SENATE, No. 1802

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED MAY 8, 2008

Sponsored by:
Senator LORETTA WEINBERG
District 37 (Bergen)
Senator FRED H. MADDEN, JR.
District 4 (Camden and Gloucester)

Co-Sponsored by:
Senators Gordon and Turner

SYNOPSIS
The “Jobs, Trade and Democracy Act.”

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 11/24/2009)
AN ACT concerning the impact of international trade and trade agreements on the State and supplementing Title 52 of the Revised Statutes.

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

1. This act shall be known and may be cited as the “Jobs, Trade and Democracy Act.”

2. The Legislature finds and declares that:
   a. While New Jersey participates in the global economy and seeks to maximize the benefits and minimize the adverse impacts of international trade, some recent trade agreements have impacts significantly beyond the bounds of traditional trade matters, such as tariffs and quotas, and can undermine New Jersey’s constitutionally guaranteed authority to protect the public health, safety and welfare;
   b. Negotiations for those agreements often are not conducted in a transparent manner and do not provide meaningful consultation with states regarding their impact on state and local laws;
   c. Many of those agreements, lacking meaningful human rights, labor, and environmental standards, have put New Jersey workers and businesses at a disadvantage when competing with firms operating in jurisdictions with lower standards;
   d. In addition, some trade agreements have eroded traditional state autonomy in procurement matters by requiring state governments to accord foreign suppliers of goods and services treatment no less favorable than that afforded to in-state suppliers, by stipulating that state contract specifications shall not burden trade any more than necessary and shall limit supplier qualifications to those that are essential to the performance of the contract;
   e. In some cases, the federal government has obtained approval for trade agreements from governors, binding states to the terms the trade agreements without consent from legislatures;
   f. Because of the important historic role of state legislatures in preserving the traditional state authority over procurement policy under the U.S. system of federalism, and the other wide-ranging impacts of trade agreements on the ability of this State to protect the public health, safety and welfare, decisions about such agreements should be made only with the involvement of the State Legislature, and only after the public has been adequately informed and has openly debated the issues involved.

3. For the purposes of this act:
   The “Citizens’ Commission on Jobs, Trade and Democracy” or “commission” means the “Citizen’s Commission on Jobs, Trade and Democracy” established pursuant to section 5 of this act.
“Trade agreement” means any agreement between the United States and any other country, countries, or international political entities that proposes to regulate trade, commerce or other economic relationships among the parties to the agreement. "Trade agreement" includes, but is not limited to, the North American Free Trade Agreement, agreements with the World Trade Organization and the proposed Free Trade Area of the Americas.

4. a. It shall be the policy of the State of New Jersey that approval for the State to be bound by any trade agreement requires the consent of the State Legislature.

b. Four members of the State Legislature shall be appointed at the beginning of each legislative session to serve as State Legislative Points of Contact during the term of the legislative session as follows: one member of the Senate shall be appointed by the President of the Senate and one by the Minority Leader of the Senate; and one member of the General Assembly shall be appointed by the Speaker of the General Assembly and one by the Minority Leader of the General Assembly. The State Legislative Points of Contact shall:

(1) Serve as the representatives of the Legislature on the Citizen’s Commission on Jobs, Trade and Democracy;

(2) Serve as the State’s official liaisons with the federal government and as the Legislature’s liaisons with the Governor on trade-related matters and as the designated recipients of information and communication from the United States Trade Representative or any other representative of the federal government providing information regarding trade agreements or negotiations for trade agreements, including any federal request for consent or consultation regarding investment, procurement, services or other provisions of trade agreements which may impinge on State law or regulatory authority;

(3) Transmit that information and communication to all members of the commission, to the Governor, the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly, the Minority Leader of the General Assembly and all appropriate legislative committees;

(4) Issue a formal request to the State agencies represented by the ex officio members of the commission and to the other appropriate State agencies to provide analysis of the social, economic, environmental and legal impacts of any proposed trade agreement on the State and the authority of the State Legislature and the Governor;

(5) Inform all members of the commission and the Legislature on a regular basis about any trade negotiations and dispute settlement proceedings with implications for the State;
(6) Communicate the interests and concerns of the commission and the Legislature to the United States Trade Representative regarding ongoing and proposed trade negotiations; and

(7) Notify the United States Trade Representative of the outcome of any legislative action regarding any trade agreement.

If, notwithstanding the provisions of this act, the United States Trade Representative or any other representative of the federal government provides information or communications regarding any trade agreement or negotiations for a trade agreement, including any request for consent or consultation regarding investment, procurement, services or other provisions of trade agreements which may impinge on State law or regulatory authority, to the Governor or other State entity, but not to the State Legislative Points of Contact, then the Governor or other State entity shall promptly provide the information or communications to the State Legislative Points of Contact.

c. The State shall not consent or in any way agree to any terms of any trade agreement, unless all of the following have occurred:

(1) The provisions of the trade agreement and all related analysis and documentation have been provided to the State Legislative Points of Contact;

(2) The State Legislative Points of Contact have made all transmissions of information required by this act regarding the trade agreement, have received from all appropriate agencies the analyses of the impact of the trade agreement requested pursuant to this act, and made those analyses available to the Legislature and the public;

(3) The commission has held, with adequate public notice, public hearings in each of not less than three regions of the State regarding the potential social, environmental, economic and legal impacts of the trade agreement, and made the proceedings of the hearings available to the Legislature and the public; and

(4) After considering those analyses and proceedings, the Legislature enacts legislation authorizing the State to concur with specific listed provisions of an agreement.

d. It is the sense of the Legislature that the Congress of the United States should pass legislation instructing the United States Trade Representative to fully and formally consult individual state legislatures regarding procurement, services, investment, or any other trade agreement rules that impact state laws or authority before negotiations begin and as they develop, and to require consent from state legislatures, in addition to governors, prior to binding states to conform their laws to the terms of trade agreements. Such legislation is necessary to ensure the prior informed consent of this State with regard to future international trade and investment agreements.

e. The Attorney General shall notify the United States Trade Representative in writing of the policies set forth in this act not later than the 90th day following the enactment of this act, and shall
provide copies of that notice to the President of the United States Senate, Speaker of the House of Representatives, the Governor and the State’s Congressional delegation.

5. a. There is established the Citizen’s Commission on Jobs, Trade and Democracy comprised of 20 members as follows:
   (1) The four members of the Legislature serving as State Legislative Points of Contact pursuant to section 4 of this act;
   (2) The Attorney General, the State Treasurer, the Commissioners of the Department of Labor and Workforce Development, and the Department of Environmental Protection, the Secretary of Agriculture, the Chief of the Office of Economic Growth, all of whom shall serve as ex officio members; and
   (3) Ten public members appointed by the Governor, with the advice and consent of the Senate, including two representatives of private-sector labor organizations impacted by international trade; two representatives of public-sector labor organizations impacted by outsourcing or off-shoring; one representative of a business engaged in international trade; two representatives of business impacted by international trade, including at least one manufacturer; one farmer impacted by international trade; one individual with recognized expertise on the impact of international trade on human rights and the rights and conditions of workers; and one individual with recognized expertise on the impact of international trade on environmental and consumer protection.

The public members shall be appointed for three-year terms, except that of the ten public members first appointed, four shall serve a term of three years, four shall serve a term of two years; and two shall serve terms of one year. All subsequent terms shall be three years. A vacancy shall be filled by the same appointing authority that made the original appointment. Members shall continue to serve until their replacements are designated.

b. Decisions of the commission shall be made by an affirmative vote of a majority of its members. The commission shall appoint officers as necessary and make rules for orderly procedure. Commission members are entitled, to the extent that the commission has the funds needed, to receive reimbursement of necessary expenses if they are not otherwise reimbursed by their employers or others whom they represent.

c. The commission is authorized to take all actions necessary to carry out its duties under this act, including, but not limited to:
   (1) Recommend or submit proposed legislation to the Legislature;
   (2) Recommend that the State support, or withhold its support from, future trade negotiations or agreements;
   (3) Examine any aspects of international trade, international economic integration and trade agreements that the members of the commission consider appropriate;
(4) Utilize staff, information and other resources provided by the Legislature and the State departments and agencies, including those represented by the ex officio members of the commission;
(5) Seek, accept and make use of outside funding to fulfill commission duties; and
(6) Maintain active communications with the United States Trade Representative’s Office, the National Conference of State Legislatures, the National Association of Attorneys General or any other entity the commission determines appropriate regarding ongoing developments in trade agreements and policy.

d. The commission shall:
(1) Assist the State Legislative Points of Contact in carrying out their duties pursuant to section 4 of this act;
(2) Monitor trade negotiations and disputes having social, economic, environmental and legal impacts on the State;
(3) With the assistance of personnel of the departments and agencies represented by the ex officio members of the commission, analyze and assess the social, economic, environmental and legal impacts of pending trade agreements the State is considering approving and provide reports of those analyses and assessments to the Governor, the Legislature, and the public; and
(4) With the assistance of personnel of the departments and State agencies represented by the ex officio members of the commission, provide an annual Trade Impact Report to the Governor, the Legislature, and the public no later than March 31 of the first calendar year following the enactment of this act and of each subsequent year.
e. Each annual Trade Impact Report required pursuant to subsection d. of this section shall include:
(1) An audit of the amount of public contract work being performed overseas and the amount of any resulting employment loss;
(2) An audit of government goods being procured from overseas and the amount of any resulting employment loss;
(3) A study of impact of trade on State and local employment levels, tax revenues, and retraining and adjustment costs;
(4) An analysis of any constraints that trade agreements and rules place on State regulatory authority, including but not limited to the State’s ability to preserve the environment, protect public health and safety, and provide high-quality public services;
(5) Findings regarding current specific actions that State agencies, including all agencies represented by the ex officio members of the commission, are taking in response to the impacts of trade, and recommendations for further specific actions that State agencies should take in response to the impacts of trade, including, but not limited to: revocation of any consent of the State to be bound by the procurement rules of trade agreements; prohibition of offshore performance of State contract work and preferences for
domestic content in State purchasing; State support for cases brought under federal trade laws by residents of the State; State advocacy for reform of trade agreements and trade laws at the federal level; and implementation of a growth strategy aimed at creating high-wage, high-skill, stable employment and formulated with business, labor and community participation, which may include, but not be limited to: more effective early warning and layoff aversion measures; increased assistance and adjustment programs for displaced workers and trade-impacted communities; stronger standards and accountability for recipients of State subsidies and incentives; investments in workforce training and development; investments in technology and infrastructure; and increased access to capital for local producers; and

(6) In the second and each subsequent annual report, an assessment of the actions taken by the Governor and the Legislature in response to the recommendations of the previous annual report.

f. The commission shall make the report easily accessible to the public by way of a publicly accessible site on the Internet maintained by the State.

g. Not more than 90 days after the receipt of the annual Trade Impact Report:

(1) The Governor shall review the report and issue a public statement explaining which of the report’s recommendations the Governor will act upon, whether by executive action or proposed legislation.

(2) The Legislature shall review the report and hold public hearings to consider action on the findings and recommendations of the report.

6. This act shall take effect immediately.

STATEMENT

This bill ensures that the citizens of the State and the State legislators they elect have access to information on the impact of international trade policy on the State economy; it also clearly establishes the role of the State Legislature in setting trade policy for the State. The bill:

1. Requires the consent of the State Legislature in order to bind the State to any provision of a trade agreement, and requires the designation of four members of the Legislature to be State Legislative Points of Contact, serving as official liaisons with the Governor’s office and the federal government on trade policy;

2. Establishes a Citizens’ Commission on Jobs, Trade and Democracy appointed by the Governor and the Legislature to monitor trade negotiations and disputes; assess the social, environmental, legal and economic impacts of trade agreements and
proposed trade agreements, hold hearings and make
recommendations regarding trade policy and related legislation; and
3. Requires the commission to provide for annual reports to the
Governor and Legislature on the impacts of trade on the State, and
requires the Governor and Legislature to respond to policy
recommendations for handling trade’s impacts on the State.