S T A T E O F N E W Y O R K

4152

2009-2010 Regular Sessions

I N A S S E M B L Y

January 30, 2009

Introduced by M. of A. BRODSKY, SCHROEDER -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT establishing the jobs, trade, and democracy act and creating the citizens' commission on globalization

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act shall be known and may be cited as the "jobs, trade, and democracy act".

S 2. Legislative findings. The legislature hereby finds and declares that New York has traditionally enjoyed a large degree of autonomy to set its own procurement policies under the U.S. system of federalism. However, recent international trade agreements threaten to erode New York's traditional state autonomy by requiring state governments to accord foreign suppliers of goods and services treatment no less favorable than that afforded to in-state suppliers. In addition, the agreements stipulate that state contract specifications must not burden trade any more than necessary, and limit supplier qualifications to those that are "essential" to the performance of the contract.

The governor - not the state legislature - chose to bind New York to the terms of various international trade agreements upon the request of the United States Trade Representative (USTR). The New York state legislature has an important role to play in preserving state authority over procurement policy. These critical decisions should be made only with the involvement of the state legislatures, and only after the public has been adequately informed and has openly debated the issues involved.

It is critical for citizens, state agencies, the state legislature, and other elected officials in the state to have access to information about how trade impacts New York's legislative authority, New York's economy, and existing state laws in order to participate in an informed debate about international trade issues.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 3. Role of the state legislature in trade policy. 1. It shall be the policy of the state of New York that approval for the state to be bound by any trade agreement requires the consent of the senate and assembly through their traditional legislative powers.

2. Two state legislative points of contact (SLPCs) will be appointed at the beginning of each legislative session; one by the temporary president of the senate, and one by the speaker of the assembly. The purposes of the SLPCs are to:

a. Serve as New York's official liaisons with the federal government and as the legislature's liaisons with the governor on trade-related matters;

b. Serve as the designated recipients of federal requests for consent or consultation regarding investment, procurement, services or other provisions of international trade agreements which impinge on state law or regulatory authority reserved to the states;

c. Transmit information regarding federal requests for consent to the office of the governor, the attorney general, all appropriate legislative committees, and the office of trade enforcement;

d. Issue a formal request to the office of trade enforcement and other appropriate state agencies to provide analysis of all proposed trade agreements' impact on state legislative authority and the economy of the state;

e. Inform all members of the legislature on a regular basis about ongoing trade negotiations and dispute settlement proceedings with implications for the state more generally;

f. Communicate the interests and concerns of the legislature to the United States Trade Representative (USTR) regarding ongoing and proposed trade negotiations; and

g. Notify the USTR of the outcome of any legislative action.

3. The following actions are required before the state of New York shall consent to the terms of a trade agreement:

a. When a request has been received, the governor, the temporary president of the senate, or speaker of the assembly may submit to the legislature, on a day on which both houses are in session, a copy of the final legal text of the agreement, together with:

(i) A report by the office of trade enforcement which shall include an analysis of how the agreement of the state of New York to the specific provisions of the agreement will change or affect existing state law;

(ii) A statement of any administrative action proposed to implement these trade agreement provisions in the state of New York; and

(iii) A draft of legislation authorizing the state to sign on to the specific listed provisions of the agreement in question.

b. A public hearing, with adequate public notice, shall occur before the legislature votes on the bill; and

c. The bill authorizing the state of New York to sign on to specific listed provisions of an agreement is enacted into law.

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

5. The state attorney general shall notify the USTR of the policies set forth in subdivision four of this section in writing no later than one year after the effective date of this act, and shall provide copies of such notice to the president of the senate, speaker of the house of representatives, the governor, and the state of New York's congressional delegation.

S 4. Office of trade enforcement and citizen's commissioner on globalization. 1. The state shall establish an office of trade enforcement and a citizen's commission on globalization.

2. The office of trade enforcement is directed to:

a. Monitor trade negotiations and disputes impacting the state's economy.

b. Analyze pending trade agreements the state is considering signing and provide the analysis to the governor, the legislature, the citizen's commission on globalization and the public.

c. Provide technical assistance to workers and firms impacted by unfair trade practices.

d. Provide a trade impact report to the governor, the legislature, the citizen's commission on globalization and the public no later than February first after the effective date of this act and annually thereafter.

e. Provide additional research and analysis as requested by the governor, the assembly, senate and the citizen's commission on globalization.

3. Each annual trade impact report required under paragraph d of subdivision two of this section shall include:

a. An audit of the amount of public contract work being performed overseas;

b. An audit of government goods being procured from overseas;

c. A study of trade's impacts on state and local employment levels, tax revenues and retraining and adjustment costs;

d. An analysis of the constraints trade rules place on state regulatory authority, including but not limited to the state's ability to preserve the environment, protect public health and safety, and provide high-quality public services; and

e. Findings and recommendations of specific actions the state should take in response to the impacts of trade on the state identified above. Such actions may include, but shall not be limited to:

(i) Revocation of the state's consent to be bound by the procurement rules of international trade agreements;

(ii) Prohibition of offshore performance of state contract work and preferences for domestic content in state purchasing;

(iii) State support for cases brought under federal trade laws by residents of the state;

(iv) State advocacy for reform of trade agreements and trade laws at the federal level; and

(v) Implementation of a high-road growth strategy formulated with business, labor and community participation. Such a strategy may include, but not be limited to:

(1) More effective early warning and layoff aversion measures;

(2) Increased assistance and adjustment programs for displaced workers and trade-impacted communities;

(3) Stronger standards and accountability for recipients of state subsidies and incentives;

(4) Investments in workforce training and development;

(5) Investments in technology and infrastructure; and

(6) Increased access to capital for local producers.

4. Within 30 days of receipt of the annual trade impact report:

a. The governor shall review the report and issue a public statement explaining which of the report's recommendations for specific action under paragraph e of subdivision three of this section the governor will act upon in the next 30 days, whether through executive action or proposed legislation.

b. The assembly and senate shall review the report, hold public hearings on the report's recommendations for specific action under paragraph e of subdivision three of this section, and introduce legislation to enact those recommendations accepted by the assembly and senate.

5. A citizens' commission on globalization shall be created. The commission shall consist of six members, two will be appointed by the governor, two will be appointed by the temporary president of the senate and two will be appointed by the speaker of the assembly. Commission members shall serve four-year terms.

a. The following stakeholders shall be equally represented on the commission: employers, labor organizations, community organizations, and government.

b. The commission shall:

(i) Assess the legal and economic impacts of trade agreements;

(ii) Provide input on the annual trade impact report;

(iii) Hold public hearings on the impacts of trade on the state and communities, as well as the annual trade impact report impacts of trade on the state; and

(iv) Make policy recommendations to the governor, state legislature, state congressional delegation, and U.S. trade negotiators.

S 5. This act shall take effect on the one hundred twentieth day after it shall have become law.