

103^D CONGRESS
1ST SESSION

H. R. 1207

To amend the Worker Adjustment and Retraining Notification Act to require notice of certain plant closings to be provided to the Secretary of the Treasury and to amend the Internal Revenue Code of 1986 to deny the benefits of the Puerto Rico and possession tax credit in the case of runaway plants.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 1993

Mr. ROEMER (for himself and Mr. STARK) introduced the following bill; which was referred jointly to the Committees on Ways and Means and Education and Labor

A BILL

To amend the Worker Adjustment and Retraining Notification Act to require notice of certain plant closings to be provided to the Secretary of the Treasury and to amend the Internal Revenue Code of 1986 to deny the benefits of the Puerto Rico and possession tax credit in the case of runaway plants.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Jobs Preservation Act
5 of 1993”.

1 **SEC. 2. NOTIFICATION OF CERTAIN PLANT CLOSINGS TO**
2 **THE SECRETARY OF THE TREASURY; ADDI-**
3 **TIONAL INFORMATION REQUIRED ON CER-**
4 **TAIN NOTICES.**

5 (a) **GENERAL RULE.**—Subsection (a) of section 3 of
6 the Worker Adjustment and Retraining Notification Act
7 (29 U.S.C. 2102) is amended—

8 (1) by striking “and” at the end of paragraph
9 (1), by striking the period at the end of paragraph
10 (2) and inserting “; and”, and by inserting after
11 paragraph (2) the following new paragraph:

12 “(3) to the Secretary of the Treasury if the em-
13 ployer or any person related to the employer (within
14 the meaning of section 936(h)(3)(D) of the Internal
15 Revenue Code of 1986) holds (directly or indirectly)
16 any stock in a corporation eligible for the credit
17 provided by section 936 of such Code.”, and

18 (2) by adding at the end thereof the following
19 new sentence: “If any notice is required under para-
20 graph (3), each notice required under paragraph (1)
21 or (2) shall include a statement that the employer
22 directly or indirectly holds stock in a corporation eli-
23 gible for the credit provided by section 936 of the
24 Internal Revenue Code of 1986.”.

25 (b) **CLERICAL AMENDMENT.**—The subsection head-
26 ing for subsection (a) of such section 3 is amended by

1 striking “LOCAL GOVERNMENTS” and inserting “CER-
2 TAIN GOVERNMENTAL UNITS”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act.

6 **SEC. 3. LIMITATION ON PUERTO RICO AND POSSESSION**
7 **TAX CREDIT.**

8 (a) GENERAL RULE.—Section 936 of the Internal
9 Revenue Code of 1986 (relating to Puerto Rico and pos-
10 session tax credit) is amended by adding at the end there-
11 of the following new subsection:

12 “(i) DENIAL OF CREDIT FOR INCOME ATTRIB-
13 UTABLE TO RUNAWAY PLANTS.—

14 “(1) IN GENERAL.—

15 “(A) INCOME ATTRIBUTABLE TO SHARE-
16 HOLDERS.—The runaway plant income of a cor-
17 poration electing the application of this section
18 for any taxable year (hereinafter in this sub-
19 section referred to as the ‘electing corporation’)
20 shall be included on a pro rata basis in the
21 gross income of all shareholders of such electing
22 corporation at the close of the taxable year of
23 such electing corporation as income from
24 sources within the United States for the taxable
25 year of such shareholder in which or with which

1 the taxable year of such electing corporation
2 ends.

3 “(B) EXCLUSION FROM THE INCOME OF
4 AN ELECTING CORPORATION.—The taxable in-
5 come of an electing corporation shall be reduced
6 by the amount which is included in the gross
7 income of a shareholder of such corporation by
8 reason of subparagraph (A).

9 “(2) FOREIGN SHAREHOLDERS; SHAREHOLD-
10 ERS NOT SUBJECT TO TAX.—

11 “(A) IN GENERAL.—Paragraph (1)(A)
12 shall not apply with respect to any share-
13 holder—

14 “(i) who is not a United States
15 person, or

16 “(ii) who is not subject to tax under
17 this title on runaway plant income which
18 would be allocated to such shareholder (but
19 for this subparagraph).

20 “(B) TREATMENT OF NONALLOCATED
21 RUNAWAY PLANT INCOME.—For purposes of
22 this subtitle, runaway plant income of an elect-
23 ing corporation which is not included in the
24 gross income of a shareholder of such corpora-
25 tion by reason of subparagraph (A) shall be

1 treated as taxable income from sources within
2 the United States.

3 “(3) EXCLUSION OF INCOME FOR QUALIFICA-
4 TION TESTS.—Any gross income taken into account
5 in determining the amount of the runaway plant in-
6 come of any electing corporation shall not be taken
7 into account for purposes of subsection (a)(2).

8 “(4) RUNAWAY PLANT INCOME.—For purposes
9 of this subsection, the term ‘runaway plant income’
10 means the portion of the taxable income of the elect-
11 ing corporation which is attributable to a disquali-
12 fied facility.

13 “(5) DISQUALIFIED FACILITY.—For purposes
14 of this subsection—

15 “(A) IN GENERAL.—The term ‘disqualified
16 facility’ means any facility at which operations
17 are commenced with respect to the electing cor-
18 poration after _____ unless—

19 “(i) the Secretary determines that op-
20 erations at such facility—

21 “(I) will not result in a substan-
22 tial adverse effect on the level of em-
23 ployment at any facility in the United
24 States operated by the electing cor-

1 poration or a person related to the
2 electing corporation, and

3 “(II) will not result in such an
4 effect with respect to any other facil-
5 ity in the United States on account of
6 changes in a supplier relationship to
7 the electing corporation or a person
8 related to the electing corporation,
9 and

10 “(ii) the electing corporation files a
11 request with the Secretary for a determina-
12 tion under clause (i) on or before the
13 earlier of—

14 “(I) the day 90 days after the
15 date on which an application is sub-
16 mitted to the possession for tax incen-
17 tives for such facility, or

18 “(II) the day 1 year before the
19 date on which operations at such
20 facility commence.

21 The Secretary may treat a request not filed be-
22 fore the time required under clause (ii) as time-
23 ly filed if the Secretary determines that there
24 was reasonable cause for not filing the request
25 before the time required.

1 “(B) CERTAIN REVOCATIONS REQUIRED.—

2 “(i) IN GENERAL.—The Secretary
3 shall revoke a determination under sub-
4 paragraph (A)(i) at any time before the
5 close of the 3-year period beginning on the
6 date on which operations at the facility
7 commenced if the Secretary determines
8 that, on the basis of the facts and cir-
9 cumstances then known, the requirements
10 of subparagraph (A)(i) are not satisfied.

11 “(ii) MISREPRESENTATIONS, ETC.—
12 The Secretary shall, at any time, revoke a
13 determination under subparagraph (A)(i)
14 if, in connection with the request for such
15 determination, there was a misrepresenta-
16 tion with respect to (or a failure to dis-
17 close) any material information by the
18 electing corporation or a related person.

19 “(iii) REVOCATIONS RETROACTIVE.—
20 If any determination is revoked under this
21 subparagraph, this subsection (other than
22 paragraph (8) thereof) shall be applied as
23 if such determination had never been
24 made.

1 “(C) OPPORTUNITY FOR PUBLIC COM-
2 MENT.—No determination may be made under
3 subparagraph (A)(i) unless the Secretary allows
4 an opportunity for public comment on the
5 request for such determination.

6 “(6) EXPANSIONS TREATED AS SEPARATE FA-
7 CILITIES.—

8 “(A) IN GENERAL.—For purposes of this
9 subsection, any substantial increase in employ-
10 ment at a facility shall be treated as a separate
11 facility at which operations are commenced with
12 respect to the electing corporation as of the
13 date of such increase.

14 “(B) SUBSTANTIAL INCREASE IN EMPLOY-
15 MENT.—For purposes of subparagraph (A),
16 there shall be deemed to be a substantial in-
17 crease in employment as of any day at any
18 facility if—

19 “(i) such day is the last day of a pay-
20 roll period and the average number of em-
21 ployees performing services at such facility
22 during such period exceeds 110 percent of
23 the average number of employees perform-
24 ing services at such facility during the cor-

1 responding payroll period in the preceding
2 calendar year, or

3 “(ii) there is an expansion in such fa-
4 cility or the operations at such facility with
5 respect to which a separate or supple-
6 mental application or other request relat-
7 ing to tax incentives for such expansion is
8 made to governmental authorities of the
9 possession.

10 Appropriate adjustments in the application of
11 clause (i) shall be made in the case of employ-
12 ees not performing services on a full-time basis.

13 “(7) SPECIAL RULES.—

14 “(A) DISTRIBUTIONS TO MEET QUALIFICA-
15 TION STANDARDS.—Rules similar to the rules
16 of subsection (h)(4) shall apply for purposes of
17 this subsection.

18 “(B) RELATED PERSON.—For purposes of
19 this subsection, the rules of subparagraphs (D)
20 and (E) of subsection (h)(3) shall apply in de-
21 termining whether any person is related to the
22 electing corporation.

23 “(8) PUBLIC DISCLOSURE.—

1 “(A) PUBLICATION IN FEDERAL REG-
2 ISTER.—The Secretary shall publish in the Fed-
3 eral Register—

4 “(i) a notification of each request for
5 a determination under paragraph (5)(A)(i),
6 and

7 “(ii) a notification of the Secretary’s
8 determination in the case of each such
9 request.

10 “(B) PUBLIC INSPECTION OF DETERMINA-
11 TION.—

12 “(i) IN GENERAL.—Notwithstanding
13 section 6103, the text of any determination
14 made by the Secretary under paragraph
15 (5)(A)(i) and any background file docu-
16 ment relating to such determination shall
17 be open to public inspection at such place
18 as the Secretary may prescribe.

19 “(ii) EXEMPTIONS FROM DISCLO-
20 SURE.—Rules similar to the rules of sec-
21 tion 6110(c) (other than paragraph (1)
22 thereof) shall apply for purposes of clause
23 (i).

24 “(iii) BACKGROUND FILE DOCU-
25 MENT.—For purposes of this subpara-

1 graph, the term ‘background file docu-
2 ment’ has the meaning given such term by
3 section 6110(b)(2) determined by treating
4 the determination under paragraph (2) as
5 a written determination.”

6 (b) EFFECTIVE DATE.—

7 (1) IN GENERAL.—The amendment made by
8 subsection (a) shall apply to taxable years ending
9 after _____.

10 (2) TIME FOR FILING REQUEST.—The time for
11 filing a request under section 936(i)(5)(A)(ii) of the
12 Internal Revenue Code of 1986 (as added by this
13 section) shall in no event expire before the date 90
14 days after the date of the enactment of this Act.

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