

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)

1 AN ACT concerning the impact of international trade and trade
2 agreements on the State and supplementing Title 52 of the
3 Revised Statutes.

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 “Jobs, Trade
9 and Democracy Act.”

10
11 2. The Legislature finds and declares that:

12 a. While New Jersey participates in the global economy and
13 seeks to maximize the benefits and minimize the adverse impacts of
14 international trade, some recent trade agreements have impacts
15 significantly beyond the bounds of traditional trade matters, such as
16 tariffs and quotas, and can undermine New Jersey’s constitutionally
17 guaranteed authority to protect the public health, safety and welfare;

18 b. Negotiations for those agreements often are not conducted in
19 a transparent manner and do not provide meaningful consultation
20 with states regarding their impact on state and local laws;

21 c. Many of those agreements, lacking meaningful human
22 rights, labor, and environmental standards, have put New Jersey
23 workers and businesses at a disadvantage when competing with
24 firms operating in jurisdictions with lower standards;

25 d. In addition, some trade agreements have eroded traditional
26 state autonomy in procurement matters by requiring state
27 governments to accord foreign suppliers of goods and services
28 treatment no less favorable than that afforded to in-state suppliers,
29 by stipulating that state contract specifications shall not burden
30 trade any more than necessary and shall limit supplier qualifications
31 to those that are essential to the performance of the contract;

32 e. In some cases, the federal government has obtained approval
33 for trade agreements from governors, binding states to the terms the
34 trade agreements without consent from legislatures;

35 f. Because of the important historic role of state legislatures in
36 preserving the traditional state authority over procurement policy
37 under the U.S. system of federalism, and the other wide-ranging
38 impacts of trade agreements on the ability of this State to protect
39 the public health, safety and welfare, decisions about such
40 agreements should be made only with the involvement of the State
41 Legislature, and only after the public has been adequately informed
42 and has openly debated the issues involved.

43
44 3. For the purposes of this act:

45 The “Citizens’ Commission on Jobs, Trade and Democracy” or
46 “commission” means the “Citizen’s Commission on Jobs, Trade and
47 Democracy” established pursuant to section 5 of this act.

1 “Trade agreement” means any agreement between the United
2 States and any other country, countries, or international political
3 entities that proposes to regulate trade, commerce or other
4 economic relationships among the parties to the agreement. "Trade
5 agreement" includes, but is not limited to, the North American Free
6 Trade Agreement, agreements with the World Trade Organization
7 and the proposed Free Trade Area of the Americas.

8

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

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

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

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

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

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

44 (5) Inform all members of the commission and the Legislature
45 on a regular basis about any trade negotiations and dispute
46 settlement proceedings with implications for the State;

1 (6) Communicate the interests and concerns of the commission
2 and the Legislature to the United States Trade Representative
3 regarding ongoing and proposed trade negotiations; and

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

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

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

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

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

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

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

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

46 e. The Attorney General shall notify the United States Trade
47 Representative in writing of the policies set forth in this act not later
48 than the 90th day following the enactment of this act, and shall

1 provide copies of that notice to the President of the United States
2 Senate, Speaker of the House of Representatives, the Governor and
3 the State's Congressional delegation.

4

5 5. a. There is established the Citizen's Commission on Jobs,
6 Trade and Democracy comprised of 20 members as follows:

7 (1) The four members of the Legislature serving as State
8 Legislative Points of Contact pursuant to section 4 of this act;

9 (2) The Attorney General, the State Treasurer, the
10 Commissioners of the Department of Labor and Workforce
11 Development, and the Department of Environmental Protection, the
12 Secretary of Agriculture, the Chief of the Office of Economic
13 Growth, all of whom shall serve as ex officio members; and

14 (3) Ten public members appointed by the Governor, with the
15 advice and consent of the Senate, including two representatives of
16 private-sector labor organizations impacted by international trade;
17 two representatives of public-sector labor organizations impacted
18 by outsourcing or off-shoring; one representative of a business
19 engaged in international trade; two representatives of business
20 impacted by international trade, including at least one
21 manufacturer; one farmer impacted by international trade; one
22 individual with recognized expertise on the impact of international
23 trade on human rights and the rights and conditions of workers; and
24 one individual with recognized expertise on the impact of
25 international trade on environmental and consumer protection.

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

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

40 c. The commission is authorized to take all actions necessary to
41 carry out its duties under this act, including, but not limited to:

42 (1) Recommend or submit proposed legislation to the
43 Legislature;

44 (2) Recommend that the State support, or withhold its support
45 from, future trade negotiations or agreements;

46 (3) Examine any aspects of international trade, international
47 economic integration and trade agreements that the members of the
48 commission consider appropriate;

1 (4) Utilize staff, information and other resources provided by
2 the Legislature and the State departments and agencies, including
3 those represented by the ex officio members of the commission;

4 (5) Seek, accept and make use of outside funding to fulfill
5 commission duties; and

6 (6) Maintain active communications with the United States
7 Trade Representative's Office, the National Conference of State
8 Legislatures, the National Association of Attorneys General or any
9 other entity the commission determines appropriate regarding
10 ongoing developments in trade agreements and policy.

11 d. The commission shall:

12 (1) Assist the State Legislative Points of Contact in carrying out
13 their duties pursuant to section 4 of this act;

14 (2) Monitor trade negotiations and disputes having social,
15 economic, environmental and legal impacts on the State;

16 (3) With the assistance of personnel of the departments and
17 agencies represented by the ex officio members of the commission,
18 analyze and assess the social, economic, environmental and legal
19 impacts of pending trade agreements the State is considering
20 approving and provide reports of those analyses and assessments to
21 the Governor, the Legislature, and the public; and

22 (4) With the assistance of personnel of the departments and
23 State agencies represented by the ex officio members of the
24 commission, provide an annual Trade Impact Report to the
25 Governor, the Legislature, and the public no later than March 31 of
26 the first calendar year following the enactment of this act and of
27 each subsequent year.

28 e. Each annual Trade Impact Report required pursuant to
29 subsection d. of this section shall include:

30 (1) An audit of the amount of public contract work being
31 performed overseas and the amount of any resulting employment
32 loss;

33 (2) An audit of government goods being procured from overseas
34 and the amount of any resulting employment loss;

35 (3) A study of impact of trade on State and local employment
36 levels, tax revenues, and retraining and adjustment costs;

37 (4) An analysis of any constraints that trade agreements and
38 rules place on State regulatory authority, including but not limited
39 to the State's ability to preserve the environment, protect public
40 health and safety, and provide high-quality public services;

41 (5) Findings regarding current specific actions that State
42 agencies, including all agencies represented by the ex officio
43 members of the commission, are taking in response to the impacts
44 of trade, and recommendations for further specific actions that State
45 agencies should take in response to the impacts of trade, including,
46 but not limited to: revocation of any consent of the State to be
47 bound by the procurement rules of trade agreements; prohibition of
48 offshore performance of State contract work and preferences for

1 domestic content in State purchasing; State support for cases
2 brought under federal trade laws by residents of the State; State
3 advocacy for reform of trade agreements and trade laws at the
4 federal level; and implementation of a growth strategy aimed a
5 creating high-wage, high-skill, stable employment and formulated
6 with business, labor and community participation, which may
7 include, but not be limited to: more effective early warning and
8 layoff aversion measures; increased assistance and adjustment
9 programs for displaced workers and trade-impacted communities;
10 stronger standards and accountability for recipients of State
11 subsidies and incentives; investments in workforce training and
12 development; investments in technology and infrastructure; and
13 increased access to capital for local producers; and

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

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

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

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

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

29

30 6. This act shall take effect immediately.

31

32

33

STATEMENT

34

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

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

45 2. Establishes a Citizens' Commission on Jobs, Trade and
46 Democracy appointed by the Governor and the Legislature to
47 monitor trade negotiations and disputes; assess the social,
48 environmental, legal and economic impacts of trade agreements and

S1802 WEINBERG, MADDEN

8

1 proposed trade agreements, hold hearings and make
2 recommendations regarding trade policy and related legislation; and
3 3. Requires the commission to provide for annual reports to the
4 Governor and Legislature on the impacts of trade on the State, and
5 requires the Governor and Legislature to respond to policy
6 recommendations for handling trade's impacts on the State.