Senate File 171

SENATE FILE BY BOLKCOM

Passed	Senate,	Date	Passed	House,	Date
Vote:	Ayes	Nays	 Vote:	Ayes	Nays
	Αı	pproved			

A BILL FOR

- 1 An Act relating to binding international trade agreements by
- 2 providing for the consent of the general assembly and
- 3 providing an effective date.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 2280XS 83
- 6 tw/rj/5

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- 1 1 Section 1. <u>NEW SECTION</u>. 2E.1 SHORT TITLE.
- 1 2 This chapter shall be known and may be cited as "The Jobs,
- 1 3 Trade, and Democracy Act".
- 4 Sec. 2. <u>NEW SECTION</u>. 2E.2 LEGISLATIVE FINDINGS.
- 1 5 The general assembly finds all of the following:
- 1 6 1. International trade agreements, including the North
- 1 7 American free trade agreement, and certain other existing and
- $1\ 8\ \mathrm{pending}$ free trade agreements which contain commercial and
- 1 9 trade=related provisions enforced by the world trade
- 1 10 organization are undermining the sovereignty and legitimate
- $1\ 11\ {
 m constitutional}$ authority enjoyed by states generally to pass
- 1 12 laws for the welfare of residents. Specifically, the
- 1 13 authority granted by Article III of the Constitution of the
- 1 14 State of Iowa to the general assembly to enact laws governing
- 1 15 the state of Iowa is being undermined by these international
- 1 16 trade agreements.
- 1 17 2. International trade agreements have impacts which
- 1 18 extend significantly beyond the bounds of traditional trade
- $1\ 19\ \text{matters}$ such as tariffs and quotas and instead grant foreign
- 1 20 investors and service providers certain rights and privileges
- 1 21 regarding operations within the state of Iowa, subject Iowa
- 1 22 laws to challenge as barriers to trade in the binding
- 1 23 international tribunals created by the agreements, and place
- 1 24 limits on the future policy options of state legislatures.
- 1 25 3. The North American free trade agreement grants foreign
- 1 26 firms new rights and privileges for operating within Iowa that
- 1 27 exceed those granted to businesses domiciled within the United

- 1 28 States under state and federal law. The North American free 1 29 trade agreement has generated regulatory takings cases against 1 30 state and local land use decisions, state environmental and 1 31 public health policies, state court rulings, and state and 1 32 local contracts that would not have been possible in state or 1 33 federal courts.
- 1 34 4. When states agree to government procurement provisions 1 35 contained in trade agreements, state economic development and 2 1 environmental policies such as buy local laws, policies to 2 2 prevent the transfer of state jobs to foreign jurisdictions, 2 3 and recycled content laws could be subject to challenge as 2 4 barriers to trade because the state laws and policies conflict 5 with obligations in the trade agreements.
- 2 6 5. Trade agreements also curtail state regulatory
 2 7 authority by placing constraints on future policy options.
 2 8 The world trade organization services agreement could
 2 9 undermine state efforts to expand health care coverage and
 2 10 rein in health care costs, and places constraints on state and
 2 11 local land use planning. New negotiations in the services
 2 12 area could have additional implications for state regulation
 2 13 of water, energy, higher education, professional licensing,
 2 14 and other areas.
- 2 15 6. United States government trade negotiators have failed 2 16 to consult in a meaningful way with state legislatures when 2 17 seeking the consent of states to comply with trade agreement 2 18 provisions.
- 2 19 7. A statutory mechanism that requires federal trade 2 20 negotiators to seek consent from state legislatures prior to 2 21 binding states to conform their laws to the terms of 2 22 international commercial and trade agreements is necessary to 2 23 adhere to the tenets of federalism and to respect state 2 24 sovereignty.
- 2 25 Sec. 3. $\underline{\text{NEW SECTION}}$. 2E.3 STATE LEGISLATOR POINTS OF 2 26 CONTACT.
- 2 27 1. APPOINTMENT. Two members of the general assembly shall 2 28 be appointed as points of contact at the beginning of each 2 29 legislative session, one by the majority leader of the senate 2 30 and one by the speaker of the house of representatives.
- 2 31 $\,$ 2. DUTIES. The points of contact shall do all of the 2 32 following:
- 2 33 a. Serve as the state's official liaisons with the federal 2 34 government on trade=related matters and state law and serve as 2 35 the general assembly's liaisons with the governor on 3 1 trade=related matters.
- 3 2 b. Serve as the designated recipients of federal requests 3 3 for consent or consultation regarding investment, procurement, 3 4 services, or other provisions of international trade 3 5 agreements which may encroach on state law or regulatory 3 6 authority reserved to the states.
- 3 7 c. Transmit information regarding federal requests for 3 8 state consent to all appropriate legislative committees, the 3 9 office of the governor, and the attorney general.
- 3 10 d. Inform the members of the general assembly on a regular 3 11 basis about ongoing trade negotiations and dispute settlement 3 12 proceedings with implications for the state more generally.
- 3 13 e. Communicate the interests and concerns of the general 3 14 assembly to the United States trade representative regarding

- 3 15 ongoing and proposed trade negotiations.
- 3 16 f. Notify the United States trade representative of any 3 17 legislative action on trade issues that has taken place.
- 3 18 Sec. 4. <u>NEW SECTION</u>. 2E.4 AUTHORITY TO BIND THE STATE TO 3 19 TRADE AGREEMENTS.
- 3 20 1. Except as provided in subsection 2, a state official of 3 21 any branch or department of state government shall not do 3 22 either of the following:
- 3 23 a. Bind the state to the terms of an international trade 3 24 agreement.
- 3 25 b. Give consent to the United States trade representative 3 26 or any other branch or official of the United States 3 27 government to bind the state to the terms of an international 3 28 trade agreement or otherwise indicate that the state will 3 29 comply with the nontariff terms of an international trade 3 30 agreement.
- 3 31 2. The governor may bind the state or give a 3 32 representative of the United States government the consent to 3 33 bind the state only if both of the following conditions exist:
- 3 34 a. The terms of the agreement to which the governor 3 35 purports to bind the state are terms related to government 4 1 procurement, services, or investment.
- 4 2 b. The general assembly of the State of Iowa, pursuant to 4 3 the authority granted by Article III of the Constitution of 4 4 the State of Iowa to enact laws, has resolved to give its 4 5 consent to the agreement.
 - Sec. 5. <u>NEW SECTION</u>. 2E.5 CONSENT BY JOINT RESOLUTION.
- 4 7 1. Consent by the state to any provision of a trade 4 8 agreement shall only occur through a joint resolution of the 4 9 general assembly, presented to the governor for approval, as 4 10 provided in this section.
- 4 11 2. A request for consent to bind the state shall be 4 12 submitted to the general assembly by the governor and the 4 13 request shall contain all of the following:
- 4 14 a. An explanation by the attorney general as to how the 4 15 agreement of the state to the specific provisions of the 4 16 agreement will change or affect existing state law.
- 4 17 b. A statement of proposed administrative actions needed 4 18 to implement the trade agreement provisions in the state.
- 4 19 c. A draft of a joint resolution authorizing the state to 4 20 consent to the specific listed provisions of the agreement.
- 4 21 3. The president of the senate and the speaker of the 4 22 house of representatives shall refer the request for consent 4 23 and any attached documents to the appropriate standing 4 24 committees of the general assembly.
- 4 25 4. The standing committee considering a request for 4 26 consent shall hold a public hearing before any final action is 4 27 taken by the committee.
- 4 28 $\,$ 5. The request for consent shall be passed by the senate 4 29 and the house of representatives and presented to the governor 4 30 in the same manner as a bill.
- 4 31 Sec. 6. NEW SECTION. 2E.6 PRIOR CONSENT INVALID.
- 4 32 Any consent that has been given for the state of Iowa to be 4 33 bound by the government procurement rules of any international
- 4 34 trade agreement on or before the effective date of this Act is
- 4 35 invalid, and the state of Iowa is not bound by the government
- 5 1 procurement rules of any international trade agreement unless

5 2 the consent to be bound has been given by the state as 5 3 provided in this chapter. 5 4 Sec. 7. FEDERAL LAW FOR STATE CONSENT. It is the sense of 5 5 the general assembly that the Congress of the United States 5 6 should pass legislation instructing the United States trade

7 representative to fully and formally consult individual state 8 legislatures regarding procurement, services, investment, or

 ${\tt 5}$ ${\tt 9}$ any other trade agreement provisions that impact state laws or

5 10 authority before negotiations begin on such an agreement and

5 11 as negotiations develop, and to seek consent from state

5 12 legislatures prior to binding states to conform their laws to

5 13 the terms of international trade agreements. Such federal

5 14 legislation is necessary to ensure the prior informed consent

5 15 of the state of Iowa with regard to international trade and

5 16 investment agreements.

5 17 Sec. 8. NOTICE TO THE UNITED STATES TRADE REPRESENTATIVE.
5 18 The attorney general shall notify the United States trade
5 19 representative of the provisions set forth in section 2E.3 as
5 20 enacted in this Act, in writing no later than July 1, 2009,
5 21 and shall provide copies of such notice to the majority leader
5 22 of the senate, the speaker of the house of representatives,
5 23 the president of the senate, the governor, and Iowa's
5 24 congressional delegation.

5 25 Sec. 9. EFFECTIVE DATE. The section of this Act requiring 5 26 the attorney general to provide notice to the United States 5 27 trade representative, being deemed of immediate importance, 5 28 takes effect upon enactment.

EXPLANATION

5 30 This bill relates to international commercial and trade 5 31 rules enforced by the world trade organization and established 5 32 by agreements such as the North American free trade agreement. 5 33 The bill contains a series of legislative findings 5 34 concerning the trade negotiation process.

The bill prohibits state officials from binding the state 1 to international trade agreements unless by the consent of the 2 general assembly. The bill establishes a specific procedure 3 for giving state consent for future trade agreements, 4 requiring the enactment of a joint resolution, presented to 5 the governor for signature, in the same manner as a bill. All 6 previous consents which did not follow this process are 7 declared void.

The bill calls on the United States congress to enact
legislation instructing the United States trade representative
loto consult individual state legislatures regarding
liprocurement, services, investment, or any other trade
lagreement provisions that impact state laws or authority
liberary before negotiations begin and as they develop, and to seek
laconsent from state legislatures prior to binding states to
liprocurements.

The bill requires the attorney general to notify the United States trade representative and Iowa's congressional delegation of the process to give consent to an agreement no later than July 1, 2009. This provision takes effect upon 21 enactment.

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