

December 26, 2014

**SENATE BILL NO. 2183
(First Reprint)**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 2183 (First Reprint) with my recommendations for reconsideration.

This bill, along with Senate Bill No. 2181, is driven by a sentiment that I fully embrace: reforming, modernizing, and reimagining the Port Authority of New York and New Jersey. Established almost a century ago, the Port Authority was created to oversee the harbor interests shared by New Jersey and New York. Over the decades, the shared interests of our port region have grown, and the Authority has expanded to manage new opportunities and face new challenges. Today, the Port Authority operates a wide-array of transportation programs under a multi-billion-dollar yearly budget. This century-long evolution has transformed the agency into a large and complex organization, capable of providing great benefits to the region, but also susceptible to mismanagement and abuse.

For years, calls for reform at the Port Authority have emanated from the executive and legislative branches in both States. Some proposals have taken the form of piecemeal reforms, addressing only isolated concerns. Others have advocated a more sweeping review to address the agency holistically. Embracing that spirit, in August 2011, Governor Cuomo and I required the Port Authority to undergo a comprehensive audit of its finances and operations. As a result of those audit findings, the Port Authority has taken numerous steps towards reform and positive change. However, recent failures at the Port Authority, including those relating to the George Washington Bridge, have proven that more comprehensive reform is needed. If the Port Authority is to truly set aside

wasteful practices, refocus its core mission, and embrace sound principles of management and oversight, it is essential to expertly examine the changes needed to create a bi-state agency deserving of public trust.

On May 6, 2014, Governor Cuomo and I created the bi-state Special Panel on the Future of the Port Authority. We gave the Special Panel the broad charge to review and evaluate reforms of the agency's mission, structure, management, operations, and overall governance for the betterment of the region. To ensure cooperation between the States, the Special Panel is composed of representatives from both New Jersey and New York. We made it clear that the scope of the Special Panel's review was expansive, and that the members should examine all aspects of the Port Authority to determine how best to achieve comprehensive and lasting reform. Over the course of the past six months, the Special Panel has worked closely with outside experts and Port Authority personnel to understand all aspects of the agency. Consistent with its charge, the Special Panel considered improvements not only to the day-to-day operations of the Port Authority, but also to its overall organization and role in the region.

Today, the Special Panel completed its task and submitted its Report to the Governors of both States. I endorse the recommendations of the Special Panel. The Report recommends comprehensive and wholesale changes at the Port Authority, and marks a new beginning for the agency. The Report examines redefining the Port Authority's role in the region, and recommends sweeping changes for the agency's mission and capital plan. Additional recommendations focus on the overall operations of the agency, including the possible transfer of

assets and entire operating divisions. Still other recommendations focus on matters of governance and transparency, including the creation of a single Chief Executive Officer, modification of the Chairperson's role, and reforms to the Port Authority's public-records policies and ethics guidelines. The Special Panel's Report embodies exactly the kind of recommendations needed to reform this vital public resource: a far-reaching set of proposals developed by active collaboration and communication between New Jersey and New York.

While Senate Bill No. 2181 similarly attempts to advance the ultimate goals of agency reform, the changes proposed in the bill necessarily lack the insights and extensive analysis contained in the Special Panel's Report, resulting in ideas that are too narrow, and lacking in the changes needed for reform. With the work of the Special Panel now completed, it is sensible to consider the significant and profound changes recommended by the Panel before implementing the smaller, and potentially inconsistent, proposals contained in this bill.

With the cooperation of both the Port Authority and the Legislatures of both States – cooperation I fully expect – the broad reforms proposed in the Special Panel's Report will mark a new beginning and form the basis for meaningful change for decades to come. By working together, instituting internal changes where appropriate, and passing legislation where necessary, there can be a true and positive transformation within the agency. I encourage the Legislatures of both States to review carefully the reforms that the Port Authority has already undertaken, and to consider the recommendations that the bi-state Special Panel has made, and then to work with the bi-state Panel, and with the Port Authority as reconstituted, to

prepare a comprehensive package that accomplishes true, meaningful reform. Accordingly, while I am returning Senate Bill No. 2181 without my approval, I urge the Legislatures of both New Jersey and New York to work together with the Port Authority and the bi-state Panel to craft a comprehensive package consistent with the broad reforms outlined in the Special Panel's Report.

Senate Bill No. 2183 (First Reprint), on the contrary, concerns one isolated issue where no additional study is needed to ensure codification of the appropriate reforms. The bill seeks to legislate what the Port Authority has already accomplished by a resolution passed on October 22, 2014: increasing transparency at the agency by subjecting it to the standards of each State's public-records laws, and affording requestors the right to appeal decisions. In large measure the bill is thus sensible, requiring only modest adjustments to avoid unnecessary confusion and complications.

As written, the bill would require New Jersey's courts to interpret New York's law, and New York's courts to interpret New Jersey's law, whenever there is a dispute over records. And those courts would need to apply whatever version of each State's laws existed as of the date of enactment, rather than what the current laws of each State may be at the time. This system would result in unnecessary conflicts of law that would only frustrate disclosure without enhancing transparency.

There is a far simpler approach. The Port Authority should be deemed an "agency" for purposes of New York's Freedom of Information Law and a "public agency" for purposes of New Jersey's Open Public Records Act. If a requestor is denied access to a public record, he or she can sue the Port Authority

in either State. If the plaintiff sues in New York, New York law applies; if the plaintiff sues in New Jersey, New Jersey law applies. And the tribunals of either State would apply the current version of their own laws, not versions that may have become antiquated over the years.

Accordingly, I herewith return Senate Bill No. 2183 (First Reprint) and recommend that it be amended as follows:

Page 2, Section 2, Lines 16-36:

Delete in their entirety and insert "2. Notwithstanding any law to the contrary, the Port Authority shall be deemed an "agency" and treated as such under the laws of New York, for all purposes under articles 6 and 6-A of the Public Officers Law, and shall be deemed a "public agency" and treated as such under New Jersey, P.L.1963, c.73 (C.47:1A-1 et seq.), pertaining to the disclosure of government records.

3. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein."

Page 2, Section 3, Line 38:

Delete "3." and insert "4."

Page 3, Section 4, Line 4:

Delete "4." and insert
"5."

Respectfully,

Chris Christie
Governor

Attest:

Paul B. Matey
Deputy Chief Counsel to the Governor