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State of New Jersey

SENATE  
LEGISLATIVE OVERSIGHT COMMITTEE

REPORT ON  
THE PURPOSES AND ORGANIZATION  
OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY

July 30, 1986

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## I INTRODUCTION

This report offers the findings and recommendations of the Senate Legislative Oversight Committee with respect to its review of the purposes and organization of the New Jersey Public Broadcasting Authority, the state agency that operates the non-commercial television system known as the New Jersey Network over channels 23, 50, 52 and 58.

The committee undertook its study to address these basic questions:

Is there a continued need for state-funded television coverage of New Jersey news and public affairs?

Is the organizational structure of the authority conducive to the operation of a television network in conformity with recognized standards of journalistic independence and editorial integrity?

Are there measures that can be taken to provide the authority with additional protection against real or perceived interference from public officials?

The issues raised by these questions are not new. They were fundamental to the deliberations of the 1968 study commission that recommended the establishment of the New Jersey Public Broadcasting Authority. More recently, these concerns have given rise to legislative attempts to restructure the authority (one proposal was vetoed by Governor Byrne in January, 1982; another received committee approval in the General Assembly in the 1985 session but was not brought up for a floor vote).

The Senate Legislative Oversight Committee has reviewed these questions anew in response to the public attention that has been focused on the independence -- or lack thereof -- of the authority in the wake of the sudden resignation of its third executive director. The committee wishes to emphasize, however, that its inquiry has been concerned primarily with the long-term institutional nature of the agency, not the circumstances of the resignation nor the internal affairs of the authority's operation.

During the course of this study the committee conducted four public hearings (on January 29, February 18, March 4 and March 25, 1986) and reviewed numerous documents relating to the development and operation of the New Jersey Public Broadcasting Authority and of public broadcasting entities in general. Witnesses before the committee included the chairman of the 1968 study commission that recommended the establishment of the authority (and who later was appointed as its first chairman), the current authority chairman, two of its three previous executive directors, members of the public broadcasting boards in Wisconsin and South Carolina, and other experts in and observers of the field of television communications.

## II THE NEED FOR A STATE BROADCASTING ENTITY

New Jersey has not been well served by commercial television with respect to coverage of its news, public affairs and community interests. This lack of coverage has been well-documented, discussed and lamented over the years, and has been the subject of proceedings before the Federal Communications Commission (FCC). The root cause for this unfortunate situation lies in the original decision of the FCC to allocate all available VHF stations to New York City or Philadelphia, with the exception of Channel 13, originally--and still--licensed to Newark, but converted to a public station with an obvious New York City orientation in 1961. Even though New Jersey residents constitute one quarter to one third of their audiences, the New York and Philadelphia stations have historically demonstrated a reluctance to assume a responsibility to provide a proportionate share of coverage of significant issues and events occurring on this side of the Hudson and Delaware Rivers.

The New Jersey Public Broadcasting Authority was established in part to remedy the absence of effective television coverage of New Jersey news and topics. The evidence presented to this committee overwhelmingly demonstrates that the need for this mission still exists. Regardless of any good faith efforts they might make to air news of New Jersey, the New York and Philadelphia stations have a primary obligation to be responsive to the needs of their cities of license. As for channel 9 (WOR), which moved its city of license from New York to Secaucus in 1984, it still transmits from an antenna in New York City, thereby limiting its direct over-the-air reach into New Jersey, and it has established itself as a national "superstation" through

cable outlets, emphasizing programming capable of attracting mass audiences throughout the country. As for cable television itself, while it has enjoyed tremendous growth in New Jersey, it is primarily a distributor, not a producer of programs. The recently established Cable Network of New Jersey has the potential to serve as a vehicle for the state-wide dissemination of news and public affairs programming, but the source for the funding and production of the programs remains an open question. Further, a total reliance on cable service raises questions of availability and accessibility as regards those households unable or unwilling to pay the premium to subscribe.

The most persuasive evidence of the continuing paucity of New Jersey coverage on commercial television was presented to this committee by Dr. Roger N. Johnson of the Center for Public Policy Research at Ramapo College. Dr. Johnson's monitoring studies of local news broadcasts indicate that the New York stations devote about one to two percent of local news time to New Jersey stories and the Philadelphia stations about six to seven percent. Most surprisingly (and most discouragingly), he reports that since its relocation to this state, channel 9 has decreased its New Jersey news coverage by 25 percent.

As a result of his studies, Dr. Johnson reported to this committee that "New Jersey Nightly News [the program offered by the state network] continues to be the best television news program about New Jersey affairs available to New Jersey residents. Its choice of stories, its in-depth reporting, and its state-wide coverage offer a valuable service not available on commercial television."

It is abundantly clear that there is a continued need for a broadcast entity that identifies service to the citizens of New Jersey as its primary mission, one that is responsible to the needs and interests of the seven and one half million residents of the state, one that will provide news and public affairs for and about New Jersey, one that will be attentive to the cultural and artistic resources within the state, one that will serve as a resource for the education, enrichment and enlightenment of our citizens, and one that has the technical capability to reach all sections of the state. Among all television outlets with a broadcast presence in New Jersey, only the Public Broadcasting Authority is devoted to meeting these needs. Further, it is essential that an indigenous public broadcasting service be available for this state to meet the needs of educational institutions for closed circuit instruction. No commercial television operation provides, or is likely to provide, such coverage or service. And no evidence has been presented to this committee that would indicate that any non-profit, public-spirited organization stands ready to undertake the functions of the existing authority nor to bear the responsibility for raising all of the funds necessary to maintain a quality operation.

In May of 1968, the Governor's Commission on Public Broadcasting for New Jersey unveiled an ambitious proposal for a state-operated public broadcasting service. The Commission's recommendations formed the basis for the establishment of the New Jersey Public Broadcasting Authority in January, 1969. In his letter of transmittal to the Governor, the Chairman of the Commission offered the following observations:

Our recommendations call for quality.... We see no other course but to aim at the best if we are to have the most responsive system for public broadcasting for New Jersey.... The millions of our fellow citizens deserve nothing less.

The system we recommend is a public instrumentality that would allow for the more effective and efficient flow of ideas, knowledge, and expressions of the citizens of New Jersey.... We believe this public instrument can serve to help bring about fuller understanding of New Jersey, its communities, its people, its problems, and its opportunities.

Eighteen years later the author of these words, Dr. Edward J. Meade, Jr., who subsequently served as the first chairman of the authority, remains firm in his conviction that the state has a right and an obligation to provide a public broadcasting service. As he testified before the Oversight Committee:

I certainly think, from the standpoint of public affairs and news, it's every bit as important today, if not more so, than it was then.... I have not seen any substantial increase, other than cosmetically, on the part of other media--television in particular--serving New Jersey.... I do think the need for public broadcasting, going back to the original mission, is more important today than it was then... [W]ithout informing the people, you can't serve the people.... If left to whatever resources are available commercially to us, our voters will not be informed.

Dr. Meade's vision of a service of the highest quality that will provide for the effective and efficient flow of information to the public is one which the Oversight Committee shares. This portion of this report has demonstrated the dire need for such a service. The next issue before this Committee is whether the purposes of the Public Broadcasting Authority are sufficiently expressed and whether the organization of the authority is sufficiently structured so as to promote the effective and efficient flow of information to the public.

### III STRUCTURAL WEAKNESSES OF THE CURRENT AUTHORITY

There are obvious tensions and dangers inherent in the establishment of a government service for the provision of news and public affairs and the discussion of public issues. Will the operation retain the public's faith and confidence? Will news become propaganda? Will journalistic integrity become political expediency? Will management decisions become bureaucratic entanglements? Will funding for the station or the appointment of its management be hostage to the coverage it provides for the Legislature or the Governor? Will the broadcast operation become simply another executive branch agency for the advancement of administration policy? Having determined that there is a continuing need for a state broadcasting entity, the Oversight Committee must now review the structure and mission of the current authority to determine whether there are sufficient safeguards against these adverse potentialities.

The Public Broadcasting Authority's legislative mandate sets forth the authority's programming responsibilities in a few succinct phrases. The law defines "public broadcasting" to include "the production and dissemination of public and community affairs, educational, cultural and instructional information." It further provides that the authority shall "Assume responsibility for the character, diversity, quality and excellence of programming ... provided that programs or series of programs of a controversial nature shall be presented with balance, fairness and equity." Lastly, while the authority is prohibited from supporting or opposing political candidates or from attempting to influence action on legislation, it is nonetheless authorized to promote "full discussions of public issues."

These are admirable guidelines, and basic to the establishment of any self-respecting broadcast entity. Their implementation, however, is subject to a variety of interpretations. What types of programming qualify as "public affairs" or "cultural"? How is a "controversial" subject defined? What is the measurement for "balance"? The attempt to answer these questions -- and to justify the answers -- is oftentimes not an easy task even for a commercial broadcast licensee. In the case of a non-commercial station operated as a state agency, the search for answers, and their rationales, is further complicated by the structural relationship between the station and the governmental edifice within which it reposes. In the specific case of the New Jersey Public Broadcasting Authority, this relationship is so structured as to invite untenable intrusion of the executive and legislative branches into the decision-making process of the authority.

This Committee is of the opinion that, notwithstanding the good intentions, dedicated commitment and determined efforts of the members of the authority, its management and its employees, the authority labors under an organizational structure that fails to adequately insulate it from potential political interference or to imbue it with a strong sense of institutional independence. This is not to charge, however, that the authority invariably bows to pressure from the outside, nor to imply that it should be immune from criticism or oversight. The issue at hand is that the lack of procedural safeguards against potential or perceived instances of interference can create a chilling effect on the authority's broadcast operations, destabilize its management and debilitate morale. In such a climate, even legitimate criticism from elected officials can be misconstrued as "political interference." An organization devoted to providing news and analysis of

public issues cannot long command respect, legitimacy and public support under such a state of affairs. And any erosion of public confidence inevitably leads to questions as to the motivation and purpose for various management, programming and editorial decisions.

The importance that this Committee places on the structural underpinnings of the authority must be viewed in the proper perspective. Two of the most essential safeguards of the independence of the television network are beyond the control of any statutory language. Governors and legislators must respect the integrity of the broadcasting system and must restrain themselves from exerting undue influence on the management of the operation. And the Board of Directors must protect the credibility of the broadcasting service by withstanding inappropriate intrusions and maintaining complete responsibility for the character of the institution. To the extent that a recitation of these principles is helpful in promoting the independent but accountable operation of a public broadcasting system, one of this Committee's recommendations calls for the operation of the network in accordance with the "Principles of Editorial Integrity in Public Broadcasting" developed by a national consortium of public broadcasting stations.

As regards the statutory framework of the authority, the Committee finds structural problems in the following areas:

#### The Board of Directors

The Broadcasting Authority's 15-member board of directors consists of five specified cabinet officers and 10 residents of the State appointed by the Governor with the advice and consent of the Senate. The number of cabinet officers is unusually high for a purportedly semi-autonomous state entity, both as a proportion of total board membership (one third) and as a proportion

of the representation from the 20 executive departments (one fourth). This heavy weighting of the board with executive officers provides a clear appearance of an authority dominated by the interests of the administration in power at any particular time. As a former executive director testified before the Committee, this abundance of administration representatives "casts a shadow over the operation of what's to be primarily a public board." Furthermore, the manifold responsibilities of cabinet officers, including service on any number of boards, commissions and authorities, raises questions as to the amount of time and energy that they can realistically devote to the operations of the network. In addition, there is little functional relationship between the duties of the authority and the responsibilities of three of the cabinet officers -- the Attorney General, the Commissioner of Community Affairs and the State Treasurer. At least there is an obvious link between the authority's educational mission and the functions of the two other cabinet members -- the Commissioners of Higher Education and Education.

The fact that the Governor appoints all of the public members also contributes to the impression that the board lacks the political and psychological distance from the executive branch that is essential for the well-being of an independent journalistic operation. An additional weakness of the authority's enabling statute is the lack of any requirement for the appointment of board members with training or experience in disciplines or trades that would be relevant to the management of a broadcasting entity. As one witness asked this committee: "Can you imagine the board of directors of a bank, hospital, or corporation whose sum total of experience in that discipline is zero?"

### The Executive Director

The board's appointment of an executive director is subject to the approval of the Governor. In addition, the Governor has the power to remove the executive director. These are unusual provisions regarding an independent agency, and their presence can be considered as an unnecessary and potentially damaging intrusion into the responsibilities of the board of directors. Such a scheme promotes a hands-on, rather than an arms-length, relationship between the Governor and the authority's internal management.

As is the case with the members of the board, the authority's statute is silent as to any work-related qualifications of the executive director. It would seem more than appropriate that the executive director be required to demonstrate knowledge or skill of direct applicability to the guidance of a major television network. The Committee is distressed to note that the authority recently placed an advertisement for an executive director that stated: "It would be desirable, but not crucial, that the candidate have a background in television management." By contrast, another add in the same trade journal for the executive director of another state's public television system stressed that applicants "should be well versed in public broadcasting and familiar with all areas involved in the operation of a major TV production facility, particularly technical, financial and personnel management."

### The Authority and State Bureaucracy

Although a purportedly independent agency, the Public Broadcasting Authority labors under the labyrinth of personnel and procurement laws and regulations applicable to routine administrative agencies. However well these requirements serve the interests of the general state bureaucracy, they

stand as stumbling blocks for the efficient and effective operation of a television network. The authority has very specialized technical needs for personnel, equipment and supplies. Further, it operates on a very demanding schedule in which time is often of the essence. The authority can ill-afford the delays encountered in the Civil Service approval of a job category, or in the securing of bids for the purchase of camera or a television program. The authority must have greater leeway in the management of its internal affairs.

#### Funding for the Authority

The authority's Achilles heel lies in the nature of its funding. The authority has always considered itself seriously underfunded, particularly with regard to its need for a capital budget for facilities and equipment. The authority was never provided the financial resources for capital and operations that were suggested by the original public broadcasting planning commission. Some other states provide a far greater proportion of their budget to their public television network than does New Jersey. For example, South Carolina, with a population of less than half that of New Jersey, budgets over \$15,000,000 for public television. This state's authority receives a direct appropriation of about \$7,000,000 each year.

This dependence on an annual line item in the budget creates fiscal uncertainties for the authority and obviously can serve as leverage for the potential interference into the authority's affairs by executive or legislative personnel. The authority does raise substantial funds through public contributions, and receives other moneys from federal grants, and the sale or

rental of programs and equipment. Numerous proposals have been made for the creation of a stable source of revenue for the authority in order to reduce its dependency on annual budget appropriations and to enable it to obtain the amount of funds that are necessary to mount an operation appropriate to the task at hand.

This Committee agrees that the authority should have a more secure source of funding, but it has not reviewed the range of possible alternatives nor entertained the potential affect of such funding on the authority's accountability for the use of public moneys (if, indeed, reliance on public funds is the solution). One of the Committee's recommendations calls for a thorough and professional study, supported by a \$95,000 grant, of the network's financial requirements and the potential mechanisms for meeting those needs.

#### IV RECOMMENDATIONS

The Senate Legislative Oversight Committee recommends the enactment of legislation to restructure the New Jersey Public Broadcasting Authority in order to eliminate or mitigate those elements within the current enabling legislation that are inimical to the best interests of an independent, professional broadcast operation and to provide the authority with a more forceful statement of legislative purpose. The text of the proposed legislation begins on page 16.

The Committee's proposal has its antecedents in the legislation developed in 1981 and 1985, but also incorporates features based on a review of the public hearing record. Whereas the previous two bills offered amendments to the original Broadcasting Authority law, this present recommendation calls for the repeal of the existing enabling statute and the reconstitution of the authority under a new charter as the New Jersey Public Broadcasting Corporation. This new document will serve as a clear signal that the successor entity, while derived from the original authority and continuing its basic mission, represents a rebirth of the state's one-time commitment to an independent public news and information service. As a practical matter, it has also proved simpler to establish new provisions on a clean slate, rather than to graft them onto existing statutory language. The Committee has taken care, however, to incorporate transition provisions that provide for the continuity of operations and the safeguarding of the benefits and rights of the authority's employees.

A summary of the major provisions of the bill follows:

1. The authority is reconstituted as the New Jersey Public Broadcasting Corporation.

2. The legislative findings stipulate that the purpose of the act is to establish an "independent public broadcasting entity that will ... embody the highest standards of professional excellence, responsibility, judgment and integrity", and that "will subscribe to and comport with the code of conduct known as the 'Principles of Editorial Integrity in Public Broadcasting ...'"

3. The corporation is placed within the Department of Education.

4. The 15-member board of directors consists of the Chancellor of Higher Education, the Commissioner of Education, nine residents of the state appointed by the Governor with the advice and consent of the Senate, and four members or officers of the Friends of New Jersey to be appointed by the board of trustees of the Friends.

5. Of the members appointed by the Governor, at least one is required to have a background in public or commercial broadcasting, one in journalism or communications, one in business or finance, one in communications law, one in education and one in the arts. In addition, the Governor is to endeavor to provide for representation from the various geographic areas of the state and from the various social, cultural and minority populations.

6. There is a three-term limit on the service of a member of the board of directors, and no director may hold an elected office at the state or local level.

7. The executive director must have training or experience in public broadcasting and serves for a four-year term, subject to removal by the board for cause.

8. The executive director is not bound by civil service rules in the hiring of employees, except that current employees with civil service status retain that status under the restructuring.

9. The corporation is provided more flexibility with regard to procedures for the purchase of technical equipment and specialized television services .

10. The board of directors is provided with \$95,000 to undertake a study of the role and financing of public broadcasting and to propose mechanisms for promoting sources of public and private funding.

## V PROPOSED LEGISLATION

AN ACT establishing the New Jersey Public Broadcasting Corporation, amending various parts of the statutory law, repealing P.L. 1968, c. 405, and making an appropriation.

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

1. (New section) This act shall be known and may be cited as the "New Jersey Public Broadcasting Corporation Act."

2. (New section) As used in this act:

a. "Board" means the board of directors of the New Jersey Public Broadcasting Corporation;

b. "Corporation" means the New Jersey Public Broadcasting Corporation;

c. "Friends of New Jersey Network, Incorporated" means the private non-profit corporation, or any successor entity, organized to advise, promote and raise funds for the State's public television network;

d. "Public broadcasting" means and includes all aspects of noncommercial radio and television, open and closed circuit, including but not limited to the production and dissemination of public and community affairs, educational, cultural and instructional information to the public at large within the State. For purposes of this act, public broadcasting does not include radio and television transmissions for internal communications, such as those used by public and private agencies for law enforcement, safety, transportation, traffic control, civil defense and similar purpose; and

e. "Public broadcasting telecommunications" means and includes all public broadcasting services relating to public broadcasting such as intercommunications, closed circuit Instructional Television Fixed Service (ITFS) and other services requiring Federal Communications Commission spectrum allocations for transmission of electrical impulses that specifically and integrally relate to New Jersey public broadcasting. Facilities typical for application of these services encompass micro-wave interconnection, aural and video TV transmission, multiplexing, laser beam utilization, satellite interconnection systems and other appropriate technological devices.

3. (New section) The Legislature finds that:

a. The purpose of public broadcasting is to provide educational, informational and cultural enrichment to the citizenry through a broad range of programming services;

b. A public broadcast licensee, subject to a variety of statutory and regulatory requirements and supported with funds from both the public and private sector, can best fulfill this mission when afforded an organizational structure within a public climate that both demands and promotes an independent, credible, responsible and responsive operation;

c. It is the purpose of this act to establish an independent public broadcasting entity that will provide education, enrichment, entertainment and enlightenment for the citizens of New Jersey with operational and programming services that embody the highest standards of professional excellence, responsibility, judgment and integrity; and

d. It is the further purpose of this act to establish a public broadcasting entity that will subscribe to and comport with the code of conduct known as the "Principles of Editorial Integrity in Public Broadcasting" as developed by the Editorial Integrity Project.

4. (New section) There is established in, but not of, the Department of Education, a public body corporate and politic, with corporate succession, to be known as the New Jersey Public Broadcasting Corporation. The corporation is constituted an instrumentality of the State, and the exercise of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

5. (New section) The membership of the corporation shall consist of a board of 15 directors as follows: the Chancellor of Higher Education and the Commissioner of Education, who shall serve ex officio; nine residents of the State to be appointed by the Governor with the advice and consent of the Senate; and four officers or members of the Friends of New Jersey Network, Incorporated, to be appointed by the board of trustees of the Friends of New Jersey Network, Incorporated.

6. (New section) a. Of the directors appointed by the Governor, not more than five shall be members of the same political party. At least one of these shall be qualified by training or experience in public or commercial broadcasting, one in journalism or communications, one in business or finance, one in communications law, one in education and one in the arts. In addition, the Governor shall endeavor to provide for representation from the various geographic areas of the State and from the various social, cultural and minority populations within the State.

b. Of the directors appointed by the board of trustees of the Friends of New Jersey Network, Incorporated, not more than two shall be members of the same political party.

c. No director shall hold any State or local elected office.

7. (New section) a. The directors appointed by the Governor shall serve terms of five years and until the appointment and qualification of their respective successors, except that of the first appointees, three shall serve for terms of five years, three shall serve for terms of four years, and three shall serve for terms of three years.

b. The directors appointed by the board of trustees of the Friends of New Jersey Network, Incorporated, shall serve terms of three years and until their respective successors are appointed and qualified, except of the first appointees, two shall serve for a term of three years, one shall serve for a term of two years, and one shall serve for a term of one year.

c. A director shall be eligible for reappointment, except that no director shall be appointed for more than three successive terms, including an unexpired term. Any vacancy on the board of directors of the corporation shall be filled in the same manner as the original appointment but for the unexpired term only. A director may be removed from office by the director's appointing authority for cause, after a public hearing, and may be suspended by the appointing authority pending the completion of the hearing. Each director before entering upon the duties of the office shall take and subscribe an oath to perform the duties faithfully, impartially and justly. A record of each oath shall be filed in the office of the Secretary of State.

d. The Chancellor of Higher Education and the Commissioner of Education, as ex officio directors of the corporation, may each designate an officer or employee of their respective departments to represent him at meetings of the corporation. Each designee may lawfully vote and otherwise act on behalf of the director for whom the designee is representing. The designation shall be in writing delivered to the corporation and shall continue in effect until revoked or amended in writing delivered to the corporation.

e. Each director shall serve without compensation but shall be eligible for reimbursement for reasonable and necessary expenses incurred in the performance of official duties, subject to the availability of funds. No officer or employee of the State shall be deemed to have forfeited or shall forfeit his office or employment or any benefits or emoluments thereof by reason of his acceptance of the office of ex officio director, or designee thereof, of the corporation.

B. (New section) a. The corporation shall be constituted upon the appointment and qualification of all of the original directors, and the directors shall hold an organizational meeting within 15 days thereof. No action or motion of the board shall be valid unless approved by a majority of the authorized membership of the board at a duly constituted meeting. The chairman shall convene a meeting of the board at least once in each calendar quarter. In addition, the chairman shall convene a meeting within 15 days of the receipt of the written request of at least five directors.

b. The Governor shall designate the first chairman of the board to serve for a term of one year from among the appointed directors. Thereafter, the board shall elect a chairman to serve for a term of two years from among the appointed directors. A chairman shall be eligible for reelection. The board of directors shall annually elect a vice-chairman and such other officers as the board shall determine.

9. (New section) a. The board of directors shall appoint an executive director, who shall be qualified by training or experience in broadcasting, and who shall serve for a term of four years and until the appointment of a successor. A vacancy shall be filled for the unexpired term only. The executive director shall be eligible for reappointment. The executive director may be removed from office by the board for cause, after a public hearing, and may be suspended by the board pending the completion of the hearing. The executive director shall serve full-time and shall receive compensation as fixed by the board from time to time within the limits of available funds.

b. The executive director shall, subject to the approval of the positions by the board of directors, appoint assistants, including deputy directors, legal assistants and specialized legal counsel, and employees and shall prescribe their powers and duties. The assistants and employees shall be chosen without reference to political affiliation, solely on grounds of fitness to perform their duties and their employment shall be without regard to the provisions of Title 11 (Civil Service) of the Revised Statutes. The employees of the corporation shall receive compensation as fixed by the board from time to time within the limits of available funds.

c. Notwithstanding the provisions of subsection b. of this section, employees of the corporation who retain civil service status when transferred to the corporation pursuant to the provisions of section 15 of P.L. ...; c. ... (C. ...) (now pending before the Legislature as this bill) shall receive such compensation as shall be prescribed by the laws, rules and regulations pertaining to that status.

d. The corporation shall annually by October 31 submit to the Governor and the Legislature a list of all officers and employees of the corporation and the salaries, wages and compensation received by each during the preceding fiscal year.

10. (New section) The corporation shall have the power to:

a. Adopt and from time to time amend and repeal by-laws for the management of its affairs;

b. Adopt and use an official seal and alter the same;

c. Maintain an office and facilities at such place or places as it may determine;

d. Establish, obtain, own or operate noncommercial public or educational television or radio broadcasting stations, one or more public broadcasting and public broadcasting telecommunications networks or systems, or interconnection and program production facilities;

e. Apply for, receive, and hold such authorizations and licenses of assignments and reassignments of channels from the Federal Communications Commission as may be necessary to conduct its operations and prepare and file and prosecute before the Federal Communications Commission all applications, reports, or other documents or requests for authorization of any type necessary or appropriate to achieve the authorized purposes of the corporation;

f. Provide coordination and information on matters relating to public broadcasting telecommunications among the agencies of the State, all facets of New Jersey public education and individuals, associations and institutions working in these fields both within and without the State;

g. Establish Statewide equipment compatibility policies and determine the method of interconnection to be employed within the State's public broadcasting system;

h. Assume responsibility for the character, diversity, quality and excellence of programming which is released via its licensed facilities, provided that programs or series of programs of a controversial nature shall be presented with balance, fairness and equity;

i. Provide advisory assistance to other agencies of the State, school districts and local and regional groups regarding public broadcasting techniques, planning, budgeting and related issues;

j. Make to the Governor and the Legislature such recommendations as the corporation deems necessary with regard to appropriations relative to public broadcasting and public broadcasting telecommunications equipment and facilities;

k. Apply for, receive and administer gifts, contributions and funds from public and private sources to be expended for public broadcasting and public broadcasting telecommunications programming, operations and facilities;

l. Cooperate with federal agencies for the purpose of obtaining matching and other federal funds and providing public broadcasting and public broadcasting telecommunications facilities throughout the State and to make such reports as may be required of the State;

m. Contract with program production organizations, corporations, individuals and other television and radio stations within and without the State to produce or procure educational, informational or cultural television or radio programs;

n. Establish and maintain a library and archives of educational, informational and cultural television and radio programs and related materials; disseminate information about such programs; and make suitable arrangements for the use of such programs and materials by colleges, universities, schools and noncommercial television and radio stations and other appropriate users;

o. Conduct explorations, research, demonstrations or training in matters related to public broadcasting and public broadcasting telecommunications in the State either directly or through contracts with appropriate agencies, organizations or individuals; or by grants to nonprofit, noncommercial organizations such as colleges, universities, schools and noncommercial television and radio stations;

p. Acquire through lease, purchase or otherwise real property and to hold and use this property for public broadcasting and public broadcasting telecommunications purposes in the manner provided in section 14 of P.L. ..., c. ... (C. ...) (now pending before the Legislature as this bill), and notwithstanding any provisions to the contrary of P.L. 1954, c. 48 (C. 52:34-6 et seq.);

q. Contract for the construction, repair, maintenance and operations of public broadcasting and public broadcasting telecommunications facilities, including program production centers, stations, and interconnection facilities in the manner provided in section 14 of P.L. ..., c. ... (C. ...) (now pending before the Legislature as this bill), and notwithstanding any provisions to the contrary of P.L. 1954, c. 48 (C. 52:34-6 et seq.);

r. Acquire through purchase, contract or otherwise the goods, services and equipment necessary for the production of programs and for the operations and maintenance of broadcast and telecommunications facilities directly in the manner provided in section 14 of P.L. ..., c. ... (C. ...) (now pending before the Legislature as this bill) and notwithstanding any provisions to the contrary of P.L. 1948, c. 92 (C. 52:18A-1 et seq.), P.L. 1954, c. 48 (C. 52:34-6 et seq.) and chapters 25, 32, 33 and 35 of Title 52 of the Revised Statutes;

s. Make arrangements, where appropriate, with companies or other agencies and institutions operating suitable interconnection facilities such as landlines or satellites;

t. Enter into agreements with State and local agencies for the production or broadcast of programs for the agencies;

u. Except as otherwise provided in this act, make payments for all expenses incurred by the corporation in carrying out the provisions of this act from funds available to the corporation;

v. Maintain all records of accounts, bills, vouchers, contracts or other papers connected with or used or filed with the corporation or with any officer or employee acting for or on its behalf as public records, which shall be open to public inspection in accordance with P.L. 1963, c. 73 (C. 47:1A-1 et seq.) and regulations adopted by the corporation;

w. Cause an audit of its books and accounts to be made at least once each year by certified public accountants and file a copy of the audit with the State Auditor;

x. Deposit corporate revenues in interest bearing accounts or in the State of New Jersey Cash Management Fund established pursuant to P.L. 1977, c. 281 (C. 52:18A-90.4 et seq.) and make such arrangements with such banks, financial institutions and State agencies as the corporation deems appropriate for the prudent management of such funds in the public interest;

y. Set and collect rentals, fees, charges or other payments from the lease, use occupancy or disposition of properties or assets owned or leased by the corporation, which revenue shall be available to the corporation for the use and furtherance of any of the purposes of this act;

z. Sue and be sued, secure liability and other such insurance the purpose of which is to save, hold harmless and indemnify the State of New Jersey from any and all liability arising from or out of the exercise of the powers given under this act;

aa. Adopt such rules and regulations as may be necessary to carry out the provisions of this act; and

bb. Enter into such agreements, execute such instruments and perform any act necessary or convenient to the exercise of its powers or reasonably implied therefrom.

11. (New section) The corporation shall have no power to issue bonds, notes or other obligations, and no part of the income or assets of the corporation shall inure to the benefit of any director, officer, employee or any other individual, except as may be provided as salary or reasonable compensation for services or expenses.

12. (New section) The corporation shall not support or oppose any political party or candidate for public office, elective or otherwise, and shall not attempt to influence the enactment of legislation or public questions. The corporation, however, shall be responsible for promoting full discussion of public issues and for presenting news and public affairs programming, including presentations on elections, public questions and legislation, with balance, fairness and equity.

13. (New section) Nothing in this act concerning the corporation's responsibilities or activities with regard to instructional television shall be deemed to supersede the responsibilities of the Chancellor of Higher Education, the Commissioner of Education, or local school governing bodies with respect to the determination of educational policies or curriculum content.

14. (New section) a. All purchases, contracts or agreements made or awarded directly by the corporation shall be made or awarded only after public advertisement for bids therefor, except as provided in subsection e. of this section.

b. Whenever advertising is required: (1) specifications and invitations for bids shall permit such full and free competition as is consistent with the procurement of goods, services, supplies and equipment necessary to meet the requirements of the corporation; (2) the advertisement for bids shall be in such newspaper or other publication selected by the corporation as will best give notice thereof to bidders and shall be sufficiently in advance of the purchase or contract to promote competitive bidding; (3) the advertisement shall designate the time and place where and when sealed proposals shall be received and publicly opened and read, the amount of the cash, certified check, cashier's check or bank check, if any, which shall accompany each bid, and such other terms as the corporation may deem proper.

c. The corporation may reject any or all bids not in accord with the advertisement of specifications, or may reject any or all bids if the price of the work materials is excessively above the estimate cost or when the corporation shall determine that it is in the public interest to do so. The corporation shall prepare a list of the bids, including any rejected and the cause therefor. The corporation may accept bids containing minor informalities. Awards shall be made by the corporation with reasonable promptness by written notice to the responsible bidder whose bid, conforming to the invitation for bids, will be the most advantageous to the State, price and other factors considered.

d. The corporation shall determine the terms and conditions of the various types of purchases, contracts and agreements, including provisions for adequate security, the time and amount

or percentage of each payment thereon and the amount to be withheld pending completion of the terms and conditions of the purchase, contract or agreement, and it shall issue and publish rules and regulations concerning such terms and conditions, standard contract forms and standard purchase forms, and such other rules and regulations concerning purchasing or procurement, not inconsistent with any applicable law, as it may deem advisable to promote competition and to protect the public interest.

e. Any purchase, contract or agreement may be made, negotiated or awarded by the corporation without advertising under the following circumstances:

(1) When the aggregate amount involved does not exceed \$7,500.00; or

(2) In all cases when the corporation seeks to:

(a) Acquire services to be performed by a contractor personally which are (i) of a technical and professional nature, or (ii) to be performed under the supervision of the corporation and paid for on a time basis; or

(b) Purchase perishable foods or subsistence supplies; or

(c) Lease such office space, office machinery, specialized equipment, buildings, or real property as may be required for the conduct of the corporation's business; or

(d) Acquire any real property by gift, grant, purchase or any other lawful manner in the name of and for the use of the corporation for the purpose of the administration of the corporation's business; or

(e) Acquire supplies or services as to which the bid prices after advertising therefor are not reasonable or have not been independently arrived at in open competition; except that no negotiated purchase, contract or agreement may be entered into under this subparagraph after the rejection of all bids received unless (i) notification of the intention to negotiate and reasonable opportunity to negotiate shall have been given by the corporation to each responsible bidder, (ii) the negotiated price is lower than the lowest rejected bid price of a responsible bidder, and (iii) the negotiated price is the lowest negotiated price offered by any responsible supplier; or

(3) In all other cases when the corporation seeks to make a purchase, contract or agreement and:

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

(b) The public exigency requires the immediate delivery of the articles or performance of the service; or

(c) Only one source of supply is available; or

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

(e) Articles of wearing apparel are to be purchased which are styled or seasonal in character; or

(f) Commodities traded on a national commodity exchange are to be purchased and fluctuations of the market require immediate action; or

(g) The equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure the standardization of equipment and interchangeability of parts in the public interest; or

(h) The purchase involves:

(i) Television program rental or acquisition;

(ii) The services of television talent;

(iii) The rental or repair of specialized broadcast equipment;

(iv) Membership in television networks or professional broadcasting organizations;

(v) Props or other specialized television production services;

(vi) Newswire services or other specialized television production services; or

(vii) Promotional expenditures such as the placement of advertising with print, billboard, direct mail or broadcast media.

f. The corporation shall require that any person proposing to submit a bid on improvements to capital facilities and equipment shall first be classified by the corporation as to the character and amount of work on which the person shall be qualified to submit bids. Bids shall be accepted only from persons qualified in accordance with such classification.

15. (New section) The New Jersey Public Broadcasting Corporation is deemed to be a public employer within the meaning of the "New Jersey Employer-Employee Relations Act," P.L. 1941,

c. 100 (C. 34:13A-1 et seq.) The enforcement of the rights and duties of the employer and employees shall be governed by the aforementioned act and shall be within the jurisdiction of the Public Employment Relations Commission.

Employees of the corporation appointed pursuant to section 9 of P.L. ..., c. ... (C. ...) (now pending before the Legislature as this bill) shall have and retain their rights to form, join, or assist labor organizations and to negotiate collectively through organizations of their own choosing. Employees of the corporation's predecessor, the New Jersey Public Broadcasting Authority, at the time of the corporation's constitution, shall be transferred to and appointed as employees of the corporation with the same job titles and with the same duties, and with no diminution of any rights, benefits or civil service status. Within the meaning of this section, employees of the corporation are deemed to be "public employees" as defined in subsection (d) of section 3 of P.L. 1941, c. 100 (C. 34:13A-3).

Nothing herein shall be construed to sever or otherwise alter the collective bargaining agreements to which the corporation's predecessor, the New Jersey Public Broadcasting Authority, and its employees are parties at the time of the constitution of the corporation, nor shall anything herein be construed to reduce the privileges or responsibilities of the corporation or its employees under any collective bargaining agreement in force at the time of the constitution of the corporation.

16. (New section) The board of directors shall undertake a study of the role and financing of public broadcasting in this State. The report shall review and make recommendations as needed regarding the specific goals, purposes and methods of public broadcasting and the short and long-term financial requirements for operational and capital costs, including mechanisms for promoting sources of public and private funding for a stable and continuing source of financing. The board shall file its report with the Governor and the Legislature within 18 months after the corporation's constitution.

17. (New section) a. Insofar as it is applicable, the succession directed by this act from the New Jersey Public Broadcasting Authority to the New Jersey Public Broadcasting Corporation shall be made in accordance with the "State Agency Transfer Act," P.L. 1971, c. 375 (C. 52:14D-1 et seq.).

b. Whenever any reference is made to the New Jersey Public Broadcasting Authority in any rule, regulation, law or contract, the same shall mean and refer to the New Jersey Public Broadcasting Corporation.

c. All rules, regulations and procedures of the New Jersey Public Broadcasting Authority are continued in effect until amended or repealed by the New Jersey Public Broadcasting Corporation.

d. Anticipatory actions appropriate and necessary to effect the establishment of the corporation and the implementation of its duties may be undertaken prior to the date that the corporation is constituted, including, but not limited to, the making of authorized appointments and within the limits of available funds, the expenditure of funds for payment of salaries and expenses incident thereto; and the transfer of broadcast licenses, the transfer of ownership, equipment, leases of both real and personal property, contracts, rights and obligations, and the transfer of appropriations.

18. Section 73 of P. L. 1954, c. 64 (C. 43:15A-73) is amended to read as follows:

73. a. The Public Employees' Retirement System is hereby authorized and directed to enroll eligible employees of the New Jersey Turnpike Authority, the New Jersey Highway Authority, Palisades Interstate Park Commission, Interstate Sanitation Commission, the Delaware River Basin Commission and the Delaware River Joint Toll Bridge Commission.

In the case of the Delaware River Joint Toll Bridge Commission, the eligible employees shall be only those who are employed on the free bridges across the Delaware river, under the control of said commission.

The said employees shall be subject to the same membership, contribution and benefit provisions of the retirement system as State employees.

b. ~~The State University of New Jersey~~, as an instrumentality of the State, shall, for all purposes of this act, be deemed an employer and its eligible employees, both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees and for all purposes of this act employment by the State University of New Jersey after April 16, 1945, and for the purposes of chapter 3 of Title 43 of the Revised Statutes any new employment after January 1, 1955, shall be deemed to be and shall be construed as service to and employment by the State of New Jersey.

Rutgers, the

P.L. 1968, c. 23  
(C. 43:3C-1 et seq.)

Rutgers,

P.L. 1968, c. 23  
(C. 43:3C-1 et seq.)

c. The Compensation Rating and Inspection Bureau, created and established pursuant to the provisions of R. S. 34:15-89, shall, for all purposes of this act, be deemed an employer and its eligible employees, both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as both are applicable to State employees.

P.L. 1968, c. 23  
(C. 43:3C-1 et seq.)

The retirement system shall certify to the Commissioner of Insurance and the Commissioner of Insurance shall direct the Com-

compensation Rating and Inspection Bureau to provide the necessary payments to the retirement system in accordance with procedures established by the retirement system. Such payments shall include (1) the contributions and charges, similar to those paid by other public agency employers, to be paid by the Compensation Rating and Inspection Bureau to the retirement system on behalf of its employee members, and (2) the contributions to be paid by the Compensation Rating and Inspection Bureau to provide the past service credits up to June 30, 1965 for these members, both veterans and nonveterans, who enroll before July 1, 1966.

d. The New Jersey Sports and Exposition Authority, created and established pursuant to the "New Jersey Sports and Exposition Authority Law," P. L. 1971, c. 137 (C. 5:10-1 et seq.) shall for all purposes of this act, be deemed an employer and its eligible employees both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of Chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees.

P.L. 1968, c. 23  
(C. 43:3C-1 et seq.)

(1) Eligible employees as used herein shall not include persons who are not classified as salaried, or who are compensated on an hourly or per diem basis, or whose employment is normally covered by other retirement systems to which the authority makes contributions.

(2) Eligible employees previously permitted to enroll in the retirement system shall redeposit the contributions previously made by them and all service credit shall then be restored and future contributions made at the date of contribution as originally assigned. The authority shall redeposit the employer payments it had made, with interest to the date of redeposit.

e. The New Jersey Transit Corporation created and established pursuant to the "New Jersey Public Transportation Act of 1979", P. L. 1979 c. 150 shall for all purposes of this act, be deemed an employer and its eligible employees both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of Chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees. Eligible employees as used herein means only those individuals who are members of the Public Employees' Retirement System or any other State-administered retirement system immediately prior to their initial employment by the corporation.

(C. 27:25-1 et seq.)

P.L. 1968, c. 23  
(C. 43:3C-1 et seq.)

f. The New Jersey Public Broadcasting Corporation, established pursuant to section 4 of P.L. ..., c. ... (C. ...) (now pending before the Legislature as this bill), shall, for all purposes of P.L. 1954, c. 84, be deemed an employer and its eligible employees, both veterans and nonveterans, shall be subject to the same membership, contributions, and benefit provisions of the retirement system and to the provisions of P.L. 1968, c. 23 (C. 43:3C-1 et seq.) as are applicable to State employees. As used herein, the term "eligible employees" shall denote full-time employees appointed by the corporation pursuant to section 5 of P.L. 1968, c. 405 (C. 48:23-5). For the purposes of this act, the term eligible employees used herein shall not include persons employed on a short-term, seasonal, intermittent, or emergency basis; persons compensated on an hourly, per diem, contractual, or fee basis; or persons whose compensation is limited to reimbursement of necessary expenses incurred in the discharge of their official duties.

19. Section 3 of P. L. 1964, c. 125 (C. 52:14-17.34) is amended to read as follows:

3. In order that the New Jersey State Health Benefits Program Act may be extended to include other public and school employees, participation by counties, municipalities, school districts, public agencies or organizations as defined in section 71 of P. L. 1954, c. 84, including the New Jersey Turnpike Authority, the New Jersey Highway Authority, the Interstate Sanitation Commission, the Delaware River Basin Commission, New Jersey Housing<sup>A</sup> Finance Agency, New Jersey Educational Facilities Authority, Hackensack Meadowlands Development Commission [and] the Compensation Rating and Inspection Bureau, hereinafter defined as employers, is hereby authorized. (C. 43:15A-71) and Mortgage and the New Jersey Public Broadcasting Corporation,

20. Section 4 of P. L. 1964, c. 125 (C. 52:14-17.35) is amended to read as follows:

C. 52:14-17.35 Definitions.

4. As used in this act and in the act to which this act is a supplement:

(a) The term "employer" means a county, municipality, school district, public agency or organization as defined in section 71 of P. L. 1954, c. 84, including the New Jersey Turnpike Authority, the New Jersey Highway Authority, the Interstate Sanitation Commission, the Delaware River Basin Commission, New Jersey Housing<sup>A</sup> Finance Agency, New Jersey Educational Facilities Authority, Hackensack Meadowlands Development Commission [and] the Compensation Rating and Inspection Bureau. (C. 43:15A-71) and Mortgage

(b) The term "State Treasury" means the State agency responsible for the administration of the New Jersey State Health Benefits Program Act which is to be located in the Division of Pensions in the Department of the Treasury. and the New Jersey Public Broadcasting Corporation

21. Section 14 of P. L. 1974, c. 26 (C. 19:44A-39) is amended to read as follows:

14. The New Jersey Public Broadcasting Authority established under P. L. 1968, c. 405 (C. 48:23-1 et seq.) P.L. .... c. .... Corporation

(C. ...) (now pending before the Legislature as this bill)

shall promote full discussions of public issues by the candidates for nomination for election or election to the office of Governor on the ballot in any primary or general election, in accordance with Federal law and free of charge to the candidate. The authority may promulgate such rules and regulations as may be necessary to effectuate the purpose of this section.

22. Section 2 of P.L. 1974, c. 55 (C. 52:14-15.108) is amended to read as follows:

2. The salary ranges for the following positions shall be as established by the Department of Civil Service with the approval of the Director, Division of Budget and Accounting. The salary rate for any such position shall be the salary step in such range next above the salary currently being paid; provided, however, that any sums appropriated for salaries may be made available for salary adjustments therein arising from various exigencies of the State service and for normal merit salary increments as the President of the Civil Service Commission, the State Treasurer and the Director of the Division of Budget and Accounting shall determine; and provided, further, that nothing in this act shall reduce the salary rate for any such position below that which is being paid on the effective date of this act:

Civil Service Department

[Chief Examiner and Secretary] ..... Deputy Commissioner

Community Affairs Department

Assistant Commissioner of Community Affairs

[Director, Division of State and Regional Planning]

Director, Division of Local Government Services

Director, Division of Housing and Urban Renewal

Director, [Office of Aging Programs] ..... Division on

Director, [Office] on Women ..... Division

Environmental Protection Department

Director, Division of Water Resources

Director, Division of Parks and Forestry

Director of Fish, Game and [Shell Fisheries] ..... Wildlife

Director, Division of [Marine Services] ..... Coastal Resources

Director, Division of Environmental Quality

Health Department	
Director, Division of Narcotic and Drug Abuse Control	
<u>I</u> nstitutions and Agencies <u>D</u> epartment	<u>Corrections</u>
Chairman, State Parole Board	
Associate Member, State Parole Board	<u>Public Advocate Department</u>
Public Defender	
Labor <u>(and Industry)</u> Department	
<u>D</u> irector, Workplace Standards	<u>Assistant Commissioner, Labor Relations and Workplace Standard</u>
Law and Public Safety Department	
Colonel and Superintendent, State Police	
Director, Division of Motor Vehicles	
State Medical Examiner	
Director, Division of Alcoholic Beverage Control	
State Superintendent of Weights and Measures	
<u>B</u> oard of Public Utilities Department	<u>Energy</u>
Director, Office of Cable Television	
<u>E</u> xecutive Director, Public Broadcasting	
State Department	<u>Office</u>
Director, <u>D</u> ivision of Administrative <u>P</u> rocedure	<u>Law</u>
Transportation Department	
Assistant Commissioner for <u>H</u> ighways	<u>Engineering and Operations</u>
Assistant Commissioner for <u>P</u> ublic Transportation	<u>Services and Planning</u>
Treasury Department	
Director, Division of Budget and Accounting	<u>Assistant Commissioner for Finance and Administration</u>
Director, Division of Taxation	
Director, Division of Purchase and Property	
Director, Division of Investments	
Director, Division of Pensions	
Director, Division of State Lottery.	

23. P.L. 1968, c. 405 (C. 48:23-1 through 48:23-10) is repealed.

24. There is appropriated to the New Jersey Public Broadcasting Corporation for the purposes of the study specified in section 16 of this act the sum of \$95,000.00.

25. This act shall take effect immediately, except that section 23 shall not take effect until the New Jersey Public Broadcasting Corporation is constituted pursuant to section 8 of this act.