

SENATE BILL No. 353

March 15, 2007, Introduced by Senators BASHAM, PAPPAGEORGE, CLARK-COLEMAN, GLEASON, ANDERSON, HUNTER, PRUSI, BRATER and SCOTT and referred to the Committee on Government Operations and Reform.

A bill to define the role of this state in the approval of certain trade agreements; to create certain state agencies; and to provide for the powers and duties of certain state officers and agencies in relation to trade agreements and related issues.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 Sec. 2. The legislature finds all of the following:

4 (a) States have traditionally enjoyed a large degree of
5 autonomy to set their own procurement policies under our system of
6 federalism.

7 (b) Recent international trade agreements threaten to erode
8 this traditional state autonomy by requiring state governments to
9 accord foreign suppliers of goods and services treatment no less

1 favorable than that afforded to in-state suppliers. In addition,
2 the agreements stipulate that state contract specifications must
3 not burden trade any more than necessary and limit supplier
4 qualifications to those that are essential to the performance of
5 the contract.

6 (c) The governor, not the state legislature, chose to bind
7 this state to the terms of various international trade agreements
8 upon the request of the United States trade representative.

9 (d) State legislators have an important role to play in
10 preserving state authority over procurement policy. These critical
11 decisions should be made only with the involvement of the state
12 legislatures, and only after the public has been adequately
13 informed and has openly debated the issues involved.

14 (e) It is critical for citizens, state agencies, the state
15 legislature, and other elected officials in this state to have
16 access to information about how trade impacts state legislative
17 authority, the state's economy, and existing state laws in order to
18 participate in an informed debate about international trade issues.

19 (f) The current encroachment on state regulatory authority by
20 international commercial and trade agreements has been exacerbated
21 because United States trade policy is being formulated and
22 implemented under "fast track" trade authority procedures. The
23 current grant of fast track is scheduled to sunset in July 2007.

24 (g) Fast track, first established in 1974 by President Richard
25 Nixon, is outdated and inappropriate, given the diverse range of
26 nontrade issues now impacted by trade agreements. These agreements
27 broadly affect federal and state regulatory authority over nontrade

1 areas, such as public health and procurement policies. Fast track
2 should be replaced with a more democratic model for negotiating and
3 implementing trade agreements so that elected legislators and
4 ordinary citizens can have a meaningful voice in determining the
5 content of trade policies.

6 Sec. 3. (1) It is the policy of this state that approval for
7 the state to be bound by any trade agreement requires the consent
8 of the legislature.

9 (2) Two state legislative points of contact shall be appointed
10 at the beginning of each legislative session. One shall be
11 appointed by the majority and minority leaders in the senate, and 1
12 by the speaker of the house of representatives and the minority
13 leader in the house of representatives. The legislature declares
14 that the purposes of the single points of contact are as follows:

15 (a) To serve as this state's official liaisons with the
16 federal government and as the legislature's liaisons with the
17 governor on trade-related matters.

18 (b) To serve as the designated recipients of federal requests
19 for consent or consultation regarding investment, procurement,
20 services, or other provisions of international trade agreements
21 which impinge on state law or regulatory authority reserved to this
22 state.

23 (c) To transmit information regarding federal consultation
24 with states to the office of the governor, the attorney general,
25 all appropriate legislative committees, and the office of trade
26 enforcement.

27 (d) To issue a formal request to the office of trade

1 enforcement and other appropriate state agencies to provide
2 analysis of all proposed trade agreements' impact on state
3 legislative authority and the economy of the state.

4 (e) To inform all members of the legislature on a regular
5 basis about ongoing trade negotiations and dispute settlement
6 proceedings with implications for the state more generally.

7 (f) To communicate the interests and concerns of the
8 legislature to the United States trade representative regarding
9 ongoing and proposed trade negotiations.

10 (g) To notify the United States trade representative of the
11 outcome of any legislative action.

12 (3) The following actions are required before this state
13 consents to the terms of a trade agreement:

14 (a) In a timely fashion, concurrent with trade negotiations,
15 the governor, majority or minority leader, or ranking member of the
16 appropriate committee of jurisdiction may submit to the
17 legislature, on a day on which both the senate and house of
18 representatives are in session, a copy of the final legal text of
19 the agreement, together with all of the following:

20 (i) A report by the office of trade enforcement, which shall
21 include an analysis of how the agreement of this state to the
22 specific provisions of the agreement will change or affect existing
23 state law.

24 (ii) A statement of any administrative action proposed to
25 implement these trade agreement provisions in this state.

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

1 (b) A public hearing, with adequate public notice, shall occur
2 before the legislature votes on the bill.

3 (c) The enactment into law of a bill authorizing this state to
4 sign on to specific listed provisions of an agreement.

5 (4) It is the sense of this legislature that the congress of
6 the United States should pass legislation instructing the United
7 States trade representative to fully and formally consult
8 individual state legislatures regarding procurement, services,
9 investment, or any other trade agreement rules that impact state
10 laws or authority before negotiations begin and as they develop,
11 and to seek consent from state legislatures in addition to
12 governors prior to binding states to conform their laws to the
13 terms of international commercial agreements. That legislation is
14 necessary to ensure the prior informed consent of this state with
15 regard to future international trade and investment agreements.

16 (5) The attorney general shall notify the United States trade
17 representative of the policies set forth in subsection (4) in
18 writing no later than 90 days after the legislation is enacted into
19 law and shall provide copies of that notice to the president of the
20 senate, the speaker of the house of representatives, the governor,
21 and this state's congressional delegation.

22 Sec. 4. (1) An office of trade enforcement and a citizens'
23 commission on globalization are created. The office of trade
24 enforcement shall do all of the following:

25 (a) Monitor trade negotiations and disputes impacting the
26 state economy.

27 (b) Analyze pending trade agreements the state is considering

1 signing and provide the analysis to the governor, the legislature,
2 the citizens' commission, and the public.

3 (c) Provide technical assistance to workers and firms impacted
4 by unfair trade practices.

5 (d) Provide a trade impact report to the governor, the
6 legislature, the citizens' commission, and the public no later than
7 180 days after the effective date of this act and annually
8 thereafter.

9 (e) Provide additional research and analysis as requested by
10 the governor, the legislature, and the citizens' commission on
11 globalization.

12 (2) Each annual trade impact report required under subsection
13 (1)(d) shall include all of the following:

14 (a) An audit of the amount of public contract work being
15 performed overseas.

16 (b) An audit of government goods being procured from overseas.

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

19 (d) An analysis of the constraints trade rules place on state
20 regulatory authority, including, but not limited to, the state's
21 ability to preserve the environment, protect public health and
22 safety and workers' rights, and provide high-quality public
23 services.

24 (e) Findings and recommendations of specific actions the state
25 should take in response to the impacts of trade on the state
26 identified above. Those actions may include, but shall not be
27 limited to, any or all of the following:

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

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

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

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

9 (v) Implementation of a high-road growth strategy formulated
10 with business, labor, and community participation. That strategy
11 may include, but not be limited to, any or all of the following:

12 (A) More effective early warning and layoff aversion measures.

13 (B) Increased assistance and adjustment programs for displaced
14 workers and trade-impacted communities.

15 (C) Stronger standards and accountability for recipients of
16 state subsidies and incentives.

17 (D) Investments in workforce training and development.

18 (E) Investments in technology and infrastructure.

19 (F) Increased access to capital for local producers.

20 (3) Within 30 days of receipt of the annual trade impact
21 report, both of the following shall occur:

22 (a) The governor shall review the report and issue a public
23 statement explaining which of the report's recommendations for
24 specific action under subsection (2)(e) the governor will act upon
25 in the next 30 days, whether through executive order or by
26 proposing legislation.

27 (b) The legislature shall review the report, hold public

1 hearings on the report's recommendations for specific action under
2 subsection (2)(e), and introduce legislation to enact those
3 recommendations accepted by the legislature.

4 (4) A citizens' commission on globalization shall be appointed
5 by the governor. The following stakeholders shall be equally
6 represented on the commission: employers, labor organizations,
7 community organizations, and government. The commission shall do
8 all of the following:

9 (a) Assess the legal and economic impacts of trade agreements.

10 (b) Provide input on the annual trade impact report.

11 (c) Hold public hearings on the impacts of trade on the state
12 and communities, as well as on the annual trade impact report.

13 (d) Make policy recommendations to the governor, the
14 legislature, the state congressional delegation, and United States
15 trade negotiators.