

H.R. 76

SUMMARY OF THE MAJOR PROVISIONS OF THE NATIONAL EMPLOYMENT PRIORITIES ACT OF 1975

PURPOSES

The bill amends the Fair Labor Standards Act of 1938 as follows:

- A. Requires prenotification to affected employees and communities of dislocation of business and agricultural concerns.
- B. Provides assistance (including retraining) to:
 - (1) employees who suffer employment loss through the dislocation of business concerns;
 - (2) business concerns threatened with dislocation; and,
 - (3) affected communities.
- C. Prevents Federal benefits and support for unjustified dislocation.

BRIEF SECTION BY SECTION ANALYSIS

Section 1. *Short Title.*—Provides that the act may be cited as the “National Employment Priorities Act of 1975” (NEPA).

Sec. 2. *Form of Amendment.*—Provides that the Fair Labor Standards Act be amended by adding a new chapter:

CHAPTER II—NATIONAL EMPLOYMENT PRIORITIES

TITLE I—GENERAL PROVISIONS

SEC. 2101. *Declaration of Policy and Purpose.*—The Congress declares that:

- (1) unemployment is a major economic and social problem that causes great economic loss to individuals, communities, and the Nation;
 - (2) arbitrary and unnecessary closings and transfers of establishments of business and agricultural concerns cause irreparable social and economic harm to employees, local communities, and the Nation, and too often receive financial support from the U.S. Government;
 - (3) business and agricultural concerns wishing to close establishments or transfer certain operations to other establishments should take into account the social and community needs of employees and citizens in the areas in which the establishments operate and the social, environmental, and community needs of citizens in the area to which the transfer is proposed;
 - (4) it is necessary to withdraw Federal support from arbitrary and unnecessary closings or transfers of operations of establishments of business and agricultural concerns, so that wasteful loss of employees, communities, and the Nation can be prevented; and
 - (5) assistance (and retraining) for employees and affected communities is needed to reduce the economic and social impact of dislocation of employment opportunities.
- (b) It is the purpose of this chapter to require prenotification to affected employees and communities of dislocation of business and agricultural concerns, to prevent Federal support for unjustified dislocation, and to provide assistance to

employees who suffer employment loss through the dislocation of business and agricultural concerns, to the business and agricultural concern threatened with dislocation, and to affected communities.

SEC. 2102. *Definitions.*

**TITLE II—ESTABLISHMENT OF THE NATIONAL EMPLOYMENT
RELOCATION ADMINISTRATION**

Provides for the establishment of a National Employment Relocation Administration in the Department of Labor, headed by an administrator appointed by the President and approved by the Senate. Also provides for the establishment of a National Employment Relocation Advisory Council consisting of 18 members, including the Secretaries of Labor and Commerce; the Administrator of the Environmental Protection Agency; four members representing the general public, three members representing organized labor; and three members representing management or the business community. The Council will advise and assist the Secretary and Administrator with respect to the activities of NEPA.

Provides for Administration and Council functions and duties.

**TITLE III—NOTICE, INVESTIGATIONS, HEARINGS, AND REPORTS, IN
CLOSING AN ESTABLISHMENT OR TRANSFERRING OPERATIONS**

SEC. 2301. *Notice of Intent to Close an Establishment or Transfer Operations to Another Establishment.*—Provides that if 15 percent of the employees of the establishment suffer an employment loss as a result of the transfer or closing, an agent of the establishment must furnish the Secretary and affected employees written notice of its intent not less than 2 years in advance of closing or transfer, except where for good cause the Secretary finds the business concern could not reasonably predict its intention to close or transfer.

SEC. 2302. *Investigation of a Proposed Closing or Transfer of Operations.*—Provides that, if within 30 days after the receipt of notice of intent to close an establishment, a labor organization, or 10 percent of the employees of such establishment requests an investigation of a proposed closing; or if the Secretary determines it would serve the purpose of this chapter, the Secretary is directed to conduct a thorough investigation, including public hearings. The Secretary has subpoena power. A person who refuses to appear as a witness, or produce evidence, is subject to a fine of not more than \$500, 6 months imprisonment, or both.

SEC. 2303. *Reports.*—Provides that at the conclusion of the investigation of a proposed transfer or closing, the Secretary will prepare and publish a report containing the findings with respect to:

- (1) the economic necessity or justification for the proposed closing;
- (2) the number of, and potential economic and social loss to, affected employees;
- (3) the potential economic, social, and environmental loss to the affected communities; and
- (4) recommendations of actions to be taken.

SEC. 2304. *Discrimination.*—Provides that no employee can be discriminated against as a result of filing a complaint; and provides remedies for workers who feel they have suffered discrimination.

**TITLE IV—ASSISTANCE TO EMPLOYEES WHO SUFFER ELIGIBLE
EMPLOYMENT LOSS**

Part A. Adjustment Assistance

SEC. 2401. *Program of Assistance.*—Provides for adjustment assistance to affected workers under Part A and would include, but not be limited to, income maintenance payments;

maintenance of pension and health benefits; job placement and retraining benefits; relocation allowances; early retirement benefits; emergency mortgage and rent payments; food stamps and surplus commodities for affected persons with incomes below the poverty level.

SEC. 2402. *Application for Assistance.*—Provides that an affected employee may apply for one or more of the forms of assistance to the Secretary of Labor who must determine eligibility within 30 days after the application is filed.

SEC. 2403. *Income Maintenance.*—Provides that income maintenance payments cannot be less than the lesser of the following two living standards:

- (1) that established by the Bureau of Labor Statistics as a moderate living standard budget, or
- (2) eighty-five percent of the employee's prior average weekly wage, reduced by 50 percent of any earned income, as well as the amount of any other source of income maintenance.

Part B. Job Placement and Retraining Benefits

SEC. 2411. *Program Authorization.*—Provides that every affected employee who applies for assistance under Part A must also apply for testing, counseling, training, and placement services, for possible relocation in either existing programs, or in the absence of existing programs, through those programs established by the Secretary, and with a view toward retraining to meet manpower needs of the affected business concern.

SEC. 2412. *Payments Related to Training.*—Provides that reasonable travel expenses be paid when retraining facilities are not within commuting distance of a worker's residence.

SEC. 2413. *Refusal of Training or Placement.*—Provides that an affected employee is not entitled to assistance payment unless application is made, and further provides that a worker who, without good cause, refuses to accept or continue, or make satisfactory progress in training or placement, will not be entitled to income maintenance payments.

**TITLE V—ASSISTANCE TO AFFECTED COMMUNITIES AND TO BUSINESSES
LOCATED IN SUCH COMMUNITIES**

Part A. General Provisions

SEC. 2502. *Basic Eligibility.*—Provides that a unit of local government is eligible for assistance if the Secretary determines that the closing or transfer of operations of one or more establishments has contributed to an area unemployment rate exceeding 3 percent.

SEC. 2503. *Application for Assistance.*—Provides that a general local unit of government and/or the affected business establishment may make application for assistance to the Secretary.

SEC. 2504. *Determination.*—Provides that a determination of eligibility be made not later than 60 days after the application date.

Part B. Grants to Communities

SEC. 2512. *Amount of Grant.*—Provides that a unit of general local government satisfying unemployment requirements would be eligible for direct grants not to exceed 85 percent of the revenue loss which results from a closing or transfer.

Part C. Assistance to Business in Dislocated Communities

SEC. 2521. *Authorization.*—Provides that the Secretary can furnish assistance to eligible establishments if the Secretary determines that the establishment has the capacity to expand and offer additional employment opportunities in the affected area over a period of time, and if similar assistance is not readily available elsewhere.

SEC. 2522. *Types of Assistance.*—Provides that the assistance be in the form of direct or guarantee loans.

TITLE VI—ASSISTANCE TO BUSINESSES THREATENED WITH DISLOCATION

SEC. 2602. *Eligibility and Qualifications.*—Provides that an establishment may receive assistance if the Secretary determines that the establishment is planning to close or transfer operations and that

- (1) the closing or transfer will result in substantial employment loss;
- (2) the closing or transfer of operations is justified on economic grounds;
- (3) assistance is necessary to obviate the necessity for the proposed closing or transfer, and will enable the establishment to operate on an improved economic basis; and
- (4) the establishment will make all reasonable efforts to use its own resources, and that these resources are inadequate in the absence of assistance under this title.

SEC. 2603. *Petitions.*—Provides that a petition by an establishment for assistance may be filed with the Secretary and must contain an economic adjustment assistance proposal that details the proposed applications or effects of the assistance.

SEC. 2604. *Determination of Secretary.*—Provides that an eligibility determination must be made within 60 days after the petition is filed, and further, that the determination and certification prevails for the period of time determined by the Secretary.

SEC. 2605. *Interim Assistance.*—Provides that the Secretary may furnish technical assistance prior to certification.

SEC. 2606. *Use of Existing Agencies and Programs.*—Provides that insofar as possible, the Secretary must provide assistance through existing programs, before providing assistance under this title.

SEC. 2607. *Technical Assistance.*—Provides that the Secretary may provide technical assistance (grants, research and development, etc.) which will materially contribute to the establishment's economic adjustment.

SEC. 2608. *Financial Assistance.*—Provides that the Secretary may provide financial assistance in the form of loans, loan guarantees, and interest subsidies, if the Secretary determines that the assistance is not otherwise available, that the interest rate on the loans is reasonable, and that there is reasonable assurance of repayment.

SEC. 2609. *Retraining.*—Provides that the Secretary may provide retraining programs required as a consequence of economic assistance.

TITLE VII—WITHDRAWAL OF CERTAIN BENEFITS ON ACCOUNT OF UNJUSTIFIED RELOCATIONS, AND MISCELLANEOUS PROVISIONS

SEC. 2701. *Withdrawal of Benefits.*—Provides that pursuant to an investigation and determination by the Secretary that

- (1) the closing or transfer was not justified, or
- (2) if the closing or transfer was justified, it could have been avoided had assistance under this chapter been accepted, or
- (3) that any employment loss could have been avoided except for the establishment's failure to fill a notice of intent to close or transfer, or
- (4) because of some unreasonable delay, bad faith, or misrepresentation, or

(5) the transfer of operations is to a location outside the United States while other economically justifiable alternatives exist, then the establishment shall be ineligible for the following benefits authorized by the Internal Revenue Code:

- (1) the investment credit
- (2) accelerated depreciation range
- (3) foreign tax credit
- (4) deferral of tax on income earned outside the United States.
- (5) deductions for ordinary and necessary expenses to the extent such expenses are related to the transfer of operations.

SEC. 2702. *Employee Transfer*.—Provides that to the extent practicable, each business concern to which this chapter applies shall offer employees suffering an employee loss an opportunity to be employed at other operations of the business concern. This section in no way supersedes collective-bargaining agreements.

SEC. 2703. *Agreements with States*.

SEC. 2704. *Administration of Financial Assistance*.

SEC. 2705. *Recovery of Overpayments*.—Provides that if the Secretary determines that a person has knowingly made a false representation, or failed to disclose material facts, and as a result has received assistance under this chapter to which such person was not entitled, then such person is liable for repayment to the appropriate Agency.

SEC. 2706. *Penalties*.—Provides a fine of \$1,000 and/or 1 year imprisonment as the penalty for making false statements, or failing to disclose information, for the purpose of obtaining or increasing assistance under this chapter.

SEC. 2707. *Authorization of Appropriations*.—Sums are authorized to be appropriated to the Secretary to carry out the provisions of this chapter. Sums appropriated pursuant to this section shall remain available until expended.

Sec. 3. *Compensation of Administrator and Deputy Administrator*.

Sec. 4. This section brings the Fair Labor Standards Act into conformance with the new chapter.

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