

SENATE, No. 1900

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1997

By Senator LaROSSA

1 AN ACT creating the Multistate Industrial Retention Commission and  
2 making an appropriation.

3

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

6

7

ARTICLE I

8

9 THE "MULTISTATE INDUSTRIAL RETENTION  
10 COMMISSION"

11

12 1. This act shall be known and may be cited as the "Multistate  
13 Industrial Retention Act."

14

15 2. As used in this act:

16 "Affiliate" means any entity which has a relationship with an  
17 employer in which the entity, directly or indirectly, is controlled by or  
18 controls the employer.

19 "Agency" means a state and any of its instrumentalities, including  
20 any of its agencies or political subdivisions and any authorities created  
21 by the legislature of the state.

22 "Commission" means the Multistate Industrial Retention  
23 Commission established pursuant to section 3 of this act.

24 "Commissioner" means a member appointed to the commission  
25 pursuant to this act.

26 "Concurring state" means any state which enacts legislation which  
27 concurs with this legislation.

28 "Contract" means any agreement between an agency and a  
29 contractor under which the contractor furnishes goods or services to  
30 the agency, except for a contract under which the goods or services  
31 are paid for by the United States.

32 "Contractor" means any employer who enters into a contract with  
33 an agency.

34 "Economic development assistance" means any economic  
35 development assistance provided to an employer by an agency,  
36 including, but not limited to, direct grants, including job training  
37 grants, and subsidized financing, except that "economic development

1 assistance" shall not include any assistance which is financed by funds  
2 provided by the United States.

3 "Employer" means an individual or private business entity which  
4 employs the workforce at an establishment and includes all affiliates of  
5 the employer.

6 "Establishment" means a single place of employment operated by an  
7 employer, but shall not include a temporary construction site.

8 "Significant transfer or termination of operations" means a  
9 termination of operations or transfer of operations which results,  
10 during any continuous period of not more than 180 days, in the  
11 termination of employment of 50 or more employees.

12 "Termination of employment" means the layoff of an employee  
13 without a commitment to reinstate the employee to his previous  
14 employment within six months of the layoff, except that "termination  
15 of employment" shall not mean any layoff of a construction worker  
16 upon the completion of a construction project or any layoff of a  
17 seasonal employee or refer to any situation in which an employer  
18 offers to an employee, at a location not more than 30 miles from the  
19 previous place of employment, the same employment or a position  
20 with equivalent status, benefits, pay, and other terms and conditions  
21 of employment.

22 "Termination of operations" means the permanent termination of all  
23 or a portion of the operations conducted in an establishment, except  
24 for a termination of operations made necessary because of a court  
25 order, fire, flood, natural disaster, national emergency, act of war, civil  
26 disorder, or industrial sabotage.

27 "Transfer of operations" means the transfer of all or a portion of the  
28 operations conducted in an establishment to another location, inside  
29 or outside of the state where the establishment is located.

30

31 3. a. There is hereby created the Multistate Industrial Retention  
32 Commission, which shall have all of the powers and duties set forth  
33 herein and any additional powers and duties as are conferred upon it  
34 by subsequent action of the legislatures of all of the concurring states.

35 b. The commission shall consist of one commissioner from each  
36 concurring state who shall be appointed, and shall serve, in the manner  
37 determined by the legislature of that state. Each commissioner shall  
38 not receive compensation from the commission but may be reimbursed  
39 for necessary expenses incurred in and incident to the performance of  
40 the duties of the commissioner.

41 c. The commission shall provide for its own organization,  
42 administration and procedures and shall adopt rules and regulations  
43 governing its meetings and transactions. It shall first organize itself  
44 upon the enactment of concurring legislation by not less than five  
45 states and upon the appointment of a commissioner from each of those  
46 states, and shall subsequently organize itself annually. In organizing

1 itself, the commission shall elect a chairperson and vice-chairperson  
2 from among its commissioners and appoint an executive director who  
3 shall serve as its secretary and chief executive officer.

4 d. Each commissioner shall be entitled to one vote on all matters  
5 which may come before the commission except as provided pursuant  
6 to subsection h. of section 5 of this act. No determination, decision or  
7 action of the commission shall be made or taken unless a majority of  
8 the commissioners votes in favor of the action.

9

10 4. The commission shall have the power to:

11 a. Sue and be sued in a court of competent jurisdiction;

12 b. Adopt and have a seal;

13 c. Provide for the hiring, organization and administration of a  
14 commission staff and retain and employ counsel, and fix and provide  
15 for the qualification, appointment, removal, term, tenure,  
16 compensation, pension and retirement rights of its officers and  
17 employees;

18 d. Establish one or more offices for the transacting of its business;

19 e. Make and enforce rules and regulations that the commission  
20 deems necessary to effectuate the purposes of this act; provided that  
21 any rule or regulation, other than one which deals solely with the  
22 internal management of the commission, shall be adopted only after  
23 public hearing and shall not be effective unless filed in accordance with  
24 the law of each respective concurring state applicable to the filing of  
25 rules and regulations;

26 f. Conduct, upon the request of the designated agency of a  
27 concurring state, any investigation and hearing necessary to implement  
28 the purposes of this act; administer oaths and issue subpoenas to  
29 compel the attendance of witnesses and the giving of testimony and the  
30 production of other evidence; and have full and free access to and  
31 from all property, premises and places necessary to conduct the  
32 investigation;

33 g. Co-operate with and receive assistance and data from any  
34 agency which will enable it to implement the purposes of this act, and,  
35 in the manner provided pursuant to section 5 of this act, recommend  
36 actions to be taken by the agency; and

37 h. Do all other things necessary or incidental to the administration  
38 of its functions pursuant to this act.

39

40 5. a. The purpose of the commission is to provide information,  
41 analysis and recommendations to concurring states which will assist  
42 them in making informed decisions when they act in their roles as  
43 market participants to prevent the harm caused to the welfare of their  
44 citizens by detrimental net relocations of employment associated with  
45 significant transfers or terminations of operations of establishments in  
46 those states.

1       b. In order to implement its purpose pursuant to this section, the  
2 commission shall investigate any significant transfer or termination of  
3 operations of an establishment located in a concurring state upon a  
4 request by the designated agency of the state where the establishment  
5 is located, and may investigate any possible future significant transfer  
6 or termination of operation of an establishment upon the request of the  
7 designated agency of the state where the establishment is located.

8       c. The goal of each investigation undertaken by the commission of  
9 an actual or anticipated significant transfer or termination of  
10 operations of an establishment pursuant to this section shall be to  
11 make a determination of fact as to whether the employer at the  
12 establishment is responsible for a detrimental net relocation of  
13 employment in connection with the transfer or termination. For the  
14 purposes of this act, an employer shall be regarded as responsible for  
15 a detrimental net relocation of employment if the commission finds  
16 that:

17       (1) Employment lost from the establishment was transferred or is  
18 being transferred to one or more other locations, including any transfer  
19 by means of outsourcing or contracting out of production, and that  
20 employment loss is not the result of the employer reducing or  
21 discontinuing entirely its total sale or use of the product line or lines  
22 which had been produced at the establishment; and

23       (2) The transfer of employment to other locations has contributed  
24 or will contribute to an undermining of labor, health, environmental,  
25 human rights, civil rights or other standards, based on a diminishment  
26 of the pay and conditions of employees, of the funding of education or  
27 other public services required for the general welfare, or of other  
28 conditions affecting employees and their communities, which  
29 diminishment is demonstrable by comparison of conditions where the  
30 establishment is located and conditions at the other locations.

31       The commission shall require the employer to report all changes in  
32 the location, during the preceding period of not less than ten years, of  
33 all employment and production of the employer related to each  
34 product line produced at the affected establishment, including changes  
35 related to the outsourcing or contracting out of production. The  
36 commission shall consider all of those changes when determining  
37 whether the employer is responsible for a detrimental net relocation of  
38 employment.

39       d. In the course of its investigation, the commission shall conduct  
40 one or more hearings to provide an opportunity for the employer to  
41 present its views with respect to whether the significant transfer or  
42 termination of operations has occurred or will occur and whether the  
43 employer is responsible for a detrimental net relocation of  
44 employment.

45       e. If it is determined that the employer is responsible for a  
46 detrimental net relocation of employment, the commission shall decide

1 which one or more, if any, of the following actions to recommend that  
2 each concurring state take against the responsible employer:

3 (1) Placing the employer, for a period of time determined by the  
4 commission, on a list of contractors debarred from entering into  
5 contracts with any agency of that state, except that the debarment shall  
6 not apply to the purchase of goods or services from the employer if  
7 that employer is the only person able to provide those goods or  
8 services in commercial quantities and of satisfactory quality;

9 (2) Placing the employer, for a period of time determined by the  
10 commission, on a list of employers debarred from receiving economic  
11 development assistance from any agency of that state; or

12 (3) Placing the employer, for a period of time determined by the  
13 commission, on a list of employers debarred from having investments  
14 made in them of assets of any pension or annuity funds, cash  
15 management funds and other funds which any agency of that state is  
16 authorized to invest, except that the commission may not recommend  
17 that any concurring state impose a bar on investment pursuant to this  
18 paragraph until the total amount of investment assets of all concurring  
19 states is \$150 billion or more. To comply with this recommendation,  
20 a state shall:

21 (a) Prohibit any new investment of fund assets in the employer  
22 subsequent to the date that the employer is placed on the list; and

23 (b) Take appropriate action to sell, redeem, divest or withdraw any  
24 investment held in the employer not later than one year after the  
25 employer is placed on the list.

26 f. Of the employers who are determined during any one year to be  
27 responsible for a detrimental net relocation of employment:

28 (1) Not less than 50% shall be subject to a recommendation that  
29 concurring states take the action indicated in paragraph (1) of  
30 subsection e. of this section;

31 (2) Not less than 75% shall be subject to a recommendation that  
32 concurring states take the action indicated in paragraph (2) of  
33 subsection e. of this section; and

34 (3) Not less than 25% shall be subject to a recommendation that  
35 concurring states take the action indicated in paragraph (3) of  
36 subsection e. of this section.

37 g. In determining whether to recommend one or more of the  
38 actions permitted pursuant to subsection e. of this section to be taken  
39 against an employer determined to be responsible for a detrimental net  
40 relocation of employment, the commission shall consider the following  
41 factors:

42 (1) The seriousness of the impact of the net relocation on the  
43 workers and other citizens of the concurring state and whether the  
44 employer has been responsible for other detrimental net relocations of  
45 employment;

46 (2) How likely it is that the action or actions will have an impact

1 on the employer sufficient to deter the employer from carrying out the  
2 detrimental net relocation of employment, or, if the relocation has  
3 already occurred, subsequent net relocations; and

4 (3) Any likely negative impact that the action or actions may have  
5 on the concurring states and their citizens.

6 If an employer reverses its decision to undertake a significant  
7 transfer or termination of operations and rehires any employees who  
8 have lost employment as a result of the transfer or termination, the  
9 commission may withdraw its recommendation.

10 h. Any decision to recommend any of the actions against an  
11 employer pursuant to subsection e. of this section or withdraw a  
12 recommendation shall require an affirmative vote of not less than two  
13 thirds of all of the votes of the members of the commission. Each  
14 commissioner shall be entitled to one vote on any decision to  
15 recommend any of the actions or withdraw a recommendation, except  
16 that, in the case of a decision regarding the placement of the employer  
17 on the list of employers barred from investment pursuant to paragraph  
18 (3) of subsection e. of this section, each commissioner shall be given  
19 one additional vote for each \$10 billion in assets of any pension or  
20 annuity funds, cash management funds and other funds which that  
21 commissioner's concurring state or any agency of that state is  
22 authorized to invest.

23 i. The commission shall make available to each concurring state all  
24 information at its disposal that is necessary or useful to enable the  
25 state to implement any recommendation of the commission. The  
26 commission and each concurring state shall make available to the  
27 public a list of all employers who are determined by the commission to  
28 be responsible for a detrimental net relocation of employment and a  
29 list of all employers who are subject to each of the recommendations  
30 indicated in subsection e. of this section.

31  
32 6. All meetings and hearings of the commission shall be open to the  
33 public, except for deliberations involving the consideration of  
34 documents and information which is confidential pursuant to this  
35 section. The minutes of the public meetings and hearings of the  
36 commission shall be public records open to inspection and copying at  
37 its offices during regular business hours, subject to the law relating to  
38 public records of the concurring states in which such minutes are  
39 located.

40 Any information obtained from any person by the commission which  
41 would adversely affect the competitive position of the person if made  
42 public shall be retained solely for the use of the commission and the  
43 concurring states in the implementation of this act, and shall not be  
44 disclosed for any other purpose without the written consent of the  
45 person.

1       7. If an establishment located in a concurring state is subject to a  
2 significant transfer or termination of operations, the employer who  
3 operates the establishment shall provide, not later than the time at  
4 which the first termination of employment occurs in connection with  
5 the transfer or termination of operations, notification of the transfer or  
6 termination of operations to the designated agency in the concurring  
7 state, the political subdivision where the establishment is located, the  
8 affected employees and any collective bargaining unit of the  
9 employees. The subdivision, employees or collective bargaining unit  
10 may file a request that the designated agency request the commission  
11 to conduct an investigation of the transfer or termination of operations  
12 pursuant to section 5 of this act. The notification shall be in writing  
13 on a form provided by the commission and shall include:

14       a. A statement of the number of employees whose employment will  
15 be terminated, when the terminations will occur, any employment  
16 available to employees at any other establishment operated by the  
17 employer, and information regarding the terms, conditions and location  
18 of that employment;

19       b. A statement of the reasons for the transfer or termination of  
20 operations; and

21       c. A statement which describes: the right of the designated agency  
22 to request an investigation of the transfer or termination of operations;  
23 the right of the political subdivision, the employees or their collective  
24 bargaining unit to file a request to have the agency make the request;  
25 and the actions that the commission may recommend pursuant to  
26 section 5 of this act if the commission determines that the employer is  
27 responsible for a detrimental net relocation of employment.

28

29       8. a. No person shall obstruct, withhold requested information or  
30 in any other way interfere with a commissioner or officer, employee or  
31 agent of the commission engaged in the conduct of an investigation  
32 deemed necessary by the commission to implement the purposes of this  
33 act or engaged in the performance of any other duty pursuant to the  
34 provisions of this act.

35       b. In addition to any other penalty provided by law, if the  
36 commission determines that an employer has violated or attempted or  
37 conspired to violate any provision of section 7 of this act or subsection  
38 a. of this section, the commission shall recommend that the employer  
39 be placed on all of the debarment lists provided for pursuant to the  
40 subsection e. of section 5 of this act until the violation has ceased.  
41 Prior to making a determination regarding a violation pursuant to this  
42 subsection, the commission shall conduct a hearing to provide an  
43 opportunity for the employer to present its views with respect to the  
44 violation.

45       c. Any action, recommendation or determination of the commission  
46 shall be subject to judicial review in any court of competent

1 jurisdiction as provided by the law of a concurring state. Court costs  
2 related to the judicial review shall be paid by the party which does not  
3 prevail. Any subpoena issued by the commission shall be enforced by  
4 any court of competent jurisdiction of the concurring states, according  
5 to the practice and procedure of the court applicable to subpoenas  
6 issued in proceedings pending before it.

7  
8 9. The commission shall provide for an annual independent audit  
9 of its accounts and financial transactions by a certified public  
10 accountant, and for the publication of the report of the audit. The  
11 commission shall also make an annual report of its activities to the  
12 governors and legislatures of the concurring states.

13  
14 10. The commission shall annually adopt a current expense budget  
15 for each fiscal year, and shall apportion the amount required to balance  
16 the expenditures therein, less estimated revenues from all sources, to  
17 the concurring states in accordance with equitable cost-sharing  
18 formulae adopted by the commission, except that the annual share for  
19 each concurring state shall be an amount equivalent to not less than  
20 \$0.03 per each member of the state's total population. Following the  
21 adoption of its annual budget, the commission shall transmit certified  
22 copies of the budget to the budget officers of the concurring states at  
23 the time and in the manner required under their respective budgetary  
24 procedures. The budget shall include the amount apportioned for the  
25 support of the commission's current expense budget in their respective  
26 budgets next to be adopted, subject to the review and approval  
27 required by the budgetary processes of the respective concurring  
28 states. The amounts shall be due and payable to the commission in  
29 equal quarterly installments during the commission's fiscal year.

30  
31 11. Amendments and supplements to this act may be adopted by  
32 legislative action of all the concurring states. A concurring state may  
33 withdraw from its concurrence with this act by repealing its concurring  
34 legislation. The provisions of this act shall not be operative during any  
35 time that the total number of concurring states is reduced to less than  
36 five.

37  
38 12. The provisions of this act shall be severable, and if any  
39 provision of the act is declared to be unconstitutional or the  
40 applicability thereof to any concurring state, agency, person or  
41 circumstance is held invalid, the constitutionality of the remainder of  
42 the act and its applicability to any other concurring state, agency,  
43 person or circumstance shall not be affected. The provisions of this  
44 act shall be reasonably and liberally construed.

45  
46 13. The commissioners are hereby authorized to apply to the

1 Congress of the United States for its consent and approval of this act  
2 or any provision of this act, if that consent and approval is required  
3 under federal law, but in the absence of the consent and approval of  
4 the Congress, the commission shall have all of the powers that the  
5 concurring states may confer upon it without that consent and  
6 approval.

7  
8 ARTICLE II

9  
10 EFFECTUATION

11  
12 14. For the purposes of sections 14 through 26 of this act, "board"  
13 means the Industrial Retention Board established pursuant to section  
14 15 of this act.

15  
16 15. There is established in the Executive Branch of the State  
17 Government the Industrial Retention Board. For the purposes of  
18 complying with the provisions of Article V, Section IV, paragraph 1  
19 of the New Jersey Constitution, the board is allocated within the  
20 Department of Treasury, but notwithstanding this allocation, the  
21 commission shall be independent of any supervision or control by the  
22 department or by any agency or officer thereof.

23  
24 16. The board shall consist of 13 members as follows:

25 a. The State Treasurer, the Commissioner of Labor and the  
26 Commissioner of Commerce and Economic Development, each of  
27 whom shall serve ex officio; and

28 b. Ten members, appointed by the Governor with the advice and  
29 consent of the Senate, including: four representatives of local  
30 government or community organizations from municipalities which  
31 have been subject to significant plant closings and mass layoffs; four  
32 representatives of labor organizations which represent workers in  
33 industries which have been subject to significant plant closings and  
34 mass layoffs; and two representatives of labor organizations which  
35 represent employees covered by the pension plans of the State or any  
36 agency of the State. The ten members appointed pursuant to this  
37 subsection shall be appointed for terms of five years, except that of the  
38 ten members first appointed, four shall be appointed for five years,  
39 three shall be appointed for three years, and three shall be appointed  
40 for two years. Of the members appointed pursuant to this subsection,  
41 not more than five shall be of the same political party, and each shall  
42 hold office for the term of appointment and until his successor is  
43 appointed and qualified. Any member may be removed from office by  
44 the Governor, for cause, after a hearing and may be suspended by the  
45 Governor pending the completion of the hearing. A member appointed  
46 to fill a vacancy occurring prior to the expiration of the term shall have

1 a term of appointment for the unexpired portion of the term only. All  
2 vacancies shall be filled in the same manner as the original  
3 appointment. Members of the board shall serve without compensation,  
4 but shall be reimbursed for necessary expenses incurred in the  
5 performance of their duties as members.

6  
7 17. The board shall first organize itself upon the appointment of its  
8 members, and shall subsequently organize itself annually. In  
9 organizing itself, the board shall elect a chairperson and  
10 vice-chairperson from among its members. Each member shall be  
11 entitled to one vote on all matters which may come before the board.  
12 No determination, decision or action of the board shall be made or  
13 taken unless a majority of the members votes in favor of the action.

14  
15 18. The board shall annually appoint the commissioner to serve as  
16 New Jersey's member on the Multistate Industrial Retention  
17 Commission. The board shall also appoint an executive director of the  
18 board, who shall report to the chairperson of the board and be  
19 responsible for administering the daily operations of the board. The  
20 commissioner and the executive director shall serve in the State  
21 unclassified service. The board may also hire and employ, pursuant to  
22 Title 11A, Civil Service, of the New Jersey Statutes, other  
23 professional, technical, and clerical staff as may be necessary to  
24 perform the functions assigned to the board. The board shall have  
25 access to all files and records of the Department of the Treasury, the  
26 Department of Labor, the Department of Commerce and Economic  
27 Development and other relevant State agencies and may call to its  
28 assistance and avail itself of the services of the employees of those  
29 departments and agencies to provide whatever information the board  
30 deems necessary in the performance of its functions.

31  
32 19. The board shall work with appropriate agencies and seek the  
33 cooperation of businesses, labor organizations or other interested  
34 entities to collect relevant information regarding economic  
35 developments and to establish and foster early warning networks to  
36 assist in identifying establishments which are likely to experience  
37 future significant transfers or terminations of operations. The board  
38 shall also seek the collaboration of other concurring states in efforts  
39 to identify establishments likely to experience future significant  
40 transfers or terminations of operations.

41  
42 20. For the purposes of Article I of this act, the designated agency  
43 in this State shall be the board. If an establishment located in the State  
44 is subject to, or will be subject to, a significant transfer or termination  
45 of operations, a request that the board review the transfer or  
46 termination may be filed by the political subdivision where the

1 establishment is located, the affected employees or any collective  
2 bargaining unit of the employees. The board shall conduct the review  
3 and if it determines that there is a reasonable likelihood that the  
4 employer at the establishment is responsible for a detrimental net  
5 relocation of employment in connection with the transfer or  
6 termination, the board shall request that the commission conduct an  
7 investigation of the transfer or termination pursuant to section 5 of this  
8 act. The board may also consider a request filed by any interested  
9 entity that the board review a likely future significant transfer or  
10 termination of the operations of an establishment located in the State,  
11 and if the board determines that there is a reasonable likelihood that  
12 the transfer or termination will occur and that the employer at the  
13 establishment is or will be responsible for a detrimental net relocation  
14 of employment, the board shall request that the commission conduct  
15 an investigation of the transfer or termination.

16

17 21. a. The board shall review each recommendation made by the  
18 commission pursuant to sections 5 or 8 of this act.

19 b. In the case of a recommendation made pursuant to section 8 of  
20 this act, if the board concurs with the commission that an employer has  
21 violated or attempted or conspired to violate the provisions of sections  
22 7 or 8 of this act, the board is authorized, notwithstanding any other  
23 provision of the laws of this State, to direct all agencies of this State  
24 to comply with the recommendation, and each agency shall comply  
25 with any recommendation of the commission when so directed by the  
26 board.

27 c. In the case of a recommendation made pursuant to section 5 of  
28 this act, if the board concurs with the commission's determination of  
29 fact that an employer is responsible for a detrimental net relocation of  
30 employment, and if the board finds the recommendation of the  
31 commission to be appropriate based on factors including those  
32 indicated in subsection g. of section 5 of this act, the board is  
33 authorized, notwithstanding any other provision of the laws of this  
34 State, to direct all agencies of this State to comply with the  
35 recommendation, and each agency shall comply with any  
36 recommendation of the commission when so directed by the board,  
37 except that in the case of a recommendation to place an employer on  
38 a list of employers barred from having investments made into them, the  
39 Director of the Division of Investment shall not comply with respect  
40 to investments of moneys from pensions or retirement funds over  
41 which he has authority to invest unless compliance with the  
42 recommendation is approved by the majority of the members of the  
43 State Investment Council who are elected by public employee members  
44 of those pension and retirement funds. The members of the State  
45 Investment Council who are elected by public employee members of  
46 those pension and retirement funds shall form a committee which shall

1 review, in a timely manner and in consultation with the other members  
2 of the State Investment Council and the Director of the Division of  
3 Investment, all recommendations regarding pension and retirement  
4 fund investment for which the board has directed agency compliance  
5 and approve those recommendations which the committee deems  
6 appropriate.

7 d. The board shall be responsible for identifying all relevant  
8 agencies of this State and implementing compliance by those agencies  
9 with the recommendation pursuant to this section.

10  
11 22. The board shall, in accordance with the "Administrative  
12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate  
13 whatever rules and regulations it deems necessary for the  
14 implementation and enforcement of the provisions of this act.

15  
16 23. The board shall prepare an annual budget and make an annual  
17 report of its activities to the Governor and the Legislature.

18  
19 24. The phrase "court of competent jurisdiction" as used in this act  
20 shall, with reference to this State, mean the Superior Court of the  
21 State of New Jersey and for the purposes of that jurisdiction the  
22 commission shall be deemed to be a State administrative agency. A  
23 subpoena duly issued by the commission may be enforced upon ex  
24 parte application pursuant to the Rules Governing the Courts of the  
25 State of New Jersey.

26  
27 25. There is appropriated from the general fund \$250,000 to the  
28 Multistate Industrial Retention Commission and \$250,000 to the  
29 Industrial Retention Board to implement the purposes of this act.

30  
31 26. This act shall take effect immediately but shall remain  
32 inoperative until the enactment of concurring legislation by any four  
33 other states.

34  
35  
36 STATEMENT

37  
38 This bill creates the New Jersey Industrial Retention Board and,  
39 with the concurrence of at least four other states, creates the  
40 Multistate Industrial Retention Commission. The bill authorizes the  
41 board and other State agencies to take a variety of actions to respond  
42 to job losses caused by downsizings and plant relocations and to  
43 otherwise strengthen the economy of the State.

44 Article I of the bill, the portion of the bill which would be adopted  
45 by all concurring states, creates a Multistate Industrial Retention  
46 Commission made up of one commissioner from each concurring state.

1       The purpose of the commission is to provide information, analysis  
2 and recommendations to help states make informed decisions when  
3 they act in their roles as market participants to prevent the harm  
4 caused to the welfare of their citizens by net relocations of  
5 employment. To do so, the commission is required to investigate any  
6 significant transfer or termination of operations in a concurring state  
7 upon a request of the state. The commission may also investigate  
8 possible future transfers or terminations.

9       The goal of each investigation is to determine whether the employer  
10 carried out a detrimental net relocation of employment, which means  
11 an actual relocation of employment that undermines labor, health,  
12 environmental, human rights, civil rights or other standards, as  
13 demonstrated by a diminishment of the pay and conditions of  
14 employees, of the funding of public services, or of other circumstances  
15 affecting employees and their communities.

16       If the commission finds the employer responsible for a detrimental  
17 net relocation of employment, it is authorized to recommend that the  
18 concurring states take any of the following actions against the  
19 employer:

- 20       1. Bar the employer from entering into public contracts in the  
21 state;
- 22       2. Bar the employer from receiving economic development  
23 assistance or incentives in the state; or
- 24       3. Bar the employer from having investments made into it of  
25 assets of any public pension or other funds under the control of the  
26 state or its instrumentalities.

27       In deciding whether to recommend taking one or more of the  
28 actions against an employer, the commission is required to consider  
29 the seriousness of the impact of the relocation and whether the  
30 employer is responsible for other relocations, how likely the actions  
31 are to deter the relocation or subsequent relocations, and any likely  
32 negative impact of the actions on the concurring states.

33       Decisions to recommend sanctions require at least two thirds of the  
34 votes of commission members. Each commissioner is entitled to one  
35 vote, except that, in the case of a recommendation barring the  
36 employer from pension investments, each commissioner has one  
37 additional vote for each \$10 billion in pension fund assets under the  
38 control of that commissioner's state. Recommendations for divestment  
39 are not permitted until total pension funds of participating states  
40 exceed \$150 billion.

41       Article II of the bill concerns the effectuation of the bill in New  
42 Jersey and does not require the concurrence of other states. It  
43 establishes an New Jersey Industrial Retention Board consisting of  
44 representatives from State government, local communities and workers  
45 adversely affected by closings and layoffs, and workers covered by  
46 public employee pensions. The board is directed to appoint the New

1 Jersey member on the commission, develop early warning networks to  
2 identify likely future closings or relocations and recommend cases of  
3 closings or relocation for the commission to investigate.

4 Most importantly, the board is required to review each  
5 recommendation of the Commission to impose a sanction. If the board  
6 concurs with the Commission's findings and finds the sanction to be  
7 appropriate, it has the authority to require the State of New Jersey and  
8 all of its instrumentalities to impose the sanction.

9 The bill appropriates \$250,000 from New Jersey's General Fund to  
10 the commission and \$250,000 to the board.

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15 Creates the Multistate Industrial Retention Commission; appropriates  
16 \$500,000.