 3502

1 **AN ACT** directing the Governor, on behalf of the State of New
2 Jersey, to notify the Congress of the United States, the Governor
3 of the State of New York, and the Waterfront Commission of
4 New York Harbor, of the State of New Jersey's intention to
5 withdraw from the compact created by P.L.1953, c.202 (C.32:23-
6 1 et seq.), supplementing Titles 32 and 53 of the Revised
7 Statutes, amending R.S.52:14-7, and repealing parts of the
8 statutory law.

9

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

12

13 1. (New section) The Legislature finds and declares that:

14 a. The Port of New York and New Jersey (port) has been one
15 of the backbones of the region's economy for decades. When
16 ranked by tonnage, the port is the largest port complex on the East
17 coast of North America and the third largest in the United States.
18 When ranked by the value of shipments passing through it, the port
19 is the second busiest freight gateway in the United States. The
20 port's strategic location, within one day's drive of a significant
21 percentage of the national market and developed transportation
22 infrastructure, are key assets that have made the region a gateway
23 for international trade. Since the birth of containerization in 1956,
24 the marine terminals on the New Jersey side of the port have grown
25 significantly in comparison to the New York terminals. Today more
26 than 82 percent of the cargo and 82 percent of the work hours are
27 on the New Jersey side of the port. The port and freight industry in
28 New Jersey alone supports more than 143,000 direct jobs and
29 250,000 total jobs, nearly \$14.5 billion in personal income, over
30 \$20 billion in business income, and nearly \$4.9 billion in federal,
31 State, and local taxes, of which State and local taxes account for
32 \$1.6 billion.

33 b. The Waterfront Commission of New York Harbor
34 (commission) was created through a compact between the states of

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.

1 New Jersey and New York and approved by Congress in 1953. The
2 commission's mission is to ensure fair hiring and employment
3 practices and investigate, deter, and combat criminal activity and
4 influence in the port. The commission has itself been tainted by
5 corruption in recent years and, moreover, has exercised powers that
6 do not exist within the authorizing compact, by dictating the terms
7 of collective bargaining agreements of organized labor, and by
8 requiring stevedoring companies to hire and retain independent
9 inspectors to examine company operations in order for those
10 companies to continue to operate in the port. Further, the
11 commission, despite changes in the industry to drive out organized
12 crime's influence, has over-regulated the businesses at the port in an
13 effort to justify its existence as the only waterfront commission in
14 any port in the United States. As a result, the commission has
15 become an impediment to future job growth and prosperity at the
16 port.

17 c. While there is a continued need to regulate port-located
18 business to ensure fairness and safety, there are numerous federal,
19 State, and local taxpayer funded agencies that have jurisdiction that
20 the commission lacks to regulate port operations, including, but not
21 limited to: the United States Department of Homeland Security;
22 United States Customs and Border Protection; the United States
23 Coast Guard; the Transportation Security Administration; the
24 Federal Bureau of Investigation; the United States Department of
25 Labor's Division of Longshore and Harbor Workers Compensation;
26 the National Labor Relations Board; the Food and Drug
27 Administration; the United States Environmental Protection
28 Agency; the United States Department of Transportation; the
29 Federal Maritime Commission; the Occupational Safety and Health
30 Administration; the Port Authority of New York and New Jersey
31 Police Department; depending on the particular location of the
32 facility in New Jersey, the City of Newark Police Department, City
33 of Elizabeth Police Department, City of Bayonne Police
34 Department, City of Jersey City Police Department, and the New
35 Jersey State Police; and, in matters of fair hiring and employment
36 discrimination, the United States Equal Employment Opportunity
37 Commission and the New Jersey Division on Civil Rights.

38 d. Abolishing the commission and transferring the New Jersey
39 portion of the commission's law enforcement responsibilities to the
40 New Jersey State Police would be practical and efficient, as the
41 State Police is suited to undertake an investigation of any criminal
42 activity in the ports of northern New Jersey without impeding
43 economic prosperity.

44
45 2. (New section) a. Within 30 days of the effective date of
46 P.L. , c. (C.) (pending before the Legislature as this bill),
47 the Governor, on behalf of the State of New Jersey, shall notify the
48 Congress of the United States, the Governor of the State of New

1 York, and the waterfront commission of New York harbor, of the
2 State of New Jersey's intention to withdraw from:

3 (1) the compact entered into by the State of New Jersey pursuant
4 to its agreement thereto under P.L.1953, c.202 (C.32:23-1 et seq.)
5 and by the State of New York pursuant to its agreement thereto
6 under P.L.1953, c.882 (NY Unconsol. Ch.307, s.1), as amended and
7 supplemented; and

8 (2) the compact, entered into by the State of New Jersey
9 pursuant to its agreement thereto under P.L.1970, c.58 (C.32:23-150
10 et seq.) and by the State of New York pursuant to its agreement
11 thereto under P.L.1970, c.951 (NY Unconsol. Ch.307, s.10), as
12 amended and supplemented.

13 b. As soon as practicable after the date of notification pursuant
14 to subsection a. of this section, the Governor shall notify the
15 presiding officers of each house of the Legislature that the
16 notification has occurred, the date of the notification, and any other
17 information concerning the notification the Governor deems
18 appropriate.

19

20 3. (New section) As used in P.L. , c. (C.) (pending
21 before the Legislature as this bill):

22 "Career offender" means a person whose behavior is pursued in
23 an occupational manner or context for the purpose of economic
24 gain, utilizing methods that are deemed criminal violations against
25 the laws of this State.

26 "Career offender cartel" means a number of career offenders
27 acting in concert, and may include what is commonly referred to as
28 an organized crime group.

29 "Carrier" means a carrier as that term is defined in 49 U.S.C.
30 s.13102.

31 "Carrier of freight by water" means any person who may be
32 engaged or who may hold himself or herself out as willing to be
33 engaged, whether as a common carrier, a contract carrier, or
34 otherwise, except for carriage of liquid cargoes in bulk in tank
35 vessels designed for use exclusively in that service or carriage by
36 barge of bulk cargoes consisting of only a single commodity loaded
37 or carried without wrappers or containers and delivered by the
38 carrier without transportation mark or count, in the carriage of
39 freight by water between any point in the port of New York district,
40 as applicable only within the State of New Jersey, and a point
41 outside that district.

42 "Checker" means a longshoreman who is employed to engage in
43 direct and immediate checking of waterborne freight or of the
44 custodial accounting therefor or in the recording or tabulation of the
45 hours worked at piers or other waterfront terminals by natural
46 persons employed by carriers of freight by water or stevedores.

47 "Commission" means the waterfront commission of New York
48 harbor established by the State of New Jersey pursuant to P.L.1953,

1 c.202 (C.32:23-1 et seq.) and by the State of New York pursuant to
2 its agreement thereto under P.L.1953, c.882 (NY Unconsol.
3 Ch.307, s.1).

4 "Common carrier" means a common carrier as that term is
5 defined in 46 U.S.C. s.40102.

6 "Compact" means the compact entered into by the State of New
7 Jersey pursuant to its agreement thereto under P.L.1953, c.202
8 (C.32:23-1 et seq.) and by the State of New York pursuant to its
9 agreement thereto under P.L.1953, c.882 (NY Unconsol. Ch.307,
10 s.1), as amended and supplemented.

11 "Consignee" means the person designated on a bill of lading as
12 the recipient of waterborne freight consigned for carriage by water.

13 "Container" means any receptacle, box, carton, or crate which is
14 specifically designed and constructed so that it may be repeatedly
15 used for the carriage of freight by a carrier of freight by water.

16 "Contract carrier" means a contract carrier as that term is defined
17 in 49 U.S.C. s.13102.

18 "Division" means the Division of State Police in the Department
19 of Law and Public Safety.

20 "Freight" means freight which has been or will be, carried by, or
21 consigned for carriage by a carrier of freight by water.

22 "Hiring agent" means any natural person who, on behalf of a
23 carrier of freight by water or a stevedore, shall select any
24 longshoreman for employment, and "hiring agent" includes any
25 natural person, who on behalf of any other person shall select any
26 longshoreman for employment.

27 "Immunity" means that a person shall not be prosecuted or
28 subjected to any penalty or forfeiture for or on account of any
29 transaction, matter, or thing concerning which, pursuant to an order
30 of the division, the person gave answer or produced evidence, and
31 that no answer given or evidence produced shall be received against
32 the person upon any criminal proceeding.

33 "Labor organization" means and includes any organization which
34 exists and is constituted for the purpose in whole or in part of
35 collective bargaining, or of dealing with employers concerning
36 grievances, terms and conditions of employment, or other mutual
37 aid or protection, but "labor organization" shall not include a
38 federation or congress of labor organizations organized on a
39 national or international basis even though one of its constituent
40 labor organizations may represent persons so registered or licensed.

41 "Longshoreman" means a natural person, other than a hiring
42 agent, who is employed for work at a pier or other waterfront
43 terminal, either by a carrier of freight by water or by a stevedore, to:
44 a. physically move waterborne freight on vessels berthed at piers,
45 on piers or at other waterfront terminals; b. engage in direct and
46 immediate checking of any such freight or of the custodial
47 accounting therefor or in the recording or tabulation of the hours
48 worked at piers or other waterfront terminals by natural persons

1 employed by carriers of freight by water or stevedores; c. supervise
2 directly and immediately others who are employed as a
3 longshoreman; d. physically to perform labor or services incidental
4 to the movement of waterborne freight on vessels berthed at piers,
5 on piers or at other waterfront terminals; e. physically move
6 waterborne freight to or from a barge, lighter, or railroad car for
7 transfer to or from a vessel of a carrier of freight by water which is,
8 shall be, or shall have been berthed at the same pier or other
9 waterfront terminal; or f. perform labor or services involving, or
10 incidental to, the movement of freight at a pier or other waterfront
11 terminal.

12 "Longshoremen's register" means the register of eligible
13 longshoremen compiled and maintained by the division pursuant to
14 section 8 of P.L. , c. (C.) (pending before the Legislature
15 as this bill).

16 "Marine terminal" means an area which includes piers, which is
17 used primarily for the moving, warehousing, distributing, or
18 packing of waterborne freight or freight to or from piers and which
19 is under common ownership or control with the pier.

20 "Other waterfront terminal" means any warehouse, depot, or
21 other terminal, other than a pier, which is located within a marine
22 terminal in the port of New York district and which is used for
23 waterborne freight in whole or substantial part, and includes any
24 warehouse, depot, or other terminal, other than a pier, whether
25 enclosed or open, which is located in a marine terminal in the port
26 of New York district, any part of which is used by any person to
27 perform labor or services involving, or incidental to, the movement
28 of waterborne freight or freight.

29 "Person" means not only a natural person but also any
30 partnership, joint venture, association, corporation, or any other
31 legal entity but shall not include the United States, any state or
32 territory thereof, or any department, division, board, authority, or
33 authority of one or more of the foregoing.

34 "Pier" means any wharf, pier, dock, or quay in regular use for the
35 movement of waterborne freight between vessel and shore.

36 "Pier superintendent" means any natural person other than a
37 longshoreman who is employed for work at a pier or other
38 waterfront terminal by a carrier of freight by water or a stevedore
39 and whose work at the pier or other waterfront terminal includes the
40 supervision, directly or indirectly, of the work of longshoremen.

41 "Port of New York district" or "district" means the district
42 created by Article II of the compact dated April 30, 1921, between
43 the states of New York and New Jersey, authorized by chapter 154
44 of the laws of New York of 1921 and chapter 151 of the laws of
45 New Jersey of 1921.

46 "Port watchman" means any watchman, gateman, roundsman,
47 detective, guard, guardian, or protector of property employed by the
48 operator of any pier or other waterfront terminal or by a carrier of

1 freight by water to perform services in that capacity on any pier or
2 other waterfront terminal.

3 "Select any longshoreman for employment" means select a
4 person for the commencement or continuation of employment as a
5 longshoreman, or the denial or termination of employment as a
6 longshoreman.

7 "Stevedore" means a contractor, not including an employee,
8 engaged for compensation pursuant to a contract or arrangement
9 with a carrier of freight by water, in moving waterborne freight
10 carried or consigned for carriage by the carrier on vessels of the
11 carrier berthed at piers, on piers at which the vessels are berthed or
12 at other waterfront terminals. "Stevedore" shall also include: a.
13 a contractor engaged for compensation pursuant to a contract or
14 arrangement with the United States, any state or territory thereof, or
15 any department, division, board, commission, or authority of one or
16 more of the foregoing, in moving freight carried or consigned for
17 carriage between any point in the port of New York district and a
18 point outside that district on vessels of the public agency berthed at
19 piers, on piers at which their vessels are berthed or at other
20 waterfront terminals; b. a contractor, engaged for compensation
21 pursuant to a contract or arrangement with any person to perform
22 labor or services incidental to the movement of waterborne freight
23 on vessels berthed at piers, on piers or at other waterfront terminals;
24 or c. a contractor engaged for compensation pursuant to a contract
25 or arrangement with any other person to perform labor or services
26 involving, or incidental to, the movement of freight into or out of
27 containers, which have been or which will be carried by a carrier of
28 freight by water, on vessels berthed at piers, on piers or at other
29 waterfront terminals.

30 "State Treasurer" means the Treasurer of the State of New
31 Jersey.

32 "Terrorist group" means a group associated, affiliated, or funded
33 in whole or in part by a terrorist organization designated by the
34 United States Secretary of State in accordance with section 219 of
35 the federal Immigration and Nationality Act, as amended from time
36 to time, or any other organization which assists, funds, or engages
37 in crimes or acts of terrorism as defined in the laws of the United
38 States, or of this State.

39 "Transfer date" means the 90th day following the notification by
40 the Governor pursuant to section 2 of P.L. , c. (C.)
41 (pending before the Legislature as this bill).

42 "Waterborne freight" means freight carried by or consigned for
43 carriage by carriers of freight by water, and shall also include
44 freight described in the definition of "stevedore" and in the
45 definition of "other waterfront terminal." Provided, however, that
46 at the point at which the freight is released from a pier or marine
47 terminal to the possession of the consignee or the person designated

1 by the consignee, the freight shall no longer be considered
2 waterborne freight if:

- 3 a. the freight is not further transported by water; and
- 4 b. services involving or incidental to the unloading, storage,
5 inspection, grading, repackaging, or processing of freight occur at a
6 location outside a pier or marine terminal.

7 "Witness" means any person whose testimony is desired in any
8 investigation, interview, or other proceeding conducted by the
9 division under the authority granted pursuant to
10 P.L. , c. (C.) (pending before the Legislature as this bill).

11

12 4. (New section) a. Until the transfer date established
13 pursuant to section 31 of P.L. , c. (C.) (pending before the
14 Legislature as this bill) shall have become operative, the division
15 shall not exercise any powers, rights, or duties conferred by
16 P.L. , c. (C.) (pending before the Legislature as this bill)
17 or by any other law in any way which will interfere with the
18 powers, rights, and duties of the commission. The division and the
19 commission are directed to cooperate with each other after the date
20 of notification pursuant to section 2 of P.L. , c. (C.)
21 (pending before the Legislature as this bill) until the transfer date,
22 and the commission shall make available to the division all
23 information concerning its property and assets, contracts,
24 operations, and finances within New Jersey as the division may
25 require to provide for the efficient exercise by the division of all
26 powers, rights, and duties conferred upon the division by P.L. , c.
27 (C.) (pending before the Legislature as this bill).

28 b. After the transfer date established pursuant to section 31 of
29 P.L. , c. (C.) (pending before the Legislature as this bill):

30 (1) The division shall assume all of the powers, rights, assets,
31 and duties of the commission within this State, and those powers,
32 rights, assets, and duties shall then and thereafter be vested in and
33 exercised by the division;

34 (2) The officers having custody of the funds of the commission
35 applicable to this State shall deliver those funds into the custody of
36 the State Treasurer, the property and assets of the commission
37 within this State shall, without further act or deed, become the
38 property and assets of the division; and

39 (3) Any officers and employees of the commission seeking to be
40 transferred to the division may apply to become employees of the
41 division until determined otherwise by the division. Nothing in
42 P.L. , c. (C.) (pending before the Legislature as this bill)
43 shall be construed to deprive any officers or employees of the
44 commission of their rights, privileges, obligations, or status with
45 respect to any pension or retirement system. The commission
46 employees shall retain all of their rights and benefits under existing
47 collective negotiation agreements or contracts until such time as
48 new or revised agreements or contracts are agreed to. All existing

1 employee representatives shall be retained to act on behalf of those
2 employees until such time as the employees shall, pursuant to law,
3 elect to change those representatives. If an existing officer or
4 employee becomes a member of an administered retirement system
5 of the State of New Jersey, the officer or employee shall receive the
6 same amount of service credit in the retirement system as the
7 officer or employee previously had in the pension or retirement
8 system as an employee of the commission, provided that there is a
9 transfer of funds, or purchase, of the full cost of that credit from the
10 pension or retirement system of the commission to an administered
11 retirement system of the State of New Jersey. Nothing in P.L. , c.
12 (C.) (pending before the Legislature as this bill) shall affect the
13 civil service status, if any, of those officers or employees;

14 (4) All debts, liabilities, obligations, and contracts of the
15 commission applicable only to this State, as determined by the
16 officers having custody of the funds of the commission, except to
17 the extent specifically provided for or established to the contrary in
18 P.L. , c. (C.) (pending before the Legislature as this bill),
19 are imposed upon the division, and all creditors of the commission
20 and persons having claims against or contracts with the commission
21 of any kind or character may enforce those debts, claims, and
22 contracts against the division as successor to the commission in the
23 same manner as they might have done against the commission, and
24 the rights and remedies of those holders, creditors, and persons
25 having claims against or contracts with the commission shall not be
26 limited or restricted in any manner by P.L. , c. (C.)
27 (pending before the Legislature as this bill);

28 (5) In continuing the functions, contracts, obligations, and duties
29 of the commission within this State, the division is authorized to act
30 in its own name as may be convenient or advisable under the
31 circumstances from time to time;

32 (6) Any references to the commission in any other law or
33 regulation shall then and thereafter be deemed to refer and apply to
34 the division;

35 (7) All rules and regulations of the commission shall continue in
36 effect as the rules and regulations of the division until amended,
37 supplemented, or rescinded by the division pursuant to the
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
39 seq.). Regulations of the commission inconsistent with the
40 provisions of P.L. , c. (C.) (pending before the Legislature
41 as this bill) or of regulations of the division shall be deemed void;

42 (8) All operations of the commission within this State shall
43 continue as operations of the division until altered by the division as
44 provided or permitted pursuant to P.L. , c. (C.) (pending
45 before the Legislature as this bill); and

46 (9) The powers vested in the division by P.L. , c. (C.)
47 (pending before the Legislature as this bill) shall be construed as
48 being in addition to, and not in diminution of, the powers heretofore

1 vested by law in the commission to the extent not otherwise altered
2 or provided for in P.L. , c. (C.) (pending before the
3 Legislature as this bill).

4 c. A license, registration, or permit issued by the commission
5 prior to the date of notification pursuant to section 2 of P.L. ,
6 c. (C.) (pending before the Legislature as this bill) shall,
7 subject to the terms of its issuance, continue to be valid on and after
8 the transfer date as a license, registration, or permit issued by the
9 division. An application for a license, registration, or permit filed
10 with the commission prior to and pending on that notification date
11 shall, as of and from the notification date, be deemed to be filed
12 with and pending before the division.

13

14 5. (New section) In addition to the powers and duties elsewhere
15 prescribed in law, the division shall have the power:

16 a. To determine the location, size, and suitability of
17 accommodations necessary and desirable for the establishment and
18 maintenance of the employment information centers provided in
19 section 16 of P.L. , c. (C.) (pending before the Legislature
20 as this bill) and for administrative offices for the division;

21 b. To administer and enforce the provisions of
22 P.L. , c. (C.) (pending before the Legislature as this bill);

23 c. Consistent with the provisions of the "Administrative
24 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to adopt and
25 enforce rules and regulations as the division may deem necessary to
26 effectuate the purposes of P.L. , c. (C.) (pending before the
27 Legislature as this bill) or to prevent the circumvention or evasion
28 thereof;

29 d. By its members and its properly designated officers, agents,
30 and employees, with respect to the implementation and enforcement
31 of P.L. , c. (C.) (pending before the Legislature as this
32 bill), to administer oaths and issue subpoenas to compel the
33 attendance of witnesses and the giving of testimony and the
34 production of other evidence;

35 e. To have for its properly designated officers, agents and
36 employees, full and free access, ingress, and egress to and from all
37 vessels, piers, and other waterfront terminals or other places in the
38 port of New York district within this State, for the purposes of
39 making inspection or enforcing the provisions of
40 P.L. , c. (C.) (pending before the Legislature as this bill);
41 and no person shall obstruct or in any way interfere with any
42 officer, employee, or agent of the division in the making of an
43 inspection, or in the enforcement of the provisions of P.L. ,
44 c. (C.) (pending before the Legislature as this bill) or in the
45 performance of any other power or duty under P.L. , c. (C.)
46 (pending before the Legislature as this bill);

47 f. To recover possession of any suspended or revoked license
48 issued pursuant to sections 6, 7, and 13 of P.L. , c. (C.)

- 1 (pending before the Legislature as this bill) within the port of New
2 York district in this State;
- 3 g. To make investigations and collect and compile information
4 concerning waterfront practices generally within the port of New
5 York district in this State and upon all matters relating to the
6 accomplishment of the objectives of P.L. , c. (C.) (pending
7 before the Legislature as this bill);
- 8 h. To advise and consult with representatives of labor and
9 industry and with public officials and agencies concerned with the
10 effectuation of the purposes of P.L. , c. (C.) (pending
11 before the Legislature as this bill), upon all matters which the
12 division may desire, including but not limited to, the form and
13 substance of rules and regulations, the administration of the
14 provisions of P.L. , c. (C.) (pending before the Legislature
15 as this bill), maintenance of the longshoremen's register, and
16 issuance and revocation of licenses;
- 17 i. To make annual and other reports to the Governor and,
18 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
19 Legislature containing recommendations for the improvement of the
20 conditions of waterfront labor within the port of New York district
21 in this State and for the effectuation of the purposes of P.L. ,
22 c. (C.) (pending before the Legislature as this bill). The
23 annual reports shall state the division's findings and determinations
24 as to whether the public necessity still exists for: (1) the continued
25 registration of longshoremen; (2) the continued licensing of any
26 occupation or employment required to be licensed hereunder; and
27 (3) the continued public operation of the employment information
28 centers provided for in section 16 of P.L. , c. (C.) (pending
29 before the Legislature as this bill);
- 30 j. To co-operate with and receive from any department,
31 division, bureau, board, commission, authority, or agency of this
32 State, or of any county or municipality thereof, any assistance and
33 data as will enable the division to properly to carry out its powers
34 and duties hereunder; and to request a department, division, bureau,
35 board, commission, authority, or agency, with the consent thereof,
36 to execute the division's functions and powers, as the public interest
37 may require; and
- 38 k. To exercise the powers and duties of the division as
39 provided in P.L. , c. (C.) (pending before the Legislature as
40 this bill) to its officers, employees, and agents designated by the
41 division;
- 42 l. To issue temporary permits and permit temporary
43 registrations under such terms and conditions as the division may
44 prescribe which shall be valid for a period to be fixed by the
45 division not in excess of six months;
- 46 m. To require any applicant for a license or registration or any
47 prospective licensee to furnish facts and evidence as the division

- 1 may deem appropriate to enable it to ascertain whether the license
2 or registration should be granted;
- 3 n. In any case in which the division has the power to revoke,
4 cancel or suspend any license, the division shall also have the
5 power to impose as an alternative to that revocation, cancellation, or
6 suspension, a penalty, which the licensee may elect to pay the
7 division in lieu of the revocation, cancellation, or suspension. The
8 maximum penalty shall be \$5,000 for each separate offense. The
9 division may, for good cause shown, abate all or part of the penalty;
- 10 o. To designate any officer, agent, or employee of the division
11 to be an investigator who shall be vested with all the powers of a
12 peace or police officer of the State of New Jersey;
- 13 p. To confer immunity, in the following manner prescribed by
14 section 20 of P.L. , c. (C.) (pending before the Legislature
15 as this bill);
- 16 q. To require any applicant or renewal applicant for registration
17 as a longshoreman, any applicant or renewal applicant for
18 registration as a checker, or any applicant or renewal applicant for
19 registration as a telecommunications system controller and any
20 person who is sponsored for a license as a pier superintendent or
21 hiring agent, any person who is an individual owner of an applicant
22 or renewal applicant stevedore, or any persons who are individual
23 partners of an applicant or renewal applicant stevedore, or any
24 officers, directors, or stockholders owning five percent or more of
25 any of the stock of an applicant or renewal applicant corporate
26 stevedore or any applicant or renewal applicant for a license as a
27 port watchman or any other category of applicant or renewal
28 applicant for registration or licensing within the division's
29 jurisdiction to be fingerprinted by the division at the cost and
30 expense of the applicant or renewal applicant;
- 31 r. To exchange fingerprint data with and receive criminal
32 history record information from the Federal Bureau of Investigation
33 and the State Bureau of Identification for use in making the
34 determinations required by this section; and
- 35 s. Notwithstanding any other provision of law, rule, or
36 regulation to the contrary, to require any applicant for employment
37 or employee of the division engaged in the implementation or
38 enforcement of P.L. , c. (C.) (pending before the
39 Legislature as this bill) to be fingerprinted at the cost and expense
40 of the applicant or employee and to exchange fingerprint data with
41 and receive criminal history record information from the Federal
42 Bureau of Investigation and the State Bureau of Identification for
43 use in the hiring or retention of those persons.
- 44
- 45 6. (New section) a. A person shall not act as a pier
46 superintendent or as a hiring agent within the port of New York
47 district in this State without first having obtained from the division
48 a license to act as a pier superintendent or hiring agent, as the case

1 may be, and a person shall not employ or engage another person to
2 act as a pier superintendent or hiring agent who is not so licensed.

3 b. A license to act as a pier superintendent or hiring agent shall
4 be issued only upon the written application, under oath, of the
5 person proposing to employ or engage another person to act as a
6 pier superintendent or hiring agent, verified by the prospective
7 licensee as to the matters concerning the prospective licensee, and
8 shall state the following:

9 (1) The full name and business address of the applicant;

10 (2) The full name, residence, business address, if any, place and
11 date of birth, and social security number of the prospective licensee;

12 (3) The present and previous occupations of the prospective
13 licensee, including the places where the person was employed and
14 the names of the person's employers;

15 (4) Any further facts and evidence as may be required by the
16 division to ascertain the character, integrity, and identity of the
17 prospective licensee; and

18 (5) That if a license is issued to the prospective licensee, the
19 applicant will employ the licensee as pier superintendent or hiring
20 agent, as the case may be.

21 c. A license shall not be granted pursuant to this section:

22 (1) Unless the division shall be satisfied that the prospective
23 licensee possesses good character and integrity;

24 (2) If the prospective licensee has, without subsequent pardon,
25 been convicted by a court of the United States, or any State or
26 territory thereof, of the commission of, or the attempt or conspiracy
27 to commit, treason, murder, manslaughter, or any of the following
28 offenses: illegally using, carrying, or possessing a pistol or other
29 dangerous weapon; making or possessing burglar's instruments;
30 buying or receiving stolen property; unlawful entry of a building;
31 aiding an escape from prison; unlawfully possessing, possessing
32 with intent to distribute, sale, or distribution of a controlled
33 dangerous substance or a controlled dangerous substance analog; or
34 a violation prescribed in subsection g. of this section. Any
35 prospective licensee ineligible for a license by reason of any
36 conviction under this paragraph may submit satisfactory evidence to
37 the division that the prospective licensee has for a period of not less
38 than five years, measured as hereinafter provided, and up to the
39 time of application, so acted as to warrant the grant of a license, in
40 which event the division may, in its discretion, issue an order
41 removing that ineligibility. The five-year period shall be measured
42 either from the date of payment of any fine imposed upon that
43 person or the suspension of sentence or from the date of the
44 person's unrevoked release from custody by parole, commutation,
45 or termination of sentence; and

46 (3) If the prospective licensee knowingly or willfully advocates
47 the desirability of overthrowing or destroying the government of the
48 United States by force or violence or shall be a member of a group

1 which advocates that desirability, knowing the purposes of a group
2 having that advocacy.

3 d. When the application shall have been examined and further
4 inquiry and investigation made as the division shall deem proper
5 and when the division shall be satisfied therefrom that the
6 prospective licensee possesses the qualifications and requirements
7 prescribed in this section, the division shall issue and deliver to the
8 prospective licensee a license to act as pier superintendent or hiring
9 agent for the applicant, as the case may be, and shall inform the
10 applicant of this action. The division may issue a temporary permit
11 to any prospective licensee for a license issued under this section
12 pending final action on an application made for that license. Any
13 temporary permit shall be valid for a period not in excess of 30
14 days.

15 e. A person shall not be licensed to act as a pier superintendent
16 or hiring agent for more than one employer, except at a single pier
17 or other waterfront terminal, but nothing in P.L. , c. (C.)
18 (pending before the Legislature as this bill) shall be construed to
19 limit in any way the number of pier superintendents or hiring agents
20 any employer may employ.

21 f. A license granted pursuant to this section shall continue
22 through the duration of the licensee's employment by the employer
23 who shall have applied for the license.

24 g. Any license issued pursuant to this section may be revoked
25 or suspended for a period as the division deems in the public
26 interest or the licensee thereunder may be reprimanded for any of
27 the following offenses:

28 (1) Conviction of a crime or act by the licensee or other cause
29 which would require or permit the person's disqualification from
30 receiving a license upon original application;

31 (2) Fraud, deceit, or misrepresentation in securing the license, or
32 in the conduct of the licensed activity;

33 (3) Violation of any of the provisions of P.L. , c. (C.)
34 (pending before the Legislature as this bill);

35 (4) Unlawfully possessing, possessing with intent to distribute,
36 sale, or distribution of a controlled dangerous substance or a
37 controlled dangerous substance analog;

38 (5) Employing, hiring, or procuring any person in violation of
39 P.L. , c. (C.) (pending before the Legislature as this bill) or
40 inducing or otherwise aiding or abetting any person to violate the
41 terms of P.L. , c. (C.) (pending before the Legislature as
42 this bill);

43 (6) Paying, giving, causing to be paid or given or offering to pay
44 or give to any person any valuable consideration to induce the other
45 person to violate any provision of P.L. , c. (C.) (pending
46 before the Legislature as this bill) or to induce any public officer,
47 agent, or employee to fail to perform the person's duty hereunder;

48 (7) Consorting with known criminals for an unlawful purpose;

- 1 (8) Transfer or surrender of possession of the license to any
2 person either temporarily or permanently without satisfactory
3 explanation;
- 4 (9) False impersonation of another licensee under P.L. ,
5 c. (C.) (pending before the Legislature as this bill);
- 6 (10) Receipt or solicitation of anything of value from any person
7 other than the licensee's employer as consideration for the selection
8 or retention for employment of any longshoreman;
- 9 (11) Coercion of a longshoreman by threat of discrimination or
10 violence or economic reprisal, to make purchases from or to utilize
11 the services of any person;
- 12 (12) Lending any money to or borrowing any money from a
13 longshoreman for which there is a charge of interest or other
14 consideration; or
- 15 (13) Membership in a labor organization which represents
16 longshoremen or port watchmen; but nothing in this section shall be
17 deemed to prohibit pier superintendents or hiring agents from being
18 represented by a labor organization or organizations which do not
19 also represent longshoremen or port watchmen. The American
20 Federation of Labor, the Congress of Industrial Organizations and
21 any other similar federation, congress, or other organization of
22 national or international occupational or industrial labor
23 organizations shall not be considered an organization which
24 represents longshoremen or port watchmen within the meaning of
25 this section although one of the federated or constituent labor
26 organizations thereof may represent longshoremen or port
27 watchmen.
- 28
- 29 7. (New section) a. A person shall not act as a stevedore
30 within the port of New York district in this State without having
31 first obtained a license from the division, and a person shall not
32 employ a stevedore to perform services as such within the port of
33 New York district unless the stevedore is so licensed.
- 34 b. Any person intending to act as a stevedore within the port of
35 New York district shall file in the office of the division a written
36 application for a license to engage in that occupation, duly signed,
37 and verified as follows:
- 38 c. If the applicant is a natural person, the application shall be
39 signed and verified by that person and if the applicant is a
40 partnership, the application shall be signed and verified by each
41 natural person composing or intending to compose that partnership.
42 The application shall state the full name, age, residence, business
43 address, if any, present and previous occupations of each natural
44 person so signing the application, and any other facts and evidence
45 as may be required by the division to ascertain the character,
46 integrity, and identity of each natural person signing the
47 application.

1 d. If the applicant is a corporation, the application shall be
2 signed and verified by the president, secretary, and treasurer
3 thereof, and shall specify the name of the corporation, the date and
4 place of its incorporation, the location of its principal place of
5 business, the names and addresses of, and the amount of the stock
6 held by stockholders owning five percent or more of any of the
7 stock thereof, and of all officers, including all members of the board
8 of directors. The requirements of subsection a. of this section as to
9 a natural person who is a member of a partnership, and the
10 requirements as may be specified in rules and regulations
11 promulgated by the division pursuant to the "Administrative
12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall apply to
13 each above-named officer or stockholder and their successors in
14 office or interest, as the case may be.

15 In the event of the death, resignation, or removal of any officer,
16 and in the event of any change in the list of stockholders who shall
17 own five percent or more of the stock of the corporation, the
18 secretary of the corporation shall forthwith give notice of that fact
19 in writing to the division, certified by the secretary.

20 e. A license shall not be granted:

21 (1) If any person whose signature or name appears in the
22 application is not the real party in interest, required by subsection d.
23 of this section, to sign or to be identified in the application or if the
24 person so signing or named in the application is an undisclosed
25 agent or trustee for any real party in interest;

26 (2) Unless the division shall be satisfied that the applicant and
27 all members, officers, and stockholders required by subsection d. of
28 this section to sign or be identified in the application for license
29 possess good character and integrity;

30 (3) Unless the applicant is either a natural person, partnership,
31 or corporation;

32 (4) Unless the applicant shall be a party to a contract then in
33 force or which will take effect upon the issuance of a license, with a
34 carrier of freight by water for the loading and unloading by the
35 applicant of one or more vessels of such carrier at a pier within the
36 port of New York district;

37 (5) If the applicant or any member, officer, or stockholder
38 required by subsection d. of this section to sign or be identified in
39 the application for license has, without subsequent pardon, been
40 convicted by a court of the United States or any State or territory
41 thereof of the commission of, or the attempt or conspiracy to
42 commit, treason, murder, manslaughter, or any of the offenses
43 described in subsection h. of this section. Any applicant ineligible
44 for a license by reason of any of those convictions may submit
45 satisfactory evidence to the division that the person whose
46 conviction was the basis of ineligibility has for a period of not less
47 than five years, measured as hereinafter provided and up to the time
48 of application, so acted as to warrant the grant of that license, in

1 which event the division may, in its discretion issue an order
2 removing that ineligibility. The aforesaid period of five years shall
3 be measured either from the date of payment of any fine imposed
4 upon that person or the suspension of sentence or from the date of
5 the person's unrevoked release from custody by parole,
6 commutation, or termination of sentence;

7 (6) If the applicant has paid, given, caused to have been paid or
8 given, or offered to pay or give to any officer or employee of any
9 carrier of freight by water any valuable consideration for an
10 improper or unlawful purpose or to induce that person to procure
11 the employment of the applicant by the carrier for the performance
12 of stevedoring services; or

13 (7) If the applicant has paid, given, caused to be paid or given,
14 or offered to pay or give to any officer or representative of a labor
15 organization any valuable consideration for an improper or unlawful
16 purpose or to induce the officer or representative to subordinate the
17 interests of the labor organization or its members in the
18 management of the affairs of the labor organization to the interests
19 of the applicant.

20 f. When the application shall have been examined and further
21 inquiry and investigation made as the division shall deem proper
22 and when the division shall be satisfied therefrom that the applicant
23 possesses the qualifications and requirements prescribed in this
24 section, the division shall issue and deliver a license to that
25 applicant. The division may issue a temporary permit to any
26 applicant for a license under the provisions of this section pending
27 final action on an application made for a license. A temporary
28 permit shall be valid for a period not in excess of 30 days.

29 g. A stevedore's license shall be for a term of five years or
30 fraction of that five-year period, and shall expire on the first day of
31 December. In the event of the death of the licensee, if a natural
32 person, or its termination or dissolution by reason of the death of a
33 partner, if a partnership, or if the licensee shall cease to be a party
34 to any contract of the type prescribed by paragraph (4) of
35 subsection e. of section 7 of P.L. , c. (C.) (pending before
36 the Legislature as this bill), the license shall terminate 90 days after
37 that event or upon its expiration date, whichever shall be sooner. A
38 license may be renewed by the division for successive five-year
39 periods upon fulfilling the same requirements as are established in
40 this section for an original application for a stevedore's license.

41 h. Any license issued pursuant to this section may be revoked
42 or suspended for a period as the division deems in the public
43 interest or the licensee thereunder may be reprimanded for any of
44 the following offenses on the part of the licensee or of any person
45 required by this section to sign or be identified in an original
46 application for a license:

- 1 (1) Conviction of a crime or other cause which would permit or
2 require disqualification of the licensee from receiving a license
3 upon original application;
- 4 (2) Fraud, deceit, or misrepresentation in securing the license or
5 in the conduct of the licensed activity;
- 6 (3) Failure by the licensee to maintain a complete set of books
7 and records containing a true and accurate account of the licensee's
8 receipts and disbursements arising out of the licensee's activities
9 within the port of New York district in this State;
- 10 (4) Failure to keep its books and records available during
11 business hours for inspection by the division and its duly designated
12 representatives until the expiration of the fifth calendar year
13 following the calendar year during which occurred the transactions
14 recorded therein; or
- 15 (5) Any other offense described in this section.
- 16 i. In addition to the grounds elsewhere established in P.L. , c.
17 (C.) (pending before the Legislature as this bill), the division
18 shall not grant an application for a license as stevedore if the
19 applicant has paid, given, caused to have been paid or given, or
20 offered to pay or give to any agent of any carrier of freight by water
21 any valuable consideration for an improper or unlawful purpose or,
22 without the knowledge and consent of the carrier, to induce the
23 agent to procure the employment of the applicant by the carrier or
24 its agent for the performance of stevedoring services.
25
- 26 8. (New section) a. The division shall establish a
27 longshoremen's register in which shall be included all qualified
28 longshoremen eligible, as hereinafter provided, for employment as
29 longshoremen in the port of New York district in this State. A
30 person shall not act as a longshoreman within the port of New York
31 district in this State unless at the time the person is included in the
32 longshoremen's register, and a person shall not employ another to
33 work as a longshoreman within the port of New York district in this
34 State unless at the time the other person is included in the
35 longshoremen's register.
- 36 b. Any person applying for inclusion in the longshoremen's
37 register shall file at a place and in a manner as the division shall
38 designate a written statement, signed, and verified by the applicant,
39 setting forth the applicant's full name, residence address, social
40 security number, and any further facts and evidence as the division
41 may prescribe to establish the identity of that person and the
42 person's criminal record, if any.
- 43 c. The division may in its discretion deny application for
44 inclusion in the longshoremen's register by a person:
- 45 (1) Who has been convicted by a court of the United States or
46 any State or territory thereof, without subsequent pardon, of
47 treason, murder, manslaughter, or of any of the offenses described
48 in subsection g. of section 6 of P.L. , c. (C.) (pending

1 before the Legislature as this bill) or of attempt or conspiracy to
2 commit any of those crimes;

3 (2) Who knowingly or willingly advocates the desirability of
4 overthrowing or destroying the government of the United States by
5 force or violence or who shall be a member of a group which
6 advocates that desirability knowing the purposes of the group
7 advocating that desirability; or

8 (3) Whose presence at the piers or other waterfront terminals in
9 the port of New York district in this State is found by the division,
10 on the basis of the facts and evidence before it, to constitute a
11 danger to the public peace or safety.

12 d. Unless the division shall determine to exclude the applicant
13 from the longshoremen's register for violation of the offenses
14 described in subsection g. of section 6 of P.L. , c. (C.)
15 (pending before the Legislature as this bill), it shall include that
16 person in the longshoremen's register. The division may permit
17 temporary registration of any applicant under the provisions of this
18 section pending final action on an application made for temporary
19 registration. Any temporary registration shall be valid for a period
20 not in excess of 30 days.

21 e. The division shall have power to reprimand any
22 longshoreman registered under this section or to remove the person
23 from the longshoremen's register for a period of time as it deems in
24 the public interest for any of the following offenses:

25 (1) Conviction of a crime or other cause which would permit
26 disqualification of a person from inclusion in the longshoremen's
27 register upon original application;

28 (2) Fraud, deceit, or misrepresentation in securing inclusion in
29 the longshoremen's register;

30 (3) Transfer or surrender of possession to any person either
31 temporarily or permanently of any card or other means of
32 identification issued by the authority as evidence of inclusion in the
33 longshoremen's register, without satisfactory explanation;

34 (4) False impersonation of another longshoreman registered
35 under this section or of another person licensed pursuant to
36 P.L. , c. (C.) (pending before the Legislature as this bill);

37 (5) Willful commission of or willful attempt to commit at or on
38 a waterfront terminal or adjacent highway any act of physical injury
39 to any other person or of willful damage to or misappropriation of
40 any other person's property, unless justified or excused by law; and

41 (6) Any other offense described in subsection g. of section 6 of
42 P.L. , c. (C.) (pending before the Legislature as this bill).

43 f. Whenever, as a result of amendments to P.L. , c.
44 (C.) (pending before the Legislature as this bill) or of a ruling
45 by the division, registration as a longshoreman is required for any
46 person to continue in employment, that person shall be registered as
47 a longshoreman; provided, however, that the person satisfies all the

1 other requirements of P.L. , c. (C.) (pending before the
2 Legislature as this bill) for registration as a longshoreman.

3 g. The division shall have the right to recover possession of
4 any card or other means of identification issued as evidence of
5 inclusion in the longshoremen's register in the event that the holder
6 thereof has been removed from the longshoremen's register.

7 h. Nothing contained in P.L. , c. (C.) (pending before
8 the Legislature as this bill) shall be construed to limit in any way
9 any labor rights reserved by P.L. , c. (C.) (pending before
10 the Legislature as this bill).

11

12 9. (New section) a. The division shall, at regular intervals,
13 remove from the longshoremen's register any person who shall have
14 been registered for at least nine months and who shall have failed
15 during the preceding six calendar months either to have worked as a
16 longshoreman in the port of New York district in this State or to
17 have applied for employment as a longshoreman at an employment
18 information center established under section 16 of
19 P.L. , c. (C.) (pending before the Legislature as this bill)
20 for the minimum number of days as shall have been established by
21 the division pursuant to subsection b. of this section.

22 b. On or before the first day of June following the date on
23 which P.L. , c. (C.) (pending before the Legislature as this
24 bill) becomes operative, and on or before each succeeding first day
25 of June or December, the division shall, for the purposes of
26 P.L. , c. (C.) (pending before the Legislature as this bill),
27 establish for the six-month period beginning on each date a
28 minimum number of days and the distribution of the days during
29 that period.

30 c. In establishing any minimum number of days or period, the
31 division shall consult with the collective bargaining representatives
32 of stevedores and other employers of longshoremen in the port of
33 New York district and with labor organizations representing
34 longshoremen in the district.

35 d. A longshoreman who has been removed from the
36 longshoremen's register pursuant to subsection e. of section 8 of
37 P.L. , c. (C.) (pending before the Legislature as this bill)
38 may seek reinstatement upon fulfilling the same requirements as for
39 initial inclusion in the longshoremen's register, but not before the
40 expiration of one year from the date of removal, except that
41 immediate reinstatement shall be made upon proper showing that
42 the registrant's failure to work or apply for work for the minimum
43 number of days, described in subsection c. of this section, was
44 caused by the fact that the registrant was engaged in the military
45 service of the United States or was incapacitated by ill health,
46 physical injury, or other good cause.

47 e. Notwithstanding any other provision of P.L. , c. (C.)
48 (pending before the Legislature as this bill), the division shall at any

1 time have the power to register longshoremen on a temporary basis
2 to meet special or emergency needs.

3
4 10. (New section) Notwithstanding any other provisions of
5 P.L. , c. (C.) (pending before the Legislature as this bill),
6 the division shall have the power to remove from the
7 longshoremen's register any person, including a person registered as
8 longshoremen for less than nine months, who shall have failed to
9 have worked as a longshoreman in the port of New York district in
10 this State for a minimum number of days during a period of time as
11 shall have been established by the division. In administering this
12 section, the division, in its discretion, may count applications for
13 employment as a longshoreman at an employment information
14 center established pursuant to section 16 of P.L. , c. (C.)
15 (pending before the Legislature as this bill) as constituting actual
16 work as a longshoreman, provided, however, that the division shall
17 count as actual work the compensation received by any
18 longshoreman pursuant to the guaranteed wage provisions of any
19 collective bargaining agreement relating to longshoremen. Prior to
20 the commencement of any period of time established by the division
21 pursuant to this section, the division shall establish for that period
22 the minimum number of days of work required and the distribution
23 of days during that period and shall also determine whether or not
24 application for employment as a longshoreman shall be counted as
25 constituting actual work as a longshoreman. The division may
26 classify longshoremen according to length of service as a
27 longshoreman and develop other criteria as may be reasonable and
28 necessary to carry out the provisions of P.L. , c. (C.)
29 (pending before the Legislature as this bill). The division shall
30 have the power to vary the requirements of this section with respect
31 to their application to the various classifications of longshoremen.
32 In administering this section, the division shall observe the
33 standards set forth in section 2 of P.L.1966, c.18 (C.32:23-114), as
34 that section shall have been amended through the enactment of
35 P.L.1999, c.206. Nothing in this section shall be construed to
36 modify, limit, or restrict in any way any of the rights protected by
37 section 23 of P.L. , c. (C.) (pending before the Legislature
38 as this bill).

39
40 11. (New section) a. The division shall establish within the
41 longshoremen's register a list of all qualified longshoremen eligible,
42 as hereinafter provided, for employment as checkers in the port of
43 New York district in this State. A person shall not act as a checker
44 within the port of New York district in this State unless at the time
45 the person is included in the longshoremen's register as a checker,
46 and a person shall not employ another to work as a checker within
47 the port of New York district in this State unless at the time such
48 other person is included in the longshoremen's register as a checker.

1 b. Any person applying for inclusion in the longshoremen's
2 register as a checker shall file at a place and in a manner as the
3 division shall designate a written statement, signed, and verified by
4 the applicant, setting forth the following:

5 (1) The full name, residence, place and date of birth, and social
6 security number of the applicant;

7 (2) The present and previous occupations of the applicant,
8 including the places where the applicant was employed and the
9 names of the applicant's employers; and

10 (3) Any further facts and evidence as may be required by the
11 authority to ascertain the character, integrity, and identity of the
12 applicant.

13 c. A person shall not be included in the longshoremen's register
14 as a checker:

15 (1) Unless the division shall be satisfied that the applicant
16 possesses good character and integrity;

17 (2) If the applicant has, without subsequent pardon, been
18 convicted by a court of the United States or any State or territory
19 thereof, of the authority of, or the attempt or conspiracy to commit
20 treason, murder, manslaughter, or any of the following offenses:
21 illegally using, carrying or possessing a pistol or other dangerous
22 weapon; making or possessing burglar's instruments; buying or
23 receiving stolen property; unlawful entry of a building; aiding an
24 escape from prison; unlawfully possessing, possessing with intent to
25 distribute, sale or distribution of a controlled dangerous substance
26 or a controlled dangerous substance analog; petty larceny, where
27 the evidence shows the property was stolen from a vessel, pier or
28 other waterfront terminal; or a violation of P.L. , c. (C.)
29 (pending before the Legislature as this bill). An applicant ineligible
30 for inclusion in the longshoremen's register as a checker by reason
31 of a conviction may submit satisfactory evidence to the division that
32 the applicant has for a period of not less than five years, measured
33 as hereinafter provided, and up to the time of application, so acted
34 as to warrant inclusion in the longshoremen's register as a checker,
35 in which event the division may, in its discretion, issue an order
36 removing the applicant's ineligibility. The five-year period shall be
37 measured either from the date of payment of any fine imposed upon
38 that person or the suspension of sentence or from the date of the
39 person's unrevoked release from custody by parole, commutation,
40 or termination of sentence; or

41 (3) If the applicant knowingly or willfully advocates the
42 desirability of overthrowing or destroying the government of the
43 United States by force or violence or shall be a member of a group
44 which advocates that desirability, knowing the purposes of the
45 group advocating that desirability.

46 d. When the application shall have been examined and further
47 inquiry and investigation made as the division shall deem proper
48 and when the division shall be satisfied therefrom that the applicant

1 possesses the qualifications and requirements prescribed by this
2 section, the division shall include the applicant in the
3 longshoremen's register as a checker. The division may permit
4 temporary registration as a checker to any applicant under this
5 section pending final action on an application made for temporary
6 registration, under the terms and conditions as the division may
7 prescribe, which shall be valid for a period to be fixed by the
8 division, not in excess of six months.

9 e. The division shall have power to reprimand any checker
10 registered under this section or to remove the person from the
11 longshoremen's register as a checker for a period of time as the
12 division deems in the public interest for any of the following
13 offenses:

14 (1) Conviction of a crime or other cause which would permit
15 disqualification of the person from inclusion in the longshoremen's
16 register as a checker upon original application;

17 (2) Fraud, deceit, or misrepresentation in securing inclusion in
18 the longshoremen's register as a checker or in the conduct of the
19 registered activity;

20 (3) Violation of any of the provisions of P.L. , c. (C.)
21 (pending before the Legislature as this bill);

22 (4) Unlawfully possessing, possessing with intent to distribute,
23 sale, or distribution of a controlled dangerous substance or a
24 controlled dangerous substance analog;

25 (5) Inducing or otherwise aiding or abetting any person to
26 violate the terms of P.L. , c. (C.) (pending before the
27 Legislature as this bill);

28 (6) Paying, giving, causing to be paid or given, or offering to
29 pay or give to any person any valuable consideration to induce the
30 other person to violate any provision of P.L. , c. (C.)
31 (pending before the Legislature as this bill) or to induce any public
32 officer, agent, or employee to fail to perform the person's duty
33 under P.L. , c. (C.) (pending before the Legislature as this
34 bill);

35 (7) Consorting with known criminals for an unlawful purpose;

36 (8) Transfer or surrender of possession to any person either
37 temporarily or permanently of any card or other means of
38 identification issued by the division as evidence of inclusion in the
39 longshoremen's register without satisfactory explanation; or

40 (9) False impersonation of another longshoreman or of another
41 person licensed under P.L. , c. (C.) (pending before the
42 Legislature as this bill).

43 f. The division shall have the right to recover possession of
44 any card or other means of identification issued as evidence of
45 inclusion in the longshoremen's register as a checker in the event
46 that the holder thereof has been removed from the longshoremen's
47 register as a checker.

1 g. Nothing contained in this section shall be construed to limit
2 in any way any rights of labor reserved by section 23 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill).

4
5 12. (New section) The division shall accept applications for
6 inclusion in the longshoremen's register upon:

7 a. the joint recommendation in writing of stevedores and other
8 employers of longshoremen in the port of New York district in this
9 State, acting through their representative for the purposes of
10 collective bargaining with a labor organization representing the
11 longshoremen in the district, and that labor organization; or

12 b. the petition in writing of a stevedore or other employer of
13 longshoremen in the port of New York district in this State which
14 does not have a representative for the purposes of collective
15 bargaining with a labor organization representing those
16 longshoremen.

17
18 13. (New section) a. A person shall not act as a port watchman
19 within the port of New York district in this State without first
20 having obtained a license from the division, and a person shall not
21 employ a port watchman who is not so licensed.

22 b. A license to act as a port watchman shall be issued only
23 upon written application, duly verified, which shall state the
24 following:

25 (1) The full name, residence, business address, if any, place, and
26 date of birth, and social security number of the applicant;

27 (2) The present and previous occupations of the applicant,
28 including the places where the applicant was employed and the
29 names of the applicant's employers;

30 (3) The citizenship of the applicant and, if the person is a
31 naturalized citizen of the United States, the court and date of
32 naturalization; and

33 (4) Any further facts and evidence as may be required by the
34 division to ascertain the character, integrity, and identity of the
35 applicant.

36 c. A port watchman license shall not be granted:

37 (1) Unless the division shall be satisfied that the applicant
38 possesses good character and integrity;

39 (2) If the applicant has, without subsequent pardon, been
40 convicted by a court of the United States or of any State or territory
41 thereof of the authority of, or the attempt or conspiracy to commit,
42 treason, murder, manslaughter or any of the offenses described in
43 subsection g. of section 6 of P.L. , c. (C.) (pending before
44 the Legislature as this bill);

45 (3) Unless the applicant shall meet reasonable standards of
46 physical and mental fitness for the discharge of a port watchman's
47 duties as may from time to time be established by the division;

1 (4) If the applicant shall be a member of any labor organization
2 which represents longshoremen or pier superintendents or hiring
3 agents; but nothing in P.L. , c. (C.) (pending before the
4 Legislature as this bill) shall be deemed to prohibit port watchmen
5 from being represented by a labor organization or organizations
6 which do not also represent longshoremen or pier superintendents
7 or hiring agents. The American Federation of Labor, the Congress
8 of Industrial Organizations (AFL-CIO) and any other similar
9 federation, congress, or other organization of national or
10 international occupational or industrial labor organizations shall not
11 be considered a labor organization which represents longshoremen
12 or pier superintendents or hiring agents within the meaning of this
13 section although one of the federated or constituent labor
14 organizations thereof may represent longshoremen or pier
15 superintendents or hiring agents;

16 (5) If the applicant knowingly or willfully advocates the
17 desirability of overthrowing or destroying the government of the
18 United States by force or violence or shall be a member of a group
19 which advocates that desirability, knowing the purposes of the
20 group's advocacy.

21 d. When the application shall have been examined and further
22 inquiry and investigation made as the division shall deem proper
23 and when the authority shall be satisfied therefrom that the
24 applicant possesses the qualifications and requirements prescribed
25 in this section and regulations issued pursuant thereto, the division
26 shall issue and deliver a license to the applicant. The division may
27 issue a temporary permit to any applicant for a license under the
28 provisions of this section pending final action on an application
29 made for that license. Any temporary permit shall be valid for a
30 period not in excess of 30 days.

31 e. A license granted pursuant to this section shall continue for a
32 term of three years. A license may be renewed by the division for
33 successive three-year periods upon fulfilling the same requirements
34 established in this section for an original application.

35 f. Notwithstanding any provision of this section, a license to
36 act as a port watchman shall continue indefinitely and need not be
37 renewed, provided that the licensee shall, as required by the
38 division:

39 (1) Submit to a medical examination and meet the physical and
40 mental fitness standards may be established by the division;

41 (2) Complete a refresher course of training; and

42 (3) Submit supplementary personal history information.

43 g. Any license issued pursuant to this section may be revoked
44 or suspended for a period as the division deems in the public
45 interest or the licensee thereunder may be reprimanded for any of
46 the following offenses:

1 (1) Conviction of a crime or other cause which would permit or
2 require the holder's disqualification from receiving a license upon
3 original application;

4 (2) Fraud, deceit, or misrepresentation in securing the license;
5 and

6 (3) Any other offense described in subsection g. of section 6 of
7 P.L. , c. (C.) (pending before the Legislature as this bill).

8 h. The division shall, at regular intervals, cancel the license or
9 temporary permit of a port watchman who has failed during the
10 preceding 12 months to work as a port watchman in the port of New
11 York district in this State a minimum number of hours as
12 established by the division, except that the division shall
13 immediately restore the license or temporary permit upon a proper
14 showing that the failure to so work was caused by the fact that the
15 licensee or permit holder was engaged in the military service of the
16 United States or was incapacitated by ill health, physical injury, or
17 other good cause.

18 i. Any port watchman ineligible for a license by reason
19 pursuant to this section may petition for and the division may issue
20 an order removing the ineligibility. A petition for an order to
21 remove an ineligibility may be made to the division before or after
22 the hearing required by section 14 of P.L. , c. (C.) (pending
23 before the Legislature as this bill).

24

25 14. (New section) a. The division shall not deny any
26 application for a license or registration without giving the applicant
27 or prospective licensee reasonable prior notice and an opportunity
28 to be heard at a hearing conducted by the division.

29 b. Any application for a license or for inclusion in the
30 longshoremen's register, and any license issued or registration
31 made, may be denied, revoked, cancelled, or suspended as the case
32 may be, only in the manner prescribed in this section.

33 c. The division may on its own initiative or on complaint of
34 any person, including any public official or agency, institute
35 proceedings to revoke, cancel, or suspend any license or registration
36 after a hearing at which the licensee or registrant and any person
37 making a complaint shall be given an opportunity to be heard,
38 provided that any order of the division revoking, cancelling, or
39 suspending any license or registration shall not become effective
40 until 15 days subsequent to the serving of notice thereof upon the
41 licensee or registrant unless in the opinion of the division the
42 continuance of the license or registration for that period would be
43 inimical to the public peace or safety. The hearing shall be held in
44 a manner and upon notice as may be prescribed by the rules of the
45 division, but the notice shall be of not less than 10 days and shall
46 state the nature of the complaint.

47 d. Pending the determination of a hearing pursuant to this
48 section, the division may temporarily suspend a license or

1 registration if, in the opinion of the division, the continuance of the
2 license or registration for that 15-day period, pursuant to subsection
3 c. of this section, is inimical to the public peace or safety.

4 e. The division, or a member, officer, employee, or agent of the
5 division as may be designated by the division for such purpose,
6 shall have the power to issue subpoenas to compel the attendance of
7 witnesses and the giving of testimony or production of other
8 evidence and to administer oaths in connection with a hearing. It
9 shall be the duty of the division or of any member, officer,
10 employee, or agent of the division designated by the division for
11 that purpose to issue subpoenas at the request of and upon behalf of
12 the licensee, registrant, or applicant. The person conducting the
13 hearing on behalf of the division shall not be bound by common law
14 or statutory rules of evidence or by technical or formal rules of
15 procedure in conducting the hearing.

16 f. Upon the conclusion of the hearing, the division shall take
17 action upon the findings and determination as the division deems
18 proper and shall execute an order carrying its findings into effect.
19 The action in the case of an application for a license or registration
20 shall be the granting or denial thereof. The action in the case of a
21 licensee shall be revocation of the license or suspension thereof for
22 a fixed period or reprimand or a dismissal of the charges. The
23 action in the case of a registered longshoreman shall be dismissal of
24 the charges, reprimand, or removal from the longshoremen's
25 register for a fixed period or permanently.

26 g. The action of the division, in denying any application for a
27 license or in refusing to include any person in the longshoremen's
28 register established pursuant to section 8 of P.L. , c. (C.)
29 (pending before the Legislature as this bill), or in suspending or
30 revoking a license or removing any person from the longshoremen's
31 register or in reprimanding a licensee, or registrant, shall be subject
32 to judicial review by a proceeding instituted in this State at the
33 instance of the applicant, licensee, or registrant in the manner
34 provided by State law for review of the final decision or action of
35 an administrative agency of the State; provided, however, that
36 notwithstanding any other provision of law, the court shall have
37 power to stay for not more than 30 days an order of the division
38 suspending or revoking a license or removing a longshoreman from
39 the longshoremen's register.

40
41 15. (New section) a. At hearings conducted by the division,
42 pursuant to section 14 of P.L. , c. (C.) (pending before the
43 Legislature as this bill), applicants, prospective licensees, licensees,
44 and registrants shall have the right to be accompanied and
45 represented by counsel.

46 b. After the conclusion of a hearing but prior to the making of
47 an order by the division, a hearing may, upon petition and in the
48 discretion of the hearing officer, be reopened for the presentation of

1 additional evidence. A petition to reopen the hearing shall state in
2 detail the nature of the additional evidence, together with the
3 reasons for the failure to submit such evidence prior to the
4 conclusion of the hearing. The division may upon its own motion
5 and upon reasonable notice reopen a hearing for the presentation of
6 additional evidence. Upon petition, after the making of an order of
7 the division, rehearing may be granted in the discretion of the
8 division. A petition for rehearing shall state in detail the grounds
9 upon which the petition is based and shall separately set forth each
10 error of law and fact alleged to have been made by the division in
11 its determination, together with the facts and arguments in support
12 thereof. The petition shall be filed with the division not later than
13 30 days after service of the division's order, unless the division for
14 good cause shown shall otherwise direct. The division may upon its
15 own motion grant a rehearing after the making of an order.

16

17 16. (New section) a. The division is hereby designated on its
18 own behalf or as agent of the State of New Jersey, as provided by
19 the act of Congress of the United States, effective June 6, 1933,
20 entitled "An act to provide for the establishment of a national
21 employment system and for co-operation with the states in the
22 promotion of such system and for other purposes," as amended, for
23 the purpose of obtaining the benefits of that act of Congress as are
24 necessary or appropriate to the establishment and operation of
25 employment information centers authorized by this section.

26 b. The division shall have all powers necessary to take steps to
27 formulate plans and to execute projects related to the establishment
28 and operation of employment information centers, as may be
29 necessary to obtain any benefits for the operation of employment
30 information centers in accomplishing the purposes of P.L. ,

31 c. (C.) (pending before the Legislature as this bill).

32 c. Any officer or agency designated by this State, pursuant to
33 the act of June 6, 1933, as amended, is authorized and empowered,
34 upon the request of the division and subject to its direction, to
35 exercise the powers and duties conferred upon the division by the
36 provisions of this section.

37 d. The division shall establish and maintain one or more
38 employment information centers within the port of New York
39 district in this State at locations as the division may determine. A
40 person shall not, directly or indirectly, hire any person for work as a
41 longshoreman or port watchman within the port of New York
42 district in this State, except through an employment information
43 center as may be prescribed by the division. A person shall not
44 accept any employment as a longshoreman or port watchman within
45 the port of New York district in this State, except through an
46 employment information center. At each employment information
47 center, the division shall keep and exhibit the longshoremen's
48 register and any other records the division shall determine to the

1 end that longshoremen and port watchmen shall have the maximum
2 information as to available employment at any time within the port
3 of New York district in this State and that employers shall have an
4 adequate opportunity to fill their requirements of registered
5 longshoremen and port watchmen at all times.

6 e. Every employer of longshoremen or port watchmen within
7 the port of New York district in this State shall furnish information
8 as may be required by the rules and regulations prescribed by the
9 division with regard to the name of each person hired as a
10 longshoreman or port watchman, the time and place of hiring, the
11 time, place, and hours of work, and the compensation therefor.

12
13 17. (New section) a. The division may designate one of the
14 employment information centers it is authorized to establish and
15 maintain under section 16 of P.L. , c. (C.) (pending before
16 the Legislature as this bill) for the implementation of a
17 telecommunications hiring system through which longshoremen and
18 checkers may be hired and accept employment without any personal
19 appearance at the center. The telecommunications hiring system
20 shall incorporate hiring and seniority agreements between the
21 employers of longshoremen and checkers and the labor
22 organizations representing longshoremen and checkers in the port of
23 New York district in this State, provided the agreements are not in
24 conflict with the provisions of P.L. , c. (C.) (pending
25 before the Legislature as this bill).

26 b. The division shall permit employees of the management
27 organizations representing employers of longshoremen and
28 checkers in the port of New York district in this State, and of the
29 labor organizations representing longshoremen and checkers in the
30 port of New York district in this State, or of a joint board of these
31 management and labor organizations, to participate in the operation
32 of the telecommunications hiring system, if these employees are
33 registered by the division as "telecommunications system
34 controllers," with respect to the registration of checkers. A person
35 shall not act as a "telecommunications system controller" unless
36 that person is registered. An application for registration and a
37 registration made or issued may be denied, revoked, cancelled, or
38 suspended, as the case may be, only in the manner prescribed in
39 section 11 of P.L. , c. (C.) (pending before the Legislature
40 as this bill). Participation in the operation of the
41 telecommunications hiring system shall be monitored by the
42 division.

43 c. The records, documents, tapes, discs, and other data
44 compiled, collected or maintained by a management organization, a
45 labor organization, and a joint board of these management and labor
46 organizations pertaining to the telecommunications hiring system
47 shall be available for inspection, investigation, and duplication by
48 the division.

1 18. (New section) In addition to the grounds elsewhere
2 established in P.L. , c. (C.) (pending before the Legislature
3 as this bill), the division may deny an application for a license or
4 registration for any of the following:

5 a. Conviction by a court of the United States or any State or
6 territory thereof of coercion;

7 b. Conviction by a court described in subsection a. of this
8 section, after having been previously convicted by that court of any
9 crime or of the offenses hereinafter set forth, or any of the
10 following offenses: assault, malicious injury to property, malicious
11 mischief, unlawful taking of a motor vehicle, corruption of
12 employees or possession of illegal betting number slips;

13 c. Fraud, deceit or misrepresentation in connection with any
14 application or petition submitted to, or any interview, hearing or
15 proceeding conducted by the division or commission;

16 d. Violation of any provision of P.L. , c. (C.) (pending
17 before the Legislature as this bill) or commission of any offense
18 thereunder;

19 e. Refusal on the part of any applicant, or prospective licensee,
20 or of any member, officer or stockholder required by section 7 of
21 P.L. , c. (C.) (pending before the Legislature as this bill)
22 to sign or be identified in an application for a stevedore license, to
23 answer any material question or produce any material evidence in
24 connection with the person's application or any application made on
25 the person's behalf for a license or registration pursuant to section 7
26 of P.L. , c. (C.) (pending before the Legislature as this
27 bill);

28 f. Association with a person who has been identified by a
29 federal, State, or local law enforcement agency as a member or
30 associate of an organized crime group, a terrorist group, or a career
31 offender cartel, or who is a career offender, under circumstances
32 where that association creates a reasonable belief that the
33 participation of the applicant in any activity required to be licensed
34 or registered under P.L. , c. (C.) (pending before the
35 Legislature as this bill) would be inimical to the purposes of
36 P.L. , c. (C.) (pending before the Legislature as this bill);
37 or

38 g. Conviction of a racketeering activity or knowing association
39 with a person who has been convicted of a racketeering activity by
40 a court of the United States, or any State or territory thereof under
41 circumstances where that association creates a reasonable belief that
42 the participation of the applicant in any activity required to be
43 licensed or registered under P.L. , c. (C.) (pending before
44 the Legislature as this bill) would be inimical to the purposes of
45 P.L. , c. (C.) (pending before the Legislature as this bill).

46
47 19. (New section) In addition to the grounds elsewhere set forth
48 in P.L. , c. (C.) (pending before the Legislature as this

- 1 bill), any license or registration issued or made pursuant thereto
2 may be revoked or suspended for a period as the division deems in
3 the public interest or the licensee or registrant may be reprimanded,
4 for:
- 5 a. Conviction of any crime or offense in relation to illegal
6 gambling, bookmaking, or similar crimes or offenses if the crime or
7 offense was committed at or on a pier or other waterfront terminal
8 or within 500 feet thereof;
- 9 b. Willful authority of, or willful attempt to commit at or on a
10 waterfront terminal or adjacent highway, any act of physical injury
11 to any other person or of willful damage to or misappropriation of
12 any other person's property, unless justified or excused by law;
- 13 c. Receipt or solicitation of anything of value from any person
14 other than a licensee's or registrant's employer as consideration for
15 the selection or retention for employment of a licensee or registrant;
- 16 d. Coercion of a licensee or registrant by threat of
17 discrimination or violence or economic reprisal, to make purchases
18 from or to utilize the services of any person;
- 19 e. Refusal to answer any material question or produce any
20 evidence lawfully required to be answered or produced at any
21 investigation, interview, hearing, or other proceeding conducted by
22 the division pursuant to section 14 of P.L. , c. (C.)
23 (pending before the Legislature as this bill), or, if the refusal is
24 accompanied by a valid plea of privilege against self-incrimination,
25 refusal to obey an order to answer the question or produce any
26 evidence made by the division pursuant to section 14 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill); or
- 28 f. Association with a person who has been identified by a
29 federal, State, or local law enforcement agency as a member or
30 associate of an organized crime group, a terrorist group, or a career
31 offender cartel, or who is a career offender, under circumstances
32 where that association creates a reasonable belief that the
33 participation of the licensee or registrant in any activity required to
34 be licensed or registered under P.L. , c. (C.) (pending
35 before the Legislature as this bill) would be inimical to the purposes
36 of P.L. , c. (C.) (pending before the Legislature as this
37 bill); or
- 38 g. Conviction of a racketeering activity or knowing association
39 with a person who has been convicted of a racketeering activity by
40 a court of the United States, or any State, or territory thereof under
41 circumstances where that association creates a reasonable belief that
42 the participation of the licensee or registrant in any activity required
43 to be licensed or registered under P.L. , c. (C.) (pending
44 before the Legislature as this bill) would be inimical to the purposes
45 of P.L. , c. (C.) (pending before the Legislature as this
46 bill).

1 20. (New section) a. In any investigation, interview, or other
2 proceeding conducted under oath by the division or any duly
3 authorized officer, employee, or agent thereof, if a person refuses to
4 answer a question or produce evidence of any other kind on the
5 ground that the person may be incriminated thereby, and
6 notwithstanding the refusal, an order is made upon 24 hours' prior
7 written notice to the Attorney General of the State of New Jersey,
8 and to the appropriate district attorney or prosecutor having an
9 official interest therein, by the Superintendent of the division or the
10 superintendent's designee, that the person answer the question or
11 produce the evidence, the person shall comply with the order. If the
12 person complies with the order, and if, but for this section, would
13 have been privileged to withhold the answer given or the evidence
14 produced by the person, then immunity shall be conferred upon the
15 person, as provided for herein. Immunity shall not be conferred
16 upon any person except in accordance with the provisions of this
17 section. If, after compliance with the provisions of this section, a
18 person is ordered to answer a question or produce evidence of any
19 other kind and complies with the order, and it is thereafter
20 determined that the Attorney General or appropriate district
21 attorney or prosecutor having an official interest therein was not
22 notified, that failure or neglect shall not deprive that person of any
23 immunity otherwise properly conferred upon the person. But the
24 person may nevertheless be prosecuted or subjected to penalty or
25 forfeiture for any perjury or contempt committed in answering, or
26 failing to answer, or in producing or failing to produce evidence, in
27 accordance with the order, and any answer given or evidence
28 produced shall be admissible against the person upon any criminal
29 proceeding concerning such perjury or contempt.

30 b. If a person, in obedience to a subpoena directing the person
31 to attend and testify, is in this State or comes into this State from
32 the State of New York, the person shall not, while in this State
33 pursuant to such subpoena, be subject to arrest or the service of
34 process, civil or criminal, in connection with matters which arose
35 before the person's entrance into this State under the subpoena.

36
37 21. (New section) a. The division may temporarily suspend a
38 temporary permit or a permanent license or a temporary or
39 permanent registration issued pursuant to the provisions of P.L. ,
40 c. (C.) (pending before the Legislature as this bill) until
41 further order of the division or final disposition of the underlying
42 case, only where the permittee, licensee, or registrant has been
43 indicted for, or otherwise charged with, a crime which is equivalent
44 to a crime of the third, second, or first degree in this State or only
45 where the permittee or licensee is a port watchman who is charged
46 by the division pursuant to section 13 of P.L. , c. (C.)
47 (pending before the Legislature as this bill) with misappropriating

1 any other person's property at or on a pier or other waterfront
2 terminal.

3 b. In the case of a permittee, licensee, or registrant who has
4 been indicted for, or otherwise charged with, a crime, the temporary
5 suspension shall terminate immediately upon acquittal or upon
6 dismissal of the criminal charge. A person whose permit, license,
7 or registration has been temporarily suspended may, at any time,
8 demand that the division conduct a hearing as provided for in
9 section 14 of P.L. , c. (C.) (pending before the Legislature
10 as this bill). Within 60 days of the demand, the division shall
11 commence the hearing and, within 30 days of receipt of the
12 administrative law judge's report and recommendation, the division
13 shall render a final determination thereon; provided, however, that
14 these time requirements, shall not apply for any period of delay
15 caused or requested by the permittee, licensee, or registrant. Upon
16 failure of the division to commence a hearing or render a
17 determination within the time limits prescribed herein, the
18 temporary suspension of the permittee, licensee, or registrant shall
19 immediately terminate. Notwithstanding any other provision of this
20 subsection, if a federal, State, or local law enforcement agency or
21 prosecutor's office shall request the suspension or deferment of any
22 hearing on the ground that the hearing would obstruct or prejudice
23 an investigation or prosecution, the division may in its discretion,
24 postpone or defer the hearing for a time certain or indefinitely. Any
25 action by the division to postpone a hearing shall be subject to
26 immediate judicial review as provided in subsection b. of this
27 section.

28 c. The division may, within its discretion, bar any permittee,
29 licensee, or registrant who has been suspended pursuant to the
30 provisions of subsection a. of this section, from any employment by
31 a licensed stevedore or a carrier of freight by water, if that
32 individual has been indicted or otherwise charged in any federal,
33 State, or territorial proceeding with any crime involving the
34 possession with intent to distribute, sale, or distribution of a
35 controlled dangerous substance or controlled dangerous substance
36 analog, racketeering, or theft from a pier or waterfront terminal.

37
38 22. (New section) The division is authorized to co-operate with
39 the commission, a similar authority, or other public entity of the
40 State of New York, to exchange information on any matter pertinent
41 to the purposes of P.L. , c. (C.) (pending before the
42 Legislature as this bill), and to enter into reciprocal agreements for
43 the accomplishment of those purposes, including, but not limited to,
44 the following objectives:

45 a. To provide for the reciprocal recognition of any license
46 issued or registration made by the commission;

1 b. To give reciprocal effect to any revocation, suspension, or
2 reprimand with respect to any licensee, and any reprimand or
3 removal from a longshoremen's register;

4 c. To provide that any act or omission by a licensee or
5 registrant in either State which would be a basis for disciplinary
6 action against the licensee or registrant if it occurred in the state in
7 which the license was issued or the person registered shall be the
8 basis for disciplinary action in either state; and

9 d. To provide that longshoremen registered in either state, who
10 perform work or who apply for work at an employment information
11 center within the other State shall be deemed to have performed
12 work or to have applied for work in the State in which they are
13 registered.

14

15 23. (New section) a. The provisions of P.L. , c. (C.)
16 (pending before the Legislature as this bill) are not designed and
17 shall not be construed to limit in any way any rights granted or
18 derived from any other statute or any rule of law for employees to
19 organize in labor organizations, to bargain collectively and to act in
20 any other way individually, collectively, and through labor
21 organizations or other representatives of their own choosing.
22 Without limiting the generality of the foregoing, nothing contained
23 in P.L. , c. (C.) (pending before the Legislature as this bill)
24 shall be construed to limit in any way the right of employees to
25 strike.

26 b. The provisions of P.L. , c. (C.) (pending before the
27 Legislature as this bill) are not designed and shall not be construed
28 to limit in any way any rights of longshoremen, hiring agents, pier
29 superintendents, or port watchmen or their employers to bargain
30 collectively and agree upon any method for the selection of those
31 employees by way of seniority, experience, regular gangs, or
32 otherwise; provided, that those employees shall be licensed or
33 registered hereunder and longshoremen and port watchmen shall be
34 hired only through the employment information centers established
35 hereunder and that all other provisions of P.L. , c. (C.)
36 (pending before the Legislature as this bill) be observed.

37

38 24. (New section) a. Any officer or employee in the State,
39 county, or municipal civil service in either State who shall transfer
40 to service with the division may be given one or more leaves of
41 absence without pay and may, before the expiration of the leave or
42 leaves of absence, and without further examination or qualification,
43 return to the person's former position or be certified by the
44 appropriate civil service agency for retransfer to a comparable
45 position in the State, county, or municipal civil service if a
46 comparable position is then available.

47 b. The division may, by agreement with any federal agency
48 from which any officer or employee may transfer to service with the

1 division to undertake any of the duties or responsibilities
2 established pursuant to P.L. , c. (C.) (pending before the
3 Legislature as this bill), make similar provision for the retransfer of
4 the officer or employee to that federal agency.

5 c. Notwithstanding the provisions of any other law, rule, or
6 regulation, any officer or employee in the State, county, or
7 municipal service in either State who shall transfer to service with
8 the division and who is a member of any existing State, county, or
9 municipal pension or retirement system in New Jersey or New
10 York, shall continue to have all rights, privileges, obligations, and
11 status with respect to that fund, system, or systems as if the person
12 had continued in State, county, or municipal office or employment,
13 but during the period of service as a member, officer, or employee
14 of the division, all contributions to any pension or retirement fund
15 or system to be paid by the employer on account of the member,
16 officer, or employee, shall be paid by the State Treasurer. The
17 division may, by agreement with the appropriate federal agency,
18 make similar provisions relating to continuance of retirement
19 system membership for any federal officer or employee so
20 transferred.

21

22 25. (New section) a. The division shall annually adopt a budget
23 of its expenses for each year for the purposes of its duties and
24 responsibilities under P.L. , c. (C.) (pending before the
25 Legislature as this bill). Each budget shall be submitted to the
26 Governor and the budget shall be adjusted accordingly.

27 b. After taking into account funds as may be available to the
28 division from reserves, federal grants or otherwise, the balance of
29 the division's budgeted expenses for the performance of its
30 functions and duties under P.L. , c. (C.) (pending before
31 the Legislature as this bill) shall be assessed upon employers of
32 persons registered or licensed pursuant to P.L. , c. (C.)
33 (pending before the Legislature as this bill). Each employer shall
34 pay to the State Treasurer, for placement within the General Fund,
35 an assessment computed upon the gross payroll payments made by
36 that employer to longshoremen, pier superintendents, hiring agents,
37 and port watchmen for work or labor performed within the port of
38 New York district in this State, at a rate, not in excess of two
39 percent, computed by the division in the following manner: the
40 division shall annually estimate the gross payroll payments to be
41 made by employers subject to assessment and shall compute a rate
42 thereon which will yield revenues sufficient to finance the division's
43 budget for the performance of those functions and duties under
44 P.L. , c. (C.) (pending before the Legislature as this bill)
45 for each year. That budget may include a reasonable amount for a
46 reserve, but the amount shall not exceed 10 percent of the total of
47 all other items of expenditure contained therein. The reserve shall
48 be used for the stabilization of annual assessments, the payment of

1 operating deficits, and for the repayment of advances made by the
2 State, if any.

3 c. The amount required to balance the division's budgeted
4 expenses for the performance of its functions and duties under
5 P.L. , c. (C.) (pending before the Legislature as this bill),
6 in excess of the estimated yield of the maximum assessment, shall
7 be certified by the division, with the approval of the Governor, in
8 proportion to the gross annual wage payments made to
9 longshoremen for work within the port of New York district in this
10 State. The Legislature shall annually appropriate to the division the
11 amount so certified.

12 d. The division may provide by regulation for the collection
13 and auditing of assessments. In addition to any other sanction
14 provided by law, the division may revoke or suspend any license
15 held by any person under P.L. , c. (C.) (pending before the
16 Legislature as this bill), or the person's privilege of employing
17 persons registered or licensed hereunder, for non-payment of any
18 assessment when due.

19 e. The assessment hereunder shall be in lieu of any other
20 charge for the issuance of licenses to stevedores, pier
21 superintendents, hiring agents, and port watchmen or for the
22 registration of longshoremen or use of an employment information
23 center. The division shall establish reasonable procedures for the
24 consideration of protests by affected employees concerning the
25 estimates and computation of the rate of assessment.

26

27 26. (New section) a. (1) Every person subject to the payment of
28 any assessment under the provisions of section 25 of P.L. ,
29 c. (C.) (pending before the Legislature as this bill) shall file
30 on or before the 15th day of the first month of each calendar
31 quarter-year a separate return, together with the payment of the
32 assessment due, for the preceding calendar quarter-year during
33 which any payroll payments were made to longshoremen, pier
34 superintendents, hiring agents, or port watchmen for work
35 performed by those employees within the port of New York district
36 in this State. Returns covering the amount of assessment payable
37 shall be filed with the division on forms to be furnished for that
38 purpose and shall contain data, information, or matter as the
39 division may require to be included therein. The division may grant
40 a reasonable extension of time for filing returns, or for the payment
41 of assessment, whenever good cause exists. Every return shall have
42 annexed thereto a certification to the effect that the statements
43 contained therein are true.

44 (2) Every person subject to the payment of assessment
45 hereunder shall keep an accurate record of that person's
46 employment of longshoremen, pier superintendents, hiring agents,
47 or port watchmen, which shall show the amount of compensation
48 paid and other information as the division may require. Those

1 records shall be preserved for a period of three years and be open
2 for inspection at reasonable times. The division may consent to the
3 destruction of the records at any time after that period or may
4 require that they be kept longer, but not in excess of six years.

5 (3) (a) The division shall audit and determine the amount of
6 assessment due from the return filed and such other information as
7 is available to it. Whenever a deficiency in payment of the
8 assessment is determined, the division shall give notice of the
9 determination to the person liable therefor. The determination shall
10 finally and conclusively fix the amount due, unless the person
11 against whom the assessment is assessed shall, within 30 days after
12 the giving of notice of the determination, apply in writing to the
13 division for a hearing, or unless the division on its own motion shall
14 reduce the assessment. After the hearing, the division shall give
15 notice of its decision to the person liable therefor. A determination
16 of the division under this section shall be subject to judicial review,
17 if application for that review is made within 30 days after the giving
18 of notice of the decision. Any determination under this section
19 shall be made within five years from the time the return was filed
20 and if no return was filed, the determination may be made at any
21 time.

22 (b) Any notice authorized or required under this section may be
23 given by mailing the notice to the person for whom it is intended at
24 the last address that the person shall have given to the division, or
25 in the last return filed with the division under this section, or, if a
26 return has not been filed, then to an address as may be obtainable.
27 The mailing of the notice shall be presumptive evidence of the
28 receipt of it by the person to whom the notice is addressed. Any
29 period of time, which is determined for the giving of notice shall
30 commence to run from the date of mailing of the notice.

31 (4) Whenever any person shall fail to pay, within the time
32 limited herein, any assessment which the person is required to pay
33 to the division under the provisions of this section, the division may
34 enforce payment of the assessment by civil action for the amount of
35 the assessment with interest and penalties.

36 (5) The employment by a nonresident of a longshoreman, or a
37 licensed pier superintendent, hiring agent, or port watchman in this
38 State or the designation by a nonresident of a longshoreman, pier
39 superintendent, hiring agent, or port watchman to perform work in
40 this State shall be deemed equivalent to an appointment by the
41 nonresident of the Secretary of State to be the nonresident's true
42 and lawful attorney upon whom may be served the process in any
43 action or proceeding against the nonresident growing out of any
44 liability for assessments, penalties, or interest, and a consent that
45 any process against the nonresident which is served shall be of the
46 same legal force and validity as if served personally within the State
47 and within the territorial jurisdiction of the court from which the

1 process issues. Service of process within the State shall be made by
2 either:

3 (a) personally delivering to and leaving with the Secretary of
4 State duplicate copies thereof at the office of the Department of
5 State, in which event the Secretary of State shall forthwith send by
6 registered mail one of the copies to the person at the last address
7 designated by the person to the division for any purpose under this
8 section or in the last return filed by the person under this section
9 with the division or as shown on the records of the division, or if no
10 return has been filed, at the person's last known office address
11 within or outside of the State; or

12 (b) personally delivering to and leaving with the Secretary of
13 State a copy thereof at the office of the Department of State and by
14 delivering a copy thereof to the person, personally outside of the
15 State. Proof of personal service outside of the State shall be filed
16 with the clerk of the court in which the process is pending within 30
17 days after that service and the service shall be deemed complete 10
18 days after proof thereof is filed.

19 (6) Whenever the division shall determine that any monies
20 received as assessments were paid in error, it may cause the same to
21 be refunded, provided an application therefor is filed with the
22 division within two years from the time the erroneous payment was
23 made.

24 (7) In addition to any other powers authorized hereunder, the
25 division shall have power to make reasonable rules and regulations,
26 pursuant to the provisions of the "Administrative Procedure Act,"
27 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
28 this section.

29 (8) Any person who shall willfully fail to pay any assessment
30 due hereunder shall be assessed interest at a rate of one percent per
31 month on the amount due and unpaid and penalties of five percent
32 of the amount due for each 30 days or part thereof that the
33 assessment remains unpaid. The division may, for good cause
34 shown, abate all or part of that penalty.

35 (9) Any person who shall willfully furnish false or fraudulent
36 information or shall willfully fail to furnish pertinent information,
37 as required, with respect to the amount of assessment due, shall be
38 guilty of a disorderly persons offense.

39 (10) All funds of the division received as payment of any
40 assessment or penalty under this section shall be deposited with the
41 State Treasurer. The State Treasurer may require that all deposits
42 be secured by obligations of the United States or of the State of
43 New Jersey of a market value equal at all times to the amount of the
44 deposits, and all banks and trust companies are authorized to give
45 security for the deposits.

46 (11) The accounts, books, and records of the division related to
47 the purposes established pursuant to P.L. , c. (C.) (pending
48 before the Legislature as this bill), including its receipts,

1 disbursements, contracts, leases, investments, and any other matters
2 relating to its financial standing shall be examined and audited
3 annually by independent auditors to be retained for such purpose by
4 the division.

5 b. The division shall reimburse the State Treasurer for any
6 funds advanced to the division exclusive of sums appropriated
7 pursuant to section 25 of P.L. , c. (C.) (pending before the
8 Legislature as this bill).

9
10 27. (New section) It shall be unlawful for any person to load or
11 unload waterborne freight onto or from vehicles other than railroad
12 cars at piers or at other waterfront terminals within the port of New
13 York district, for a fee or other compensation, other than the
14 following persons and their employees:

15 a. Carriers of freight by water, but only at piers at which their
16 vessels are berthed;

17 b. Other carriers of freight, including but not limited to,
18 railroads and truckers, but only in connection with freight
19 transported or to be transported by those other carriers;

20 c. Operators of piers or other waterfront terminals, including
21 railroads, truck terminal operators, warehousemen and other
22 persons, but only at piers or other waterfront terminals operated by
23 them;

24 d. Shippers or consignees of freight, but only in connection
25 with freight shipped by the shipper or consigned to the consignee;
26 and

27 e. Stevedores licensed under section 7 of P.L. , c. (C.)
28 (pending before the Legislature as this bill), whether or not
29 waterborne freight has been or is to be transported by a carrier of
30 freight by water with which the stevedore shall have a contract of
31 the type prescribed by paragraph (4) of subsection e. of this section.

32 Nothing herein contained shall be deemed to permit any loading
33 or unloading of any waterborne freight at any place by any person
34 by means of any independent contractor, or any other agent other
35 than an employee, unless the independent contractor is a person
36 permitted by section 7 of P.L. , c. (C.) (pending before the
37 Legislature as this bill) to load or unload freight at a place in the
38 person's own right.

39
40 28. (New section) a. A person shall not solicit, collect, or
41 receive any dues, assessments, levies, fines, or contributions, or
42 other charges within the State of New Jersey for or on behalf of any
43 labor organization, which represents employees registered or
44 licensed pursuant to the provisions of P.L. , c. (C.)
45 (pending before the Legislature as this bill) in their capacities as
46 registered or licensed employees or which derives its charter from a
47 labor organization representing 100 or more of its registered or
48 licensed employees, if any officer, agent, or employee of the labor

1 organization for which dues, assessments, levies, fines, or
2 contributions, or other charges are solicited, collected, or received,
3 or of a welfare fund or trust administered partially or entirely by the
4 labor organization or by trustees or other persons designated by the
5 labor organization, has been convicted by a court of the United
6 States, or any State or territory thereof, of treason, murder,
7 manslaughter, or any felony, crime involving moral turpitude, or
8 any crime or offense enumerated subsection g. of section 6 of
9 P.L. , c. (C.) (pending before the Legislature as this bill),
10 unless that person has been subsequently pardoned therefor by the
11 Governor or other appropriate authority of the State in which the
12 conviction was had or has received a certificate of good conduct or
13 other relief from disabilities arising from the fact of conviction
14 from a parole board or similar authority.

15 b. Any person who shall violate this section shall be guilty of a
16 petty disorderly persons offense.

17 c. Any person who shall violate, aid and abet the violation, or
18 conspire or attempt to violate this subsection shall be guilty of a
19 petty disorderly persons offense.

20 d. If upon application to the division by an employee who has
21 been convicted of a crime or offense specified in subsection b. of
22 this section, the authority, in its discretion, determines in an order
23 that it would not be contrary to the purposes and objectives of
24 P.L. , c. (C.) (pending before the Legislature as this bill)
25 for that employee to work in a particular employment for a labor
26 organization, welfare fund, or trust, the provisions of subsection b.
27 of this section shall not apply to the particular employment of the
28 employee with respect to that conviction or convictions as are
29 specified in the division's order. This subsection is applicable only
30 to those employees, who for wages or salary, perform manual,
31 mechanical, or physical work of a routine or clerical nature at the
32 premises of the labor organization, welfare fund, or trust by which
33 they are employed.

34 e. A person who has been convicted of a crime or offense
35 specified in subsection b. of this section shall not directly or
36 indirectly serve as an officer, agent, or employee of a labor
37 organization, welfare fund, or trust, unless the person has been
38 subsequently pardoned for that crime or offense by the Governor or
39 other appropriate authority of the State in which the conviction was
40 had or has received a certificate of good conduct or other relief
41 from disabilities arising from the fact of conviction from a parole
42 board or similar authority or has received an order of exception
43 from the division. A person, including a labor organization, welfare
44 fund, or trust, shall not knowingly permit any other person to
45 assume or hold any office, agency, or employment in violation of
46 this section.

47 f. The division may maintain a civil action against any person,
48 labor organization, welfare fund, or trust, or officers thereof to

1 compel compliance with this section, or to prevent any violations,
2 the aiding and abetting thereof, or any attempt or conspiracy to
3 violate this section, either by mandamus, injunction, or action or
4 proceeding in lieu of prerogative writ and upon a proper showing a
5 temporary restraining order or other appropriate temporary order
6 shall be granted ex parte and without bond pending final hearing
7 and determination. Nothing in this subsection shall be construed to
8 modify, limit, or restrict in any way the provisions of subsection a.
9 of this section.

10
11 29. (New section) a. Any person who, having been duly sworn
12 or affirmed as a witness in any investigation, interview, hearing or
13 other proceeding conducted by the division pursuant to section 15
14 of P.L. , c. (C.) (pending before the Legislature as this
15 bill), shall willfully give false testimony shall be guilty of a
16 disorderly persons offense.

17 b. The division may maintain a civil action on behalf of the
18 State against any person who violates or attempts or conspires to
19 violate P.L. , c. (C.) (pending before the Legislature as this
20 bill) or who fails, omits, or neglects to obey, observe, or comply
21 with any order or direction of the division, to recover a judgment
22 for a money penalty not exceeding \$500 for each and every offense.
23 Every violation of any provision of P.L. , c. (C.) (pending
24 before the Legislature as this bill), or any division order or
25 direction, shall be a separate and distinct offense, and, in case of a
26 continuing violation, every day's continuance shall be and be
27 deemed to be a separate and distinct offense. Any civil action may
28 be compromised or discontinued on application of the division upon
29 the terms as the court may approve and a judgment may be rendered
30 for an amount less than the amount demanded in the complaint as
31 justice may require.

32 c. The division may maintain a civil action against any person
33 to compel compliance with any of the provisions of P.L. , c.
34 (C.) (pending before the Legislature as this bill), or to prevent
35 violations, attempts, or conspiracies to violate any provisions of
36 P.L. , c. (C.) (pending before the Legislature as this bill),
37 or interference, attempts, or conspiracies to interfere with or impede
38 the enforcement of any provisions of P.L. , c. (C.) (pending
39 before the Legislature as this bill) or the exercise or performance of
40 any power or duty thereunder, either by mandamus, injunction, or
41 action or proceeding in lieu of prerogative writ.

42 d. Any person who shall violate any of the provisions of
43 P.L. , c. (C.) (pending before the Legislature as this bill),
44 for which no other penalty is prescribed, shall be guilty of a petty
45 disorderly persons offense.

46 e. Any person who shall, without a satisfactory explanation,
47 loiter upon any vessel, dock, wharf, pier, bulkhead, terminal,
48 warehouse, or other waterfront facility or within 500 feet thereof in

1 that portion of the port of New York district in this State, shall be
2 guilty of a petty disorderly persons offense.

3 f. Any person who, without justification or excuse in law,
4 directly or indirectly, intimidates or inflicts any injury, damage,
5 harm, loss, or economic reprisal upon any person licensed or
6 registered by the division, or any other person, or attempts,
7 conspires, or threatens so to do, in order to interfere with, impede,
8 or influence the licensed or registered person in the performance or
9 discharge of the licensed or registered person's duties or obligations
10 shall be punishable as provided in this section.

11

12 30. (New section) a. The failure of any witness, when duly
13 subpoenaed to attend, give testimony, or produce other evidence in
14 connection with any matter arising under the provisions of
15 P.L. , c. (C.) (pending before the Legislature as this bill),
16 whether or not at a hearing, shall be punishable by the Superior
17 Court in New Jersey in the same manner as that failure is
18 punishable by the court in a case therein pending.

19 b. Any person who, having been sworn or affirmed as a witness
20 in any hearing pursuant to subsection a. of this section, shall
21 willfully give false testimony or who shall willfully make or file
22 any false or fraudulent report or statement required by P.L. , c.
23 (C.) (pending before the Legislature as this bill) to be made or
24 filed under oath, shall be guilty of a disorderly persons offense.

25 c. Any person who violates or attempts or conspires to violate
26 any other provision of P.L. , c. (C.) (pending before the
27 Legislature as this bill) shall be punishable as may be provided by
28 section 28 of P.L. , c. (C.) (pending before the Legislature
29 as this bill).

30 d. Any person who interferes with or impedes the orderly
31 registration of longshoremen pursuant to P.L. , c. (C.)
32 (pending before the Legislature as this bill) or who conspires to or
33 attempts to interfere with or impede such registration shall be
34 punishable as may be provided by section 28 of P.L. ,
35 c. (C.) (pending before the Legislature as this bill).

36 e. Any person who, directly or indirectly, inflicts or threatens
37 to inflict any injury, damage, harm, or loss or in any other manner
38 practices intimidation upon or against any person in order to induce
39 or compel such person or any other person to refrain from
40 registering pursuant to section 8 of P.L. , c. (C.) (pending
41 before the Legislature as this bill) shall be punishable as may be
42 provided by section 28 of P.L. , c. (C.) (pending before
43 the Legislature as this bill).

44 f. In any prosecution under this section, it shall be sufficient to
45 prove only a single act, or a single holding out or attempt,
46 prohibited by law, without having to prove a general course of
47 conduct, in order to prove a violation.

1 31. (New section) As of the transfer date, the waterfront
2 commission compact, entered into by the State of New Jersey
3 pursuant to its agreement thereto under P.L.1953, c.202 (C.32:23-1
4 et seq.) and by the State of New York pursuant to its agreement
5 thereto under P.L.1953, c.882 (NY Unconsol. Ch.307, s.1), as
6 amended and supplemented, the airport commission compact,
7 entered into by the State of New Jersey pursuant to its agreement
8 thereto under P.L.1970, c.58 (C.32:23-150 et seq.) and by the State
9 of New York pursuant to its agreement thereto under P.L.1970,
10 c.951 (NY Unconsol. Ch.307, s.10), and the commission, are
11 dissolved.

12

13 32. R.S.52:14-7 is amended to read as follows:

14 52:14-7. a. Every person holding an office, employment, or
15 position

16 (1) in the Executive, Legislative, or Judicial Branch of this
17 State, or

18 (2) with an authority, board, body, agency, commission, or
19 instrumentality of the State including any State college, university,
20 or other higher educational institution, and, to the extent consistent
21 with law, any interstate agency to which New Jersey is a party, or

22 (3) with a county, municipality, or other political subdivision of
23 the State or an authority, board, body, agency, district, commission,
24 or instrumentality of the county, municipality, or subdivision, or

25 (4) with a school district or an authority, board, body, agency,
26 commission, or instrumentality of the district,

27 shall have his or her principal residence in this State and shall
28 execute such office, employment, or position.

29 This residency requirement shall not apply to any person: (a)
30 who is employed on a temporary or per-semester basis as a visiting
31 professor, teacher, lecturer, or researcher by any State college,
32 university, or other higher educational institution, or county or
33 community college, or in a full or part-time position as a member of
34 the faculty, the research staff, or the administrative staff by any
35 State college, university, or other higher educational institution, or
36 county or community college, that the college, university, or
37 institution has included in the report required to be filed pursuant to
38 this subsection **[, or]**; (b) who is employed full-time by the State
39 who serves in an office, employment, or position that requires the
40 person to spend the majority of **[his or her]** the person's working
41 hours in a location outside of this State; or (c) an officer of the
42 waterfront commission of New York harbor, employed by the
43 commission on the effective date of P.L. , c. (C.) (pending
44 before the Legislature as this bill), who seeks to be transferred to
45 the Division of State Police in the Department of Law and Public
46 Safety pursuant to section 4 of P.L. , c. (C.) (pending
47 before the Legislature as this bill).

1 For the purposes of this subsection, a person may have at most
2 one principal residence, and the state of a person's principal
3 residence means the state (1) where the person spends the majority
4 of **【his or her】** the person's nonworking time, and (2) which is most
5 clearly the center of **【his or her】** the person's domestic life, and (3)
6 which is designated as **【his or her】** the person's legal address and
7 legal residence for voting. The fact that a person is domiciled in
8 this State shall not by itself satisfy the requirement of principal
9 residency hereunder.

10 A person, regardless of the office, employment, or position, who
11 holds an office, employment, or position in this State on the
12 effective date of P.L.2011, c.70 but does not have **【his or her】**
13 principal residence in this State on that effective date shall not be
14 subject to the residency requirement of this subsection while the
15 person continues to hold office, employment, or position without a
16 break in public service of greater than seven days.

17 Any person may request an exemption from the provisions of
18 this subsection on the basis of critical need or hardship from a five-
19 member committee hereby established to consider applications for
20 **【such】** exemptions. The committee shall be composed of three
21 persons appointed by the Governor, a person appointed by the
22 Speaker of the General Assembly, and a person appointed by the
23 President of the Senate, each of whom shall serve at the pleasure of
24 the person making the appointment and shall have a term not to
25 exceed five years. A vacancy on the committee shall be filled in the
26 same manner as the original appointment was made. The Governor
27 shall make provision to provide such clerical, secretarial, and
28 administrative support to the committee as may be necessary for it
29 to conduct its responsibilities pursuant to this subsection.

30 The decision on whether to approve an application from any
31 person shall be made by a majority vote of the members of the
32 committee, and those voting in the affirmative shall so sign the
33 approved application. If the committee fails to act on an application
34 within 30 days after the receipt thereof, no exemption shall be
35 granted and the residency requirement of this subsection shall be
36 operative. The head of a principal department of the Executive
37 Branch of the State government, a Justice of the Supreme Court,
38 judge of the Superior Court, and judge of any inferior court
39 established under the laws of this State shall not be eligible to
40 request from the committee an exemption from the provisions of
41 this subsection.

42 The exemption provided in this subsection for certain persons
43 employed by a State college, university, or other higher educational
44 institution, or a county or community college, other than those
45 employed on a temporary or per-semester basis as a visiting
46 professor, teacher, lecturer, or researcher, shall apply only to those
47 persons holding positions that the college, university, or institution

1 has included in a report of those full or part-time positions as a
2 member of the faculty, the research staff, or the administrative staff
3 requiring special expertise or extraordinary qualifications in an
4 academic, scientific, technical, professional, or medical field or in
5 administration, that, if not exempt from the residency requirement,
6 would seriously impede the ability of the college, university, or
7 institution to compete successfully with similar colleges,
8 universities, or institutions in other states. The report shall be
9 compiled annually and shall also contain the reasons why the
10 positions were selected for inclusion in the report. The report shall
11 be compiled and filed within 60 days following the effective date of
12 P.L.2011, c.70. The report shall be reviewed, revised as necessary,
13 and filed by January 1 of each year thereafter. Each report shall be
14 filed with the Governor and, pursuant to section 2 of P.L.1991,
15 c.164 (C.52:14-19.1), with the Legislature, and a report may be
16 revised at any time by filing an amendment to the report with the
17 Governor and Legislature.

18 As used in this section, "school district" means any local or
19 regional school district established pursuant to chapter 8 or chapter
20 13 of Title 18A of the New Jersey Statutes and any jointure
21 commission, county vocational school, county special services
22 district, educational services commission, educational research and
23 demonstration center, environmental education center, and
24 educational information and resource center.

25 b. If any person holding any office, employment, or other
26 position in this State shall attempt to let, farm out, or transfer
27 **[such]** office, employment, or position or any part thereof to any
28 person, **[he]** the person shall forfeit the sum of **[fifteen hundred**
29 **dollars (\$1,500.00)]** \$1,500, to be recovered with costs by any
30 person who shall sue for the same, one-half to the prosecutor and
31 the other half to the **[treasurer]** State Treasurer for the use of the
32 State.

33 c. No person shall be appointed to or hold any position in this
34 State who has not the requisite qualifications for personally
35 performing the duties of such position in cases where scientific
36 engineering skill is necessary to the performance of the duties
37 thereof.

38 d. Any person holding or attempting to hold an office,
39 employment, or position in violation of this section shall be
40 considered as illegally holding or attempting to hold the same;
41 provided that a person holding an office, employment, or position in
42 this State shall have one year from the time of taking the office,
43 employment, or position to satisfy the requirement of principal
44 residency, and if thereafter **[such]** the person fails to satisfy the
45 requirement of principal residency as defined herein with respect to
46 any 365-day period, that person shall be deemed unqualified for
47 holding the office, employment, or position. The Superior Court

1 shall, in a civil action in lieu of prerogative writ, give judgment of
2 ouster against **【such】** the person, upon the complaint of any officer
3 or citizen of the State, provided that any **【such】** complaint shall be
4 brought within one year of the alleged 365-day period of failure to
5 have **【his or her】** the person's principal residence in this State.

6 (cf: P.L.2011, c.70, s.2)

7
8 33. The following are repealed:

9 P.L.1953, c.202 (C.32:23-1 et seq.);

10 P.L.1991, c.248 (C.32:23-23.1);

11 P.L.1985, c.32 (C.32:23-43.1 and 32:23-44.1);

12 Section 2 of P.L.1956, c.20 (C.32:23-75.1);

13 P.L.1954, c.3 (C.32:23-77.1 et seq.);

14 Sections 4 and 5 of P.L.1962, c.5 (C.32:23-80.1 and 32:23-80.2);

15 P.L.1954, c.14 (C.32:23-85 et seq.);

16 P.L.1956, c.19 (C.32:23-99 et seq.);

17 Sections 6, 8, 9, and 10 of P.L.1956, c.194 (C.32:23-105 through
18 32:23-108);

19 P.L.1990, c.59 (C.32:23-105.1 through 32:23-105.3);

20 Sections 2 and 6 through 9 of P.L.1962, c.5 (C.32:23-109
21 through 32:23-113);

22 Sections 2 through 5 of P.L.1966, c.18 (C.32:23-114 through
23 32:23-117);

24 P.L.1976, c.102 (C.32:23-118 through 32:23-121); and

25 Sections 4 through 17 and section 19 of P.L.1970, c.58 (C.32:23-
26 150 through 32:23-225).

27
28 34. This act shall take effect immediately, but sections 3 through
29 32 shall be inoperative until the transfer date has occurred pursuant
30 to section 31 of P.L. , c. (C.) (pending before the
31 Legislature as this bill).

32 33 34 STATEMENT

35
36 This bill directs the Governor, on behalf of the State of New
37 Jersey, to notify the Congress of the United States, the Governor of
38 the State of New York, and the Waterfront Commission of New
39 York Harbor of the State of New Jersey's intention to withdraw
40 from the compact creating the commission, and repeals the compact
41 establishing the commission and related statutes.

42 The bill provides for the assumption of the commission's
43 functions and duties within the State of New Jersey by the New
44 Jersey State Police in order to investigate, deter, and combat
45 criminal activity and influence in the New Jersey portion of the port
46 of New York. These duties include: processing applications filed
47 by individuals and firms required to be registered or licensed to
48 undertake port-related employment; supervising the hiring of

1 longshoremen, checkers, and pier guards in the port; and making
2 employment information available to these dock workers. The State
3 Police are responsible for screening, registering, and licensing
4 individuals who apply to work at the dock. In doing so, the State
5 Police are authorized to deny or revoke the registration or licenses
6 of those who involve themselves in criminal activity. Once the
7 freight is removed from a marine terminal in the port, the bill
8 provides that the State Police no longer have jurisdiction with
9 regard to the screening, registering, and licensing of consignees of
10 waterborne freight.

11 Under legislation enacted by New Jersey and New York in 1953
12 and consented to by Congress that same year, the two states entered
13 into a compact establishing the commission. The commission is
14 empowered under the compact to regulate the employment of
15 individuals, and the engagement of businesses, in the provision of
16 various cargo handling services within the port. Notably, the
17 compact provides for the licensure of those acting within the district
18 as pier superintendents, hiring agents, stevedores, and port
19 watchmen, and for the registration of longshoremen. The
20 commission is authorized to establish and maintain within the port
21 "employment information centers" through which longshoremen
22 and port watchmen are hired in order to work in the port. The
23 compact provides that a conviction for certain offenses is grounds
24 for disqualification from receiving or retaining status as a licensee
25 or registrant under the compact. The compact authorizes the
26 commission to enforce its regulations through investigations,
27 hearings, and civil penalties, and to fund its operations through an
28 assessment upon the employers of those subject to its regulation;
29 the assessment may not exceed two percent of the estimated gross
30 payroll of those employers. All of these duties and responsibilities
31 under the compact are to be transferred to the State Police and the
32 revenues from the assessment are to be deposited in the State's
33 General Fund instead of with the commission.

34 Further, in 1970, both New Jersey and New York enacted
35 legislation to supplement the 1953 compact. Under that legislation,
36 the commission's authority to regulate cargo handling was extended
37 to the licensure of those serving at airports within the two states as
38 airfreightmen, airfreightman supervisors, air freight terminal
39 operators, or air freight truck carriers. Like the earlier legislation,
40 the 1970 legislation confers on the commission the power to enforce
41 its regulation of airport cargo handling, and to fund regulatory and
42 improvement activity through a payroll-based assessment on
43 employers. This supplementary compact has not received
44 Congressional consent, and has not been implemented. This bill
45 repeals the 1970 legislation.

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3 Directs Governor to withdraw from compact establishing
4 Waterfront Commission of New York Harbor; dissolves compact
5 and commission; transfers commission's NJ operations to State
6 Police.