

ASSEMBLY, No. 195

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman WEINBERG

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,

1 including, but not limited to, direct grants, including job training  
2 grants, and subsidized financing, except that "economic development  
3 assistance" shall not include any assistance which is financed by funds  
4 provided by the United States.

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

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

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

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

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

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

32

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

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

43 c. The commission shall provide for its own organization,  
44 administration and procedures and shall adopt rules and regulations  
45 governing its meetings and transactions. It shall first organize itself  
46 upon the enactment of concurring legislation by not less than five

1 states and upon the appointment of a commissioner from each of those  
2 states, and shall subsequently organize itself annually. In organizing  
3 itself, the commission shall elect a chairperson and vice-chairperson  
4 from among its commissioners and appoint an executive director who  
5 shall serve as its secretary and chief executive officer.

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

11

12 4. The commission shall have the power to:

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

14 b. Adopt and have a seal;

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

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

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

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

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

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

41

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

1 significant transfers or terminations of operations of establishments in  
2 those states.

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

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

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

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

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

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

1 e. If it is determined that the employer is responsible for a  
2 detrimental net relocation of employment, the commission shall decide  
3 which one or more, if any, of the following actions to recommend that  
4 each concurring state take against the responsible employer:

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

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

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

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

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

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

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

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

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

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

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

1 employment;

2 (2) How likely it is that the action or actions will have an impact  
3 on the employer sufficient to deter the employer from carrying out the  
4 detrimental net relocation of employment, or, if the relocation has  
5 already occurred, subsequent net relocations; and

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

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

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

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

33

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

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

1 person.

2

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

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

21 b. A statement of the reasons for the transfer or termination of  
22 operations; and

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

30

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

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

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

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

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

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

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



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

8

9

## ARTICLE II

10

11

### EFFECTUATION

12

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

16

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

24

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

26

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

29

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

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

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

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

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

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

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

17

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

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

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

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

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

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

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

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

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

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

### 35 36 37 STATEMENT

38  
39 This bill creates, with the concurrence of not less than four other  
40 states, the Multistate Industrial Retention Commission as an  
41 instrumentality of the concurring states.

42 Article I of the bill (sections 1 through 13) represents the portion  
43 of the bill which would be adopted by all concurring states.

44 Article I provides that the commission would consist of one  
45 commissioner from each concurring state to be appointed and serve in  
46 the manner determined by the legislature of that state.

1 The purpose of the commission is to provide information, analysis  
2 and recommendations to concurring states which will assist them in  
3 making informed decisions when they act in their roles as market  
4 participants to prevent the harm caused to the welfare of their citizens  
5 by net relocations of employment associated with closings or  
6 relocations of workplaces in those states.

7 To implement its purpose, the commission is required to investigate  
8 any significant closing or relocation of a workplace located in a  
9 concurring state upon the request of the designated agency of that  
10 state. The commission may also investigate possible future closings  
11 or relocations.

12 The goal of each investigation is to determine whether the employer  
13 at the establishment is responsible for a detrimental net relocation of  
14 employment in connection with the closing or relocation. The  
15 employer is required to report all changes in the location, during the  
16 preceding period of not less than ten years, of all employment and  
17 production of the employer and his affiliates related to products  
18 produced at the affected workplace, including changes related to the  
19 outsourcing or contracting out of production. The bill regards the  
20 employer as responsible for a detrimental net relocation of employment  
21 if the commission finds that the employment actually has been or is  
22 being transferred to another location and that the transfer undermines  
23 labor, health, environmental, human rights, civil rights or other  
24 standards, based on a demonstrable worsening of the pay and  
25 conditions of employees, of the funding of education or other public  
26 services required for the general welfare, or of other circumstances  
27 affecting employees and their communities.

28 If the commission determines that the employer is responsible for  
29 a detrimental net relocation of employment, the commission is required  
30 to decide which, if any, of the following actions to recommend that  
31 each concurring state take against the employer:

32 1. Barring the employer from entering into public contracts with  
33 any agency or subdivision of the state;

34 2. Barring the employer from receiving economic development  
35 assistance or incentives in the state; or

36 3. Barring the employer from having investments made into it of  
37 assets of any public pension or other funds under the control of the  
38 state or its instrumentalities, except that the commission is not  
39 permitted to recommend a bar on investment until the total amount of  
40 investment assets of all concurring states is at least \$150 billion.

41 The bill requires that, of the employers who are determined during  
42 any one year to be responsible for a detrimental net relocation of  
43 employment: not less than 50% be subject to a recommendation  
44 barring the employer from contracting; not less than 75% be subject  
45 to a recommendation barring the employer from receiving economic  
46 development assistance; and not less than 25% be subject to a

1 recommendation barring the employer from receiving investments of  
2 public funds.

3 In determining whether to recommend one or more of the actions  
4 to be taken against an employer, the commission is required to  
5 consider: the seriousness of the impact of the detrimental net  
6 relocation of employment on the workers and other citizens of the  
7 concurring state and whether the employer has been responsible for  
8 other net relocations; how likely the action or actions are to deter the  
9 employer from carrying out the relocation or subsequent relocations;  
10 and any likely negative impact that the action or actions on the  
11 concurring states and their citizens.

12 If an employer halts the plant closing or relocation and rehires any  
13 laid off employees, the commission may withdraw its recommendation.

14 Any decision regarding the recommendations requires an affirmative  
15 vote of at least two thirds of all of the votes of the members of the  
16 commission. Each commissioner is entitled to one vote, except that,  
17 in the case of a recommendation to bar the employer from pension  
18 investments, each commissioner is given one additional vote for each  
19 \$10 billion in assets of any pension or other funds which that  
20 commissioner's concurring state or its instrumentalities are authorized  
21 to invest.

22 The bill gives the commission the authority to use subpoenas when  
23 conducting an investigation. An employer who obstructs the  
24 investigation is also subject to the indicated recommendations of  
25 debarment until the obstruction ceases.

26 The commission is authorized to submit budget requests equivalent  
27 to not less than \$0.03 per capita for each concurring state.

28 Article II of this bill (sections 14 through 26) concerns the  
29 effectuation of the bill in New Jersey and does not require the  
30 concurrence of any other state. Article II establishes an Industrial  
31 Retention Board consisting of three representatives from relevant  
32 State departments, and eight members representing local communities  
33 and workers adversely affected by closings and layoffs, and two  
34 members representing workers covered by public employee pensions.

35 As the State's designated agency, the board is directed to review  
36 actual and anticipated plant closings and relocations and decide which  
37 closings or relocations to request the commission to investigate. The  
38 board is also directed to:

- 39 1. Appoint the State's member on the commission;
- 40 2. Collaborate with appropriate agencies to collect relevant  
41 economic information and develop early warning networks to assist in  
42 identifying likely future closings or relocations; and
- 43 3. Review each commission recommendation and decide whether  
44 to require the State and its agencies to comply with the  
45 recommendation, except that a recommendation to bar an employer  
46 from pension investments would not be carried out without the

1 approval of the majority of the members of the State Investment  
2 Council who are elected public employee members of those pension  
3 and retirement funds.

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

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10 Creates the Multistate Industrial Retention Commission; appropriates  
11 \$500,000.