

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2841 Session of
1996

INTRODUCED BY KIRKLAND, VEON, ROBINSON, ROONEY, LAUGHLIN,
THOMAS, YOUNGBLOOD, TRELLO, JOSEPHS, WALKO, WILLIAMS, RAMOS,
JAMES AND WASHINGTON, JULY 1, 1996

REFERRED TO COMMITTEE ON LABOR RELATIONS, JULY 1, 1996

AN ACT

1 Providing for financial assistance for displaced individuals and
2 communities abandoned by mass or permanent layoffs.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Displaced
7 Employee and Community Compensation Act.

8 Section 2. Legislative intent.

9 This act mandates downsizing corporations to provide direct
10 financial assistance to displaced employees and abandoned
11 communities. This act requires downsizing corporations to pay
12 permanently laid-off workers two months of severance
13 compensation for every year of service and \$5,000 per laid-off
14 employee to the affected municipality for lost jobs and tax
15 revenues.

16 Section 3. Definitions.

17 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Covered employer." An individual or private business which
4 employs 500 or more employees at any time in the preceding 12-
5 month period and which has not been adjudicated bankrupt.

6 "Financial distress." The significant loss of profitability
7 by a covered employer which jeopardizes that employer's survival
8 in this Commonwealth.

9 "Mass layoffs." The permanent layoff of 100 or more
10 employees employed in a facility located in this Commonwealth by
11 a covered employer during any continuous period of 180 days,
12 except that the term shall not mean any layoff caused by a
13 relocation or termination necessitated by a flood or other
14 natural disaster, national emergency or act of war.

15 "Permanent layoff." The layoff of an employee by an employer
16 without a written commitment to reinstate the employee within
17 180 days of the layoff, except that the term shall not mean the
18 layoff of any construction worker upon the completion of a
19 construction project or of a seasonal employee.

20 Section 4. Responsibilities.

21 (a) Employee compensation.--Any covered employer who
22 conducts a mass layoff shall pay each employee who is
23 permanently laid off in the course of the mass layoff severance
24 compensation at the rate of two months' pay for each year of
25 employment of the employee by the employer:

26 (1) The monthly rate of compensation shall be 1/12 of
27 the gross wages paid to the employee during the 12-month
28 period immediately preceding the layoff of the employee.

29 (2) The severance compensation shall be in addition to
30 any final wage payment to the employees and shall be in a

1 single lump sum, no later than the last day of employment.

2 (3) Notwithstanding the act of December 5, 1936 (2nd
3 Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment
4 Compensation Law, severance compensation shall not be counted
5 as income during the employee's benefit year established in
6 connection with the layoff, and shall not reduce the
7 employee's unemployment compensation benefits during any week
8 of the benefit year.

9 (b) Employer compensation.--If 100 or more of the employees
10 who are laid off in connection with the mass layoff are employed
11 in facilities located in a single municipality, the covered
12 employer shall compensate the municipality, not later than the
13 date of the layoff, with a displacement fee equal to the sum of
14 \$5,000 for each employee who is permanently laid off in the
15 course of the mass layoff:

16 (1) The residents of the municipality, laid-off
17 employees and labor organizations representing the employees
18 shall be provided the opportunity to testify regarding the
19 use of displacement fee revenue in two or more public
20 hearings before the governing body of the municipalities.

21 (2) The municipality may use displacement fee revenue to
22 fund efforts to ameliorate the impact of the mass layoff,
23 including the following:

24 (i) The development of alternative economic
25 development plans for the municipality or for any
26 facility closed in connection with the mass layoff.

27 (ii) Infrastructure development.

28 (iii) Tax relief.

29 (iv) Educational, environmental, public safety or
30 other local services that will preserve or improve the

1 quality of life of laid-off workers and residents of the
2 municipality.

3 (3) Laid-off workers and residents of the municipality
4 shall have priority for consideration for any employment,
5 education, training or other services that are funded by
6 displacement fees.

7 Section 5. Exemptions.

8 An employer shall not be required to pay severance to an
9 employee under section 3 if:

10 (1) the employer offers each laid-off employee, at a
11 location not more than 30 miles from the previous place of
12 employment, the same employment or a position with equivalent
13 status, benefits, pay and other terms and conditions of
14 employment;

15 (2) the employee is offered employment at the same
16 location by another employer at a position of equivalent
17 status, benefits, pay and other terms and conditions of
18 employment; or

19 (3) the Secretary of Commerce grants an exemption to a
20 covered employer on the basis of financial distress.

21 Section 6. Employee and community notification.

22 (a) Notice display.--Each covered employer shall
23 conspicuously display notices in the workplace describing the
24 employer's obligations under the provisions of this act.

25 (b) Written notice.--In the event of a mass layoff, at the
26 time that the employees are first notified of the layoff,
27 employers must provide written notification of their obligations
28 under this act to the following:

29 (1) Every laid-off employee.

30 (2) Any labor organization representing employees.

(3) The governing body of any municipality in which the
layoff occurs.

Section 7. Collective bargaining.

(a) Employee rights.--Nothing in this act shall be construed
as diminishing or limiting in any way any rights, privileges or
remedies of any employee provided under any collective
bargaining agreement or employment contract or any law,
including Federal law.

(b) Minimum standard.--The requirements of this act
concerning the amounts of severance compensation to be provided
shall be regarded as a minimum standard and shall not be
construed as prohibiting an employer from providing severance
compensation or other compensation in amounts exceeding the
amounts required by the provisions of this act.

Section 8. Penalties.

(a) Civil action for relief.--If a covered employer fails to
make any severance payment or pay any displacement fee pursuant
to the provisions of this act to a municipality or an employee,
the aggrieved municipality or employee or any labor organization
representing the employee, hereinafter referred to in this
section as the "plaintiff," may institute a civil action in a
court of competent jurisdiction for relief which shall include
the following:

(1) The payment of any unpaid displacement fee to the
municipality.

(2) The payment of any unpaid severance payment to the
employee.

(3) The payment of reasonable costs and attorney fees of
the plaintiff.

(b) Civil fine.--The court also shall assess a civil fine of

1 not more than \$1,000 for a first violation of this act and not
2 more than \$5,000 for each subsequent violation, which shall be
3 paid to the State Treasurer for deposit in the Unemployment
4 Compensation Fund.

5 (c) Separate violation.--Each failure to pay an employee or
6 municipality shall constitute a separate violation.

7 (d) Payment or injunction.--The court may also order payment
8 of punitive damages to the plaintiff and an injunction to
9 restrain any continued violation of this act.

10 Section 9. Effective date.

11 This act shall take effect immediately.