

ASSEMBLY, No. 1974

STATE OF NEW JERSEY

INTRODUCED MAY 6, 1996

By Assemblywoman FRISCIA, Assemblymen COHEN, Dalton,  
Zisa and Jones

1 AN ACT concerning severance pay for certain permanently laid off  
2 employees and funds for municipalities to address the impact of  
3 mass layoffs.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. This act shall be known and may be cited as the "Job  
9 Destruction Penalty Act."

10  
11 2. The Legislature finds and declares that:

12 a. Across the United States, more than 43 million jobs have been  
13 eliminated since 1979, directly impacting one third of all American  
14 households;

15 b. Although the total number of jobs created during that period  
16 was larger than the number of jobs lost, most of the new jobs had  
17 lower real (inflation-adjusted) wages and reduced benefits, lowering  
18 the living standards of most laid off workers, as demonstrated by the  
19 following facts: only 35% of laid-off, full-time workers ever regain or  
20 exceed their pre-layoff pay levels; the average displaced worker loses  
21 more than \$100,000 as the result of permanently lower wages; and the  
22 average displaced manufacturing worker suffers a 40% reduction in  
23 real wages;

24 c. The dramatic fall in the average real wage for production and  
25 nonsupervisory workers over the last 17 years has more than offset the  
26 income generated by the 320 additional hours worked per year by the  
27 average two-earner household, causing a decline in income for 80% of  
28 all American families;

29 d. Higher educational levels have failed to stop declining real  
30 wages for most working people during the last 17 years, with declines  
31 in the average real wage for male high-school drop-outs and  
32 graduates, male college graduates, and female high-school dropouts  
33 and graduates, leaving women with college educations and men with  
34 postgraduate educations as the only groups whose wages increased;

35 e. While American families suffered enormous hardships due to  
36 corporate layoffs and downsizing, worker productivity has reached an

- 1 historic peak and after-tax corporate profits reached their highest level  
2 in 25 years;
- 3 f. As the wages of workers declined, the compensation of the  
4 average corporate executive officer, which was 42 times as high as the  
5 compensation of the average worker in 1980, soared to 141 times as  
6 high as the compensation of the average worker in 1995;
- 7 g. Even after New Jersey's largest 100 largest firms reduced their  
8 total payrolls by 65,000 jobs, or 12%, between 1988 and 1994, the  
9 State continued to be plagued by permanent layoffs as corporations  
10 announced plans to layoff over 27,000 in 1995, more than double the  
11 number announced in the prior year;
- 12 h. New Jersey has lost one out of three of the manufacturing jobs  
13 it had in 1979 and has seen total manufacturing employment fall below  
14 500,000 for the first time since before World War I, after experiencing  
15 decline in every year of the last decade;
- 16 i. After four years of economic recovery, the State has regained  
17 only 68% of the jobs it lost in the recession and has had the slowest  
18 rate of income growth of any recovery on record;
- 19 j. From November, 1991 through February 1996, 474,000 laid off  
20 New Jersey workers exhausted all available State and federal  
21 unemployment benefits without being able to find new employment,  
22 giving New Jersey a benefit exhaustion rate of 47%, the highest rate  
23 of any state in the nation;
- 24 k. New Jersey's home mortgage foreclosure is the highest of any  
25 state in the nation and remains higher than it was at its peak levels  
26 during the recessions of 1974 and 1982;
- 27 l. More individuals filed for personal bankruptcy in New Jersey in  
28 1995 than any previous year and their average debt was the highest of  
29 any state;
- 30 m. Housing construction in New Jersey during the 1990s is at its  
31 lowest level since World War II;
- 32 n. The lost jobs and reduced wages and benefits caused by  
33 corporate downsizing, other mass layoffs and facility relocations have  
34 disrupted families, reduced public revenues, increased welfare, health  
35 and other social service costs to the public and generally diminished  
36 the quality of life of the citizens of the State;
- 37 o. The expenditure of hundreds of millions of dollars of tax  
38 revenues on tax incentives, job training and economic development  
39 grants for New Jersey businesses and billions of dollars in tax exempt  
40 financing have failed to stem the loss of jobs in manufacturing and  
41 other high-wage employment opportunities; and
- 42 p. It is therefore an appropriate public purpose for the State to  
43 establish a penalty against large employers that eliminate jobs in New  
44 Jersey, thereby raising funds that are needed to alleviate the suffering  
45 of working families and their communities, while also discouraging the  
46 layoffs by compelling those employers to assume a larger portion of

1 the social cost caused by their decisions to eliminate jobs.

2

3 3. As used in this act:

4 "Covered employer" means an individual or private business which  
5 employs 100 or more employees at any time in the preceding 12-month  
6 period and which has not been adjudicated bankrupt.

7 "Mass layoff" means the permanent layoff of 25 or more employees  
8 employed in a facility located in New Jersey by a covered employer  
9 during any continuous period of 180 days, except that "mass layoff"  
10 shall not mean any layoff caused by a relocation or termination  
11 necessitated by a flood or other natural disaster, national emergency  
12 or act of war.

13 "Permanent layoff" means the layoff of an employee by an employer  
14 without a written commitment to reinstate the employee within 180  
15 days of the layoff, except that "permanent layoff" shall not mean any  
16 layoff of any construction worker upon the completion of a  
17 construction project or of a seasonal employee.

18

19 4. a. Any covered employer who conducts a mass layoff shall pay  
20 each employee who is permanently laid off in the course of the mass  
21 layoff severance pay at the rate of two months pay for each year of  
22 employment of the employee by the employer. The monthly rate of  
23 pay shall be 1/12th of the gross wages paid to the employee during the  
24 12-month period immediately preceding the layoff of the employee.  
25 The severance pay shall be in addition to any final wage payment to  
26 the employees and shall be paid in a single lump sum, no later than the  
27 last day of employment. For the purposes of the "unemployment  
28 compensation law," R.S.43:21-1 et seq., notwithstanding any  
29 provision of that law, the severance pay shall not be counted as income  
30 during the employee's benefit year established in connection with the  
31 layoff, and shall not reduce the employee's unemployment  
32 compensation benefits during any week of the benefit year.

33 b. If 25 or more of the employees who are laid off in connection  
34 with the mass layoff are employed in facilities located in a single  
35 municipality, the covered employer shall pay to the municipality, not  
36 later than the date of the layoff, a penalty equal to \$4,000 for each  
37 employee who is permanently laid off in the course of the mass layoff.  
38 After residents of the municipality and the laid off employees have  
39 been provided an opportunity to testify regarding the use of the  
40 penalty moneys in one or more public hearings before the governing  
41 body of the municipality, the municipality may use the penalty moneys  
42 to fund efforts to ameliorate the impact of the mass layoff, including:  
43 the development of alternative economic development plans for the  
44 municipality or for any facility closed in connection with the mass  
45 layoff; infrastructure development; tax relief; and educational,  
46 environmental, public safety or other local services that will preserve

1 or improve the quality of life for residents of the municipality.

2

3 5. An employer shall not be required to pay severance to an  
4 employee pursuant to section 4 of this act if:

5 a. The employer offers each laid off employee, at a location not  
6 more than 30 miles from the previous place of employment, the same  
7 employment or a position with equivalent status, benefits, pay and  
8 other terms and conditions of employment; or

9 b. The employee is offered employment at the same location by  
10 another employer at a position with equivalent status, benefits, pay and  
11 other terms and conditions of employment.

12

13 6. Each covered employer shall conspicuously display notices  
14 describing the employer's obligations pursuant to the provisions of this  
15 act and in the event of a mass layoff shall, at the time that the  
16 employees are first notified of the layoff, provide written notification  
17 of those obligations to: each employee who is laid off; any labor  
18 organization representing the employees; and the governing body of  
19 any municipality in which the layoff occurs.

20

21 7. Nothing in this act shall be construed as diminishing or limiting  
22 in any way any rights, privileges or remedies of any employee provided  
23 under any collective bargaining agreement or employment contract, or  
24 under any law, including any federal law. The requirements of this act  
25 concerning the amounts of severance pay to be provided shall be  
26 regarded as a minimum standard and shall not be construed as  
27 prohibiting an employer from providing severance pay or other  
28 compensation in amounts exceeding the amounts required by the  
29 provisions of this act.

30

31 8. If a covered employer fails to make any severance payment or  
32 pay any penalty required pursuant to the provisions of section 4 of this  
33 act to a municipality or an employee, the aggrieved municipality or  
34 employee or any labor organization representing the employee  
35 (hereinafter referred to in this section as the "plaintiff") may institute  
36 a civil action in a court of competent jurisdiction for relief which shall  
37 include: the payment of any unpaid penalty to the municipality; the  
38 payment of any unpaid severance payment to the employee; and the  
39 payment of reasonable costs and attorney fees of the plaintiff. The  
40 court shall assess a civil fine of not more than \$1,000 for a first  
41 violation of this act and not more than \$5,000 for each subsequent  
42 violation, which shall be paid to the State Treasurer for deposit in the  
43 unemployment compensation fund. Each failure to pay an employee  
44 or municipality shall constitute a separate violation. The court may  
45 also order the payment of punitive damages to the plaintiff and an  
46 injunction to restrain any continued violation of this act.

1 9. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill provides that any employer of 100 or more employees who  
7 permanently lays off 25 or more employees shall pay each laid off  
8 employee severance pay at the rate of two months pay for each year  
9 of employment. The severance pay shall be in addition to any final  
10 wage payment to the employee and shall be paid in a single lump sum,  
11 no later than the last day of employment.

12 If 25 or more of the laid off employees worked in a single  
13 municipality, the covered employer is also required to pay the  
14 municipality, for each employee, a penalty equal to \$4,000, not later  
15 than the date of the layoff of the employee. The municipality may use  
16 the penalty moneys, subject to input from the laid off employees and  
17 residents of the municipality, to fund efforts to ameliorate the impact  
18 of the mass layoff, including: the development of alternative economic  
19 development plans for the municipality or for any facility closed in  
20 connection with the mass layoff; infrastructure development; tax relief;  
21 and educational, environmental, public safety or other local services  
22 that will preserve or improve the quality of life for residents of the  
23 municipality.

24 An employer is not required to pay severance if the employer offers  
25 employees equivalent employment at a location not more than 30 miles  
26 from the previous place of employment or employees are offered  
27 equivalent employment at the same location by another employer.

28

29

30

31

32 "Job Destruction Penalty Act."